

FIRST AMENDED JOINT EXERCISE OF POWERS AGREEMENT
AMENDING THE AGREEMENT FORMING
THE AMADOR FIRE PROTECTION AUTHORITY

THIS FIRST AMENDED JOINT EXERCISE OF POWERS AGREEMENT AMENDING THE AGREEMENT FORMING THE AMADOR FIRE PROTECTION AUTHORITY (this "Agreement") dated as of April, 200~~8~~⁹, amends and supersedes the Joint Powers Agreement Forming the Amador Fire Protection Authority dated July 1, 2003, and continues the existence, work and operations of the Authority. This Agreement is entered into by and among the Amador Fire Protection District, the Sutter Creek Fire Protection District, the Jackson Valley Fire Protection District, and the Lockwood Fire Protection District, each a fire protection district formed pursuant to the Health and Safety Code of the State of California ("AFPD", "SCFPD", "JVFPD" and "Lockwood" respectively); and the cities of Ione, Jackson, and Plymouth, each a California municipality ("Ione", "Jackson", and "Plymouth" respectively). The above public entities are referred to collectively as the "Members" and individually as a "Member."

RECITALS

WHEREAS, the parties to this Joint Powers Agreement wish to establish a regional Joint Powers Authority known as the Amador Fire Protection Authority ("Authority") for the purpose of planning for enhanced fire protection services in Amador County; and

WHEREAS, the Members recognize that the creation of a regional entity to plan for the provision of enhanced fire protection services in Amador County is beneficial to the public and is consistent with each Member's governmental powers; and

WHEREAS, it is the desire of the Members to form the Authority to function as the fire protection planning entity in the geographical area comprising all of the Members; and

WHEREAS, in 2008 the voters of Amador County passed a ballot measure ("Measure M") approving an ordinance enacted by the Board of Supervisors to impose a ½-cent sales tax for the purpose of funding fire protection and emergency response services; and

WHEREAS, the ordinance requires that the Authority annually review the proposed allocation of tax proceeds to each Member and recommend an allocation plan to the Board of Supervisors; and

WHEREAS, the Members deem it necessary and desirable to establish a mechanism to allocate and audit the use of Measure M funds; and

WHEREAS, it is the desire of the Members that the Authority assume the rights and accept the delegation of the duties of each of the Members to the extent set forth in the Original Agreement and this Agreement; and

WHEREAS, the Member Entities desire by means of this Agreement to amend the Original Agreement and to provide for the general direction of the policies of the Authority;

NOW, THEREFOR, the Members agree as follows:

ARTICLE 1 ESTABLISHMENT

Section 1.0. Establishment.

There is hereby created a joint powers authority known as the Amador Fire Protection Authority, which shall be a public agency separate and apart from any of its Members. The Authority shall be governed by the terms of this First Amended Joint Exercise of Powers Agreement and any rules that may be duly passed and adopted by the Board of Directors.

ARTICLE 2 AUTHORITY AND DEFINITIONS

Section 2.0. Authority.

This Agreement is entered into pursuant to the authority in Title I, Division 7, Chapter 5 of the Government Code (commencing with Section 6500 *et seq.*) of the State of California.

Section 2.1. Definitions.

The following words shall have the meaning ascribed to them in this section, unless the context of their usage dictates otherwise:

- (a) "Agreement" means this First Amended Joint Exercise of Powers Agreement.
- (b) "Authority" means the Amador Fire Protection Authority, formed pursuant hereto.
- (c) "Board" means the Board of Directors of the Authority.
- (d) "Covered Area" means all of the territory within the Members' boundaries.
- (e) "Fire Protection Services" means the planning, funding, and operating of fire protection entities within the Covered Area using the full range of fire protection powers provided by the Legislature to the governing boards of all of the Members.
- (f) "Member" means a public entity that, having ratified this Agreement, has become a member of the Authority. "Members" are the entities comprising the Authority. The Members are AFPD, SCFPD, JVFDP, Lockwood, Ione, Jackson, and Plymouth.

ARTICLE 3
PURPOSE

Section 3.0. Purpose.

The Members have joined together to establish the Authority to meet the need for the planning for the providing of Fire Protection Services for each Member and within the Covered Area on a regional and, if desired by the Members, consolidated basis.

ARTICLE 4
POWERS

Section 4.0. Powers.

