

**AGREEMENT FOR FIRE SUPPRESSION, FIRE PREVENTION, TECHNICAL
RESCUE, EMERGENCY MEDICAL, HAZARDOUS MATERIALS,
ADMINISTRATIVE SERVICES, AND DISASTER PREPAREDNESS SERVICES**

THIS AGREEMENT (“Agreement”) is made by and between the chartered City of Vista (“City”) and the Vista Fire Protection District (“District”) to be effective as of August 1, 2010. City and District are sometimes individually referred to as a “Party” and collectively as “Parties.”

RECITALS

A. District is a local agency, corporate and politic, organized and operating under the Fire Protection District Law of 1987 (commencing at Section 13800 of the California Health and Safety Code). District desires to obtain general and specialized fire suppression, fire prevention, emergency medical services, and disaster preparedness services (collectively, the “Services”) from City, pursuant to the terms and conditions of this Agreement.

B. City is a chartered municipal corporation organized and operating under the Constitution of the State of California. City, by and through its Fire Department, desires to provide the Services to District, pursuant to the terms and conditions of this Agreement.

C. The Parties recognize the unique mutual benefit of extending City’s Services to District due to the parties’ geographical proximity, District’s source of funding for such Services, the cost to District of establishing an independent fire department, and the incremental cost to City for providing such Services to District.

D. The Parties have entered into this Agreement under authority of Section 54980 et seq. of the California Government Code.

AGREEMENT

In consideration of the mutual promises and obligations set forth herein below, and other good and valuable consideration the receipt of which the parties hereby acknowledge, District and City agree as follows:

SECTION 1. SCOPE OF SERVICES.

A. INCLUDED SERVICES

The Services provided under this Agreement shall include the following: (1) Fire Suppression Services; (2) Fire Prevention Services; (3) Technical Rescue Services; (4) Emergency Medical Services; (5) Hazardous Materials Response Services; (6) Administrative Services; and (7) Disaster Preparedness Services. These Services are defined as follows:

1. Fire Suppression Services include the coordinated emergency response to fires with appropriate resources;

2. Fire Prevention Services include activities necessary to prevent or mitigate property or life loss;

3. Technical Rescue Services include specialized types of emergency responses such as swift water, trench, confined space, or high angle rescues;

4. Emergency Medical Services include the initial response and the coordination of the treatment and transport of the sick and injured from the point of origin to a receiving facility;

5. Hazardous Materials Response Services include those services that provide a first responder level response to any spill, release, fire or explosion of hazardous materials as defined by U.S. Department of Transportation. City contracts through the Unified Disaster Council of San Diego for the hazardous materials response teams which are included as part of this Agreement;

6. Administrative Services are defined as those functions typically employed to maintain accountability, training, and service delivery of available fire service resources; and

7. Disaster Preparedness Services include those activities that are specifically designed for preparation, mitigation, response, and recovery from disasters.

B. ADDITIONAL SERVICES.

At its discretion, District may request City to provide Additional Services, or to change or modify the levels of Services being provided by City, or to provide District services to City, that have not been included in the Agreement. Such Additional Services may be limited in scope and need not be provided equally within City or District, but may be provided by one Party to the other Party, or to both parties, as mutually agreed. Such Additional Services may be provided by City or by District upon the mutual written agreement of both City and District, by inclusion in this Agreement or by a written amendment to the Agreement duly approved and executed by the respective governing bodies. Except as provide herein or separately, there are no other additional services.

C. EMERGENCY SERVICES.

In the event of an emergency or other necessity, this Agreement shall not limit the authority of City or District to act on its own behalf to protect the public health, safety and welfare. In such an event, City or District may, at its own discretion, provide services within the territory of the other Party that are not anticipated in this Agreement, but in no event shall District be required to pay more than the amount set forth in this Agreement.

D. OTHER SERVICES.

Nothing in this Agreement shall prevent District or City from providing any services outside the scope of this Agreement within their own respective territories, at their own cost and expense. However each Party agrees to keep the other Party fully informed of such intent and to give written notice to the other Party prior to the approval of such services. Such written notice shall not be deemed a right of first refusal.

SECTION 2. GENERAL CONCEPT OF OPERATIONS.

A. It is understood by both District and City that all Services provided by City to District under this Agreement shall be provided in the same manner and to the same extent as

City provides such services within the territory of City. It is understood that the cost for all Services provided by the Fire Department to District are included under this Agreement.

B. The expression, “in the same manner and to the same extent”, as used herein, means that, to the greatest extent practical subject to the operational command decisions of the Fire Chief, the full resources and capacity of City’s Fire Department shall be provided within the territory of District with no distinction between the territory of City and District, on an equal basis as such resources and capacity are provided within City, and that emergency incidents or requests for service from within the territory of District shall receive the same priority and response of personnel, equipment and level of service as is provided within the territory of City. Every effort will be made, to the greatest extent possible, to minimize any disproportionate effects from any improvements or reductions in the Fire Department’s resource deployment levels. Specifically, any improvements or reductions in the Fire Department’s resources shall affect the level of service within District on a proportionally equivalent basis, measured over a period of one year, with the effect of such adjustments on service within City. For example, if the Fire Department chooses to reduce staffing at a particular fire station within City, any increase in Response Times within District following such reduction, on a percentage basis, shall be no greater than the percentage increase in Response Times within City. Any changes in deployment levels will be communicated to the District prior to implementation.

