

**AGREEMENT TO PROVIDE FIRE SERVICES
BETWEEN THE FIVE CITIES FIRE AUTHORITY AND
OCEANO COMMUNITY SERVICES DISTRICT**

THIS AGREEMENT is made and entered into this ____ day of June 2023, (“Effective Date”) by and between the Five Cities Fire Authority ("FCFA"), a California Joint Powers Authority as authorized under Government Code Sections 6500 et. seq., and Oceano Community Services District ("Oceano"), a County of San Luis Obispo Community Services District (collectively referred to as "the Parties").

RECITALS

WHEREAS, the Parties are public entities organized and operating under the laws of the State of California; and

WHEREAS, the Parties have the authority to perform fire protection activities, certain emergency medical services and other related activities for their respective agencies, including those described within Exhibit “B” (collectively, “FCFA Services”); and

WHEREAS, since June 7, 2010, Oceano has been a member agency of the Five Cities Fire Authority along with the Cities of Grover Beach and Arroyo Grande; and

WHEREAS, FCFA’s Joint Exercise of Powers Agreement was amended by the Parties to terminate Oceano’s participation as a member agency in FCFA commencing July 1, 2023; and

WHEREAS, the Parties desire for FCFA to continue supplying fire and emergency medical services to Oceano for a temporary period of time consistent with the terms and conditions of this Agreement; and

WHEREAS, Oceano remains subject to all “Wind Down Period” obligations set forth within the Five Cities Fire Authority Amended and Restated Joint Powers Authority Agreement, and specifically Section 5 of the Third Amendment to the FCFA Joint Powers Agreement incorporated herein as Exhibit “C”, Oceano’s withdrawal from the FCFA shall not absolve Oceano from any Liabilities, defined to include but not limited to pension/CalPERS, accrued fringe benefits, and other liabilities incurred arising out of Oceano’s participation in the FCFA since the time the FCFA was created on June 7, 2010 through the date of Oceano’s withdrawal from the FCFA on June 30, 2023; and

WHEREAS, this agreement is entered into pursuant to Government Code § 54981 and § 55632.

AGREEMENT

NOW, THEREFORE, the above "WHEREAS" provisions are incorporated herein with the same force and effect as any other term and condition of this Agreement and for and in consideration of the mutual advantages to be derived therefrom, and in consideration of the mutual covenants herein contained, it is agreed by and between the Parties hereto as follows:

ARTICLE I PROVISION OF SERVICES

1.1 **Scope of Services.** FCFA shall provide Fire and Emergency Medical Services within the jurisdictional area of Oceano. See jurisdictional map entitled Exhibit "A" incorporated by reference herein as if set out in full. "Fire and Emergency Medical Services" shall mean those services identified in Exhibit "B".

1.2 **Fire Chief.** FCFA's Fire Chief or his/her designee shall be immediately available for response and management of emergency incidents as necessary to provide incident command and coordination functions within the jurisdictional boundaries of Oceano over the term of this Agreement.

1.3 **Staffing.** FCFA shall provide, in its sole discretion, sufficient staffing personnel, meeting minimum federal and state-mandated training requirements for their respective classifications and responsibilities, to provide Fire Services, pursuant to this Agreement, to Oceano for the term of this Agreement. The staff shall consist of personnel assigned at the sole discretion of FCFA but at least one member of every shift shall be qualified as an Emergency Medical Technician.

ARTICLE II PAYMENT FOR SERVICES

2.1 **Compensation for Services.** Oceano shall compensate FCFA for all Fire and Emergency Medical Services performed under this Agreement in a fixed amount of One Million One Hundred Fifty Thousand Dollars (\$1,150,000.00). Oceano shall pay, on a quarterly basis (every three months from the effective date of this Agreement) the sum of Two Hundred Eighty-Seven Thousand Five Hundred Dollars and Zero Cents (\$287,500) for the Fire, Emergency Medical Services and any related FCFA Activities provided by FCFA. In the event the Fire, Emergency Medical Services and any related FCFA Activities are extended in accordance with Section 5.2, the compensation that FCFA will be willing to accept will be no less than the actual cost of service, in the amount or formula determined by FCFA that is presented to the County of San Luis Obispo for purposes of evidencing Oceano's proportionate

share of the actual cost of service, which will be incorporated in this Agreement as a new Exhibit "D" during the sixty (60) day meet and confer period described in Section 5.2 below. FCFA shall submit quarterly invoices to Oceano for the quarterly payment amount. Payments are to be made within thirty (30) days of FCFA mailed invoice to Oceano, and any non-payment in excess of sixty (60) days from the date of FCFA's mailed invoice shall be considered a default under this Agreement and shall accrue an additional ten (10) percent charge as described herein.

ARTICLE III PROPERTY USED FOR FIRE SERVICES

3.1 Fire Station. FCFA will utilize the Fire Stations number 1 and 2 located respectively at 140 Traffic Way, Arroyo Grande and 701 Rockaway Ave. Grover Beach, California, as its primary locations for the provision of Fire, Emergency Medical Services and FCFA Activities contemplated by this Agreement. Oceano retains fee title to the Fire Station number 3, but hereby grants FCFA an unrestricted license for full use of the apparatus bay at Station number 3, located at 1655 Front Street, Oceano for general storage purposes in furtherance of this Agreement. Oceano shall also make available for FCFA training and storage, the well site no. 8 property located on South 13th Street. FCFA's use of Station number 3 and well site no. 8 shall not be subject to any rental or other cost and shall be part of the consideration paid by Oceano for Fire, Emergency Medical Services and FCFA Activities rendered by FCFA to Oceano. Oceano agrees to maintain the Fire Station number 3 and well site no. 8, in a safe, habitable, and serviceable condition at all times.

(a) Nothing herein shall in any way limit Oceano's right to grant concurrent use of the Fire Station number 3 to any other party, that does not unreasonably interfere with FCFA's use of the apparatus bay for storage. FCFA shall not unreasonably interfere with the use of the Fire Station for any other purposes by Oceano.

(b) If Oceano grants rights to a third party for concurrent use of the Fire Station number 3, Oceano shall take all reasonable steps to ensure that the third party does not interfere with the use of the Fire Station for FCFA storage purposes and shall provide FCFA at least ten (10) days advanced notice of the use granted to a third party.

(c) In addition to the license granted in Section 3.1 above and subsections (a) and (b), Oceano shall further grant full operational use of Fire Station No. 3 for emergency medical services and fire suppression including all fire suppression equipment, fire engines, housing and administrative services necessary to operate the fire station from the Effective Date of this Agreement to June 30, 2023.

3.2 **Maintenance and Replacement.** FCFA, consistent with the Amended and Restated Joint Exercise of Powers Agreement, dated _____, 2023, shall bear all costs to maintain, repair and replace all facilities, vehicles, equipment and apparatus owned by FCFA and designated for use in the Fire, Emergency Medical Services and FCFA Activities.

ARTICLE IV RELATIONS OF PARTIES

4.1 **Special Relationship.** The Parties will agree this Agreement does not create a “special relationship” as the term is defined by Federal or California law, between Oceano or any other agency, or between the Parties’ officials, officers, employees, or successors or with any third party as a result of this Agreement. Oceano does not participate nor is a member of FCFA and retains no rights or title in the FCFA Joint Powers Authority after June 30, 2023. Notwithstanding the foregoing, nothing within this Agreement absolves Oceano from obligations and/or CalPERS pension liabilities incurred and owed to FCFA, under the Five Cities Fire Authority Joint Exercise of Powers Agreement, over the time period Oceano was a member agency.

ARTICLE V TERM OF AGREEMENT

5.1 **Term.** The term of this Agreement shall commence on the earlier of July 1, 2023 or the date on which both Parties have fully executed this Agreement, through June 30, 2024 (“Initial term”).

