

**AGREEMENT FOR THE PAYMENT OF PROPERTY TAXES
IN LIEU OF VEHICLE LICENSE FEES
BETWEEN
THE CITY OF PARLIER AND
THE FRESNO COUNTY FIRE PROTECTION DISTRICT**

This Agreement for the Allocation of Property Taxes in Lieu of Vehicle License Fees (“Agreement”), entered into on July ____, 2021 by and between the City of Parlier, a California municipal corporation (“City”) and the Fresno County Fire Protection District (“District”), a local fire protection district organized and existing as a California Special District under provisions of the Fire Protection District Law of 1987 (Health & Safety Code Section 13800 *et seq.*). The City and District may from time to time be collectively referred to within this Agreement as the “Parties” or individually as a “Party.”

RECITALS

- A. The District is the provider of fire suppression, prevention, rescue, emergency medical services and hazardous material emergency response and other services relating to the protection of lives and property (“Fire Protection Services”) within its territorial limits, including substantial portions of unincorporated areas within Fresno County (“County”) and certain incorporated cities, including the City.
- B. The District initiated fire services to the City in 1952 and since July 1, 2004, the City has contracted with the District for fire protection services pursuant to a fire service agreement (the “2004 Fire Service Agreement”).
- C. On August 20, 2014 and August 21, 2014, respectively, the District and City adopted resolutions requesting that the Fresno County Local Agency Formation Commission (“LAFCO”) commence a change in organization proceeding to annex the City into the District (the “Annexation”). On October 1, 2014, LAFCO approved the Annexation. A Certificate of Completion of Boundary Change was recorded and became effective October 31, 2014 (the “Annexation Date”).
- D. Prior to the Annexation, the City contracted with the District for Fire Protection Services through the 2004 Fire Service Agreement between the Parties.
- E. The District's primary sources of funding include contracting for services and from general purpose *ad valorem* property tax revenue from all real property within its territory. The Parties intend to transfer funds or otherwise remit to the District funds sufficient to compensate the District for the provision of Fire Protection Services within the City, according to the terms of this agreement.
- F. Consistent with the terms and purpose of the 2004 Agreement, the District has continued to provide Fire Protection Services by, among other things, responding to emergencies in the City, periodically using the District Fire Station in the City, and

performing fire prevention and fire code enforcement services within the City.

- G. The City and District have entered into this Agreement to pay the District an agreed upon amount of that portion of property tax in lieu of vehicle license fees revenue, allocated to the City by law, which the District will use to provide Fire Protection Services at levels set by this Agreement in the City.
- H. Despite the intervening time since the City was annexed to the District, the Parties have not executed a Property Tax Allocation Agreement and have instead relied on the terms of the 2004 Fire Service Agreement
- I. The City desires full-time staffing of the District Fire Station located at 1300 E. Parlier Avenue, Parlier CA. The District agrees to provide full-time staffing of the District fire station in Parlier consisting of a minimum of two career staff fire fighters, 24 hours a day, seven days a week.
- J. The Parties intend that the property tax in lieu of vehicle license fees allocated to the City, in turn be paid to the District on an annual basis in the initial amount of Eight Hundred Thousand dollars (\$800,000) subject to annual adjustments in return for full-time staffing by the District of the District Fire Station in the City.
- K. Therefore, the Parties intend for this Agreement to implement the necessary payment of property taxes, in the form property tax in lieu of vehicle license fees, to compensate the District for its provision of fire protection and emergency response services to the City subject to annual adjustments described in this Agreement.

AGREEMENT

- 1. Effect of Recitals. The foregoing Recitals are incorporated as a substantive part of the terms of this Agreement.
- 2. Agreement Effective Date. This Agreement is effective July 1, 2021.
- 3. Payment for Fire Protection Services for July 1, 2021-December 31, 2021.
 - (a) The District shall invoice and the City shall pay to the District the amount due under the 2004 Fire Service Agreement for the provision of Fire Protection Services for the first half of Fiscal Year 2021-2022 (July 1, 2021-December 31, 2021), subject to the Assessed Valuation adjustments contained in the 2004 Fire Service Agreement, Paragraph 10.
 - (b) In addition to the payment referenced in this Agreement Paragraph 3(a), if the City desires full-time staffing of the District Fire Station in the City prior to January 1, 2022, it shall give the District thirty (30) days written notice of that intent, consistent with this Agreement Paragraph 16 and concurrently pay from City funds to the District on a proportional basis for full-time staffing

based on the number of days it is provided, calculated based on a daily rate of 1/365th of \$800,000.00 for the number of days of full-time staffing for the period of July 1, 2021 to December 31, 2021.

