

# FIRST AMENDMENT

## AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND BELMONT-SAN CARLOS FIRE DEPARTMENT

This First Amendment to the Agreement is entered into on this \_\_\_ day of \_\_\_\_\_, 2010, by and between the **County of San Mateo**, hereinafter called "County," and the **Belmont-San Carlos Fire Department**, hereinafter called "Department."

### WITNESSETH

**WHEREAS**, the parties previously entered into an Agreement [Resolution No. 068906] on August 7, 2007 for provision of hazardous materials emergency response services for the County of San Mateo; and

**WHEREAS**, it is now the mutual desire and intent of the parties to make modifications and amendments providing for an additional one (1) year term to June 30, 2011, increasing the contractual maximum by \$500,236 from \$1,430,383 to \$1,930,619; and

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES** that the existing Agreement is hereby amended, by reference to Sections of the original Agreement and Exhibits as follows:

1. Section 1, Exhibits and Attachments, of the Agreement is hereby amended to read as follows:

**1. EXHIBITS AND ATTACHMENTS.**

The following exhibits and attachments are included hereto and incorporated by reference herein:

Exhibit A - Services

Exhibit B - Payments & Rates (**Revised: June 2010**)

2. Section 3, Payments, of the Agreement is hereby amended to read as follows:

**3. PAYMENTS.**

In consideration of the services provided by Department in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Department based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed **ONE MILLION NINE HUNDRED THIRTY THOUSAND SIX HUNDRED NINETEEN DOLLARS (\$1,930,619).**

3. Section 4, Term, of the original Agreement is hereby amended to read as follows:

**4. TERM.**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from JULY 1, 2007 through JUNE 30, **2011**.

Subject to the exception set forth in section 5, below, this Agreement may be terminated by Department, the Sheriff or the Sheriff's designee at any time without a requirement of good cause upon six months (180) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Department under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Department may make and retain a copy of such materials.

Provided that Department continues to perform work under this Agreement in a manner satisfactory to County of San Mateo, which determination shall be made by the County Director of County Health Services and the San Mateo County Sheriff, if the County issues the six months notice of termination, County shall pay Department the final two quarters of payments as set forth in Schedule "B". Said payment shall be pro-rated by day, respectively, in the event the actual termination period is either shorter, or longer, than the specified six-month termination period.

4. Exhibit B - Payments & Rates of the Agreement is hereby replaced with **Exhibit B - Payments & Rates (Revised: June 2010)**, attached hereto and incorporated into the Agreement.
5. These amendments are hereby incorporated and made a part of the original Agreement and subject to all provisions therein.

**IN WITNESS WHEREOF**, the parties hereto, by their duly authorized representatives, have affixed their hands.

**COUNTY OF SAN MATEO**

*A Political Sub-division of the  
State of California*

BY: \_\_\_\_\_  
PRESIDENT, BOARD OF SUPERVISORS

DATE: \_\_\_\_\_

**ATTEST:**

BY: \_\_\_\_\_  
CLERK OF SAID BOARD

**BELMONT-SAN CARLOS FIRE DEPARTMENT**

BY: \_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
PRINTED NAME

DATE: \_\_\_\_\_

# EXHIBIT B

## PAYMENTS & RATES

*(Revised: June 2010)*

AGREEMENT BETWEEN THE  
COUNTY OF SAN MATEO AND  
BELMONT-SAN CARLOS FIRE DEPARTMENT

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In consideration of the services provided by Department in Schedule A as set forth in this Amendment, County shall determine the annual compensation, and make payments to Department, through the process and in the manner hereby established below:

**1. AMOUNT AND RATE OF PAYMENT.**

- A. The total amount of payment to Department for Fiscal Year 2007-08, covering the period of July 1<sup>st</sup>, 2007 through June 30, 2008, shall be Four Hundred Fifty-Three Thousand, Seven Hundred & Thirty Dollars (\$453,730), which shall be payable in four quarterly installments pursuant to Section 2 – D of this Exhibit, in the amounts of \$113,432.50 each.
- B. The total amount of payment to Department for Fiscal Year 2008-09, covering the period of July 1<sup>st</sup>, 2008 through June 30, 2009, shall be determined through the annual Emergency Services Budget Process, and shall represent a percentage increase over the FY 2007-08 budget corresponding to the negotiated base salary increase in the Belmont-San Carlos Firefighters MOU effective January, 2008, but in no event shall exceed an increase of Five Percent (5%), nor a dollar total of \$476,416, which shall be payable in four quarterly installments pursuant to Section 2 – D of this Exhibit, in equal 25% amounts of the determined annual total payment, but not to exceed \$119,104.00 per quarter.
- C. The total amount of payment to Department for Fiscal Year 2009-10, covering the period of July 1<sup>st</sup>, 2009 through June 30, 2010, shall be determined through the annual Emergency Services Budget Process, and shall represent a percentage increase over the FY 2007-08 budget corresponding to the negotiated base salary increase in the Belmont-San Carlos Firefighters MOU effective January, 2009, but in no event shall exceed an increase of Five Percent (5%), nor a dollar total of \$500,236, which shall be payable in four quarterly installments pursuant to Article 5 of Section 2-B of this Exhibit, in equal 25% amounts of the determined annual total payment, but not to exceed \$125,059.00 per quarter.
- D. **The total amount of payment by County to Department for Fiscal Year 2010-11 (*July 1, 2010 - June 30, 2011*) shall not exceed \$500,236.**
- 1) **County will pay Department a total of \$476,416 in four quarterly installments of \$119,104.**
  - 2) **Department will additionally be reimbursed for direct costs for Hazmat training and training related travel for firefighters serving on the Hazmat team. Reimbursement for FY 2010-11 direct training costs shall not to exceed \$23,820. County will reimburse Department upon receipt of invoice detailing training related expenses and names of participating Hazmat personnel.**

- E. The Maximum Total Payment to Department under this Agreement, for all **four (4)** Fiscal Years of the term of this Agreement, shall not, in any event, exceed **ONE MILLION NINE HUNDRED THIRTY THOUSAND SIX HUNDRED NINETEEN DOLLARS (\$1,930,619)**.

## **2. METHOD OF DETERMINING PAYMENT IN SECOND AND SUBSEQUENT YEARS OF CONTRACT TERM.**

- A. The process for establishing the annual compensation to Department for hazardous materials emergency response (hereinafter referred to as “hazmat”) under this Agreement shall be through the existing budgetary process for the County Emergency Services Council Joint Powers Authority.
- B. Upon notification by staff of the Emergency Services Council, which shall be in the fiscal period prior to commencement of the new fiscal year on July 1, Department shall submit an annual operating budget for the South County Fire Authority (or successor agency) which shall include the following components:
1. An Annual Operating Budget which shall include the following:
    - Firefighter hazmat assignment shift differential costs for 24 firefighters;
    - The apportioned share of total employee benefit costs which is attributable to the additional hazmat shift differential;
    - The risk assessment cost for Worker’s Compensation and General Liability Insurance, for Department’s operation of the hazmat team;
    - Direct annual costs for mandated physical fitness examinations;
    - Direct costs for hazmat training and training-related travel for firefighters serving on the hazmat team;
    - Direct costs for services and supplies related to operation of the hazmat team; and
    - An allocation of Department’s administrative costs for operation of the hazmat team, including Department’s assigned battalion chief’s hazmat administrative and supervisory duties.
  2. Proposed Capital Outlay Budget replacement items of capital equipment for the upcoming fiscal year.
  3. A Budget Narrative which shall:
    - Provide a brief narrative description of Department’s services for inclusion in the Emergency Services Council proposed budget;
    - Identify and discuss changes from the current year approved budget; and
    - Provide key hazmat workload statistics and performance measure information as determined in consultation with Emergency Services Council staff.
- C. Department shall submit above budget items promptly in accordance with deadlines transmitted by Emergency Services Council staff. The Emergency Services Council is the final approval authority for the Hazardous Materials Emergency Response budget.
- D. Upon approval of the Emergency Services Council budget, Department shall submit invoices on a quarterly basis, for an amount equal to one quarter (25%) of the approved annual budget per invoice. Invoices shall be submitted the last month of each quarter. County shall pay Department thirty (30) days of receipt of Department’s invoice

- E. Extraordinary Events - should Department encounter excessive expenses in any quarter during the performance of duties under this contract which are the result of extraordinary events, Department should immediately or as soon as possible in an emergency situation, notify County in writing of the circumstances and nature of the costs, even if full accounting for said costs must necessarily follow at a later date.
1. "Extraordinary events" as used herein are defined as a hazmat response resulting from a catastrophic event such as a major natural disaster, act of terrorism, major epidemic or pandemic disease outbreak as declared by the County Public Health Director, catastrophic accident, industrial incident and other event involving the creation and/or release of large and potentially lethal or very injurious quantities of hazardous materials. Major hazmat incident responses, however significant, which remain localized and containable within a team work shift and do not result from nor create a potentially catastrophic situation, are not considered extraordinary events for purposes of this Agreement.
  2. In the event of a perceived or potential major hazmat event, an Incident Working Group shall make a decision as to whether the trigger event is determined be an "extraordinary event." Said Incident Working Group shall consist of the County Environmental Health Hazmat Program Supervisor; the OES Director; Department's Hazmat Battalion Chief; the Fire Chief of the impacted Department or unincorporated area or designated on-site fire incident commander; and the County Contract Administrator for this agreement, or temporary designee.
  3. The working group as defined above shall have the authority, in the event they determine that an incident is an "extraordinary event", to authorize the incurring of extraordinary response expenses as necessary to address the incident, up to a period of 24 hours. Said expenses may be over and beyond the standard level of reimbursement established under this Agreement. As soon as is practical, and prior to the conclusion of the initial 24-hour response period, the appropriate County, City, and OES managers, or designees, shall be notified, and any determination as to the need for further activities beyond the initial maximum 24-hour period established by the Incident Working Group, including incurring of further extraordinary expenses by Department, shall be mutually determined by said managers, in such consultative manner as they deem appropriate for the incident.
  4. Should an extraordinary event occur, Department will, as soon as is possible and practical, document the excess expenses which have been incurred. County agrees to conference in good faith with Department at the earliest practical opportunity, for the purpose of mutually reviewing expenses and determining the most expeditious process for reimbursement of Department's documented expenses. It is understood by the parties that in such event, the Emergency Services Council will need to be promptly notified and must approve the amount and method of reimbursement.
  5. Any other emergent costs or reimbursement requests, including resolution of any prior-year issues, which are related to this Agreement, must be reviewed and mutually agreed upon by all parties, to wit: County, Department, and the Emergency Services Council, and documented by way of a Side Letter signed by all parties.