



**MEMORANDUM
COUNTY EXECUTIVE OFFICE
ADMINISTRATION**
County of Placer

TO: Board of Supervisors
FROM: Todd Leopold, County Executive Officer
SUBJECT: City of Colfax Fire Service Agreement

DATE: June 22, 2021

ACTION REQUESTED

Approve a Contract to provide fire services to the City of Colfax for an initial three-year period commencing on July 1, 2021 thru June 30, 2024. Funding is being provided by the City of Colfax in the amount of \$75,000/annually with a 3% annual inflationary adjustment, pursuant to the terms listed in the attached contract.

BACKGROUND

Placer Fire has provided Battalion Chief support to the City of Colfax since 2001 under a multi-year agreement that is set to expire June, 2021. During a public workshop in March, 2021 with the City of Colfax City Council to discuss the renewal of the existing agreement, they requested the County provide a broader contract proposal that included taking over day-to-day operations of the City of Colfax fire services. This included integration of the existing volunteer service staff and associated equipment.

The proposed fire service agreement between the City and the County will provide the City with a level of fire service that is commensurate with the current level of service provided by CAL-Fire under the existing cooperative services agreement with the County. Any additional services requested by the City will be assessed separately and passed along as a direct cost to the City of Colfax.

The staffing of the fire service will be a combination of professional fire service personnel under the County's current CAL-Fire agreement, as well as the integration of existing Colfax volunteer fire service members. Upon successful completion of a background check, these volunteers would be offered the opportunity to be part of the County's existing volunteer fire service staff supporting the Colfax community.

FISCAL IMPACT

The fiscal impact of this contract will not result in an increased cost of service. However, there will be a revenue increase amount of \$50,000 annually that will be recognized into the Placer County Fire Fund. As such no additional operational appropriation is necessary and the County's existing FY 21/22 appropriation will be sufficient to provide fire service to the City of Colfax within the proposed contractually agreed upon terms.

ATTACHMENTS

Attachment 1 – Contract

**COOPERATIVE AGREEMENT
TO PROVIDE FIRE PROTECTION, FIRE PREVENTION, RESCUE, FIRE MARSHAL
AND MEDICAL EMERGENCY SERVICES FOR THE CITY OF COLFAX**

THIS COOPERATIVE AGREEMENT (“Agreement”) is made and entered into as of July 1, 2021 by and between the County of Placer, a political subdivision of the State of California (“County”) and the City of Colfax a municipal corporation and general law city (“City”). The County and City may be individually referred to as a “Party” and collectively as the “Parties”.

WHEREAS, the Parties provide fire protection, rescue and emergency medical services within their respective territorial limits; and

WHEREAS, the City requests assistance to provide certain services as described herein within its jurisdictional boundaries; and

WHEREAS, the County and the California Department of Forestry and Fire Protection (“CAL FIRE”) entered into that certain Cooperative Fire Programs Fire Protection Reimbursement Agreement No. 2CA04959 dated November 14, 2020 (“CAL FIRE Agreement”) under which CAL FIRE provides various fire and emergency services to the County; and

WHEREAS, the County is willing to provide services to the City pursuant to the terms set forth herein.

SECTION I: PURPOSE

This Agreement is entered pursuant to California Government Code Sections §55600 *et seq.* The purpose of this Agreement is for the County, through the CAL FIRE Agreement, to provide City with municipal fire protection, hazardous materials mitigation, technical rescue response, fire prevention services, medical and emergency services, and public service assists as more fully described in this Agreement. The intent of this Agreement is to provide a unified, integrated, cooperative, regional fire protection system as allowed by, and within the constraints of, applicable law and the CAL FIRE Agreement.

SECTION II: SCOPE OF FIRE SERVICES AND MUTUAL THREAT ZONE AGREEMENT

A. Scope of Services. The scope of fire services shall be the same and as described in the current and each subsequent version of the CAL FIRE Agreement (“Fire Services”). The City agrees and acknowledges that it has been provided a copy of the current CAL FIRE Agreement. The County shall provide the City with a copy of the current CAL FIRE Agreement for each fiscal year once the same is executed by the County and CAL FIRE. If the City desires additional services, the City must first contact the County to discuss the feasibility and cost of the same. Costs for additional services are addressed in **Exhibit A**.