C. The performance standards and measures for responses to emergency incidents and calls for service provided by City shall be identified in the Standard of Cover (defined in Section 2.G below). All such performance standards and measures shall serve as goals and objectives for the Services provided and not as minimum requirements. City shall use its best efforts to meet the performance standards and measures, but in no event shall City be held liable to District for any failure to meet or obtain such performance standards and measures. Overall Response Times and performance may vary within City and District due to factors beyond the control of City or District.

D. This Agreement provides resources and a 24/7 emergency response staff fully trained and certified as necessary to perform duties as described. To the greatest extent feasible, City shall provide emergency responses utilizing the minimum staffing levels as shown in the following table:

Vehicle type	Officer	Driver	Paramedic	Total
Engine	1	1	1	3
Aerial Unit (Ladder/Snorkel)	1	1	1	3
Ambulance	N/A	1	1	2
Command Unit	1			1*

* Note: Command Units shall be dispatched as needed, depending on the nature of the response, at the discretion of the Fire Chief.

Standard response assignments (i.e., the number of apparatus and personnel) to emergency incidents shall be the same in City and District. Response assignments shall be determined by the Fire Chief in cooperation with regional fire agencies.

E. City’s emergency medical service (“EMS”) shall be made available in District in the same manner and to the same extent as in City.

F. City participates in local, county, regional and state mutual and automatic aid agreements. District shall be deemed to be a participant in such agreements to the same degree and extent as City and the Fire Chief shall represent District in all such agreements. Upon the District's request, the Fire Chief shall provide an evaluation of all such agreements to District and shall advise District on all pertinent matters relating to such agreements. All charges, fees and costs of any kind whatsoever incurred on behalf of District for participation in such agreements shall be borne by City as part of the cost of service under this Agreement.

G. The Fire Department uses a nationally recognized practice, known as the "Standard of Emergency Response Deployment" ("Standard of Cover"), for the combined territories of City and District. The Standard of Cover shall serve as a guideline for the operational responses of the Department and shall include the following elements: risk assessment; demand zones; geospatial characteristics and considerations; transportation networks; future development; temporal (time of day and day of week); distribution of calls; resource concentration; response reliability, and resource distribution. Any updates to the Standard of Cover shall be presented for review and adoption by City and District. The Standard of Cover may not be changed with respect to District without its consent unless the changes to the Standard of Cover are applicable throughout City as well as District; provided, however, any increase in rural Response Times, on a percentage basis, shall be no greater than the percentage increase in urban and suburban Response Times.

City shall use its best efforts to maintain Response Time performance within District in the same manner and to the same extent as in City. For the purposes of the Agreement Response Time shall be determined as follows:

1. The "Reflex Interval" is the time lapse between the activation of the station and/or unit alerting devices to a dispatched call for service and the notification by the responding unit that it has commenced its actual response to the incident and is rolling. The Reflex Interval is assumed to be two minutes for purposes of calculating Response Time.

2. The "Travel Interval" commences upon completion of the Reflex Interval and terminates when the responding unit notifies the dispatch center that it has arrived at the location assigned. EMS Response Times shall be measured by the arrival of the first unit capable of providing advance life support.

3. "Response Time" is measured in minutes and seconds and consists of the Reflex Interval added to the Travel Interval. The allowable Travel Interval for a specific response shall be as set forth in the Standard of Cover that is then in effect. Exhibit 1 reflects the Travel Intervals established in the Standard of Cover in effect as of the date of this Agreement.

H. City shall provide the services of a Fire Marshal, who shall serve as District's Fire Marshal as outlined in Section 7, and will perform the typical duties of a fire marshal and who shall attend regular and special meetings of District, as required, to provide advice, and present reports and recommendations on fire prevention services. The Fire Marshal shall determine the desired scope and frequency of fire prevention inspections which shall be based upon experience and history, consistent with the availability of time and resources. Additionally, the Fire Marshal shall provide for preparation of materials for cases appealed to the Board of Directors of the VFPD; staff support for the Board of Directors of the VFPD during appeal hearings; and other duties as required.

The following performance goals and standards shall apply to District in the same manner and to the same extent as in City relative to activities of the Fire Marshall with respect to enforcement of the Fire Code.

TASK	FREQUENCY
Plan review of proposed construction	As necessary, completed no later than 15 working days after submittal of a complete application
New construction inspections	As necessary, completed within two working days of requested time
Existing occupancy inspections	By regulation and hazard class and no less than 1 time in a rolling 24 month period
Special risk inspections	As necessary, completed within three working days of requested time
Internal protection systems design review	As necessary, completed within two working days of requested time
Storage and handling of hazardous materials including Superfund Amendments and Reauthorization Act Title III compliance	As necessary, completed within three working days of requested time

I. City shall provide disaster preparedness planning and emergency management services for District in the same manner and to the same extent as City undertakes such services on its own behalf. Services include collaboration with the county and state Office of Emergency Services (OES) as applicable.

