

**AUTOMATIC AID AGREEMENT
FOR FIRE PROTECTION, HAZMAT AND
URBAN SEARCH AND RESCUE SERVICES**

This Agreement is made and entered into on this 1ST day of July, 2011, by and between the CITY OF FRESNO, a municipal corporation, hereinafter referred to as "FRESNO," and the CITY OF CLOVIS, a municipal corporation, hereinafter referred to as "CLOVIS."

WITNESSETH:

WHEREAS, in certain agreements between the parties hereto, dated February 1, 1979, June 9, 1981, and April 20, 1995, the parties agreed to provide emergency response services; and

WHEREAS, it is the mutual desire of the parties hereto that the provisions of this Agreement shall supersede the previous agreements and all notices provided thereunder; and

WHEREAS, each of the parties are parties to the California Disaster and Civil Defense Master Mutual Aid Agreement with the State of California pursuant to the California Emergency Services Act for purposes of requesting mutual aid in connection with any incident which cannot be handled adequately by the party's respective fire department; and

WHEREAS, CLOVIS and FRESNO declare it is in the public interest to enter into a reciprocal agreement to provide automatic aid to areas along their respective mutual borders; and

WHEREAS, the parties have the common power to provide fire protection, hazmat, and urban search and rescue services and desire to jointly exercise said power pursuant to the authority granted under Sections 6502 and 55632 of the California Government Code and Section 25400 of the California Health and Safety Code; and

WHEREAS, the parties desire to maximize the delivery of emergency services while minimizing the cost of delivering said services by responding with the appropriate nearest available apparatus necessary to protect life, property, and the environment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

SECTION 1. TERM AND TERMINATION OF AGREEMENT.

(a) This Agreement shall be effective as of the day and year hereinabove written and shall end on June 30, 2016, unless extended by mutual written agreement of the parties or terminated pursuant to the following paragraph.

(b) This Agreement may be terminated by either party as to its rights and obligations under this Agreement upon 30 days prior written notice to the other party.

SECTION 2. DEFINITIONS. Unless the particular provision or context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this Agreement.

(o) "Urban search and rescue response team" shall mean firefighting personnel cross trained as specialized rescue personnel and having been trained and designated as such.

(p) "Urban search and rescue response vehicle" shall mean a vehicle with tools and associated equipment therein assigned, specifically designed for use at specialized rescue incidents.

SECTION 3. AUTOMATIC AID IN GENERAL AND OF FIRE PROTECTION SERVICES. The party with the nearest available apparatus appropriate to the incident shall furnish fire protection services within the jurisdiction of the party requesting such service pursuant to the following provisions:

(a) The specific details of providing the fire protection services under the terms of this Agreement shall be determined by the respective Fire Chiefs of each party. It is understood fire protection services shall adhere as closely as practical to the "nearest available apparatus" concept, which forms the basis for this Agreement. It is the intent of the parties to this Agreement to send the appropriate nearest available apparatus to all emergency incidents.

(b) The territories covered by this Agreement are generally defined to be the incorporated limits of the respective cities, including such areas as may be annexed to such limits from time to time.

(c) The responding party shall respond with the nearest available apparatus requested, however, provided such fire apparatus is closer to the incident than that of the requesting party.

(d) The responding party is not obligated to furnish any service if apparatus, equipment, personnel, or any combination thereof is not available as determined by the responding party's Fire Chief or his/her designated representative.

(e) The first fire unit to arrive at the scene of the incident shall initiate appropriate action. The officer in charge of the first unit to arrive at the requesting party's jurisdiction shall cause to be reported to the requesting party all pertinent information about the conditions encountered at the scene of the incident. The officer in charge of any such unit shall be the incident commander until the officer is relieved by an arriving battalion chief.

(f) The officer of a single unit response to a requesting party's jurisdiction shall gather all necessary information to complete required reports and forward the information to the requesting party, following normal reporting protocol.

(g) The "nearest available apparatus" concept shall not be affected by any other contractual services, which may be in affect now or in the future.

SECTION 4. FURNISHING URBAN SEARCH AND RESCUE RESPONSE TEAM AND VEHICLE. Notwithstanding Section 3, above, the responding party shall respond with its urban search and rescue response team and vehicle to the requesting party's jurisdiction pursuant to the following provisions:

(a) The responding party shall respond with the urban search and rescue response team and the urban search and rescue response vehicle into the requesting party's jurisdiction

SECTION 7. COMMAND SYSTEM. All hazardous materials incidents shall be managed by using an incident command system, as per 29 CFR 1910.120. The on-duty battalion chief shall be notified when any hazardous materials personnel respond to any out-of-jurisdiction incidents.

SECTION 8. MUTUAL COOPERATION. There shall be no obligation or liability on the part of either party hereto for failure to respond to request for any hazmat or USR services or equipment, or to furnish any protection requested under the terms thereof, the purpose of this Agreement being to enable and authorize mutual cooperation within the limits of and ability of each of the parties hereto.

SECTION 9. PRIVILEGES AND IMMUNITIES. The provisions of this Agreement and performance of the parties hereunder are specifically intended by the parties to be subject to the provisions of Chapter 6.9, Division 20, of the California Health and Safety Code and Article 2, Chapter 4, Part 2, Division 2, Title 5, of the California Government Code, providing for the application of all privileges and immunities from liabilities, exemptions from laws and rules, and all pension, relief, disability, worker's compensation, and all other benefits granted the responding party performing within its jurisdiction to such performance within the requesting party's jurisdiction, and while traveling to and from such requesting party's jurisdiction under and by virtue of this Agreement.

SECTION 10. WAIVER OF CHARGES. It is specifically agreed that no charge for use of equipment or apparatus shall be made by either party hereto except for such costs that could be assigned to a responsible party as provided by law. The consideration for waiver of such charges shall be the mutual agreement encompassed herein and the right of each party to use the equipment of the other as herein provided.

SECTION 11. INDEMNIFICATION.

(a) CLOVIS shall indemnify, hold harmless, and defend FRESNO and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs, and damages (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time, and property damage) incurred by the FRESNO, CLOVIS, or any other person, and from any and all claims, demands, and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions or willful misconduct of CLOVIS or any of its officers, officials, employees, agents, or volunteers in the performance of this Agreement.

(b) FRESNO shall indemnify, hold harmless, and defend CLOVIS and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs, and damages (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time, and property damage) incurred by FRESNO, CLOVIS, or any other person, and from any and all claims, demands, and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions or willful misconduct of FRESNO or any of its officers, officials, employees, agents, or volunteers in the performance of this Agreement.

(c) In the event of concurrent negligence on the part of CLOVIS or any of its officers, officials, employees, agents, or volunteers, and FRESNO or any of its officers, officials, employees, agents, or volunteers, the liability for any and all such claims, demands, and actions

signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

(e) Binding. Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each party's respective heirs, successors, assigns, transferees, agents, servants, employees, and representatives; except no party shall assign this Agreement without the prior written consent of the other party.

(f) Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify, or add to the interpretation or meaning of the provisions of this Agreement.

(g) Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

(h) Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant, or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

(i) Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

(j) Severability. The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision in this Agreement shall not affect the other provisions.

(k) Extent of Agreement. This Agreement for automatic aid emergency services represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral, including the aforementioned February 1, 1979, June 9, 1981, and April 20, 1995, agreements between the parties. This Agreement may be modified only by written instrument duly authorized and executed by all parties to this Agreement.

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