

MUTUAL AID/ AUTOMATIC AID AGREEMENT BETWEEN THE COUNTY OF SHASTA AND THE XXXXX FIRE PROTECTION DISTRICT

This agreement is entered into between the County of Shasta, through its Fire Department, a political subdivision of the State of California (“County”) and XXXXX Fire Protection District, a California fire district (“District”) for the purpose of providing Mutual Aid/ Automatic Aid to each other (collectively, the “Parties” and individually a “Party”).

Commented [HJ1]: District or Department as appropriate.
Don't forget to change the reference throughout the document.

Section 1. DEFINITIONS.

- A. Automatic Aid. “Automatic Aid” is defined as the prearranged, automatic response by mutual aid fire companies utilizing the “Closest Resource” concept. Automatic aid is most commonly used in metropolitan, urban, and suburban areas between two or more fire agencies to a specific location with a specified number of resources.
- B. Closest Resource. The closest available unit will be dispatched by the dispatch center without any request for mutual aid. “Closest available unit” can include fire engine, water tender, ladder trucks, and rescue trucks and/or fire-rescue supervisors. This closest unit response will be referred to as an automatic aid response.
- C. Mutual Aid. “Mutual Aid” is defined as a reciprocal agreement between two or more fire agencies wherein each agrees to assist the other under certain conditions. Providing mutual aid is permissible on the part of the Responding Party, based on its ability at the time the aid is requested. Responding mutual aid forces become subject to the direction of the Fire Chief/Fire Warden of the Requesting Party or to the Incident Commander, if assigned directly to an incident.
- D. CAL FIRE. California Department of Forestry and Fire Protection. State agency responsible for protecting the people of California from fires, responding to emergencies, and protecting and enhancing forest, range, and watershed values providing social, economic, and environmental benefits to rural and urban citizens. Shasta County Fire Department (SCFD) annually contracts with CAL FIRE for the administration and operation of the SCFD.
- E. Fire Warden. Shasta County Fire Department Fire Warden/Fire Chief.
- F. Fire Chief. Fire Chief of a City, County, or Independent Fire District.
- G. Incident Commander/Incident Command System. The highest ranking official of the jurisdictional agency(ies) at the scene of the incident initially establishes Command. The Incident Commander is responsible for overall management of the incident. It is his/her responsibility to prepare the Incident Objectives that, in turn, will be the foundation upon which subsequent incident action planning will be based. Incident Objectives will be based on the requirements of the agency and the incident. They should be broad, measurable and follow an ordered sequence of events.

Section 2. MUTUAL RESPONSIBILITIES AND RIGHTS.

- A. Each Party acknowledges that the timing of the request for mutual aid is critical to the effectiveness of the assistance being requested. Each Party agrees that in order to expedite the response to the request for mutual aid, field officers or dispatch center personnel may make the request for mutual aid as soon and in the most direct manner as possible and that the Requesting Party's designee may be the Incident Commander or the officer (or acting officer) on the apparatus responding to the incident. It is agreed by the Parties hereto that mutual aid assistance, when to be sent, shall be dispatched promptly and that first response by the jurisdiction requesting assistance shall not be a prerequisite to a request for assistance under this agreement.
- B. If the Incident Commander specifically requests a senior officer of the Responding Party to assume command, then the Incident Commander shall not, by relinquishing command, be relieved of responsibility for the operation.
- C. Both Parties' fire apparatus responding to an incident in the legal jurisdiction of the other will perform emergency operations as appropriate, under direction of the Incident Commander.
- D. Except as otherwise provided herein, each Party shall retain the responsibility for administrative work (including fire investigations and dissemination of public information) weed abatement and building inspections in and for their respective jurisdictions.
- E. The Parties hereto agree to provide to all other Parties to this agreement personnel and equipment as described in Attachment "A" which is incorporated herein by this reference. Notwithstanding anything to the contrary contained in this agreement, each Party's obligations pursuant to this agreement are subject to availability of resources and the commitment of any resource, personnel, equipment or any other firefighting or emergency assistance by a Party subject to the discretion of each Party's Fire Warden/Fire Chief or his or her designee. Further, the Parties hereto recognize and agree that such personnel and equipment shall be periodically unavailable under this agreement due to normal operating requirements. Responding is at the sole discretion of the Parties. The Responding Party's personnel and equipment shall be released from the incident as soon as operationally feasible. However, personnel and equipment shall not leave the incident until released by the Incident Commander. When any significant change occurs to the available equipment and/or personnel which shall last more than thirty (30) days, the Party experiencing such change shall notify the other Party to this agreement in writing.
- F. Each jurisdiction may maintain both local and regional mutual aid agreements with surrounding jurisdictions so as to facilitate a move-in of resources as may be needed.