(a) The Authority shall have such powers as may be necessary for the accomplishment of the purposes of this Agreement, including, but not limited to, the power in its own name to make and enter into contracts; to employ agents and employees; to provide for employee retirement, health, and welfare benefits; to acquire (including through the exercise of the power of eminent domain), hold and dispose of property, both real and personal; to sue and be sued in its own name; to hire legal counsel and to incur debts, liabilities, or obligations. The debts, liabilities and obligations of the Authority shall be solely of the Authority and shall not constitute any debts, liabilities or obligations of any Member. The Authority may accept grants, gifts, donations and other monies made in the public interest to carry out the purposes set forth in this Agreement. To the extent budgeted, and as provided by rule, the Board is authorized to pay expenses reasonably and necessarily incurred in the conduct of Authority business, including travel expenses to attend meetings and conferences relating to the business of the Authority.

(b) Without limiting the forgoing, the Authority is expressly empowered to purchase insurance and/or participate in a program of self insurance, either individually or through a joint powers agency with other public agencies existing in the State of California, for the purpose of providing property, liability, workers' compensation and such other insurance coverage as the Authority may, from time to time, deem necessary or appropriate. Medical insurance may be provided through any provider.

Section 4.1. Limitations.

Pursuant to Government Code Section 6509, the powers of the Authority are subject to the restrictions in the manner of exercising such powers of one of the Members. AFD is hereby designated as that Member.

ARTICLE 5
ORGANIZATION

Section 5.0. Membership.

As provided in Section 9.0, the Authority was formed as of July 1, 2003 by virtue of adoption of the Original Agreement by the governing boards of all of the Members. The Members are identified in the introductory section of this Agreement.

ARTICLE 6
BOARD OF DIRECTORS

Section 6.0. Board of Directors and Voting.

(a) Except as otherwise provided in this Agreement, all powers of the Authority shall be exercised by or through the Board of Directors ("Board"). The Board shall adopt the budget of the Authority and manage the affairs of the Authority.

(b) The Board shall be composed of seven (7) elected officials, chosen as follows: Each Member shall designate a member of its governing body to serve on the Authority Board.

(c) Each Director shall have one (1) vote.

(d) Except for determining whether a quorum is present, all actions of the Board shall require an affirmative vote of at least four (4) Directors.

Section 6.1. Terms and Board Membership

(a) Each Director shall serve at the pleasure of the appointing Member's governing board.

(b) All Directors shall comply with all conflict of interest laws and regulations applicable to Directors of the Authority.

Section 6.2. Vacancies and Removal.

If a person who has been appointed as a Director ceases to serve as a member of the appointing Member's governing board, he or she shall no longer serve as a Director. A vacancy shall be filled in the same manner as the original appointment.

Section 6.3. Alternate Members of the Board.

(a) Each Member shall appoint one (1) Alternate Director for each Director so appointed. An Alternate Director shall meet the same qualifications as a Director.

(b) The terms, manner of appointment and removal, and filling of vacancies for Alternate Directors shall be the same as for Directors.

(c) Alternate Directors shall receive all meeting notices and written material sent to Directors and shall have the right to participate and vote at meetings of the Board in the absence of the Director for whom the Alternate Director serves.

(d) All provisions of law relating to conflict of interest that apply to a Director shall apply to an Alternate Director.

Section 6.4. Officers.

(a) Chair. A Chair of the Board shall be elected annually by the Board at the first regular Board meeting in each calendar year.

(b) Vice Chair. A Vice Chair of the Board shall be elected annually by the Board at the first regular Board meeting in each calendar year. The Vice Chair shall have all the powers and act in the place of the Chair in the Chair's absence.

(c) Secretary. A Secretary of the Board shall be elected annually by the Board at the first regular Board meeting in each calendar year. The Secretary shall keep a public record of the Board's resolutions, transactions, findings and determinations and prepare minutes of every meeting.

Section 6.5. Meetings.

(a) Regular meetings of the Board shall be held at least monthly; provided, however, that the Chair may cancel a meeting from time to time if there is no business for the Board. The rules of the Board shall provide for the notice, time and place of the regular meetings.

(b) Special meetings may be called by the Chair or by a majority of the Directors.

(c) All meetings shall be called and conducted in accordance with the Ralph M. Brown Act commencing with Section 54950 of the California Government Code.

(d) The Board may meet anywhere in the Covered Area; provided, however, the permanent home of the Authority shall be at 810 Court Street, Jackson, Amador County, California.

Section 6.6. Rules.