B. Mutual Threat Zone Agreement. The City also agrees to separately execute a Mutual Threat Zone (“MTZ”) agreement with the CAL FIRE Nevada-Yuba-Placer Unit of the State of California for the services outlined in the same. The City shall execute the MTZ on or concurrently with the execution of this Agreement and provide a fully executed version to the County for inclusion as an exhibit to this Agreement. The County reserves the right to delay its execution of this Agreement until it is provided with a fully executed version of the MTZ.

SECTION III: PAYMENT OF SERVICES

In consideration for performance of the Fire Services under this Agreement, City shall pay County the amount and pursuant to the schedule forth in Exhibit A to this Agreement.

SECTION IV: INITIAL TERM, EFFECTIVE DATE AND SUBSEQUENT TERM

A. The initial term of this Agreement shall be from July 1, 2021, to June 30, 2024 (“Initial Term”). July 1, 2021 is the effective date of this Agreement (“Effective Date”).

B. Six (6) months prior to the expiration date of the Initial Term of this Agreement, City shall give County written notice of whether City desires to enter into a new agreement with County for Fire Services for a subsequent term and, if so, whether City intends to request a change in the level of Fire Services from that provided under this Agreement. Pursuant to Government Code Section 55603.5, any new agreement must be for a term of no less than one (1) year. An agreement for a subsequent term must be approved by the legislative bodies of both County and City in a duly noticed public hearing(s).

SECTION V: TERMINATION

A. Government Code Section 55603.5, The Parties expressly agree and acknowledge that the Initial Term of this Agreement is subject to the termination provisions of Government Code section 55603.5. Specifically said provision states the following: “Neither the county nor the city shall have the power to abrogate that contract during the term of the contract. The contractual relationship between the county and the city may, however, be terminated by the voters of either the county or the city”. As a result, the Parties acknowledge that neither has the power to terminate or otherwise abrogate this Agreement prior to the expiration of the Initial Term except by the voters of the County or the City.

B. Termination at End of Initial Term.

i. Failure by the City to satisfy Section IV (B) or notice by the City of its desire to terminate Fire Services shall result in this Agreement automatically terminating at the end of the Initial Term.

ii. Either Party reserves the right to not renew this Agreement at the end of the Initial Term.

C. Cessation of CAL FIRE Agreement. If at any time during the Initial Term of this Agreement the County's CAL FIRE Agreement is terminated or not renewed by the County, the County reserves the right to seek termination of this Agreement pursuant to (A).

SECTION VI: DESIGNATION OF FIRE CHIEF

A. Commencing on the Effective Date, the County Fire Chief appointed by the Board of Supervisors, or his/her designee, (hereinafter referred to as "Chief") shall represent County and City during the period of this Agreement and the Chief shall, under the supervision and direction of the County Board of Supervisors, have charge of the services described in Section II 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. 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 VII: AMENDMENTS OR DISPUTES

A. Amendments. The City Manager and County CEO may negotiate amendments to this Agreement during the Initial Term but if the proposed amendments extend beyond what is authorized pursuant to Section IV(A) herein or exceed the cost of this Agreement pursuant to Exhibit A, said amendments must be approved by both legislative bodies to this Agreement in an open public meeting. Amendments that involve an additional service for an individual event or occurrence that does not exceed the overall cost of the Agreement may be agreed to by the City Manager and County CEO with concurrence from CAL FIRE.

B. Disputes. The City Manager and County CEO are authorized to resolve disputes that arise out of this Agreement. Should those discussions not resolve the matter, the Parties may agree to mediation. Should a dispute arise regarding non-payment of the obligations set forth in **Exhibit A**, County has the right to reduce the scope of Fire Services until the City is current with payments.

SECTION VIII: FACILITIES

A. Fire Stations. City shall provide access and use of its two Fire Stations to the County for fire operations. The Parties agree and acknowledge that the Fire Stations are owned by the City and shall remain in the City's ownership. The City shall maintain the same and the grounds surrounding the buildings in good working order at City's cost and expense. In the event City requests County to undertake repairs or maintenance of

the same, the costs and expenses of such repairs or maintenance shall be reimbursed to County through a direct invoice to the City.

B. Equipment. City shall transfer all apparatus and other non-fixtures within the buildings to the County within sixty (60) days of the Effective Date of this Agreement. The Parties agree the County will assess the same and surplus those items that have reached their usefulness, in the sole discretion of the County. Upon termination of this Agreement, the County agrees to transfer back to the City the apparatus and other non-fixtures still in use at that time. There shall be no obligation on the part of the County to reimburse the City for the value of any apparatus or non-fixtures that were surplus during the term of this Agreement.