J. City shall maintain and keep such records as may be required by the Insurance Services Office (“ISO”) and all applicable State and federal laws and regulations. City shall use its best efforts, within the limit of its authorized appropriations, to maintain or improve the ISO rating for both District and City. City and District understand and acknowledge that maintaining an ISO rating cannot be guaranteed. Nevertheless, City and District shall cooperate in developing a plan to retain an ISO rating appropriate to the community. In the event a reduction (i.e. a higher rating number) in the ISO rating is threatened or occurs, the Fire Chief shall prepare a report and recommendations to the City Council and the District Board concerning the pending change.

K. The Fire Department will participate in District community events in the same manner and to the same extent as it participates in similar events within City.

L. All administration and supervision for the services provided under this Agreement are included in the cost of services. The Fire Chief, to the most practical extent possible, will attend regular monthly meetings of District Board to provide advice, seek direction, and present reports and recommendations concerning all matters within the scope of this Agreement.

M. City shall not be responsible for any fire hydrants located within District. District shall not be responsible for any fire hydrants located within City.

N. District is authorized and empowered to adopt a schedule of fees and charges for services it provides, including Services provided under this Agreement. As agent for District,

City shall assist District in receiving District's fees and charges for the Services provided under this Agreement that are consistent with the normal activities and procedures of the Fire Department ("City-collected Fees"). City agrees to collect City-collected Fees through normal City collection process. City shall use its best efforts to collect all City-collected Fees, but under no circumstances shall City be held liable to District for any failure to collect any City-collected Fees unless otherwise mutually agreed upon and evidenced by a separate writing approved and executed by the governing bodies of City and District.

O. In the event District acquires or constructs any equipment, furnishings, apparatus, real property or improvements to real property (collectively, "District Property") to be used in providing Services under the Agreement, City agrees to maintain and operate such District Property with normal care and prudence. City shall not abuse or commit any waste of District Property while such property is under the care or use of City, normal wear and tear excepted.

P. In the event District constructs and provisions a fire station within District, City agrees it shall staff, operate, and maintain such facility in same good order and condition as stations located within City, at City's sole expense, without any exception whatsoever. Without limitation on the generality of the foregoing, such costs borne by City shall include all (i) repairs, (ii) improvements required by law, (iii) utilities, and (iv) insurance, both liability and property in an amount sufficient to rebuild and restore the facility to its condition prior to any such casualty.

1. The foregoing obligations of City are subject to City's approval of the facility location, design and construction. Such approval shall be given if the facility is designed, constructed and provisioned in accordance with current standards utilized by the County of San Diego for construction of similar facilities, provided that such standards, functionality and amenities, other than station size, are not less than those utilized for its Station No. 66, 14145 Hwy 94, Jamul, CA 91935. City shall have the right, but not the obligation, to inspect all design documents and specifications, and all construction activities of any nature whatsoever.

2. Fixed signaling, communications, and computer networking equipment and internal and external wiring and circuits, and all off site improvements, will be provided by District at District's expense. City will provide the services necessary to connect the station's signaling, communications, and computer networking equipment to City's systems.

3. District shall provision a station that is in "move-in" condition, including all fixtures, furnishings and equipment of the fire station other than that to be provided by City.

4. City shall provide all fire apparatus and their equipment, movable business equipment such as desktop computers, expendable supplies, and personal firefighting gear.

5. In the event District constructs a fire station in the northern half of the District, City Fire Station No. Three will be closed and replaced by District's fire station.

Q. Notwithstanding the generality of the first sentence of Subsection P, above, in the event of an unforeseen regulatory requirement imposed by a superior jurisdictional authority, which mandates a major modification of District's fire station at a substantial expense, City will not be obligated to pay for such modification provided that: (i) City either funds or seeks approval from City's residents by way of a special proposition to pay for similar modifications to

City's fire stations, if required, and (ii) District fails to obtain approval from District's residents for a similar assessment or to otherwise fund the modifications.

SECTION 3. COSTS OF SERVICES.

A. PHASING.

The agreed total cost of Services and method of payment under this Agreement utilizes two separate cost structures: a transitional cost methodology and a final or permanent cost methodology. These methodologies shall be implemented in two consecutive phases: the "Transition Phase" being the first phase beginning in Fiscal Year ("FY") 2010 and continuing through FY 2012, and the "Final Phase" beginning in FY 2013 and continuing through termination of this Agreement (a FY begins on July 1 of the stated year and continues through June 30 of the following year).

B. TRANSITION PHASE.

This Agreement provides for a transition over four years from the A/V cost formula under the Parties prior agreement effective July 1, 2005 (the "Prior Agreement"), as defined in Section 3.B.1, to a fixed percentage of 90% of Total District Revenue per year, as defined in Section 3.B.2, and calculated in accordance with the following terms:

1. The formula for the total cost of Services under the Prior Agreement was the ratio of District's secured assessed valuation ("A/V") to the combined total secured A/V of City and District for the immediate preceding fiscal year, multiplied by the total Fire Department budget.