5.2 **Renewal or Extension of Agreement.** The Term of this Agreement may be extended upon mutual agreement of both Parties. Upon written notice of either Party, at ninety (90) days before the end of the Initial Term, the Parties shall meet and confer for a period of up to sixty (60) days regarding extending the term of the Agreement and the terms and conditions of the extension. If agreement cannot be reached regarding extension or renewal, the Agreement shall terminate with no further obligations of either Party at the end of the Initial Term. If the Agreement is extended by the Parties (the “Extended Term”), notwithstanding any other provisions of this Agreement, the Parties anticipate that the term for the Extended Term will be on a month-to-month basis commencing upon the end of the Initial Term.

5.3 **Termination.** During the initial term, if either Party seeks to terminate this Agreement, the notice to terminate shall be in writing and shall be at least one hundred twenty (120) days before the planned termination date. If Oceano is not current on all payments owed and is in default under this Agreement FCFA may terminate this

Agreement immediately. If during the initial term, LAFCO makes a final determination as to Oceano's application for divestiture of fire services, and the decision of LAFCO would by operation of law or by lawful conditions imposed by LAFCO as part of their decision, preclude Oceano from participating as a Party to this Agreement or restrict their ability to enforce this Agreement, this Agreement shall terminate. Nothing within this section shall absolve Oceano of the obligation to pay for any and all FCFA services rendered under this Agreement prior to termination resulting from LAFCO'S decision causing termination or a Party initiated termination.

ARTICLE VI INDEMNIFICATION AND INSURANCE

6.1 Mutual Indemnification.

(a) To the fullest extent permitted by law, each Party (the "Indemnifying Party") shall indemnify, defend and hold harmless the other party, in proportion to fault, against any and all liability for claims, demands, fines, penalties, expenses, losses, causes of action, costs or judgments-(direct, indirect, incidental or consequential damages) involving bodily injury, personal injury, death, property damage or other costs and expenses (including reasonable attorneys' fees, court costs and expenses) arising or resulting from: 1) the acts or omissions of the Indemnifying Party's own officers, agents, employees or representatives carried out pursuant to the obligations of this Agreement; (b) any negligent, reckless or intentionally wrongful act or omission to act by the Indemnifying Party; and (c) violations of law by the Indemnifying Party.

(b) Notwithstanding the foregoing Sections 6.1 (a) Oceano shall remain liable for its own real and personal property damage (including, without limitation, autos, equipment, and apparatus), since it is retaining ownership of, insurable interests therein, and insurance on its real and personal property.

(c) Except for any duties either Party owes to the other pursuant to the provisions of this Agreement, nothing in this Agreement shall be construed to waive any legal protections or immunities available to the Parties under state or federal law.

(d) Accordingly, the Parties hereby expressly agree to waive the pro rata risk allocation contained in California Government Code Section 895.6.

6.2 Mutual Indemnification Obligations Survive Termination. As to activities-occurring or being carried out in performance of this Agreement and during the term of this Agreement, the obligations created by Section 6.1 shall survive termination of this Agreement.

6.3 Immunity Preservation. Nothing in this Agreement shall be read as

waiving or limiting any defense to claims of liability otherwise available to fire personnel, and/or public employees, such as the defense of qualified immunity. Nothing in this Agreement shall be read as intending to create or creating a higher duty of care on the part of either Oceano or FCFA, or their officers, than would otherwise exist under existing law and the involved Party's own policies, practices, and procedures.

6.4 Public Liability and Property Insurance.

(a) Each Party shall maintain in effect, at its own cost and expense, the following insurance coverage provided either through a bona fide program of self-insurance, commercial insurance policies, or any combination thereof:

- i. Commercial general liability or public liability with minimum limits of \$1,000,000.00 per occurrence.
- ii. Auto liability including owned, leased, non-owned, and hired automobiles, with a combined single limit of not less than \$1,000,000.00 per occurrence.
- iii. If a Party employs others in the performance of this Agreement, that Party shall maintain Workers' Compensation in accordance with California Labor Code section 3700 with a minimum of \$1,000,000 per occurrence for employer's liability, for the duration of time that such workers are employed.