SECTION IX: COLFAX VOLUNTEER FIREFIGHTERS

A. Transition Period. There shall be a sixty (60) day transition period commencing on the Effective Date of this Agreement ("Transition Period") during which those City volunteer firefighters who qualify under the requirements of the County's volunteer firefighter program will be transitioned into the County program.

B. City Obligations During Transition Period. During the Transition Period, the City shall remain solely responsible for the following:

- i. All insurance, worker's compensation, expenses and liability for City volunteer firefighters.
- ii. All costs for any City of Colfax Volunteer Firefighter injuries or illnesses which occur in the line of duty prior to or at the end of the Transition Period and/or are diagnosed as occurring during the same but for which a claim is filed after the Transition Period. In such an event, the City shall also ensure proper City documentation, Cal OSHA notifications, and the completion of Workers Compensation documentation occur.
- iii. All personal protective equipment worn shall comply with Wildland and Structural Personnel Protective Equipment in accordance with OSHA, NFPA and the *NEU Helmet Policy 13-01 and NEU Structural Fire Fighting Turnouts Policy 7000.1*.
- iv. The City of Colfax shall adopt and recognize the *Placer County Fire Department Volunteer Standard Operating Guidelines* ("PCFD VOL SOG") as the Policy and Procedure Manual for the City of Colfax VFD and give authority to the City of Colfax VFD Fire Chief to ensure its compliance.

C. Liability for Claims. The City shall be responsible for processing and resolving any and all claims brought by, on behalf of, or against any City volunteer firefighter which claim alleges it occurred prior to or during the Transition Period, regardless of the date of the claim.

SECTION X: INDEMNIFICATION AND HOLD HARMLESS

Each party, to the extent permitted by law, agrees to indemnify, defend and save harmless the other party, its officers, agents and employees from (1) any and all claims for economic losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm or Corporation furnishing or supplying work services, materials or supplies to that party and (2) from any and all claims add losses a accruing or resulting to any person firm or corporation who may be injured or damaged by that party, in the performance of any activities of that party under this Agreement, except where such injury or damage arose from the sole negligence or willful misconduct attributable to the other party or from acts not within the scope of duties to be performed pursuant to this agreement; and (3) each party shall be responsible for any and all claims that may arise from the behavior and or performance of its respective employees during and in the course of their employment to this Agreement.

SECTION XI: INSURANCE

The parties shall each provide insurance in the form and in the amounts identified on **Exhibit B**.

SECTION XII: AUDIT

A. 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) or as required by law, and to allow the auditor(s) of the other party access to such records during normal business hours County and City agree to a similar right to audit records in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

B. Each party shall bear their own costs in performing a requested audit.

SECTION XIII: GENERAL PROVISIONS

A. Remedies. If City fails to remit payments for services rendered pursuant to any provision of this Agreement, County may seek recovery of payment through any legal remedy, including litigation.

B. Third Party Challenge and Indemnification. In the event this Agreement is the subject of a third-party legal challenge, including but not limited to a third-party legal challenge to the City executing this Agreement, the City will defend any such action on behalf of itself and County, and will indemnify County against any damages which may be awarded against County in such a legal challenge.

C. Notices. All notices, requests, certifications, or other correspondence provided by the Parties to this Agreement shall be in writing and shall be personally delivered or delivered by first class mail to the respective Parties at the following addresses:

County	City
Placer County Executive Officer	City Manager
County of Placer	City of Colfax
175 Fulweiler Avenue	33 South Main Street
Auburn, CA 95603	Colfax, CA 95713

Notice by personal delivery shall be effective immediately upon delivery. Notice by mail shall be effective upon receipt or three (3) days after mailing, whichever is earlier.

D. Agreement or Consent. Wherever this Agreement requires a party's agreement or consent, the party shall make its decision to give or withhold such agreement or consent in good faith and shall not withhold such agreement unreasonably or without good cause.

E. Construction of Captions. Captions of the sections of this Agreement are for convenience and reference only. The words in the captions in no way explain, modify, amplify, or interpret this Agreement.

