

AGREEMENT FOR FIRE CHIEF, DUTY CHIEF, AND ADMINISTRATIVE SERVICES

Between

**PLACER HILLS FIRE PROTECTION DISTRICT and
NEWCASTLE FIRE PROTECTION DISTRICT**

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THIS AGREEMENT FOR FIRE CHIEF, DUTY CHIEF, AND ADMINISTRATIVE SERVICES (“Agreement”) is entered into as of the 1st day of November, 2016, by and between the Placer Hills Fire Protection District (“Placer Hills”) and the Newcastle Fire Protection District (“Newcastle”).

RECITALS

WHEREAS, the Placer Hills Fire Protection District is a fire protection district organized and existing under the laws of the State of California; and

WHEREAS, the Newcastle Fire Protection District is a fire protection district organized and existing under the laws of the State of California; and

WHEREAS, the Board of Directors of the Newcastle Fire Protection District desires to Contract with the Placer Hills Fire Protection District for Fire Chief, Duty Chief, and Administrative services; and

WHEREAS, the Board of Directors of the Placer Hills Fire Protection District has agreed by unanimous vote to enter into this contract for Fire Chief, Duty Chief, and Administrative Services;

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein set forth, it is agreed as follows:

ARTICLE 1

TERM AND RENEWAL

- 1.1 Term. The term of this Agreement shall commence beginning on November 1, 2016 and continuing through June 30, 2018, provided that it is fully ratified and executed by all parties on or before November 1, 2016. The Agreement is subject to termination pursuant to Article 5 below.

ARTICLE 2

PROVISION OF SHARED SERVICES

- 2.1 Fire Chief, Duty Chief, and District Manager. The parties agree to contract the services of the Placer Hills’ Fire Chief, Duty Chief, and District Manager so that they will also act as the Fire Chief, Duty Chief, and District Manager to Newcastle in addition to their duties as the Fire Chief, Duty Chief, and District Manager for Placer Hills.

- 2.1.1 Scope of Duties. The duties and authorities of the Fire Chief and District Manager shall be those set forth in the Description of Tasks and Services attached hereto as **Exhibit A** and incorporated herein by reference. The Description of Tasks and Services may be amended as appropriate and necessary only with the concurrence of both respective Boards of Directors of the Newcastle Fire Protection District and the Placer Hills Fire Protection District.
- 2.1.2 Division of Service. The parties anticipate that the Fire Chief, Duty Chief,, and District Manager will reasonably divide their time between Placer Hills and Newcastle as the duties and responsibilities of each district require. This includes sharing time at the physical location of the fire station in each District. Both parties understand that there will be times when one district requires more of the Fire Chief, Duty Chief, and District Manager's attention than the other. Division/allocation of the Fire Chief's, Duty Chief's, and District Manager's time shall be at the sole discretion of the Fire Chief.
- 2.1.3 Rules and Regulations. The Fire Chief will apply the Placer Hills Fire Protection District Rules, Regulations, Policies and Practices in both jurisdictions with the exception of specific rules and regulations that are unique to the Newcastle Fire Protection District. The Fire Chief will follow the requirements of the Firefighters Procedural Bill of Rights in both jurisdictions as well.
- 2.1.4 Limitations upon Authority to Bind Newcastle. Notwithstanding anything to the contrary contained herein, Placer Hills agrees that the Fire Chief shall not, without the prior approval of Newcastle Board of Directors or such officer or officers as the Board of Directors may designate, engage in any of the following on behalf of Newcastle:
- (a) Borrow or obtain credit in any amount or execute any guarantee, except for items for sale by vendors in the ordinary course of the Fire Chief's operation;
 - (b) Expend funds for capital equipment in excess of expenditures expressly budgeted and approved by the Board of Directors;
 - (c) Sell or transfer capital assets; and
 - (d) Execute any lease of real or personal property.
- 2.2 Consideration. Newcastle shall pay Placer Hills the sum of eighty nine thousand dollars (\$ 89,000) payable in equal quarterly payments, on the first day of each quarter commencing retroactively to October 1, 2016, for the services of the Fire Chief, Duty Chief, and District Manager as described herein. Both Newcastle and Placer Hills will carry Workers Compensation Insurance for the Fire Chief, Duty