4. Allocation and Payment of Property Taxes In Lieu of Vehicle License Fees:

- (a) The Parties agree that, beginning January 1, 2022 and continuing thereafter unless this Agreement is terminated consistent with this Agreement Paragraph 11, the City shall direct the County of Fresno Auditor Controller Treasurer Tax Collector (County Auditor) to make payments to the District in accordance with this Agreement. Specifically, the District shall be paid by the County Auditor as follows:

For each tax year beginning on January 1, 2022, the County Auditor will pay to the District at the direction of the City a total of \$800,000 (the "Principal Amount") of the City's share of property taxes in lieu of vehicle license fees. The County Auditor will pay 50% of the total amount in December and pay 50% of the total amount in April.

- (b) For each succeeding year after the fiscal year ending June 30, 2023, the total amount to be paid to the District will be recalculated based on an annual two percent (2.00%) increase, which shall be added to the previous year's Principal Amount.
- (c) The parties intend for the District to receive the entirety of the Principal Amount as adjusted annually in order to account for the District's costs of providing Fire Protection Services to the City with full-time staffing. If property taxes in lieu of vehicle license fees apportioned to the City and paid to the District are insufficient to fulfill the Principal Amount, then City shall remain responsible for any remaining unpaid portion of the Principal Amount, so that the Principal Amount (as adjusted based on Agreement Paragraph 4(b)) is paid in its entirety, which shall be paid from other City funds.
- (d) If property taxes in lieu of vehicle license fees become unavailable as a funding source for District services under this Agreement for any reason whatsoever, the City shall remain liable for the payment of the Principal Amount for Fire Protection Services provided to the City, which shall be paid from other City funds.

5. Termination of the 2004 Fire Service Agreement. With the exception of payments to be made under the 2004 Fire Service Agreement for the provision of Fire Protection Services for the first half of Fiscal Year 2021-2022 (July 1, 2021-December 31, 2021) consistent with Section 3 of this Agreement, the 2004 Fire Service Agreement will be terminated upon the date that the County Auditor commences payment to the District of property taxes in lieu of vehicle license fees transferred from the City as described in this Agreement.

6. Change in Law. Should the current law concerning the allocation of property taxes in lieu of vehicle license fees change, so that the amounts set forth in this Agreement paragraph 3 can no longer be met, the parties will immediately meet and confer for the commitment and transfer of another revenue source, or other sources of revenue from the City to satisfy its ongoing obligation for Fire Protection Services furnished by the District.
7. Outstanding Fire Service Agreement Invoices; Unpaid Taxes or Fees. The provisions of this Agreement do not alter or affect any amounts due and owing to the District from the City for services rendered under the 2004 Fire Service Agreement prior to the date that the property tax revenue described in this Agreement is allocated to the District.
8. Payment for County Auditor Fees. City agrees to pay all costs of the County Auditor in implementing the agreed payment of City property taxes in lieu of vehicle license fees to District.
9. Further Assurances. District and City agree to timely take such additional actions as necessary to implement the timely transfer of funds required by this Agreement.
10. Amendment. The Parties may amend or modify this Agreement upon their mutual written consent.
11. Termination. This Agreement may be terminated prior to the conclusion of its term only upon the mutual written consent of both Parties or by City upon obtaining approval from the County LAFCO for a change of organization [Government Code Section 56021(d)] detaching the City from the District including an approved Service Plan showing how Fire Protection Services will be provided to the City and an approved County LAFCO Transition Agreement with the District, if required by law or LAFCO,
12. Agreement Term. The term of this Agreement shall be for Twenty-Five (25) years from the agreement effective date, and if not terminated consistent with paragraph 11, then this Agreement shall continue for an additional Ten (10) year term thereafter with an automatic renewal every 10 years.
13. Assignment. This Agreement is binding on any and all successors and assignees of the Parties. No Party may assign or otherwise transfer its rights or obligations created by this Agreement without the prior written consent of the other Parties.
14. Modification. This Agreement may be modified or amended only by a writing duly authorized and executed by the City and District.
15. Integration. With respect to the subject matter hereof, this Agreement is intended to be an integrated agreement and supersedes any and all previous negotiations proposals, commitments, writings and understandings of any nature whatsoever between the City and District as to the subject matter of this Agreement.

16. Notice. All notices, requests, determinations or other correspondence required or allowed by law or this Agreement to be provided by the parties shall be in writing and shall be deemed given and received when delivered to the recipient by first-class mail (or an equal or better form of delivery) at the following addresses:

CITY
City Manager
City of Parlier
1100 E. Parlier Avenue
Parlier California, 93648

DISTRICT
Fire Chief
Fresno County Fire Protection District
210 South Academy Avenue
Sanger, California 93657

By giving written notice, **any** party may change its address for these purposes.

17. Attorney's Fees and Costs. In any action to enforce the provisions of this Agreement or for breach of the Agreement, the Prevailing party shall recover from the other Party, in addition to any damages, injunctive or other relief, all costs (whether or not allowable as "cost" items by law) reasonably incurred at, before and after trial or on appeal, including without limitation attorneys' and witness (expert and otherwise) fees, deposition costs, copying charges and other expenses.

18. Approval. The Parties represent that this Agreement was approved by their respective governing boards at a properly noticed meeting and that each signatory hereto warrants that he or she has the authority to execute the Agreement on behalf of the designated Party.

19. Choice of Law and Venue. This Agreement shall be governed by the laws of the State of California. Venue for actions and proceedings between the parties related to this Agreement shall be in the Eastern District of California for any federal action and in Fresno County Superior Court for state actions.

20. Agreement Mutually Drafted. Each Party has participated jointly in the drafting of this Agreement, which each Party acknowledges is the result of extensive negotiations between the Parties, and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. If an ambiguity or question of intent or interpretation arises, then this Agreement will accordingly be construed as drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any Party to this Agreement by virtue of the authorship of any of the provisions of this Agreement. The captions, headings and table of contents contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

21. Indemnification.

- (a). The City shall indemnify and hold harmless the District and its appointed and elected officials, officers, employees, attorneys, volunteers, and agents from and against any and all claims, actions, causes of action, demands, or

liabilities of whatsoever kind and nature, including judgments, interest, reasonable attorneys' fees, and all other costs, fees, expenses, and charges (collectively, "Claims") with the exception of Claims that arise out of or were caused by the negligence, gross negligence, or willful misconduct of the District or from any breach of the Agreement by the District.

- (b). The District shall indemnify and hold harmless the City and its appointed officials, officers, employees, attorneys, volunteers, and agents from and against any and all claims, actions, causes of action, demands or liabilities of whatsoever kind and nature, including judgments, interest, reasonable attorneys' fees, and all other costs, fees, expenses, and charges (collectively, "Claims") with the exception of Claims that arise out of or were caused by the negligence, gross negligence, or willful misconduct of the City or from any breach of the Agreement by the City.
- (c). The City and District shall indemnify and hold harmless the County Auditor, its attorneys and agents from and against any and all claims, actions, causes of action, demands or liability of whatever kind and nature, including judgments, interest reasonable attorney fees and all other expenses and charges arising out of or caused by any breach of claim or breach or implementations or administration of this Agreement.

22. Retention of Rights. This Agreement does not limit or preclude either Party's rights, whether in law or equity, to pursue a claim or take legal action against the other as permitted by law.

23. Third Parties. This Agreement shall not be construed as or deemed an agreement for the benefit of any third party or parties, with the exception of the described benefit facilities [and others as may be appropriate] within the Affected Territory. No other third party or parties shall have any right of action hereunder for any cause of action whatsoever. In addition, nothing in this Agreement creates or bestows any cause of action, right of enforcement or other legal remedy for the benefit of either Party against the County or the County Auditor.

24. Notification to County Auditor-Controller/Treasurer/Tax-Collector. Immediately after the Effective Date of this Agreement, City shall furnish by U.S. Mail and accepted overnight delivery services, a fully executed copy of this Agreement to the County Auditor at the following address with a copy to the County Administrative Officer as indicated requesting implementation of the Agreement provisions.

Fresno County Auditor-Controller/Treasurer Tax-Collector
2281 Tulare Street
Fresno, CA 93721

With a copy to:

County Administrative Officer
Fresno County
2281 Tulare Street
Fresno, CA 93721

Notice required to be given by any portion of this Agreement to the County Auditor shall be given by the method described in this Agreement, Paragraph 17.

26. Retention of Jurisdiction and Enforcement of Agreement/Code of Civil Procedure section 664.6. The Parties agree that this Agreement is binding and enforceable and further shall be admissible in evidence in any action or proceeding to enforce this Agreement, notwithstanding any provisions of the Evidence Code to the contrary. The Parties further agree that the lawsuits between the District and the City on the issue of adequate Fire Services funding: *Fresno County Fire Protection District v. City of Parlier*, Case No. 20CECG02714; and, *Fresno County Fire Protection District v. City of Parlier*, Case No. 20CECG03030 are settled pursuant to Code of Civil Procedure section 664.6, with each Party to bear its own costs and attorney's fees and that the court shall retain jurisdiction to enforce the terms of this Agreement notwithstanding the dismissal of the Subject Lawsuits with prejudice as described herein.

IN WITNESS WHEREOF, the parties have entered into this Agreement in Fresno County, California.

FRESNO COUNTY FIRE PROTECTION DISTRICT

CITY OF PARLIER

By: _____
Mike Del Puppo, Board President

By: _____
Sonia Hall, City Manager

Date: July __, 2021

Date: July __, 2021

ATTEST:

ATTEST:

By: _____
Brad Richter, Board Secretary

By: _____
Dorothy Garza, City Clerk

Date: July __, 2021

Date: July __, 2021

APPROVED AS TO FORM:

APPROVED AS TO FORM:

William D. Ross, District Counsel

Neal Costanzo, City Attorney

Date: July __, 2021

Date: July __, 2021