F. Authority to Execute Agreement. The undersigned declare each has the authority of its legislative body to execute two (2) originals of this Agreement. That authority is further evidenced by the citation to the passage of the authorizing resolution and conveyance of a certified copy of the same with the two executed versions of this Agreement.

G. Venue. This Agreement is made in the County of Placer in the State of California. Any action to enforce or interpret its terms shall be brought in Placer County Superior Court.

H. Severability. Should any part, term or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

I. Counterparts. The two original versions of this Agreement may be executed in counterparts, each of which shall constitute an original.

J. Entire Agreement. This Agreement, including the exhibits, contains the whole contract between the Parties for the provision of Fire Services. This Agreement does not supplement other specific agreements that may be entered into by the Parties, between the County and CAL FIRE, or between the City and CAL FIRE

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

City of Colfax

By: _____
Mayor

Dated: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

Resolution Number: _____

County of Placer

By: _____
Chairman, Board of Supervisors

Dated: _____

ATTEST:

MEGAN WOOD
Clerk of the Board

APPROVED AS TO FORM:

KARIN E. SCHWAB
County Counsel

By: _____
Clerk to the Board

By: _____
County Counsel

Resolution Number: _____

List of Exhibits:

- Exhibit A – Payment Provisions
- Exhibit B – Insurance Requirements
- Exhibit C – City of Colfax/CAL FIRE Mutual Threat Zone Agreement

Consent of California Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection consents to that certain "COOPERATIVE AGREEMENT TO PROVIDE FIRE PROTECTION, FIRE PREVENTION, RESCUE, FIRE MARSHAL AND MEDICAL EMERGENCY SERVICES FOR THE CITY OF COLFAX" between the County of Placer and the City of Colfax dated July 1, 2021, and further agrees to provide the services described therein.

By _____

Print Name: _____

Title: _____

Date: _____

Exhibit A

Payment Provisions

Annual Cost of Service will be Seventy-Five Thousand Dollars (\$75,000) with a Three Percent (3%) annual percentage escalation. The County reserves the right to request an additional surcharge in the event that the State of California cost structure for CAL FIRE increases greater than Five Percent (5%) within a given fiscal year. This surcharge increase would take effect the following quarter that the increase would be imposed on the County and would be included in the annual cost of services moving forward.

The County will invoice the City quarterly based the Annual Cost of Service amount and payment by the City shall be due and payable within thirty-five (35) days of the date of the invoice.

This payment represents the base Fire Services annual charge. Additional services and/or costs shall be separately billed to the City.

Exhibit B

Insurance Requirements

The City is **self-insured** and agrees as follows:

It is agreed that City shall maintain at all times during the performance of this Agreement insurance coverage or self-insurance in the amounts of not less than One Million Dollars (\$1,000,000) to cover all of its operations. Specifically, but not limited to not less than One Million Dollars (\$1,000,000) general liability, One Million Dollars (\$1,000,000) automobile Liability, One Million Dollars (\$1,000,000) workers' compensation, and One Million Dollars (\$1,000,000) professional liability (E&O).

The City shall provide proof of self-insurance concurrent with execution of this Agreement and prior to July 1st of every year of the Initial Term of this Agreement. If at any point during the Initial Term of this Agreement the City is no longer self-insured, the City shall provide the following:

City shall file with County concurrently herewith a Certificate of Insurance, in companies acceptable to County, with a Best's Rating of no less than A-:VII showing.

1. WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to City's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer".

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the City.

City shall require all SUBCONTRACTORS to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

2. GENERAL LIABILITY INSURANCE:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of City, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(1) Contractual liability insuring the obligations assumed by City in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If City carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- One million dollars (\$1,000,000) each occurrence
- Two million dollars (\$2,000,000) aggregate

D. If City carries a Commercial General Liability (Occurrence) policy:

(1) The limits of liability shall not be less than:

- One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
- One million dollars (\$1,000,000) for Products-Completed Operations
- Two million dollars (\$2,000,000) General Aggregate

(2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

City shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of County, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) aggregate for Products Completed Operations
 - Two million dollars (\$2,000,000) General Aggregate
- (2) The insurance coverage provided by City shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of polices be different.

3. ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided by the City, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
- C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

4. AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

5. ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against the County and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The City shall be responsible for all deductibles in all of the City's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

City's Obligations – City's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - City shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the City's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the City to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

Exhibit C

Executed version of the City of Colfax/CAL FIRE Mutual Threat Zone Agreement