

**FRESNO COUNTY FIRE PROTECTION DISTRICT
AND
THE CITY OF FOWLER
AGREEMENT FOR FIRE PROTECTION SERVICES**

This Agreement For Fire Protection Services (“Agreement”) is entered into and effective on July 21, 2022, by and between The Fresno County Fire Protection District (hereinafter referred to as “District”) and the City of Fowler (hereinafter referred to as “City”).

RECITALS

WHEREAS, the parties to this Agreement have the common power to provide fire protection services and desire to jointly exercise said power pursuant to this Agreement and authority granted under Section 6500, et seq., of the California Government Code, and

WHEREAS, the parties intend that this Agreement shall pertain to the areas within the City limits referred to herein as the “City Service Area”, and

WHEREAS, the City desires to enhance fire protection, medical aid, and rescue services to the citizens within the City Service Area.

AGREEMENT

NOW THEREFORE, the parties agree:

SECTION I: PURPOSE AND SCOPE

A. The purpose of the Agreement is to arrange for the District, through its Cooperative Fire Protection Programs and current Fire Protection Reimbursement Agreement (“CAL FIRE Agreement”) see attached Exhibit “A”, with the California Department of Forestry and Fire Protection (“CAL FIRE”) to provide the City with Fire Protection, Medical Services, and Rescue Service, (hereinafter referred to as “Fire Protection Services”) in the City Service Area.

This Agreement is entered into pursuant to the authority granted by Government Code Sections 55603, 55603.5, 55606, 55632 and 55642, and will provide Fire Protection Services. The parties hereto understand and agree that the Fire Protection Services to be provided under this Agreement must be consistent with the terms and conditions of the CAL FIRE Agreement, that no services may be provided by the District under this Agreement that are not consistent and in conformity with the CAL FIRE Agreement, and

that the District is under no obligation to provide services under this Agreement that are not consistent and in conformity with the CAL FIRE Agreement.

B. The scope of the Agreement is for the District to provide Fire Protection Services to the City within the City Service Area. The District agrees to automatically respond with the nearest available fire unit(s) to the following types of emergency incidents within the City Service Area in the same manner and degree as that which is provided within the District's jurisdiction as set forth in Exhibit "B" attached hereto:

1. Fire incidents
2. Medical incidents
3. Vehicle accidents
4. Multi-casualty incidents
5. Hazardous materials incidents
6. Confined space rescue incidents
7. Any other mutual agreed to response services

SECTION II: DESIGNATION OF FIRE CHIEF

A. The District Fire Chief appointed by the Board of Directors of the District, or his designee, (hereinafter referred to as "Fire Chief") shall represent the District during the period of this Agreement and the Fire Chief shall, under the supervision and direction of the District's Board of Directors, have charge of the organization described in Exhibit "C", attached hereto and made a part hereof, for the purpose of providing the Fire Protection Services as deemed necessary to satisfy the needs of both the District and City, except upon those lands wherein other agencies of government have responsibility for the same or similar Fire Protection Services.

B. The City shall assign a designee as the City contract representative ("City of Fowler Representative"). The Fire Chief shall communicate with the City of Fowler Representative for directing the Fire Protection Services provided to City. No City personnel, officers, agents' representatives, or employees are deemed employees of District as a consequence of this Agreement.

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

SECTION III: PAYMENT FOR SERVICES

A. For the first year of the term of this Agreement, the City shall pay the District for Fire Protection Services an annual fee of \$675,000 (Six-hundred, seventy-five thousand dollars). The District will invoice the City for 50% of the annual fee in July and

January. The City shall pay the invoice within thirty (30) days after receipt thereof. The first invoice will be provided to the City on or around July 31, 2022.

B. After the first year of the term of this Agreement and any following term extensions, the City shall pay an annual fee to the District for Fire Protection Services pursuant to this Agreement as set forth in the example calculations found in Exhibit "D" attached hereto, as annually adjusted ("Total Contract Amount"). The District will invoice the City for 50% of the Total Contract Amount in July and January of each year. The City shall pay the invoice within thirty (30) days after receipt thereof.