2. "Total District Revenue", as collected and distributed by the County to District, includes Property Tax, Fire Mitigation fees, Permit fees, and First Responder fees. District agrees not to take any actions that would inhibit or reduce the payments from County to District. Total District Revenue also includes all City-collected Fees, provided that City-collected Fees for ambulance services include only fees that are generated wholly within District. The following are not included as part of the Total District Revenue: (a) repayment of Proposition 1A funds withheld by the State of California from District's 2009-2010 property tax revenues; and (b) District investment income.

3. During the Transition Phase a cumulative rate reduction of 25% shall be applied per year, based on the difference in the cost of service between the two formulas described in Sections 3.B.1 and 3.B.2, beginning in FY 2010 and ending in FY 2013.

4. For purposes of calculating the cost of Services during the Transition Phase, the following Definitions shall apply:

- "Department Budget" = the current total budget allocation for the Fire Department including capital equipment assessments (cost divided by useful life), rentals, salaries, and all associated costs, as previously calculated under the Prior Agreement, but specifically excluding any costs related to the purchase of real property;

- “Current Secured A/V” = the percentage of the total secured assessed valuation of District divided by the total secured assessed valuation of City and District, combined;
- “Original District Cost” = the total annual cost to District, paid to City, based on District’s percentage of secured assessed valuation in accordance with Section 3.B.1, above;
- “Target Cost” = 90% of Total District Revenue (as defined in 3.B.2)
- The “Applicable Percentage” (also referred to as the “Sliding Scale”) for each year during the Transition period shall be as follows:

FY 2010 = 75%
 FY 2011 = 50%
 FY 2012 = 25%
 FY 2013 = 00%

5. The formula for the Transition period (FY 2010–FY 2013) is established as follows:

- Department Budget × Current Secured A/V = Original District Cost
- Original District Cost – Target Cost = “Difference in Costs”
- Difference in Costs × Applicable Percentage = “Diminishing Costs”
- Diminishing Costs + Target Cost = “Total District Cost”

6. In the Transition Phase, each succeeding year will yield a reduction of 25% in the payment to City based on the difference between the A/V ratio and 90% of the Total District Revenue, as the example shows in the table below. District and City recognize there will be fluctuations each year relative to the Fire Department budget, A/V ratio, and the total revenue coming into District. It is also recognized that there could be potential fluctuations in the amount paid to City by District. The table below is shown only by way of example of the process by which the actual payment will be determined.

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Example of Transition, 2010-2015 Fiscal Years

FY	Estimated FD Budget	A/V Ratio	Original Dist Cost	Estimated District Revenue	Target Cost	Sliding Scale	Total District Cost
2010	\$17,217,122	0.19	\$3,271,253	\$3,024,646	\$2,722,181	75%	\$3,133,985
2011	\$17,632,123	0.19	\$3,350,103	\$3,024,646	\$2,722,181	50%	\$3,036,142
2012	\$18,475,057	0.19	\$3,510,261	\$3,024,646	\$2,722,181	25%	\$2,919,201
2013	\$19,374,727	0.19	\$3,681,198	\$3,024,646	\$2,722,181	0%	\$2,722,181
2014	\$20,337,379		\$0	\$3,024,646	\$2,722,181		\$2,722,181
2015	\$21,363,431		\$0	\$3,024,646	\$2,722,181		\$2,722,181
			<i>Fire Dept. Budget x A/V Ratio</i>	<i>Assumes no growth in Total District Revenue</i>	<i>90% of Estimated Revenue</i>		<i>((Original District Cost - Target Revenue) x Sliding Scale) + Target Revenue</i>

C. FINAL PHASE.

The final total cost of Services (commencing in FY 2013 and continuing annually thereafter) will be 90% of the Total District Revenue, as defined in Section 3.B.2.

D. ADDITIONAL COST PROVISIONS.

1. Notwithstanding the forgoing, City and District agree that at no time shall the payment for annual services in each fiscal year of either phase, excluding Additional Services, if any, exceed the A/V formula for the total cost of Services as described in Section 3.B.1, as of the commencement of each such fiscal year.

2. With respect to any Additional Services mutually agreed upon to be provided by City to District, or by District to City, the cost of such Additional Services and the amount each Party shall pay for such Additional Services, shall be described in the separate written agreement.

3. In the event that District receives funds not described as part of Total District Revenue (as defined in Section 3.B.2) that reimburse District for services provided by City at its expense under this Agreement, such funds shall be paid to City as additional compensation under this Agreement. Examples of such funds could include FEMA reimbursements for damage to City equipment operated for District or for wildfire fighting services provided by City within District.

SECTION 4. PAYMENT

A. TRANSITION PHASE PAYMENTS

District shall pay for the Services provided by City during the Transition Phase as follows:

1. District shall pay the Target Cost, as described in Section 3.B.4, to City within thirty (30) days of receipt throughout each fiscal year.
2. District shall pay the Diminishing Cost, as described in Section 3.B.5, to City in equal quarterly installments on the first day of each quarter commencing July 1, October 1, January 1, and April 1 of each fiscal year.
3. Total payment to the City will consist of the Diminishing Costs plus the Target Costs to equal the Total District Cost, exclusive of any Additional Services.
4. During the Transition Phase City will account for all City-collected Fees received on behalf of District and remit them to District within 30 days.