- Chief, and District Manager and will cover all if injured while acting as, or responding to, or within their district for administrative duties or an emergency incident.
- 2.3 Expenses. Newcastle shall reimburse either Placer Hills or the Fire Chief for the actual cost of any direct expenses incurred by the Fire Chief in performing his duties pursuant to this Agreement provided that documentary evidence of such expenses are presented to Newcastle to substantiate the expenses incurred and provided the Fire Chief receives prior approval from a designated officer of Newcastle for all expenses incurred in excess of fifteen hundred dollars (\$1,500.00)
- 2.4 Salary, Benefits, Vacation, Sick Leave, Holidays. The Fire Chief, Duty Chief, and District Manager shall remain employees of the Placer Hills Fire Protection District and the Placer Hills Board shall be responsible for setting and paying the salary and benefits of the Fire Chief, Duty Chief, and District Manager. Newcastle shall provide accommodation for vacation, sick leave and holidays as permitted under the employment contract between the Fire Chief and Placer Hills Fire Protection District, and as permitted under the policies and procedures of Placer Hills Fire Protection District.
- 2.5 Injury/Illness. If the Fire Chief, Duty Chief, and/or District Manager are unable to perform said duties during the term on this contract due to injury/illness, both parties to this agreement, will negotiate the financial terms associated with providing services commensurate with the terms of this agreement.
- 2.6 Vehicle. The Fire Chief and Duty Chief are currently provided a vehicle by Placer Hills and it is anticipated that he will continue to use that vehicle as it is available. They may also transport persons who are not employees of either District in the vehicle in appropriate circumstances. Placer Hills and Newcastle shall maintain adequate liability insurance, maintenance and fuel cards on the vehicle at all times.
- 2.7 Professional Development. Newcastle may approve training or professional development opportunities for the Fire Chief, Duty Chief, and District Manager, and share in the cost of such when training benefits both Districts.
- 2.8 Future Fire Chief Recruitment and Compensation. The incumbent Fire Chief's employment contract terminates December 31, 2016. The employment contract has a provision for continued employment on a month to month basis for six months until June 30, 2017. Placer Hills anticipates conducting a recruitment process for hiring a new fire chief during the term on this agreement. The hiring of a new Fire Chief and the approval of an employment contract shall be the responsibility of the Placer Hills Board. Any increased salary and/or benefits costs associated with the new Fire Chief's employment contract will be shared equally between Placer Hills and Newcastle from the date of the new employment contract until the termination of this agreement.

ARTICLE 3

DISPUTE RESOLUTION

- 3.1 In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or breach thereof, the parties agree to use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interest, attempt to reach just and equitable solutions satisfactory to all parties. If they do not reach such solutions within a period of thirty (30) days, any party may terminate this Agreement as provided for in Article 5 below.

ARTICLE 4

INDEMNIFICATION

- 4.1 Indemnification. Each party agrees to defend, indemnify, and save all other parties harmless from any and all claims arising out of said party's employees' negligent acts, errors, omissions or willful misconduct while performing pursuant to this Agreement, 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 said party, its officers, employees, or agents.
- 4.1.1 Each party hereby agrees to defend itself from any claim, action or proceeding arising out of the concurrent acts or omissions of their employees. In such cases, each party agrees to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs.
- 4.1.2 Notwithstanding the above, where a trial verdict or arbitration award allocates or determines the comparative fault of the members, the members may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with said comparative fault.
- 4.1.3 For purposes of this section, the terms "employee" or "employees" shall refer to and include employees, officers, agents, representatives, subcontractors or volunteers.
- 4.1.4 Notwithstanding the foregoing, no employee, officer, agent, representative, subcontractor or volunteer of any party to this Agreement shall be considered an "employee" of any other party to this Agreement for purposes of indemnification.