- G. Certain specialized types of emergency resources may not be made available subject to the provisions of this agreement, and that such resources may be available on a reimbursement basis and at the specific request of the Requesting Party.

Section 3. COMPENSATION.

Each Party agrees that it will not seek from the other Party compensation for services rendered under this agreement. Each Party hereto shall at all times be responsible to its own employees and volunteers for the payment of wages and other compensation and for carrying workers' compensation insurance upon said employees and volunteers; and each Party shall be responsible for its own equipment and shall bear the risk of loss therefore, irrespective of whether or not said personnel, volunteers and equipment are being used within the area of primary responsibility of that Party.

Section 4. TERM OF AGREEMENT.

This agreement shall commence as of the last date it has been signed by both Parties and shall continue in full force and effect until terminated by either party as provided in Section 5. Any previous agreement is terminated upon the execution of this agreement.

Section 5. TERMINATION OF AGREEMENT.

- A. If either Party materially fails to perform its responsibilities under this agreement, or if either Party fails to fulfill in a timely and professional manner its responsibilities under this agreement, or if either Party violates any of the terms or provisions of this agreement, then the other Party shall have the right to terminate this agreement for cause effective immediately upon the giving written notice thereof. If termination for cause is given by either Party and it is later determined that the other Party was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph B of this section.
- B. Either Party may terminate this agreement without cause on 60 days' written notice to other Party.
- C. County's right to terminate this agreement may be exercised by the Fire Warden or his/her designee.
- D. District's right to terminate this agreement may be exercised by the District's Fire Chief.

Section 6. ENTIRE AGREEMENT; AMENDMENTS; HEADINGS; EXHIBITS/APPENDICES.

- A. This agreement supersedes all previous agreements relating to the subject of this agreement and constitutes the entire understanding of the Parties hereto. Parties shall be entitled to no other benefits other than those specified herein. Parties specifically acknowledge that in entering into and executing this agreement, Parties rely solely upon the provisions contained in this agreement and no others.

- B. No changes, amendments, or alterations to this agreement shall be effective unless in writing and signed by both Parties. However, minor amendments, including retroactive, that do not result in a substantial or functional change to the original intent of this agreement may be agreed to in writing between both Parties' Fire Chief/Fire Warden, provided that the amendment is in substantially the same format as the County's standard format amendment contained in the Shasta County Contracts Manual (Administrative Policy 6-101).
- C. The headings that appear in this agreement are for reference purposes only and shall not affect the meaning or construction of this agreement.
- D. If any ambiguity, inconsistency, or conflict exists or arises between the provisions of this agreement and the provisions of any of this agreement's exhibits or appendices, the provisions of this agreement shall govern.

Section 7. NONASSIGNMENT OF AGREEMENT; NON-WAIVER.

Inasmuch as this agreement is intended to secure the specialized services of each of the Parties to this agreement, neither Party may assign, transfer, delegate, or sublet any interest herein without the prior written consent of the other Party. The waiver by Parties of any breach of any requirement of this agreement shall not be deemed to be a waiver of any other breach.

Section 8. EMPLOYMENT STATUS OF PARTIES.

Each of the Parties to this agreement shall, during the entire term of this agreement, be construed to be an independent contractor, and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, a separate legal entity, or to allow either Party to exercise discretion or control over the professional manner in which the other Party performs the work or services that are the subject matter of this agreement; provided, however, that the work or services to be provided by each of the Parties shall be provided in a manner consistent with the professional standards applicable to such work or services in the state of California. The sole interest of both Parties is to insure that the work or services shall be rendered and performed in a competent, efficient, and satisfactory manner. No additional benefits arise due to participation in assistance under this agreement.

Section 9. MUTUAL INDEMNIFICATION

The Parties shall defend, indemnify, and hold harmless each other, their respective elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including, but not limited to, reasonable attorneys' fees of a Party and counsel retained by a Party, expert fees, litigation costs, and investigation costs), liabilities, losses, damages, judgments, or decrees arising from the work or the provision of services undertaken pursuant to this agreement by any person employed by either Party, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the respective Party, its officials, officers, employees, agents, or volunteers. There shall

be no liability imposed on any Party or its personnel for failure to respond to requests for aid. All damages or repairs to any equipment or apparatus that occur in the normal operation during the provision of aid under this Agreement shall be the responsibility of the owner jurisdiction. The provisions of this paragraph are intended to be interpreted as broadly as permitted by applicable law. This provision shall survive the termination, expiration, or cancellation of this agreement.