The Board may adopt from time to time rules for the conduct of its meeting and the general operations of the Authority. Copies of such rules shall be maintained by the Secretary, and copies thereof shall be filed with each Member. Written notice of a proposed rule amendment shall be sent to each Director and each Member at least three (3) weeks prior to the vote by the Board on the proposed rule amendment. Such rules shall be consistent with the provisions of this Agreement, and, in the event of any conflict between the provisions of these rules and the provisions of this Agreement, the provisions of this Agreement shall control.

Section 6.7. Executive Officer

(a) The Board shall appoint an Executive Officer who shall serve at the pleasure of the Board. The Executive Officer shall not be a member of the Board, nor shall he or she occupy any other elected position that would constitute a conflict of interest with his or her duties as Executive Officer. The Executive Officer shall be the chief executive and administrative officer of the Agency and shall have such duties as may be prescribed by the Board. The Executive Officer shall be responsible for all projects and property of the Authority and shall file with the Treasurer of the Authority, as required by the Board, an official bond in an amount to be determined by the Board guaranteeing the faithful performance of his or her duties.

Without limiting the foregoing, the Executive Officer shall:

- (1) develop the Authority's budget for submission to the Board;
- (2) review and decide personnel matters;
- (3) make policy recommendations to the Board;
- (4) oversee and direct the operation of the Authority within the framework of the approved budget;
- (5) make recommendations to the Board on such other matters as the Board may designate from time to time.

Section 6.8 Authority Counsel.

An Authority Counsel shall be elected annually by the Board at the first regular meeting in each calendar year. The Authority Counsel shall act as general counsel to the Authority and to the Board. The Amador County Counsel shall serve as the initial Authority Counsel. The County of Amador may determine reasonable charges to be made against the Agency for the services of the County Counsel.

Section 6.9. Treasury; Treasurer; Auditor.

(a) The Treasury of the County of Amador shall be the depository of the funds of the Authority and the Treasurer of the County of Amador shall be the ex-officio Treasurer of the Authority. The Auditor of the County of Amador shall be the ex-officio Auditor of the Authority and shall draw warrants against the funds of the Authority in the Treasury when the demands are approved by the Executive Officer or his or her designee. The Auditor and Treasurer shall comply with all duties imposed under Article 1, Chapter 5, Division 7, Title I of the Government Code, commencing with Section 6500. The County of Amador may determine reasonable charges to be made against the Authority for the services of the Auditor and Treasurer. At the close of each fiscal year, the Auditor shall make an audit. In the alternative, the Board may contract with a public accountant or certified public accountant to make an audit of the accounts and reports of the Authority.

(b) In lieu of the designation of Treasurer and Auditor set forth above, the Board may appoint one of its officers or employees to either or both positions of Treasurer and Auditor. Such officers may be held by separate officers or employees or combined and held by one officer or employee. At the close of each fiscal year, the Board shall have an independent audit conducted as set forth in Government Code Section 65055.6.

Section 6.10 Funds.

The Treasurer of the Agency shall receive and have the custody of and disburse Authority funds on the warrant of the Auditor and shall make disbursements required by this Agreement. The Treasurer of the Authority shall invest Authority funds in accordance with general law. All interest collected on Authority funds shall be accounted for and posted to the account of said funds.

Section 6.12. Employee Costs.

If a Member provides officers or employees to serve as staff to the Authority, that Member shall have the right to be reimbursed by the Authority for all direct and indirect costs associated with the discharge of the employee's duties for or on behalf of the Authority.

ARTICLE 7 FUNCTIONS

Section 7.0. Functions.

The functions of the Authority shall include, but not be limited to:

7.1 Phase One—Planning. The Board shall develop operational and funding strategies to achieve the goals outlined below and as established by the Board. For operational strategies such as sections (a) through (f) below, implementation shall be made pursuant to a subsequent agreement amending this Agreement among the Members.

(a) Enhance fire protection coverage in each Member's individual jurisdiction and in the whole Covered Area.

(b) Consolidate the existing network of Members to achieve greater efficiency and consistency.

(c) Design and implement consolidated department operational strategies that provide Fire Protection Services by paid employees of the Authority.

(d) Pursue funding opportunities under a unified entity, the Authority.

(e) Provide uniformity, consistency, and greater Member participation and/or recognition in providing Fire Protection Services.

(f) Develop consistent response plans within the Covered Area to achieve greater cost efficiency

(g) Develop an allocation plan (i) for Measure M funds that is consistent with the provisions of Measure M, for recommendation to the Board of Supervisors of Amador County; and (ii) for any other funds distributed by the Authority.

(h) Cause each Member to conduct an annual audit identifying the Member's use of Measure M funds, and receive and review each such audit to ensure compliance with the purposes of Measure M.