ARTICLE 5
TERMINATION

- 5.1 Termination. Upon termination of this Agreement, unless otherwise agreed to by the parties, the current payment under the Agreement shall be prorated and any amount still owing to Placer Hills will be paid on the date of termination of the Agreement or if Newcastle has over paid then Placer Hills shall reimburse Newcastle on the date of termination of Agreement.
- 5.2 Unilateral Termination. Any party to this Agreement may unilaterally terminate the Agreement by notice to the other party in writing at least ninety (90) days prior to the effective date of the termination. The notice of termination shall also include the reasons for such termination.
- 5.3 Termination Based on Mutual Agreement. This Agreement may be terminated at any time with the mutual agreement of both parties subject to mutually agreeable terms and conditions.
- 5.4 Termination for Cause. In the event any party breaches a material provision of this Agreement, the non-breaching party shall give the other party written notice of such breach. In the event the breach is not remedied within thirty (30) days of receipt of the written notice, the Agreement may be terminated unless the timelines are extended by mutual agreement.

ARTICLE 6
INSURANCE COVERAGE

- 6.1 Each Party shall provide and maintain either insurance in the form and amounts prescribed below or a statement that the Party is self-insured up to the amount specified below:
- 6.1.1 Commercial General Liability insurance, occurrence form, with the limits of not less than \$1 million each occurrence. The general aggregate limit shall be not less than \$ 5 million. The fire damage component of such insurance shall be not less than \$100,000.
- 6.1.2 Automobile Liability insurance, occurrence form, with a limit of not less than \$1 million each occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles.
- 6.1.3 Workers Compensation in at least the minimum statutory limits. With respect to Workers Compensation coverage, the Party employing the fire department employee will provide Workers Compensation coverage for any injuries sustained in the normal course and scope of the employee's performance of services.
- 6.2 General provisions for all insurance shall include the other Party, it's elected and appointed officials, employees, and agents, as additional insureds, except errors

and omissions, with respect to this Agreement and the performance of services in this Agreement. Additional insured status under this provision shall be limited to each Party's obligation to indemnify the other as described in Article 4.

- 6.3 No changes in insurance affecting the requirements above may be made without the written approval of all Parties.

ARTICLE 7

MISCELLANEOUS

- 7.1 Force Majeure. Neither party shall be liable if the performance of any part or all of this contract is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, riot, fire, explosion, war, act of God, sabotage, accident, illness, death, or any other casualty or cause beyond either party's control, and which cannot be overcome by reasonable diligence and without unusual expense.
- 7.2 Non-assignability. This Agreement and the rights and duties hereunder may not be assigned by any party hereto without obtaining the prior written consent of the other, and the parties expressly agree that any attempt to assign the rights of any party hereunder without such consent will be null and void. This Agreement is not intended to create any rights of a third party beneficiary.
- 7.3 Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State of California. The article and paragraph headings are used solely for convenience, and shall not be deemed to limit the subject of the articles and paragraphs or be considered in their interpretation. This Agreement may be executed in several counterparts, each of which shall be deemed an original.
- 7.4 Entire Agreement. This Agreement shall constitute the full and complete Agreement between the parties hereto. This Agreement supersedes all prior negotiations, representations or agreements, if any.
- 7.5 Amendments. This Agreement may be modified in writing and signed by both parties.
- 7.6 Invalidity of Provisions of this Agreement. If, for any reason, any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions shall not be affected.
- 7.7 No Waiver. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision. Nor shall such waiver constitute a continuing waiver unless otherwise expressed.
- 7.8 Negotiated Agreement. The provisions of this Agreement are the product of negotiation among all parties and shall not be construed as having been prepared by one party or another. All parties to this Agreement understand their right to

EXHIBIT A
DESCRIPTION OF SERVICES

This description of services is intended to be a broad scope and responsibility for administrative services to be delivered to the Newcastle Fire Protection District by Placer Hills Fire Protection District. In no manner is it meant to be comprehensive, limited, or all-inclusive regarding the roles and responsibilities that will be administered during the duration of this Agreement.