B. FINAL PHASE PAYMENTS

District shall pay for the Services provided by City during the Final Phase as follows:

1. District shall pay for the Services provided by City following the Transition Phase as follows: District shall pay to City 90% of District's Total Revenue ("Final Phase Payment"), when and as received, within 30 days of its receipt.
2. During the Final Phase City will credit all City-collected Fees received on behalf of District and credit them against District's cost of Services as received, and shall account to District for such credits no less often than quarterly.

C. OTHER PAYMENT PROVISIONS

1. In the event Additional Services are provided pursuant to Section 1.B above, each party shall pay the other party for such Additional Services as provided in the written agreement respecting such Additional Services.
2. Payments not received within 30 days of the due date shall be considered delinquent and may be subject to interest and/or penalties in accordance with the receiving Party's standard policies for delinquent receipts. At the conclusion of each Fiscal Year, the parties shall calculate the amount actually owed, and settle the balance owed by either Party, if any, accordingly.
3. Failure by either Party to make payment when due shall constitute a material breach of this Agreement. In the event of any such material breach, the non-breaching Party reserves all rights under law or equity with respect to the Agreement, including the right to terminate the agreement or to withhold Services upon giving the other Party 60 days prior written notice. Notwithstanding the immediately preceding provision, the non-breaching Party shall not withhold services normally provided under customary automatic aid or mutual aid

agreements in the event of an emergency call for services and the breaching Party is unable to respond. In such event, however, the non-breaching Party shall be entitled to recover its cost of services provided.

SECTION 5. INSPECTION OF RECORDS; REPORTS.

A. Upon five working days advance written notice, and during all regular business hours. City and District shall have the right, at their own respective cost or expense, to inspect or audit the financial and other records of the other Party pertaining to this Agreement, including that Party's books of accounts related to the Fire Department and other activities for which the auditing Party is being charged. City and District shall have access to such records through their own respective designated representatives.

B. The Fire Chief shall prepare and issue a written monthly report to City and District regarding the activities and performance of the Fire Department on all Services provided under this Agreement. Each monthly report shall be presented within 60 days after the end of the month.

C. In addition to monthly reports, the Fire Chief shall provide an annual report of services to the Board of Directors. This report shall summarize the performance of the Fire Department relative to Response Times, inspections, loss/save ratios, and other pertinent information as may be deemed necessary by the Fire Chief or as may be requested by the Board.

SECTION 6. ADMINISTRATION.

A. District may designate its Board or an ad hoc committee of the Board, to represent District on all matters pertaining to the administration of this Agreement.

B. City may designate its City Council, or an ad hoc committee of the City Council to represent City on all matters pertaining to the administration of this Agreement.

C. City Council and Board shall, within 45 days of a request by either Party, establish ad hoc committees of the respective bodies and meet together to review and consider any matter of mutual concern or interest.

D. The Fire Chief, acting under the general direction of City Manager, shall have sole authority to direct the operations and delivery of all Services provided by City to District.

SECTION 7. OFFICERS AND EMPLOYEES.

A. With respect to employee rights and entitlements, and employer obligations and duties, provided under applicable State or federal laws, each Party shall be solely responsible to, and liable for the conduct, actions, and omissions of, its own employees.

B. Notwithstanding anything in this Agreement to the contrary, solely for the purposes of Section 13873 of the California Health and Safety Code (providing that employees of a fire protection district shall have the powers of a peace officer while engaged in the prevention or suppression of fires and the protection and preservation of life and property), officers and employees of City shall be deemed employees of District within the territory of

District, including, but not limited to, actions associated with rescue services, emergency medical services, hazardous material emergency response services and ambulance services.

C. With respect to any services provided under this Agreement, the City Fire Chief shall be deemed to be the District Fire Chief for purposes of exercising all of the rights, duties, privileges and obligations conveyed or imputed by law to that office within District.

D. Solely for the purpose of administering or enforcing laws, ordinances or regulations within the territory of District, the officers or employees of City responsible for such administration or enforcement shall be deemed to be officers or employees of District, fully authorized and empowered to act on behalf of District in the performance of such duties.

E. The designation of City's officers and employees as officers or employees of District pursuant to this Section 7 shall be limited to the purposes of this Section only, and such designation shall not be construed for any other purpose, including the indemnity provisions under Section 8 below.

SECTION 8. INDEMNITY AND RIGHT OF CONTRIBUTION.

A. Pursuant to the authority granted under Section 895.4 of the California Government Code, each Party (the "Indemnifying Party") shall indemnify, defend, and hold harmless the other Party, including the other Party's officers, directors, employees and agents (collectively, the "Indemnified Party"), against any and all liability, demands, claims, costs, damages, and expenses, including reasonable attorney fees, (hereafter, "Losses") incurred by the Indemnified Party, arising from or relating to any negligent or wrongful act or omission of the Indemnifying Party or its officers, agents or employees, or from any Losses arising from the dangerous condition of the Indemnifying Party's property, arising from or related to that Party's performance under this Agreement.

B. At its own cost and expense, the Indemnified Party may participate in the defense of any action or lawsuit, or in the prosecution of any appeal of any judgment or ruling in any such action or lawsuit, where the duty of defense or prosecution is imposed on the Indemnifying Party.

C. The parties shall have the right of contribution against each other in the event of any judgment of liability against either Party related to any Services provided under this Agreement. The amount of contribution for which either Party shall be liable shall not exceed that Party's proportional fault in the action giving rise to the liability.

SECTION 9. TERMINATION OR DELAY IN PERFORMANCE.

A. TERMINATION FOR CAUSE.

1. In the event either Party is in material breach of this Agreement, including the performance standards set forth in Section 2 ("General Concept of Operations"), the other Party shall have the right to terminate the Agreement for cause, provided that the non-breaching Party first provides notice of its intention to terminate and the reasons therefore and, provided further that, (i) in the event of City's material breach of performance standards in Section 2.G., City is unable to cure the breach within six months of District's notice of its intent to terminate notwithstanding City's best efforts; and (ii) for all other types of material breach by either Party, the Party in breach shall have a minimum of 30 days to cure prior to the effective date of

termination. In the event of termination for cause, the exact date of termination will be set by Party giving notice, with the understanding the non-breaching Party may extend the termination date by up to twelve months or more to implement alternative arrangements following the other Party's failure to cure.

2. If either Party shall be delayed or prevented from the performance of any act required under this Agreement, including the performance standards set forth in Section 2 ("General Concept of Operations"), by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws or regulations, or other cause without fault and beyond the control of the Party obligated, performance of this act shall be excused for the period of the delay and the period for the performance of any act shall be extended for a period equivalent to the period of the delay.

B. SERVICE IN THE EVENT OF TERMINATION

1. In the event City terminates this Agreement for cause, City shall have no obligation to provide Services after the date of termination.

2. In the event District terminates this Agreement for cause, City agrees to provide all Services described in this Agreement to District, but only to the extent that City is: (a) providing similar services to City residents, and (b) subject to City's current Standard of Cover, as determined from time-to-time. District shall pay City for the Services based on the cost per call as determined by using the full cost accounting method described in the Exhibit 2 exemplar ("Full Cost of Services"). The cost per call shall be determined as of the time Services are provided and shall be adjusted as City costs change. District and City agree these Services shall be provided until the District notifies the City that the District is terminating this provision. The District shall initiate such termination by giving written notice of its intention to terminate to City no later than December 31 of the fiscal year which ends three years prior to the termination date (i.e., minimum 42 months notice). The written notice shall be accompanied by a resolution of the elected body of District.

SECTION 10. TERM OF AGREEMENT.

A. The term of this Agreement shall be for 25 consecutive years commencing on August 1, 2010, and terminating on June 30, 2035 ("Termination Date"). Unless the Agreement is terminated for cause in accordance with Section 9 or by notice as provided in this Section 10, this Agreement shall automatically renew in ten-year intervals and a new Termination Date shall be accordingly established after each renewal.

B. Either Party may terminate this Agreement by giving written notice of its intention to terminate to the other Party no later than December 31 of the fiscal year which ends five years prior to a Termination Date (i.e., minimum 66 months notice). The written notice shall be accompanied by a resolution of the elected body of the Party giving notice.

SECTION 11. OWNERSHIP OF ASSETS.

A. In the event District has, acquires or constructs any property, real or personal, including any equipment, supplies, apparatus, land or improvements and such property is used by City in providing Services, City and District shall develop a separate agreement for the use of District property. In the case of the construction of a fire station contemplated under Section 2.P

("General Concept of Operations", Subsection P), any additional agreement shall not conflict with the provisions of this Agreement, which shall be explicitly incorporated by reference.

B. Except as otherwise provided herein, or as otherwise mutually agreed upon by the parties, City shall supply the personnel, facilities, equipment, apparatus, materials and supplies for the provision of the Services to District in accordance with this Agreement.

SECTION 12. LIMITATION OF LIABILITY.

Except for City's obligation to pay for certain mutual and automatic aid as provided in Section 2.F, neither City nor District, shall be liable for the costs of any services provided by any third party for the benefit of the other Party, including the cost of any mutual aid, disaster relief, or emergency responses provided by any agency of the federal government or the State of California, County of San Diego, or any other local agency or private party. City and District shall hold each other harmless from and against any and all costs or claims of such third parties for such services provided for the benefit of that Party.

SECTION 13. NOTICES.

A. Any notices required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand (including overnight courier service) during receiving Party's regular business hours; or (b) on the third business day following deposit in the United States mail, registered mail postage prepaid, to the addresses set forth below, or to such other addresses as the Parties may, from time to time, designate in writing.

B. Addresses for all such notices shall be as follows or as otherwise designated in writing by either Party:

To City:

City Manager
City of Vista
200 Civic Center Drive
Vista, California 92084

To District:

Clerk of the Board
Vista Fire Protection District
c/o Mrs. Joan Thurman, CPA
955 Vale Terrace Drive, Ste. A
Vista, California 92084

With a copy to:

Fire Chief
Vista Fire Department
200 Civic Center Drive
Vista, California 92084

With a copy to:

David S. Bright, Esq.
White and Bright, LLP
970 Canterbury Place
Escondido, California 92025

SECTION 14. SEVERABILITY.

If any court or arbitrator of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity of and ability to enforce the remaining provisions, or portions of them, shall not be affected, provided that the invalid provision is not fundamental to either Party's performance.

SECTION 15. SURVIVAL.

The rights and obligations created by Section 8 of this Agreement, with respect to indemnity and right of contribution, shall survive the termination of this Agreement. In the event District is entitled to post-termination Services in accordance with Section 9.B.2, the provisions of Section 5.A shall survive the termination of this Agreement.

SECTION 16. AMBIGUITIES.

Each Party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in interpreting this Agreement and this Agreement shall be construed in a neutral manner.

SECTION 17. WAIVER.

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the authorized representative(s) of the Party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

SECTION 18. REMEDIES.

Except as expressly provided otherwise in Sections 4 and 8 of this Agreement, neither Party shall be entitled to receive damages from the other Party as a result of any breach, default, performance or non-performance of any obligation under this Agreement. The parties expressly reserve to themselves all other rights and remedies available under law or equity respecting the interpretation or enforcement of this Agreement. No such right or remedy shall be deemed to be exclusive and all such rights or remedies shall be cumulative.

SECTION 19. DISPUTE RESOLUTION; ATTORNEY FEES.

A. In the event any dispute arises between the parties concerning the interpretation or performance of any obligation under this Agreement, the aggrieved Party shall notify the other Party of the existence and nature of the dispute in writing. Upon receiving a notice of dispute, the Party receiving such notice and the aggrieved Party shall endeavor to resolve the dispute through good faith efforts. If the dispute is not resolved within a reasonable period of time, prior to initiating any legal action or proceeding, other than to obtain essential and time-critical equitable relief pending the dispute resolution process described in this Section 19 ("Dispute Resolution; Attorney's Fees"), the parties agree to submit the dispute to third-party assisted mediation, under the mediation rules of the American Arbitration Association. The parties agree to participate in such mediation in good faith and to share the cost of such mediation equally. In the event the dispute is not resolved through such third-party assisted mediation, either Party may initiate an action in a court of competent jurisdiction within the County of San Diego, California seeking an adjudication of the dispute.

B. In the event an action is initiated by either Party, the Party deemed to be the prevailing Party by the adjudicating authority shall be entitled to recover its costs of suit, including without limitation reasonable attorney fees and expert witness fees, if any, as

determined by the adjudicating authority. Notwithstanding the preceding sentence, if either Party initiates any legal action or proceeding, other than to obtain essential and time-critical equitable relief pending the dispute resolution process described in this Section 19, without first attempting to resolve the dispute through good faith efforts and mediation and provided in Paragraph A, above, such Party shall not be entitled to recover its attorney fees.

C. The requirement to submit disputes to third-party mediation under Paragraph A, above, shall not apply to any default for non-payment of the amounts due to City under Section 4 of this Agreement.

SECTION 20. NO ASSIGNMENT; SUCCESSORS-IN-INTEREST.

A. Neither Party to this Agreement may voluntarily assign any of its rights or delegate any of its duties under this Agreement without the prior express written consent of the other Party to this Agreement, which consent may be withheld at that Party's sole and absolute discretion. Any attempted assignment or delegation in violation of this provision may be voided at the option of the non-assigning or non-delegating Party.

B. This Agreement is binding on the parties, and on any involuntary heirs, successors-in-interest, receivers, trustees, or administrators of the parties, or voluntary assigns or delegates with the consent of the non-assigning or non-delegating Party.

SECTION 21. ENTIRE AGREEMENT; AMENDMENT.

A. This Agreement, including all exhibits and attachments, constitute the final, complete and exclusive statement of the terms of the Agreement between the parties pertaining to the provision of Services contemplated herein and supersedes all prior and contemporaneous understandings or agreements of the parties.

B. No amendment or modification to this Agreement shall be effective unless mutually agreed upon and approved by the governing bodies of both parties, and expressed in a written amendment to this Agreement executed by the authorized representatives of each Party.

SECTION 22. COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one instrument.

[Continued on page 17.]

IN WITNESS WHEREOF, the authorized representatives of the parties have set their signatures below.

APPROVED BY DISTRICT:

APPROVED BY CITY

Date: _____

Date: _____

Resolution No.: _____

Resolution No.: _____

DISTRICT:
Vista Fire Protection District

CITY:
City of Vista

By: _____
READ MILLER, President

By: _____
MORRIS B. VANCE, Mayor

ATTEST:
By: _____
Joan Thurman, Clerk of the Board

ATTEST:
Marci Kilian, City Clerk
By: _____

APPROVED AS TO FORM:
White and Bright, LLP
By: _____
David S. Bright, District Counsel

APPROVED AS TO FORM:
Darold Pieper, City Attorney
By: _____

**EXHIBIT 1
STANDARD OF COVER TRAVEL INTERVALS**

This table describes the VFD standard Travel Interval times in accordance with Section 2.G.2.