C. The City may reimburse the District with "fire equipment" (PPE, extrication tools, fire hose, etc.) to offset a portion of the Total Contract Amount in any given year. The "fire equipment" reimbursement in-lieu of payment shall be mutually agreed upon in writing by both parties.

D. If the City fails to pay the Total Contract Amount, the District shall have the right to unilaterally reduce the services furnished under this Agreement by an appropriate amount and shall promptly notify the City of Fowler Representative, in writing, specifying the services to be reduced.

E. The Fire Chief is authorized to negotiate and execute any adjustments to Exhibit "D" of this Agreement on behalf of the District without further authority from the District's Board of Directors. The City of Fowler Representative shall, under the supervision and direction of the Fowler City Council, be authorized to execute adjustments to Exhibit "D" on behalf of the City.

SECTION IV: INITIAL TERM, RENEWAL AND EARLY TERMINATION

A. The term of this Agreement shall be from **July 21, 2022 to June 30, 2025**. This Agreement shall be extended by an additional term of twelve (12) months from July 1, 2025 to June 30, 2026 ("Extension Term"), unless either party provides notice of non-renewal not later than April 1, 2025.

B. The Scope of Services, Exhibit "B" attached hereto, and the Total Contract Amount calculations shall apply to the Extension Term unless the parties agree in writing to a modification. The City shall give the District written notice not later than April 1, 2025 of whether the City intends to change the level of Fire Protection Services from that provided by this Agreement. The District shall give the City written notice not later than April 1, 2025 of any proposed changes in the annual fee or Total Contract Amount calculations and an updated Exhibit "D" for FY 2025-26.

C. If a notice of non-renewal is given unilaterally by either the District or City, the District agrees to continue to provide Fire Protection Services to the City, for up to

one year from the date of the notice of non-renewal to provide the City a reasonable opportunity to implement alternative Fire Protection Services. The Scope of Services, Exhibit "B" attached hereto, and the Total Contract Amount calculations shall apply to the non-renewal notice term unless the parties agree in writing to a modification.

D. During the initial term, the City shall give the District written notice anytime the City intends to change the level of Fire Protection Services from that provided by this Agreement.

E. Notwithstanding any provision to the contrary herein, after June 30, 2023, the City shall have the right to cancel or terminate this Agreement in whole, at any time upon six (6) months' written notice to the District Fire Chief.

SECTION V: AUTHORITY FOR COMMAND AND CONTROL

The City shall grant the District authority to act on its behalf for the response, control and mitigation of Fire Protection Services incidents. The District shall respond and assume command and control of Fire Protection Services incidents occurring within the City Service Area.

SECTION VI: SUPPRESSION COST RECOVERY

As provided in Health and Safety Code Section 13009, the District 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. If using City equipment and personnel (i.e., Public Works, Police, etc.) under the terms of this Agreement, the District shall, on request of the City, bring such an action for collection of costs incurred by the City. In such a case the City hereby appoints and designates the District as its agent in said collection proceedings. In the event of recovery, the District shall apportion to the City its pro-rata proportion of recovery, less the reasonable pro-rata costs including legal fees. In all such instances, the District shall give timely notice of the possible application of Health and Safety Code Section 13009 to the City of Fowler Representative.

SECTION VII: PROPERTY ACCOUNTING

All personal property provided by the City and by the District for the purpose of providing Fire Protection 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 District for the segregation, care, and use of the respective property of each.

SECTION VIII: INDEMNIFICATION

A. The District and the City hereby agree to indemnify, defend and hold the other party, its governing board or council, officials, officers, employees, agents, attorneys and volunteers harmless from and against all claims, demands, causes of action, actions, damages, losses, expenses, and other liabilities, (including without limitation reasonable attorney fees and costs of litigation) of every nature arising out of or in connection with the alleged or actual acts, errors, omissions or negligence of the indemnifying party or its subcontractors relating to the performance of this Agreement to the fullest extent permitted by law, unless the injuries or damages are the result of the non-indemnifying party's sole negligence or willful misconduct, subject to any limitations imposed by law. The District and the City agree that said indemnity and defense obligations shall survive the expiration or termination of this Agreement for any items specified herein that arose or occurred during the term of this Agreement.

B. Prior to commencement of the Fire Protection Services, the City and District shall each take out and maintain at its own expense liability insurance coverage in an amount of not less than ONE MILLION dollars (\$1,000,000.00) naming each other as an additional insured for the performance under this Agreement. Each party shall provide the other with a Certificate of Insurance showing proof of such coverage.

SECTION IX: AUDIT

The District and City each agree that their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The District and City each 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, and to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

SECTION X: DISPUTES

The City of Fowler Representative shall be available for contract resolution or policy intervention with the District, when, upon determination by the Fire Chief that a situation exists under this Agreement in which a decision to serve the interest of the City has the potential to conflict with the District interest or policy. Any dispute concerning a question of fact arising under the terms of this Agreement which is not resolved within ten (10) working days shall be brought to the attention of the City of Fowler Representative.

Disputes that are unable to be resolved by the City and the District representatives will attempt to be resolved through arbitration. If arbitration is unsuccessful, venue for litigation will be the County of Fresno.

SECTION XI: ATTORNEY'S FEES

If City fails to remit payments for services rendered pursuant to any provision of this Agreement, the District may seek recovery of the payment owed plus reasonable fees incurred in attempting to collect the payment through arbitration and/or litigation, in addition to all other remedies available.

In the event of arbitration or litigation between the District and the City to enforce any of the provisions of this Agreement or any right of either party hereto, the unsuccessful party in such action 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 arbitration or litigation.

SECTION XII: 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:

FRESNO COUNTY FIRE
PROTECTION DISTRICT
Fire Chief
210 S. Academy Ave.
Sanger, CA 93657

CITY OF FOWLER
City Manager
128 S. 5th Street
Fowler, CA 93625

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 XIII: PERFORMANCE REPORTING

At least annually but also upon request by the City, the District shall provide the following performance measures specific to the City's Service Area:

- A. Total Response Time – The time interval between 911 notification at the command center and arrival of the first unit. Fire, EMS and Rescue Calls Measured at 90%.
- B. Number and Types of Calls for Service (Medical, Fire, MVA, Haz Mat, etc.).
- C. Number of civilian injuries or deaths due to fire.
- D. Provide sufficient data in support of routine Insurance Services Office fire suppression rating evaluations when needed.

SECTION XIV: ENTIRE CONTRACT

This Agreement contains the whole contract between the parties for the provision of Fire Protection Services. It may be amended or modified only upon the mutual written agreement of the parties hereto. This Agreement does NOT supplement other specific

agreements entered into by each party hereto 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 between the parties hereto.

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.

Dated: _____

CITY OF FOWLER

Wilma Tucker
City Manager

ATTEST:

APPROVED AS TO FORM:

Angela Vasquez
Deputy City Clerk

Scott G. Cross
City Attorney

Dated: _____

FRESNO COUNTY FIRE
PROTECTION DISTRICT

By: _____
President, Board of Directors

ATTEST:

APPROVED AS TO FORM:

By: _____
Clerk of the Board

FRESNO COUNTY FIRE
PROTECTION DISTRICT
LEGAL COUNSEL

EXHIBIT A

Link to CAL FIRE Agreement: https://www.fresnocountyfire.org/wp-content/uploads/2022/05/Sched-A-Contract-4CA04406-FY19_22-Signed.pdf

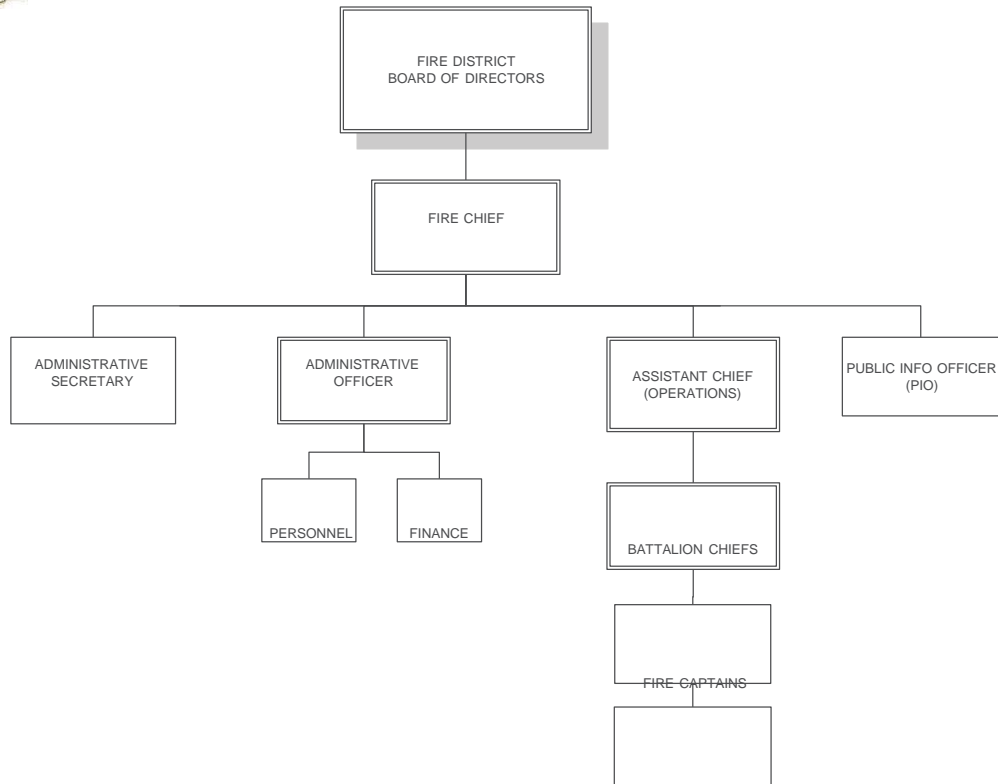
EXHIBIT B

Fresno County Fire Protection District Standard Response Plan																
Incident Type	1st Alarm Response					1st Alarm Notifications						2nd Alarm Notifications				
	Eng	Res	TRK	WT*	BC	UC	DC	BC	FP	TG	PIO	UC	DC	BC	FP	TG
FIRE																
Structure	4		1	2	1						X		X	1	X	X
Structure Target Hazard	6		1	2	2						X		X	1	X	X
Fire Alarm Residential	1															
Fire Alarm Commercial	1or2											X				
Refuse	1															
Vegetation (LRA)	2										X		X	1		
Vegetation (SRA)	See CALFIRE SRA Response						X [^]				X	X	X		X	X
Harvested Ag	2			1				X								
Improvement	1															
Farm Equipment	1							X					X			
Veh (pass. Pickup) LRA/SRA	1															
Veh (big rig, bus) LRA/SRA	2			1	1						X		X			X
Aircraft/Train	2			1	1				X	X	X	X	X		X	
Unknown Type/Reported Out	1												X			
EACH Additional Alarm	Duplicate 1st Alarm												X			
Other																
Medical Aid/Industrial Accident	1							X								X
Pin-in/Multi-Cas	2							X			X	X				X
Technical Rescue	3	1	1		1		X				X					
MVA	2															
MVA (bus, train)	3			2	1		X				X					
FMS/PSA	1															
Haz-mat Incident (MEN, PAR)	2				1						X					
Smoke Check	1															
Bomb Threat/Terrorism	1					X	X	X	X	X	X	X				

EXHIBIT C



FRESNO COUNTY FIRE PROTECTION DISTRICT ORGANIZATIONAL CHART



DUSTIN HAIL, FIRE CHIEF

01/04/2022

DATE

EXHIBIT D

The Total Contract Amount will be based on the City's annual net assessed valuation provided by the Fresno County Assessor's Tax Rate Book. Assessed valuation adjustments shall be made each year using the Fresno County Assessor's Tax Rate Book for the preceding fiscal year to determine the City's net assessed valuation. The net assessed valuation shall include the Secured Net Assessed Value and the Unsecured Net Assessed Value for the City. The District tax-rate is determined by using Tax Rate Area (TRA) # 095-000. The current District tax-rate for TRA #095-000 is .0009724.

Example Calculations for FY 2022-2023:

City of Fowler (FY 2021-2022 Net Assessed Value):	\$724,157,275
<u>Fresno County Fire Protection District Tax-Rate:</u>	<u>x 0.0009724</u>
Total Contract Amount for FY 2022-2023:	= \$704,170