Section 10. INSURANCE

- A. District and any subcontractor shall obtain, from an insurance carrier authorized to transact business in the State of California, and maintain continuously during the term of this agreement Commercial General Liability Insurance, including coverage for owned and non-owned automobiles, and other insurance necessary to protect the County and the public with limits of liability of not less than \$1 million per occurrence combined single limit bodily injury and property damage; such insurance shall be primary as to any other insurance maintained by District.
- B. District and any subcontractor shall obtain and maintain continuously required Workers' Compensation and Employer's Liability Insurance to cover District, subcontractor, District's partner(s), subcontractor's partner(s), District's employees, and subcontractor(s) employees with an insurance carrier authorized to transact business in the State of California covering the full liability for compensation for injury to those employed by District or subcontractor. Each such policy shall be endorsed to state that the Workers' Compensation carrier waives its right of subrogation against the County, its elected officials, officers, employees, agents, and volunteers which might arise in connection with this agreement. District hereby certifies that District is aware of the provisions of section 3700 of the Labor Code, which requires every employer to insure against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and District shall comply with such provisions before commencing the performance of the work or services prescribed in this agreement.
- C. County will maintain programs of General Liability, Workers' Compensation, and Property coverage. County's General Liability program includes coverage for Automobile Liability, carries a self-insured retention of \$250,000, with excess coverage through its Memorandum of Coverage (MOU) with Public Risk Innovation, Solutions, and Management (PRISM). County's Workers' Compensation program provides statutory coverage through its MOU with PRISM, and carries a self-insured retention of \$250,000. County's Property coverage is provided through its MOU with PRISM.
- D. The parties shall provide updated insurance declaration information every three years this contract is in force and effect. Further, the parties will advise of any material change to or loss of insurance within 3 days of material change or loss of coverage. Notice shall be in writing describing in detail the change or loss of coverage.

11. NOTICE OF CLAIM; APPLICABLE LAW; VENUE

- A. If any claim for damages is filed with District or if any lawsuit is instituted concerning District's performance under this agreement and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect County, District shall give prompt and timely notice thereof to County. Notice shall be prompt and timely if given within 30 days following the date of receipt of a claim or 10 days following the date of service of process of a lawsuit. This provision shall survive the termination, expiration, or cancellation of this agreement.
- B. If any claim for damages is filed with County or if any lawsuit is instituted concerning County's performance under this agreement and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect District, County shall give prompt and timely notice thereof to District. Notice shall be prompt and timely if given within 30 days following the date of receipt of a claim or 10 days following the date of service of process of a lawsuit. This provision shall survive the termination, expiration, or cancellation of this agreement.
- C. Any dispute between the Parties, and the interpretation of this agreement, shall be governed by the laws of the State of California. Any litigation shall be venued in Shasta County.

Section 12. COMPLIANCE WITH LAWS; NON-DISCRIMINATION.

- A. Parties shall observe and comply with all applicable present and future federal laws, state laws, local laws, codes, rules, regulations, and/or orders that relate to the work or services to be provided pursuant to this agreement.
- B. Parties shall not unlawfully discriminate in employment practices or in the delivery of services on the basis of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, medical condition (including cancer, HIV, and AIDS) physical or mental disability, use of family care leave under either the Family & Medical Leave Act or the California Family Rights Act, or on the basis of any other status or conduct protected by law.
- C. Parties represent that they are in compliance with and agree that they shall continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. sections 12101, *et seq.*), the Fair Employment and Housing Act (Government Code sections 12900, *et seq.*), and regulations and guidelines issued pursuant thereto.
- D. In addition to any other provisions of this agreement, each Party shall be solely responsible for any and all damages caused, and/or penalties levied, as the result of each Party's noncompliance with the provisions of this section.

Section 13. ACCESS TO RECORDS; RECORDS RETENTION.

- A. County, federal, and state officials shall have access to any books, documents, papers, and records of District that are directly pertinent to the subject matter of this agreement for the purpose of auditing or examining the activities of District or County. Except where longer retention is required by federal or state law, District shall maintain all records for five years after County makes final payment hereunder. This provision shall survive the termination, expiration, or cancellation of this agreement.
- B. District shall maintain appropriate records to insure a proper accounting of all funds and expenditures pertaining to the work performed or the services provided pursuant to this agreement. District shall maintain records providing information that account for all funds and expenses related to the provision of services provided pursuant to this agreement. Access to these records shall be provided to County during working days, 8:00 a.m. to 5:00 p.m. and at other times upon reasonable notice by County, and upon request of state and federal agencies charged with the administration of programs related to the work or services to be provided pursuant to this agreement.
- C. District agrees to accept responsibility for receiving, replying to, and/or complying with any audit exception by appropriate federal, state, or County audit directly related to the provisions of this agreement. District agrees to repay County the full amount of payment received for duplicate billings, erroneous billings, audit exceptions, or false or deceptive claims. District agrees that County may withhold any money due and recover through any appropriate method any money erroneously paid under this agreement if evidence exists of less than full compliance with this agreement including, but not limited to, exercising a right of set-off against any compensation payable to District.