		Distribution				
Time		Minimum Response	Urban	Suburban	Rural	Compliance %
Standard	All Risks	1st Unit: Engine or Aerial Unit*	5 min 40 sec	6 min 30 sec	8 min	90%
		Concentration				
	Fire					
Standard	High	4 Eng. 1 Aerial Unit, 1 Amb., B/C	9 min 30 sec	11 min	11 Min 30 sec	90%
Standard	Medium	3 Eng. 1 Aerial Unit, 1 Amb, B/C	9 min	10 min 30 sec	11 min	90%
Standard	Low	1 Eng	5 min 40 sec	8 min	8 min	90%
	EMS					
Standard	High	1 Eng., 1Amb.	6 min 0 sec	8 min 30 sec	9 min 30 sec	90%
Standard	Medium	1 Eng., 1Amb.	6 min 0 sec	8 min 30 sec	9 min 30 sec	90%
Standard	Low	1 Eng., 1Amb.	6 min 0 sec	8 min 30 sec	9 min 30 sec	90%
	Rescue					
Standard	High	2 Eng, 1 Aerial Unit, 1 Amb, B/C	9 min	10 min 30 sec	11 min 30 sec	90%
Standard	Medium	1 Eng, 1 Aerial Unit, 1 Amb, B/C	8 min 30 sec	11 min 0 sec	11 min	90%
Standard	Low	1 Eng, 1 Amb	8 min 0 sec	8 min	9 min	90%
	Wildland					
Standard	Red Flag	B/C, 3 type-3, 2 type-1, WT, LRA aircraft (CDF if SRA)	10 min 24 sec	13 min	18 min 12 sec	90%
Standard	High	B/C, 3 type-3, 2 type-1, WT, LRA aircraft (CDF if SRA)	10 min 24 sec	13 min	18 min 12 sec	90%
Standard	Medium	B/C, 2 type-3, 2 type-1, (Aircraft, CDF on request)	10 min 24 sec	13 min	18 min 12 sec	90%
Standard	Low	B/C, 2 type-3, 2 type-1, (Aircraft, CDF on request)	9 min	13 min 0 sec	18 min 12 sec	90%
	Haz-Mat					
Standard	Investigation (low)	1 eng	5 min 40 sec	6 min 30 sec	8 min	90%
Standard	Response (high)	2 Eng, 1 Aerial Unit, 1 Amb, B/C	9 min	10 min 30 sec	11 min 30 sec	90%

Source: Vista Fire Department, Standards of Response Coverage Analysis (2010) p. 44.

**EXHIBIT 2
VISTA FIRE DEPARTMENT
FULL COST PER CALL CALCULATION
2009 EXEMPLAR**

1	TOTAL CITY STAFFING COST	\$37,019,984
2	Fire Department Staffing Cost	\$12,922,567
3	Fire Dept. % of total City Staffing Cost (ℓ2ℓ1)	34.91%
4	TOTAL GENERAL GOVT. BUDGET	\$5,550,738
5	Fire Dept. % of total City Staffing Cost	34.91%
6	Fire Dept. Allocation of GG budget (ℓ4×ℓ5)	\$1,937,596
7	Fire Dept. Budget	\$17,355,681
8	Total Cost Fire Dept. Services (ℓ6+ℓ7)	\$19,293,277
9	TOTAL CIVIC CENTER GG DEPT. SQ. FT.	25,862
10	Fire Dept. % of total City Staffing	34.91%
11	Fire Dept. Allocation of GG Civic Center Sq. Ft. (ℓ9×ℓ10)	9,028
12	Fire Dept. Admin. Civic Center Sq. Ft.	8,525
13	Total Fire Dept. Related Civic Center Sq. Ft. (ℓ12+ℓ13)	17,553
14	Total Civic Center Sq. Ft.	94,342
15	% Civic Center Fire-Related (ℓ13ℓ14)	18.61%
16	Total Cost Civic Center	\$55,267,950
17	Cost of Civic Center Fire-Related (ℓ15×ℓ16)	\$10,282,790
18	Cost of Civic Center Fire-Related Annualized* (ℓ17/40)	\$257,070
19		
20	COST OF EACH FIRE STATION	\$8,248,424
21	Cost of Six Fire Stations (ℓ20×6)	\$49,490,544
22	Cost of Six Fire Stations Annualized* (ℓ21/40)	\$1,237,264
23	Cost of Capital Improvement Facilities (ℓ18+ℓ22)	\$1,494,334
24	Total Cost Fire Dept. Services (ℓ8)	\$19,293,277
25	TOTAL COST OF FIRE DEPT. SERVICES INCLUDING CAPITAL IMPROVEMENT FACILITIES (ℓ22+ℓ24)	\$20,787,611
26	TOTAL CALLS 2009	10,417
27	COST PER CALL (ℓ25ℓ26)	\$1,996
28	NUMBER OF DISTRICT CALLS	1,235
29	TOTAL COST OF DISTRICT CALLS (ℓ27×ℓ28)	\$2,464,500

* Annualized over 40 years