(b) All insurance required by this Agreement shall:

- i. Be placed (1) with companies admitted to transact insurance business in the State of California and with a current A.M. Best rating of no less than A:VI or with carriers with a current A.M. Best rating of no less than A:VII; or (2) disclosed self- insurance with limits acceptable to the other Party.
- ii. Provide that each Party's insurance is primary and non-contributing insurance to any insurance or self-insurance maintained by the other Party and that the insurance of the other Party shall not be called upon to contribute to a loss covered by a Party's insurance.

(c) Each Party shall file certificates of insurance with the other Party evidencing that the required insurance is in effect within thirty (30) days after the effective date of this Agreement.

6.5 Workers Compensation.

(a) FCFA shall provide Oceano an endorsement that its Workers Compensation insurer waives the right of subrogation against Oceano, its officers, officials, employees, and volunteers for all claims on or after the effective start date of this Agreement during the tenure of said Agreement.

ARTICLE VII MISCELLANEOUS

7.1 Amendments to Agreement. No part of this Agreement shall be altered or amended except by written amendment and mutual consent of both Parties.

7.2 Assignment. The rights and obligations of the Parties under this Agreement are not assignable and shall not be delegated without the prior written approval of the other Party.

7.3 Dispute Resolution. The Parties recognize that this Agreement cannot represent a complete expression of all issues which may arise during the performance of the Agreement. Accordingly, FCFA and Oceano agree to meet and confer in good faith over any issue not expressly described herein.

(a) It is the Parties' intention to avoid the cost of litigation and to resolve any issues that may arise amicably if possible. To that end, the Parties agree through the City Managers of Arroyo Grande and Grover Beach and the Oceano General Manager to meet within ten (10) business days of a request made by the other party in writing to discuss any issues and attempt to resolve the dispute. If the dispute is not resolved after that meeting, the Parties agree to participate in a mediation to resolve the dispute within 30 calendar days of the meeting or as soon thereafter as possible. The mediator will be chosen by mutual agreement of the Parties. The costs of mediation will be borne by the Parties equally. Any agreement reached during the mediation will be binding on the Parties during the remaining term of the Agreement. No party may initiate litigation prior to the conclusion of mediation. In any action brought under this Agreement, the prevailing Party shall be entitled to recover its actual costs and reasonable attorney fees in an amount not to exceed ten thousand dollars (\$10,000.00).

7.4 Exhibits. The following Exhibits are attached hereto and incorporated as if fully set forth herein:

Exhibit "A": Oceano Jurisdiction Map

Exhibit "B": Scope of Fire and Emergency Medical Services

Exhibit "C": Third Amended Joint Powers Agreement of the FCFA

7.5 Notices. All notices required or permitted hereunder shall be deemed sufficiently given if delivered by hand, electronic mail, or by United States mail, postage prepaid, addressed to the Parties at the addresses set forth below or to such other address as may, from time to time, be designated in writing.

To Oceano:

General Manager
1655 Front St.
Oceano, CA. 93445

To FCFA:

Fire Chief
140 Traffic Way
Arroyo Grande, CA 93420

7.6 Governing Law. Agreement shall be governed by the laws of the state of California with venue being the Superior Court of the County of San Luis Obispo.

7.7 Third Party Beneficiary. The Agreement is only for the benefit of the Parties to the Agreement and shall not be construed or deemed to operate as an agreement for the benefit of any third party or parties and no third parties shall have any right of action or obtain any right of benefits or position of any kind for any reason whatsoever.

7.8 Default and Delinquency. If Oceano defaults in its obligation to pay or advance any amounts due pursuant to this Agreement after such amounts have become delinquent, Oceano shall be liable to the FCFA for interest on any unpaid amount at the rate of 10%, or the maximum rate allowed by law if it is less than 10%, until the overdue invoice amount is paid in full.

7.9 Waiver. The waiver at any time by any Party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

7.10 Remedies Not Exclusive. The remedies provided in this Agreement are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or equity. The exercise by any Party of any remedy under this Agreement shall be without prejudice to the enforcement of any other remedy.

7.11 Severability. The invalidity, illegality or unenforceability of any

provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

7.12 Counterparts. This Agreement may be executed by the Member Agencies in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties execute this agreement hereto on the day and the year first written above.

FIRE CITIES FIRE AUTHORITY

By _____
Authority Chair

Dated _____

ATTEST:

By _____
Authority Clerk

APPROVED AS TO FORM:

Authority Attorney

OCEANO COMMUNITY SERVICES DISTRICT

By _____
President

Dated _____

ATTEST:

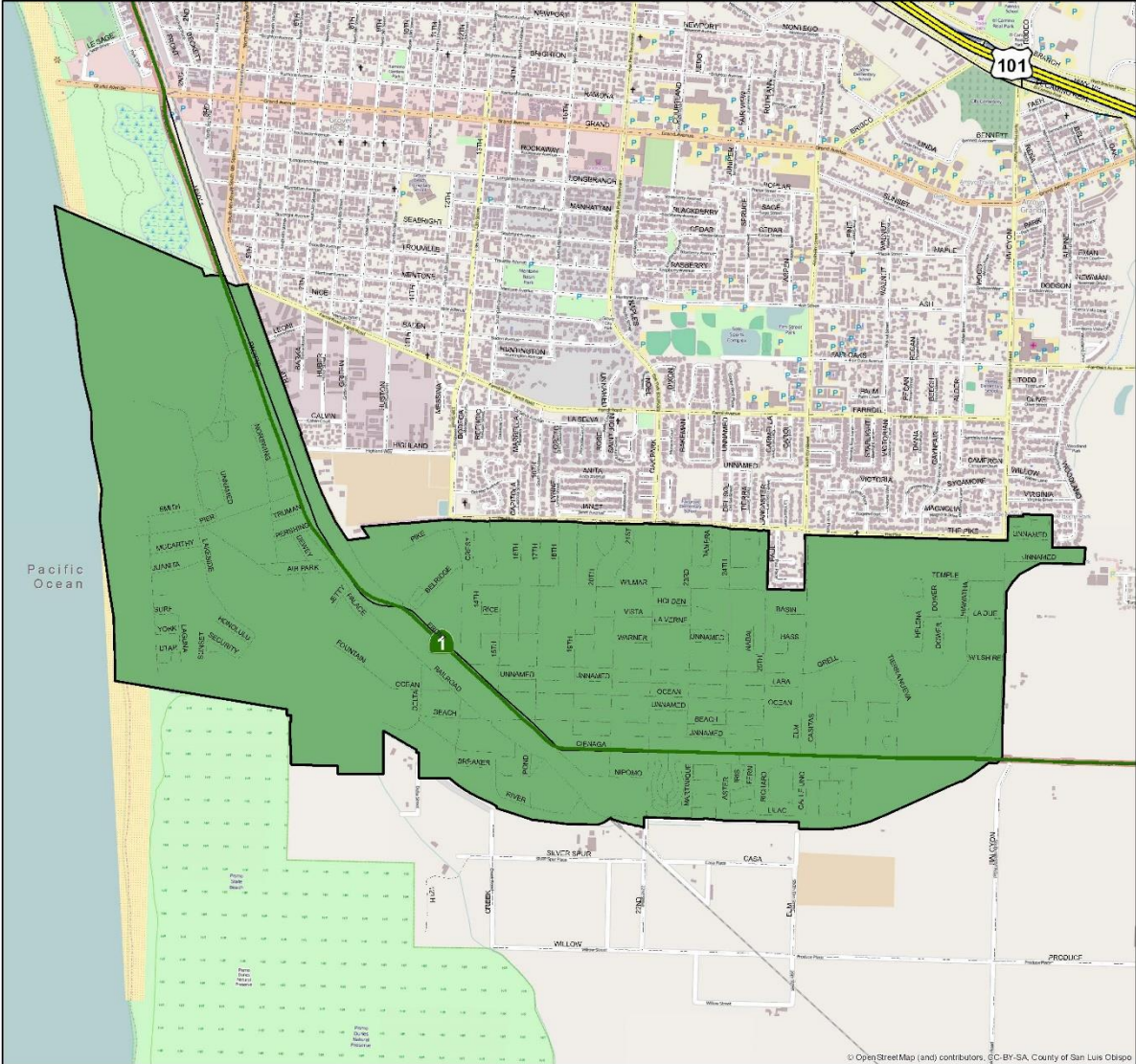
By _____
District Clerk

APPROVED AS TO FORM:

District Counsel

EXHIBIT "A"
OCEANO JURISDICTION MAP

Oceano Community Services District Service Area & Sphere of Influence Adopted November 2012



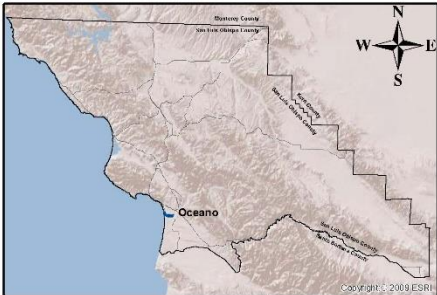
© OpenStreet Map (and) contributors, CC-BY-SA, County of San Luis Obispo

Legend

- Major Roads
- Service Area
- Sphere of Influence
(Same as Service Area)



Prepared By SLOLAFCO
Name: Oceano_SOI Bndy
Date: 2/6/2014



© 2009 ESRI

EXHIBIT “B”
SCOPE OF SERVICE

Scope of Services

FCFA shall provide the following services while this Agreement is in effect:

1. Administration. Provide administrative responsibility and support for all fire, emergency and non-emergency services in the Oceano Community Services District (“Oceano”).

Administration of fire services shall include the following:

- a. Adequate supervision and staffing,
- b. Program planning;
- c. Delivery and documentation of all federal and state-mandated firefighter training;
- d. Coordination of procurement of all operational supplies, services, and equipment;
- e. Representation at Oceano Board meetings as deemed necessary by the Oceano General Manager and agreed to by the FCFA Fire Chief;