Section 14. COMPLIANCE WITH CHILD, FAMILY, AND SPOUSAL SUPPORT REPORTING OBLIGATIONS.

District's failure to comply with state and federal child, family, and spousal support reporting requirements regarding District's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family, and spousal support obligations shall constitute a default under this agreement. District's failure to cure such default within 90 days of notice by County shall be grounds for termination of this agreement.

Section 15. LICENSES AND PERMITS.

Parties, their officers, employees, and agents performing the work or services required by this agreement, shall possess and maintain all necessary licenses, permits, certificates, and credentials required by the laws of the United States, the State of California, the County of Shasta, and all other appropriate governmental agencies, including any certification and credentials required by County. Failure to maintain the licenses, permits, certificates, and

credentials shall be deemed a breach of this agreement and constitutes grounds for the termination of this agreement by either Party.

Section 16. PERFORMANCE STANDARDS.

Parties shall perform the work or services required by this agreement in accordance with the industry and/or professional standards applicable to Parties' work or services.

Section 17. CONFLICTS OF INTEREST.

Parties' officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property, or source of income that could be financially affected by or otherwise conflict in any manner or degree with the performance of the work or services required under this agreement.

Section 18. NOTICES.

- A. Any notices required or permitted pursuant to the terms and provisions of this agreement shall be given to the appropriate Party at the address specified below or at such other address as the Party shall specify in writing. Such notice shall be deemed given: (1) upon personal delivery; or (2) if sent by first class mail, postage prepaid, two days after the date of mailing.

If to County: Shasta County Fire Department
Fire Warden
875 Cypress Ave.
Redding, CA 96001

If to District: XXXXX Fire Protection District
Fire Chief
PO Box
Anytown, CA 96001

- B. Any oral notice authorized by this agreement shall be given to the persons specified in Section 18.A. and shall be deemed to be effective immediately.

Section 19. AGREEMENT PREPARATION.

It is agreed and understood by the Parties that this agreement has been arrived at through negotiation and that neither Party is to be deemed the Party which created any uncertainty in this agreement within the meaning of section 1654 of the Civil Code.

Section 20. COMPLIANCE WITH POLITICAL REFORM ACT.

Parties shall comply with the California Political Reform Act (Government Code, sections 81000, *et seq.*), with all regulations adopted by the Fair Political Practices Commission pursuant thereto, and with the County's Conflict of Interest Code, with regard to any obligation on the part of Parties to disclose financial interests and to recuse from influencing any Parties' decision which may affect Parties' financial interests. If required

by the County's Conflict of Interest Code, Parties shall comply with the ethics training requirements of Government Code sections 53234, *et seq.*

Section 21. SEVERABILITY.

If any portion of this agreement or application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal or state statute or regulation or County ordinance, the remaining provisions of this agreement, or the application thereof, shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this agreement are severable.

Section 22. USE OF COUNTY PROPERTY.

District shall not use County premises, property (including equipment, instruments, and supplies), or personnel for any purpose other than in the performance of District's obligations under this agreement. County shall not use District Premises, property (including equipment, instruments, and supplies), or personnel for any purpose other than in the performance of County's obligations under this agreement.

Section 23. COUNTERPARTS/ELECTRONIC, FACSIMILE, AND PDF SIGNATURES.

This agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this agreement. The Parties further agree that the electronic signatures of the Parties included in this agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code. Facsimile signatures or signatures transmitted via pdf document shall be treated as originals for all purposes.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have executed this agreement on the dates set forth below.
By their signatures below, each signatory represents that he/she has the authority to execute this agreement and to bind the Party on whose behalf his/her execution is made.

COUNTY OF SHASTA

Date: _____
SEAN O'HARA
Shasta County Fire Warden

Approved as to form:
JOSEPH LARMOUR
County Counsel
RISK MANAGEMENT APPROVAL

By: _____ By: _____

DISTRICT

Date: _____
XXXXXX
Chair – Board of Directors

Counsel

By: _____

Commented [HJ2]: Many Fire Districts want their Counsel to sign off. Add or delete other District signature lines as needed.