

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

711C



FROM: FIRE

SUBMITTAL DATE:
November 14, 2012

SUBJECT: Approval of the Cooperative Agreement to Provide Fire Protection, Fire Prevention, Rescue and Medical Emergency Services for the City of Lake Elsinore District 1 / District 1

RECOMMENDED MOTION: Move that the Board approve and authorize the Chairman to sign the attached Cooperative Agreement between the County and the City of Lake Elsinore.

BACKGROUND: In connection with the City of Lake Elsinore's desire to continue contracting for Fire Protection Services with the Riverside County Fire Department, the City of Lake Elsinore and the County have reached an agreement as to cost sharing at the Rosetta Fire Station 97 for operating expenses, staffing, and equipment in order to allow the Station to be operational and staffed by FY 13/14. The term of this agreement is for Fiscal Year beginning July 1, 2012 through Fiscal Year ending on June 30, 2016.

[Signature]

Glenn Patterson, Deputy Chief of Admin. for
John R. Hawkins, Riverside County Fire Chief

FORM APPROVED COUNTY COUNSEL
BY: ERIC STOPHER
11/26/12
Departmental Reference

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 6,209,223	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/13

SOURCE OF FUNDS: Contract Revenue from the City of Lake Elsinore.	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
BY: *[Signature]*
Michael R. Shetler

County Executive Office Signature

- Dep't Recomm.: Consent
- Per Exec. Ofc.: Consent

Prev. Agn. Ref.: 03/27/01 3.11;
7/12/12 3.54 **District:** 1 / 1 **Agenda Number:**

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.11

**A COOPERATIVE AGREEMENT
TO PROVIDE FIRE PROTECTION, FIRE PREVENTION, RESCUE
AND MEDICAL EMERGENCY SERVICES FOR THE CITY OF LAKE ELSINORE
(Fiscal Year 2012/13 through 2015/2016)**

THIS AGREEMENT, made and entered into this ____ day of _____, 2012, by and between the County of Riverside a political subdivision of the State of California, on behalf of the Fire Department, (hereinafter referred to as "COUNTY") and the City of Lake Elsinore, a municipal corporation, (hereinafter referred to as "CITY"). COUNTY and CITY hereinafter may be individually referred to as a "Party" and collectively referred to as the "Parties". The Parties agree as follows:

SECTION I: PURPOSE

A. The purpose of this Agreement is to arrange for COUNTY, through its Cooperative Fire Programs Fire Protection Reimbursement Agreement ("CAL FIRE Agreement") with the California Department of Forestry and Fire Protection ("CAL FIRE") to provide CITY with fire protection, disaster preparedness and response, fire prevention, rescue, hazardous materials mitigation, technical rescue response, medical emergency services, and public service assists (hereinafter called "Fire Services"). This Agreement is entered into pursuant to the authority granted by Government Code Sections 55603, 55603.5, 55606, 55632 and 55642, and will provide a unified, cooperative, integrated, and effective fire services system. COUNTY's ability to perform under this Agreement is subject to the terms and conditions of the CAL FIRE Agreement.

B. This Agreement is also to coordinate the opening of Station #97 (Rosetta Canyon Fire Station, hereinafter "Station #97"), a fire station that was constructed in 2010, but has never been occupied. Based on an analysis by CAL FIRE, CITY and COUNTY, it has been determined that Station #97 should be operational and staffed by the beginning of Fiscal Year 2013/14.

C. As part of the negotiations and in consideration of the cost for providing Fire Services to the CITY, the CITY and COUNTY desire a cost sharing agreement related to the equipment, operations and staffing of Station #97. Station #97 will provide services to the incorporated territory of the City of Lake Elsinore as well as to unincorporated territory in the County of Riverside.

D. Under the lead of COUNTY and in furtherance of the CITY's goal to operate and staff Station #97, the CITY will purchase a new 4-person Quint Fire Truck ("Quint Truck"), capable of carrying water and fighting fires as a self-contained unit that will be equipped with associated medical equipment for paramedic use. Concurrent with this Agreement, the Parties have entered into that certain Implementation Agreement to Share Cost of Quint Fire Truck between COUNTY and CITY ("Implementation Agreement") that covers the cost sharing agreement as it relates to the CITY's purchase of the Quint Truck. Pursuant to the Implementation Agreement, the CITY shall order the Quint Fire Truck. Each Quint Fire Truck is custom constructed and takes approximately one (1) year to receive fully equipped.

E. For the purposes of the staffing and initial outfitting of Station #97, the Parties agree as follows:

(1) CITY and COUNTY agree to cost share equally, dollar for dollar, in the Station #97 Company Costs ("Station Comp") which includes household, kitchen, and janitorial items along with furniture, fixtures, and equipment ("FFE") estimated to be \$160,000; provided, however, that the COUNTY's share of Station Comp and FFE shall not to exceed \$100,000. Any additional FFE outside of the COUNTY Standard Station Comp and costs in excess of the foregoing limit will be the responsibility of the CITY.

(2) CITY will open Station #97 on July 1, 2013.

(3) CITY will own and maintain Station #97. This includes all repairs, maintenance, and capital improvements to Station #97.

(4) CITY agrees to purchase the Quint Truck as provided in the Implementation Agreement pursuant to the cost sharing and related rights and obligations as provided therein with respect to the purchase and ownership of the Quint Truck.

(5) Until the Quint Truck is placed into service, COUNTY will loan a Type I Fire Engine to the CITY to place into service from the Station #97. The full cost of maintenance and insurance of this Type I Fire Engine will be covered by the COUNTY and allocated to the CITY as part of the Cost Allocation Plan Fleet Support.

(6) The CITY will staff and pay for three (3) person medic truck staffing for said Type I Fire Engine at the rate specified in the attached "Exhibit A"

(7) When the Quint Truck is received and ready to place into service, the COUNTY Type I Fire Engine will be returned to the possession of the COUNTY.

F. Upon the in-service date of the Quint Truck, Station #97 will be staffed with a four (4) person medic truck staffing, pursuant to the terms of this Agreement and costs shall be allocated as follows:

(1) The CITY will pay for the cost of three (3) Engineers, three (3) Firefighter IIs, and three (3) Medic Firefighter IIs at the rate specified in the "Exhibit A".

(2) The COUNTY will pay for the cost of three (3) Fire Captains of the four (4) person medic truck staffing.

SECTION II: DESIGNATION OF FIRE CHIEF, STAFFING AND EQUIPMENT

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

B. CITY may budget for the position of a Deputy Chief or a Division Fire Chief or COUNTY may assign an existing Chief Officer as the Contract City representative ("City Representative"). The CHIEF may delegate certain authority to the City Representative, as the CHIEF's duly authorized designee and the City Representative shall be responsible for directing the Fire Services provided to CITY as set forth in Exhibit "A".

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

SECTION III: PAYMENT FOR SERVICES

A. CITY shall annually appropriate a fiscal year budget to support the Fire Services designated at a level of service mutually agreed upon by both Parties and as set forth in Exhibit "A." Exhibit "A" may be amended in writing by mutual agreement by both Parties in the event of an increase and/or decrease of salary or expenses or when CITY requests an increase and/or decrease in services.

1. Any changes to the salaries or expenses set forth in Exhibit "A" made necessary by action of the Legislature, CAL FIRE, or any other public agency with authority to direct changes in the level of salaries or expenses, shall be paid from the funds represented as set forth in Exhibit "A." There shall be no obligation on the part of CITY to expend or appropriate any sum in excess of Exhibit "A" which exceeds the yearly appropriation of CITY for the purposes of this Agreement. If within thirty (30) days after notice, in writing, from COUNTY to CITY that the actual cost of maintaining the services specified in Exhibit "A" as a result of action by the Legislature, CAL FIRE or other public agency will exceed the total amount specified therein, and CITY has failed to agree to make available the necessary additional funds, COUNTY shall have the right to unilaterally reduce the services furnished under this Agreement by an appropriate amount and shall promptly notify CITY, in writing, specifying the services to be reduced. Personnel reductions resulting solely due to an increase in employee salaries or expenses occurring after signing this Agreement and set forth in Exhibit "A" to this Agreement shall not be subject to relocation expense reimbursement by CITY, as outlined in Section III, B. If CITY desires to add funds to the total included herein to cover the cost of increased salaries or services necessitated by actions described herein, such increase shall be accomplished by an amendment to Exhibit "A" and approved by the Parties hereto.