THE Placer Hills FIRE PROTECTION DISTRICT (PHFPD) will furnish the following services to the Newcastle Fire Protection District (NFPD):

I. FIRE ADMINISTRATIVE SERVICES

A. Budget

- i. Agreement includes the costs of budgeting and estimating revenues for the NFPD.

B. Labor Management and Memorandum of Understanding

- i. Agreement includes the time and meetings of necessary negotiations with employee bargaining units.
- ii. Agreement does not include any services that may be required to respond to, prepare for, or participate in, any labor arbitration, or labor-related dispute that may be brought in any State of California or Federal tribunal, including by way of illustration, and not limitation, any proceeding before the California Employment Development Department (EDD), California Public Employees Retirement System (CalPERS), National Labor Relations Board (NLRB), California Labor Board, or California Public Employment Relations Board (PERB).
- iii. Any legal fees and costs that may be incurred on behalf of NFPD pursuant to B.ii. shall be solely the responsibility of NFPD.

C. Personnel Management

- i. Agreement includes oversight and managing personnel issues, scheduling and coordinating of new hires and promotions, and work with all employee associations/unions on policy changes needed for a smooth transition.
- ii. Agreement includes administrative services reasonable and necessary to process employee discipline matters appealed through the Board of Directors level.

- iii. Agreement does not include services that may be required to respond to, prepare for, or participate in any dispute involving employee discipline that may be filed in a court of law or otherwise appealed to any tribunal beyond the Board of Directors level.
 - iv. Any legal fees and costs that may be incurred on behalf of NFPD pursuant to C.ii. through C.iv. shall be solely the responsibility of NFPD.
- D. Allied Agency Interaction
- i. Agreement includes working with the NFPD Board of Directors on budgets, future planning, and cooperation with surrounding public safety agencies to improve levels of service.
- E. If at anytime NFPD determines that they should have their own secretary to perform administrative services, after giving 30 days notice, they may reduce the contract amount by \$10,000 which shall be prorated based upon the time remaining on the contract.

II. OPERATIONAL SERVICES

- A. Incident Management
- i. The Agreement includes the management of all NFPD incidents within the district and working with Cal Fire on State Responsibility Incidents.
- B. Daily Operations
- i. Agreement includes coordination of activities in major incidents in the NFPD.
 - ii. The Agreement includes the cost of an on-duty Duty Officer to coordinate day-to-day operations, provide emergency incident management, and monitor training needs.
- C. Staffing Management
- i. The agreement includes day to day staffing to keep Station 41 open 24/7.
- D. Promotional Examination Process
- i. The Agreement includes all in-house promotional testing.
- E. Dispatch and Communication Services
- i. The Agreement includes oversight for changes in dispatch search orders, response plans, response zones, and incident types.

III. SUPPORT SERVICES

A. Facilities Maintenance and Capital Improvement

- i. The Agreement includes forecasting funding opportunities and estimating costs to upgrade the current apparatus and equipment.

B. Apparatus Equipment Maintenance and Replacement Programs

- i. The Agreement includes forecasting funding opportunities for apparatus and estimating costs for replacement.

IV. FIRE PREVENTION SERVICES

A. Fire Investigations

- i. The Agreement includes all fire investigations.
- ii. Additional rates for fire investigation services not included in the Agreement shall be for any investigations in which any outside agency, the Placer County Sheriff notwithstanding, is called in to assist in the investigation. Included, but not limited to, are outside agencies such as Alcohol, Tobacco, and Firearms (ATF), Federal Bureau of Investigations (FBI), etc.
- iii. NFPD will become active in Sierra-Sac Valley Arson Task Force

B. Public Education

- i. The Agreement includes oversight for the NFPD Public Education Program.
- ii. Public Education Services within the NFPD shall be performed by NFPD personnel.

C. Plan Review, Inspections, Variances, and Development Meetings

- i. The Agreement includes the cost of plan review, inspections, variances, and new development meetings assuming that NFPD adopts the current PHFPD fee schedule with annual fee adjustments.