- f. Transparency with Oceano in management decisions affecting fire service delivery.

2. Incident Response. Delivery of all fire protection and emergency services within the jurisdictional limits of Oceano Community Services District, including responding to calls for fire suppression, emergency medical response (Basic Life Support services), rescue services, hazardous materials, and all other emergency and non-emergency calls for service as received and dispatched to the FCFA. A Chief Officer, or acting Chief Fire Officer, shall respond to all major incidents as determined by the Fire Chief.

3. Fire Safety Inspections/Enforcement. Enforce code provisions related to fire services, including but not limited to weed abatement and fireworks, and hazardous material releases. Review of all development and building plans to ensure compliance with applicable fire and life safety codes and regulations, as well as inspection of fire protection and fire alarm systems for compliance with applicable codes and standards. To the maximum extent feasible, inspection shall be performed during standard duty hours.

4. Investigations. Investigate all fires to establish origin and cause and coordinate with the Oceano Community Services District on criminal investigations and prosecutions resulting therefrom. Provide fire investigation reports.

5. Training. Maintain a continuous training program that corresponds to federal, state and local mandates, as well as evolving industry best practices and developments in emerging fire suppression and fire prevention techniques.

6. Emergency Management. FCFA, through its Fire Chief, or his/her designee, shall be responsible for the coordination and communication with the County of San Luis Obispo Office of Emergency Services . Pursuant to existing agreements, FCFA will coordinate with other agencies regarding mutual aid services to Oceano Community Services District. FCFA will also respond to requests for mutual aid or assistance-by-hire by other agencies pursuant to the California Statewide Mutual Aid Agreement or the California Fire Assistance Agreement.

EXHIBIT "C"
THIRD AMENDED JOINT POWERS AGREEMENT OF THE FCFA