2. In the event CITY requests an increase in services and paragraph A.1. of this Section is not applicable, an amendment to Exhibit "A" may be approved by the Parties hereto.

B. COUNTY provides fire personnel, equipment and services through its CAL FIRE Agreement. In the event CITY desires a reduction in CAL FIRE or COUNTY civil service employees or services assigned to CITY as provided for in Exhibit "A," when paragraph A.1. of this Section is not applicable, CITY shall provide one hundred twenty (120) days written notice of the requested reduction. Proper notification shall include the following: (1) the total amount of reduction; (2) the effective date of the reduction; and (3) the number of employees, by classification, affected by the proposed reduction. If such notice is not provided, CITY shall reimburse COUNTY for relocation costs incurred by COUNTY because of the reduction, in addition to any other remedies available resulting from the reduction in services.

C. CITY shall pay COUNTY actual costs for Fire Services pursuant to this Agreement in an amount not to exceed that set forth in Exhibit "A," as amended from time to time. COUNTY shall make a claim to CITY for the actual cost of contracted services, pursuant to Exhibit "A," on a quarterly basis. CITY shall pay each claim within thirty (30) days after receipt thereof.

D. CHIEF may be authorized to negotiate and execute any amendments to Exhibit "A" of this Agreement on behalf of COUNTY as authorized by the Board of Supervisors. CITY shall designate a "Contract Administrator" who shall, under the supervision and direction of CITY, be authorized to execute amendments to Exhibit "A" on behalf of CITY.

E. _____ [] (Check only if applicable, and please initial to acknowledge) Additional terms as set forth in the attached Exhibit "B" are incorporated herein and shall additionally apply to this Agreement regarding payment of services.

F. _____ [] (Check only if applicable, and please initial to acknowledge) Additional terms as set forth in the attached Exhibit "C" are incorporated herein and shall additionally apply to this Agreement regarding payment for the Fire Engine Use Agreement. In the event that a fire engine which was initially purchased by the CITY and then the CITY elects to have the COUNTY take responsibility of said fire engine(s), the following will apply. The COUNTY will be responsible for maintaining and repairing said fire engine(s). The insurance responsibility will be dependent upon the CITY'S option to maintain or transfer title of said fire engine(s).

G. Notwithstanding Paragraph F herein if applicable, additional terms as set forth are incorporated herein and shall additionally apply to this Agreement regarding payment of services. In the event that fire engine, owned and maintained by the CITY has a catastrophic failure, the CHIEF may allow use of a COUNTY fire engine, free of charge up to one hundred twenty (120) days. After the initial one hundred twenty (120) days, a rental fee will be applied to the CITY invoice for use of said COUNTY fire engine. The rental fee shall be Nine Hundred Forty Four Dollars (\$944.00) per day, or Six Thousand Six Hundred Eight Dollars (\$6,608.00) per week.

SECTION IV: INITIAL TERMS AND RENEWAL

A. The term of this Agreement shall be from July 1, 2012 to June 30, 2016. Either Party to this Agreement may terminate this Agreement by providing a written notice of termination to the other Party hereto no less than one (1) year prior to the expiration of the term hereof. If such notice is given unilaterally by COUNTY except any notice issued because of actions taken by CAL FIRE or CITY, COUNTY agrees to continue to provide Fire Services to CITY until such time as CITY has a reasonable opportunity to implement alternative Fire Services.

B. One (1) year prior to the date of expiration of this Agreement, CITY shall give COUNTY written notice of whether CITY intends to extend this Agreement or enter into a new agreement with COUNTY for Fire Services and, if so, whether CITY intends to change the level of Fire Services provided under this Agreement.

C. If CITY fails to provide such notice, as defined in paragraph B above, COUNTY shall have the option to extend this Agreement for a period of up to one (1) year from the original termination date and to continue providing services at the same or reduced level as COUNTY determines would be appropriate during the extended period of this Agreement. Six (6) months prior to the date of expiration of the Agreement, or any extension hereof, COUNTY shall give written notice to CITY of any extension of this Agreement and any changes in the level of Fire Services COUNTY will provide during the extended period of the Agreement. Services provided and obligations incurred by COUNTY during

an extended period shall be accepted by CITY as services and obligations under the terms of this Agreement.

D. The cost of services provided by COUNTY during the extended period shall be based upon the amounts that would have been charged to the CITY during the fiscal year in which the extended period falls, had a new Agreement been extended under this Section IV. Payment by CITY for services rendered by COUNTY during the extended period shall be in accordance with Exhibit "A", of this Agreement.

SECTION V: TERMINATION

Subject to the provisions of Section IV of this Agreement, either Party to this Agreement may terminate this Agreement by providing a written notice of termination to the other Party hereto no less than one (1) year prior to the expiration of the term hereof. This Agreement may be terminated by the voters of either the COUNTY or CITY pursuant to Government Code §55603.5.

SECTION VI: COOPERATIVE OPERATIONS

All Fire Services contemplated under the Agreement shall be performed by both Parties to this Agreement working as one (1) unit; therefore, personnel and equipment belonging to either CITY or COUNTY may be temporarily dispatched elsewhere from time to time for mutual aid.

SECTION VII: MUTUAL AID

Pursuant to Health and Safety Code Sections 13050 et seq., when rendering mutual aid or assistance, COUNTY may, at the request of CITY, demand payment of charges and seek reimbursement of CITY costs for personnel, equipment and operating expenses as funded herein, under authority given by Health and Safety Code Sections 13051 and 13054. COUNTY, in seeking said reimbursement pursuant to such request of CITY, shall represent the CITY by following the procedures set forth in Health and Safety Code Section 13052. Any recovery of CITY costs, less actual expenses, shall be paid or credited to the CITY, as directed by CITY.

SECTION VIII: SUPPRESSION COST RECOVERY

As provided in Health and Safety Code Section 13009, COUNTY 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. When using CITY equipment and personnel under the terms of this Agreement, COUNTY may, on request of CITY, bring such an action for collection of costs incurred by CITY. In such a case CITY appoints and designates COUNTY as its agent in said collection proceedings. In the event of recovery, COUNTY shall apportion to CITY its pro-rata portion of recovery, less the reasonable pro-rata costs including legal fees.

In all such instances, COUNTY shall give timely notice of the possible application of Health and Safety Code Section 13009 to the officer designated by CITY.

SECTION IX: PROPERTY ACCOUNTING

All personal property provided by CITY and by COUNTY for the purpose of providing Fire 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 County Fire Department for segregation, care and use of the respective property of each.

SECTION X: FACILITY

City shall provide Fire Stations, strategically located to provide standard response time within the City of Lake Elsinore from which fire operations shall be conducted. City shall maintain the facilities at its cost and expense. Upon the expiration of this Agreement, in the event City requests County to undertake repairs or maintenance costs or services, the costs and expenses of such repairs or maintenance shall be reimbursed to County through the Support Services Cost Allocation, or as a direct invoice to the City.

SECTION XI: INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent permitted by applicable law, COUNTY shall and does agree to indemnify, protect, defend and hold harmless CITY, its agencies, districts, special districts and departments, their respective directors, officers, elected and appointed officials, employees, agents and representatives (collectively, "**Indemnitees**") for, from and against any and all liabilities, claims, damages, losses, liens, causes of action, suits, awards, judgments and expenses, attorney and/or consultant fees and costs, taxable or otherwise, of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (1) the Fire Services performed hereunder by COUNTY, or any part thereof, (2) this Agreement, including any approved amendments or modifications, or (3) any negligent act or omission of COUNTY, its officers, employees, subcontractors, agents, or representatives (collectively, "**Liabilities**"). Notwithstanding the foregoing, the only Liabilities with respect to which COUNTY's obligation to indemnify, including the cost to defend, the Indemnitees does not apply is with respect to Liabilities resulting from the negligence or willful misconduct of an Indemnitee, or to the extent such claims do not arise out of, pertain to or relate to the County's obligation under this Agreement.

To the fullest extent permitted by applicable law, CITY shall and does agree to indemnify, protect, defend and hold harmless COUNTY, its agencies, departments, directors, officers, agents, Board of Supervisors, elected and appointed officials and representatives (collectively, "**Indemnitees**") for, from and against any and all liabilities, claims, damages, losses, liens, causes of action, suits, awards, judgments and expenses, attorney and/or consultant fees and costs, taxable or otherwise, of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (1) the services performed by City hereunder, by CITY, or any part thereof, (2) this Agreement, including any approved amendments or modifications, or (3) any negligent act or omission of CITY, its officers, employees, subcontractors, agents, or representatives (collectively, "**Liabilities**"). Notwithstanding the foregoing, the only Liabilities with respect to which CITY's obligation to indemnify, including the cost to defend, the Indemnitees does not apply is with respect to Liabilities resulting from the negligence or willful misconduct of an Indemnitee, or to the extent such claims do not arise out of, pertain to or relate to the City's obligations under this Agreement.

SECTION XII: AUDIT

COUNTY and CITY agree that their designated representative shall have the right to review and to copy any records and supporting documentation of the other Party hereto, pertaining to the performance of this Agreement. COUNTY and CITY 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 or as required by law, and to allow the auditor(s) of the other Party access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. COUNTY and CITY agree to a similar right to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

SECTION XIII: DISPUTES

CITY shall select and appoint a "Contract Administrator" who shall, under the supervision and direction of CITY, be available for contract resolution or policy intervention with COUNTY, when, upon determination by the CHIEF that a situation exists under this Agreement in which a decision to serve the interest of CITY has the potential for conflict with COUNTY interest or policy. Any dispute concerning a question of fact arising under the terms of this Agreement which is not disposed of within a reasonable period of time, by the CITY and COUNTY employees normally responsible for the administration of this Agreement shall be brought to the attention of the Chief Executive Officer (or designated representative) of each organization for joint resolution. For purposed of this provision, a "reasonable period of time" shall be ten (10) calendar days or less. CITY and COUNTY agree to continue with the responsibilities under this Agreement during any dispute.

Disputes that are not resolved by and between CITY and COUNTY representatives may be resolved, may be resolved, by mutual agreement of the Parties, through alternate forms of dispute resolution, including, but not limited to, mediation or non-binding arbitration. The costs associated with the selected form of dispute resolution such as mediation or non-binding arbitration shall be shared equally among the participating Parties. If the alternate form of dispute resolution does not resolve the issue(s), the Parties reserve the right to seek remedies as provided by law or in equity. Venue for litigation shall be in Riverside County.

Any claims or causes of actions, whether they arise out of unresolved disputes as specified in this Section or claims by third parties that are made against the COUNTY, shall be submitted to the Office of the Clerk of the Board for the County of Riverside in a timely manner.

SECTION XIV: DELIVERY OF NOTICES

All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other addresses as the respective Parties may provide in writing for this purpose.

COUNTY
County Fire Chief
210 W. San Jacinto Ave.
Perris, CA 92570

CITY OF LAKE ELSINORE
City Manager
130 South Main St.
Lake Elsinore, CA 92530

Any notice required to be given hereunder to either Party shall be given by personal delivery or be depositing such notice in the U.S. mail to the address listed, certified with return receipt requested, and pre-paid postage affixed. Such notice shall be deemed made when personally delivered or when mailed. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of method of service.

SECTION XV: ENTIRE CONTRACT

This Agreement contains the whole contract between the Parties for the provision of Fire Services. It may be amended or modified upon the mutual written consent of the Parties hereto. This Agreement does NOT supplement other specific agreements entered into by both Parties for equipment or facilities unless specifically referenced in such specific agreements, and excepting those equipment or facilities agreements, this Agreement cancels and supersedes any previous agreement for the same or similar services.

[Signature Provisions on following page]

IN WITNESS WHEREOF, the duly authorized officials of the Parties hereto have, in their respective capacities, set their hands as of the date first herein above written.

DATED: _____

CITY OF LAKE ELSINORE

BY: _____

TITLE: _____

ATTEST:

APPROVED AS TO FORM:

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATED: _____

COUNTY OF RIVERSIDE

BY: _____

CHAIRMAN, BOARD OF SUPERVISORS
JOHN TAVAGLIONE

ATTEST:

APPROVED AS TO FORM:

KECIA HARPER-IHEM
CLERK OF THE BOARD

PAMELA J. WALLS
COUNTY COUNSEL

BY: _____

BY:  _____

DEPUTY

ERIC STOPHER
DEPUTY COUNTY COUNSEL

(SEAL)

EXHIBIT "A"

[SEE ATTACHED]