7.2 Phase Two—Operations

(a) The Members shall consider adding Operations and the carrying out of operational strategies described in sections 7.1(a) through (d) to the duties of the Authority after the Authority's planning function is developed. Because of the uncertainties of what the Operations may consist of, whose employees may provide them, and how they will be financed, the Members agree to set forth the Operations in a subsequent agreement amending this Agreement.

ARTICLE 8
FINANCIAL

Section 8.0. Annual Budget.

(a) The annual budget year for the Authority is July 1 through June 30.

(b) At the beginning of each calendar year, a work program for the Authority shall be prepared by the Executive Officer and approved by the Board. Based upon an estimate of the cost of carrying out this work program, a preliminary budget, including a reasonable contingency, in an amount to be approved by the Board, shall be prepared by April 1st of each year. Prior to June 1st of each year, the Board shall adopt a contingent budget based upon its approved work program and after public hearing. The Budget shall become final upon the Board's making any adjustments necessary to respond to or bring the budget into conformity with the actual receipt of Members' funds.

Section 8.1. No Refund of Assessment on Withdrawal from Agency

A Member withdrawing from the Authority shall not be entitled to the return of any funds transferred to the Authority.

Section 8.2. Accounts and Reports.

The Authority shall establish and maintain reports and accounts that are deemed necessary to account for and report on the various sources of funds, expenditures, grants, programs and projects as may be required by good accounting practice. The books and records of the Authority shall be open to inspection by Members at all reasonable times.

ARTICLE 9
DURATION, DISPOSITION AND AMENDMENT

Section 9.0. Effective Date.

The Original Agreement was effective and the Authority established on July 1, 2003. Pursuant to Section 9.3, this First Amended Joint Exercise of Powers Agreement shall be effective upon the approval of the governing bodies of a majority of the Members.

Section 9.1. Duration.

This Agreement shall continue in effect until it is rescinded or terminated by a majority of the Members' governing bodies; provided, however, that the withdrawal from membership in the Authority by any Member shall not operate to terminate this Agreement as to the other Members.

Section 9.2. Withdrawal from Membership.

A Member may withdraw from the Authority effective on any next succeeding July 1st after the formation of the Authority. The withdrawal shall be in the form of a

duly executed and certified resolution adopted by the Member's governing board that authorizes withdrawal. The withdrawal must be received by the Secretary of the Authority's Board of Directors at least 180 days prior to the July 1st on which the withdrawal will be effective.

Section 9.3. Amendment.

This Agreement may be amended in writing. The amendment shall become effective upon the approval of the amendment by the governing bodies of a majority of the Members. Within thirty (30) days of approval or denial of an amendment the Authority shall give written notice to all Members of the action on the amendment and, if approved, the effective date of the amendment.

Section 9.4. Disposition of Assets Upon Termination.

Upon termination of this Agreement, any money or assets in the possession of the Authority after payment of all liabilities, costs, expenses and charges validly incurred pursuant to this Agreement shall be returned to the Members then comprising the Authority in proportion to their contributions determined as of the date of termination.

Section 9.5. Notices. Notices shall be sent by first class mail to the Members at the following addresses.

City of Jackson
33 Broadway
Jackson, CA 95642

Amador Fire Protection District
810 Court Street
Jackson, CA 95642

City of Plymouth
P.O. Box 805
Plymouth, CA 95669

Jackson Valley Fire Protection District
P.O. Box 1309
Ione, Ca 95640

City of Ione
P.O. Box 398
Ione, CA 95640

Sutter Creek Fire Protection District
P.O. Box 365
Sutter Creek, CA 95685

Lockwood Fire Protection District
P. O. Box 221
Volcano, CA 95689

(continued on next page)

IN WITNESS WHEREOF, each of the Members has caused this Joint Powers Agreement to be executed by having affixed thereto the signature of the authorized agent of the Member's governing board.

2/2/10
Dated:

12-14-09
Dated:

1-5-10
Dated:

1-13-10
Dated:

3/15/10
Dated:

4/8/2010
Dated:

Dated:

Brian Oatis
By: President, AFFD
Title:

Connie Gonsalves
By: Connie Gonsalves

Title: Mayor, City of Jackson

Chester Schaufel
By: Mayor, City of Ione
Chester Schaufel

Title:

Wendell Hill
By: Board Chair, JVFPD

Title: John J. Asmus
By: John J. Asmus

Title: Director LFPD

Pat Fordyce
By: Mayor, City of Plymouth
Title:

By:

Title: