Council Priority: Emergency Preparedness

Summary Title: Automatic Aid Agreement with Menlo Park Fire

Title: Approval of Automatic Aid Agreement With the Menlo Park Fire Protection District; and Authorization to Transfer Ownership of One Inflatable Boat, Motor and Boat Trailer to the Menlo Park Fire Protection District

From: City Manager

Lead Department: Fire

RECOMMENDATION
Staff recommends that the Council:

1. Approve a new, expanded Automatic Aid Agreement between the City of Palo Alto and the Menlo Park Fire Protection District for a term of five years; and

2. Authorize the transfer of the City's ownership share of one rigid hull inflatable boat, motor and trailer to the Menlo Park Fire Protection District with the expiration of the South Bay Water Rescue Program Joint Power Agreement between the City and the Fire District.

BACKGROUND
The Palo Alto Fire Department and the Menlo Park Fire Protection District share a contiguous border and have a long history of working together to provide the best and most expedient response to render emergency assistance to the citizens of Santa Clara and San Mateo Counties. Both agencies have been working on updating the current Automatic Aid Agreement, dated November 17, 1999 to better serve the community and enhance the current response to reflect today's climate and changing needs.
The City of Palo Alto ("City") and Menlo Park Fire Protection District ("Fire District") entered into an Automatic Aid Agreement on November 17, 1999 to provide emergency medical and rescue services in a reciprocal exchange on a day-to-day basis. The current agreement is still in force, however it is 11 years old and both agencies are amenable to replacing the current contract with updated terms that better reflect current needs and services, and that can enhance resource responses to emergency medical and rescue services, fire protection as well as mitigate other types of emergencies.

The new agreement enhances the automatic aid response by adding Truck Company and Battalion Chief responses from both agencies into the requesting jurisdiction. In addition, Menlo Park agrees to provide water rescue in the San Francisquito Creek and the San Francisco Bay adjacent to the Palo Alto Airport while Palo Alto agrees to expand coverage into portions of East Palo Alto. Palo Alto agrees to support the Fire District in seeking available grant funds and other available forms of financial recovery for incidents involving a municipal airport and related preparedness and rescue activities. By approving the agreement with these new, updated automatic aid terms, the existing agreement will necessarily be terminated.

The South Bay Water Rescue Agreement entered into in April 1992 terminated on June 30, 2011. As part of the new mutual aid agreement, the District will provide, upon request, appropriate water craft response to emergency incidents for the San Francisquito Creek and San Francisco Bay in Palo Alto jurisdictional areas.

**DISCUSSION**

Key provisions of the new agreement include:

1. **Automatic Aid Response**
   Automatic aid means that the closest available and appropriate engine will respond to Code 3 emergencies which require the use of red lights and sirens by responding fire units. For confirmed structure fires or secondary incidents requiring a Truck and Battalion Chief from
each agency will respond. The response of a truck and Battalion Chief are new components to this agreement.

2. Palo Alto Airport - Water Rescue Response
Water rescue was formerly provided under the South Bay Water Rescue operating agreement between the City and the Fire District, which expired on June 3, 2011. The City concluded that the Palo Alto based boat was not practical due to the tides and lack of launching facilities near Palo Alto. It was also costly and difficult to complete required training. The Fire District agrees to, upon request of City, provide appropriate water craft response to emergency incidents for the San Francisquito Creek and the San Francisco Bay adjacent to the Palo Alto Airport. In exchange, the City of Palo Alto supports the Fire District in seeking available grant funds and other available forms of financial recovery for incidents involving a municipal airport and related preparedness and rescue activities.

3. Response Area Boundary
Each jurisdiction’s boundary for response is listed and clearly delineated in Attachment B of the agreement. The new agreement expands Palo Alto coverage into East Palo Alto up to Bay road and expands the Districts coverage into West Bayshore, the Airport and the baylands.

**RESOURCE IMPACT**

There is no direct resource impact to the City's budget, as this agreement provides for the mutual exchange of emergency services, but no monetary compensation.

In the event either party is not available to provide assistance, pursuant to this agreement, the dispatcher for the assisting agency shall promptly notify the Agency Having Jurisdiction. The aid provided to each jurisdiction assist in providing better service and coverage to the citizens and enhances response times, safety and potentially minimizes loss.
Transfer of the City’s ownership of the rigid hull inflatable boat, motor and trailer to the Menlo Park Fire Protection District will result in lower maintenance expense to the City. The boat was jointly purchased by both agencies at inception of the water rescue agreement, however, it now has minimal asset value to the City and a low resale value. Proceeds of a sale would have to be split between the agencies. The transfer to the Fire District keeps the boat as a resource available to the City.

This contract requires Council approval because it is for a five-year term period.

POLICY IMPLICATIONS

This recommendation is consistent with existing City policies, and various provisions of the Health and Safety and Government Codes of the State of California, and acts and statutes of the Federal Government relating to mutual aid and cooperation between emergency responders.

ENVIRONMENTAL REVIEW

An agreement to provide mutual aid in emergencies does not constitute a project under the California Environmental Quality Act (CEQA).

Attachments:

- 1999 Auto Aid Agreement (PDF)
- Water Rescue JPA 062111 (PDF)
- 2011 Automatic Aid Agreement - 071211 (DOC)

Prepared By: Roger Bloom,

Department Head: Dennis Burns, Police Chief

City Manager Approval: James Keene, City Manager
AGREEMENT BETWEEN THE CITY OF PALO ALTO AND
THE MENLO PARK FIRE PROTECTION DISTRICT
FOR AUTOMATIC AID INTO INTER-JURISDICTIONAL
FIRE PROTECTION SERVICE ZONE

This Agreement is made and entered into on November 17, 1999, by and between the CITY OF PALO ALTO and the MENLO PARK FIRE PROTECTION DISTRICT.

RECATALS

WHEREAS, the City of Palo Alto ("Palo Alto") provides fire protection services within its municipal boundaries; and,

WHEREAS, the Menlo Park Fire Protection District ("District") provides fire protection services within its special district boundaries which includes the City of Menlo Park, The City of East Palo Alto, The Town of Atherton, and unincorporated areas of San Mateo County; and,

WHEREAS, the jurisdictions of Palo Alto and the District are adjacent to one another and share a common boundary line for a considerable distance; and,

WHEREAS, the legislative bodies of the parties to this Agreement have determined that the most efficient use of available fire suppression resources of the parties would be made through assured mutual response into a fire threat zone overlapping the Cities of Palo Alto and the Menlo Park Fire Protection District; and,

WHEREAS, the parties desire to exercise jointly their powers to provide fire protection and emergency medical response pursuant to Government Code section 6500, et seq., under the terms and conditions set forth below.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

A. Type of Assistance

This agreement is intended to provide for automatic response by the closest emergency response apparatus for use in fire suppression and first responder medical emergency incidents within an overlapping area of the territories of the City of Palo Alto and the Menlo Park Fire Protection District and which is described as the automatic aid zone identified in this Agreement. For the purposes of this Agreement, the party providing automatic aid into the adjacent jurisdiction shall be identified as the "assisting agency", and the party receiving automatic aid shall be identified as the "jurisdictional agency". The automatic aid response shall consist of the closest engine company, regardless of jurisdiction. Should the closest automatic aid unit be unavailable, the assisting agency will promptly advise the jurisdictional agency that automatic aid will not be provided.

Code 3 emergencies which require the use of red lights and sirens by responding fire units are the only incidents for which provisions are made for automatic aid under this Agreement. Calls for public service, post-fire investigations, and similar responses which do not require the use of red lights and sirens by the responding fire units are not incidents for which provisions are made for automatic aid under this agreement. These calls shall be handled by the jurisdictional agency.
Paramedic services shall not be provided under this Agreement whether or not the response is a Code 3 emergency.

Fire suppression and first responder medical emergency services in excess of those provided for under this Agreement or other specific agreements must be requested through existing mutual aid arrangements, if any.

B. Response Areas

Palo Alto and the District shall respond into each other’s designated areas as follows:

1. The District shall respond into those areas of Palo Alto delineated and enclosed by a solid line on the map identified as “Area A” incorporated by reference herein. “Area A” is generally described as being bordered on the north by Highway 101 at the Embarcadero Road Interchange, on the east by Embarcadero Road from Highway 101 extending along Arboretum Road and Palm Drive to Campus Drive and then along Junipero Serra Boulevard and San Francisquito Creek to Highway 280, on the south by Highway 280, and on the west by Sand Hill Road from Highway 280 extending along San Francisquito Creek to Highway 101 near its intersection with Embarcadero Road.

2. Palo Alto shall respond into those areas of the Menlo Park Fire Protection District delineated and enclosed by a solid line on the map identified as “Area B” incorporated by reference herein. “Area B” is generally bounded on the north by Highway 101, on the east by the San Francisquito Creek extending along Sand Hill Road to Highway 280, on the south by Highway 280, and on the west by Walsh road extending along Alameda de las Pulgas to Valparaiso Avenue extending along Glenwood Avenue and thence along Middlefield Road to Ringwood Avenue and Bay Road to Highway 101 at the Willow Road intersection.

C. Training

Periodic interagency training shall be conducted for the purposes of improving working relationships and operational coordination between Palo Alto and District units. Training exercises shall be scheduled at mutually agreed upon times and locations.

D. Response Maps and Preplans

Upon execution of this Agreement, Palo Alto and the District shall provide each other with current standard response maps and preplans for the designated areas, and shall provide updated versions within 14 calendar days of changes which may occur.

E. Operational Command Guidelines

1. The highest ranking officer of the jurisdictional agency will have operational responsibility and the final authority as to strategy and tactics deployed at the incident once an officer for the jurisdictional agency assumes command of the incident. The first arriving officer from the assisting agency will assume command until an officer from the jurisdictional agency responds to the incident and assumes command.

2. It shall be the responsibility of the officer in command to summon additional personnel and equipment, if needed, to handle the emergency.
3. As soon as the officer in command determines that no further assistance is required, he/she will so inform the jurisdictional agency dispatch center, cancelling any other responding units.

4. It shall be the responsibility of the officer in command to utilize the staffing and equipment from the assisting agency only to the extent required to bring the emergency under control. The assisting agency shall not be required to provide assistance for overhaul and clean up operations after a fire.

5. The resources from the assisting agency shall be released from the scene of the emergency as soon as practical.

F. Fire Incident Reporting

The jurisdictional agency, if it responds to an incident, will be responsible for completing, filing, recording, and storing all reports including reports mandated by local and state governments and agencies. If the jurisdictional agency does not in fact respond to an incident, the assisting agency will be responsible for completing, filing, recording, and storing of all reports (unless otherwise provided by law) and shall additionally transmit a copy of each report to the jurisdictional agency upon request.

G. Compensation

All services provided by either Palo Alto or the District under this agreement shall be performed without monetary compensation. The mutual advantages, protections and services afforded by this Agreement are mutually agreed to be adequate compensation to both agencies.

H. Evaluation

The effectiveness of the procedures contained in this Agreement shall be evaluated annually by the respective Fire Chiefs, or their designees, of Palo Alto and the District.

I. Term

This Agreement shall commence upon execution of the Agreement by both parties and shall continue in full force and effect unless terminated as provided herein.

This Agreement may be terminated without cause by any signatory party upon written notice of termination given to the other party at least thirty (30) days in advance of the effective date of termination. Notice of termination shall be personally served or mailed to the other party to this Agreement.

J. Amendments to Agreement

1. This Agreement contains all of the terms and conditions agreed to between the parties. Except as otherwise specified, this Agreement shall not be amended or altered without the written consent of each party.
2. The Fire Chiefs of the parties to this Agreement shall have the authority to make minor changes to the boundaries of “Area A” and “Area B” and to execute any documents required to implement such amendments. Any such amendments shall be mutually agreed upon in writing by the Fire Chiefs of the parties.

K. Operational Protocols

Implementing details from the fire suppression and first responder medical services provided pursuant to this Agreement shall be established by a written operational protocol between the Fire Chiefs of Palo Alto and the District, and the terms of the operational protocol shall be incorporated herein and binding upon the parties.

L. Legal Relationships

1. While Palo Alto’s personnel are responding into the District pursuant to this Agreement, the parties concur that Palo Alto’s employees so assigned shall not be considered to be either general or special employees of the District for purposes of the workers’ compensation laws. While the District’s personnel are responding into Palo Alto pursuant to this Agreement, the parties concur that the District’s employees so assigned shall not be considered to be general or special employees of Palo Alto for purposes of the workers’ compensation laws.

2. Except as otherwise provided herein, each party agrees to indemnify, defend and hold harmless the other party, its officers, agents, and employees from any and all demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any other loss caused by or arising out of that party’s performance or failure to perform the obligations assumed under this Agreement; provided, however, that a party’s indemnification obligation under this provision of the Agreement does extend to negligent or willful performance or failures of performance by the other party.

3. This agreement is entered into solely for the mutual benefit of the signatory parties and not for the benefit of any resident or other person or entity. No person or entity not a party hereto shall have any right to enforce this Agreement or bring any action as a consequence of this Agreement arising out of a failure or omission on the part of any of the parties to provide the services described herein.

4. This Agreement is intended to supplement rather than supplant any other agreements or arrangements between the parties for aid in emergencies requiring fire protection, fire suppression, or first responder medical care into the geographic areas covered by this Agreement; provided, however, that with respect to automatic aid, the provisions of this agreement will take precedence over the provisions of any other agreement or arrangement, the provisions of which are inconsistent with or contrary to the provisions of this Agreement.

5. This Agreement shall not be construed to create a joint exercise of powers entity under the provisions of Government Code §65000, et seq. Notwithstanding the provisions for allocation of loss or liability provided therein, the provisions of this Agreement for loss allocation shall govern.
AGREEMENT ESTABLISHING A SOUTH BAY WATER RESCUE PROGRAM THROUGH A JOINT EXERCISE OF POWERS

THIS AGREEMENT is made and entered into on 28th April, 1992, by and between the City of Palo Alto, a chartered municipal corporation of the State of California ("Palo Alto") and the Menlo Park Fire Protection District, a California fire protection district ("Menlo Park"). Other public agencies may be subsequently added as parties to the agreement in accordance with the terms and conditions set forth herein.

WITNESSETH:

WHEREAS, the parties have determined that there is a need for a joint water rescue program to serve water rescue needs in the southern portion of San Francisco Bay ("South Bay"); and

WHEREAS, each of the parties is empowered and authorized to establish its own water rescue program and to do all of the other things authorized and agreed to under this agreement; and

WHEREAS, the parties desire to enter into an agreement pursuant to Chapter 5, Division 7 of Title I of the California Government Code, commencing with Section 6500 (the "JPA law"), authorizing the joint exercise of powers held in common between and among the parties, to establish a joint water rescue program ("Program") in the South Bay; and

WHEREAS, the parties contemplate that the Program will serve the territory now or hereafter included within and in proximity to the political boundaries of any party hereto, as well any area which, during the term of the agreement, may be served by any party hereto by contract; and

WHEREAS, the governing body of each party hereto has determined that there is a need for such a Program and that the establishment of a Program will result in a financial saving and improved service to that party and will be in the public interest; and

WHEREAS, Palo Alto and Menlo Park intend that the Program be able to function between the two parties, but desire to provide in this agreement the flexibility to expand the Program to accommodate such other parties as may be added in the future;

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto do hereby agree as follows:
ARTICLE I
Commencement and Termination of Agreement

1. Effective Date and Termination Date. This agreement shall become effective on the date first hereinabove written, which date shall be the date on which the last party (either Palo Alto or Menlo Park) signed the agreement. This agreement shall become effective as to additional parties at the time and date specified in the amendment to this agreement adding such party. This agreement shall terminate on June 30, 2011, unless sooner terminated by withdrawal of either Palo Alto or Menlo Park, as provided in Section 3 of this article.

2. Additional Parties. Upon the agreement of all then existing parties to this agreement, any public agency as defined in the JPA law, as the same from time to time be amended, may become a party to this agreement by amendment hereto, upon such terms and conditions as specified in said amendment.

3. Withdrawal from the Agreement. Any party may withdraw from this agreement by resolution of its governing body and upon not less than one year's notice in writing to all other parties, provided that no withdrawal shall be effective prior to June 30, 1993.

ARTICLE II
Purpose and Objectives

1. Purpose. The parties shall participate jointly in the manner and to the extent hereinafter specified, in the establishment, maintenance, operation and use of the Program. The specific purpose for the Program is to provide joint training and to jointly own, operate and maintain equipment necessary for water rescue efforts. Actual water rescue services will be performed by the individual parties, or through existing mutual aid or automatic aid agreements, as appropriate, and shall not be within the scope of this joint powers agreement.

2. Objectives. The objectives of this agreement are to raise the efficiency of the parties' respective water rescue services by providing adequate equipment and a comprehensive training program; to reduce overall costs by joint purchase and use of equipment; and to standardize the water rescue training program of the parties to the extent the parties wish to participate.

ARTICLE III
Management and Organization

1. Decision Making Authority. This agreement memorializes the joint effort of the parties to carry out the purposes and objectives set forth herein; and no separate entity shall be created hereby, nor shall there be created a board of
directors. Day-to-day operation and management of this joint effort will be handled by the Policy Committee and Administrator, respectively, in accordance with the provisions of this article. All decisions made pursuant to this agreement which require approval of the parties shall be evidenced by affirmative vote of the governing body of each party to the agreement.

2. Policy Committee. There is hereby established a Policy Committee ("Policy Committee") composed of the City Manager or designee of Palo Alto and the Fire Chief of Menlo Park, plus the fire chief of each member agency that becomes a party to the agreement. Each Policy Committee member shall designate an alternate who shall have the power to vote in the place and stead of such person. The Policy Committee shall act in an advisory capacity to the parties concerning the Program and shall have such other functions as are specified in this agreement or are delegated to it by the parties. The Policy Committee shall meet at least once per calendar quarter and shall adopt procedural rules for the conduct of its business. Additional meetings may be called at the request of any Committee member. All matters requiring action by the Committee shall be evidenced by an affirmative vote of a majority of the members of the Committee, unless otherwise herein specified.

3. General Administration and Operation. Palo Alto shall be the General Administrator ("Administrator") of the Program. In connection therewith Palo Alto shall:

a. Maintain records of all revenues and expenditures incurred in connection with the operation of the Program.

b. Maintain all records in auditable form and make them available to the parties upon request.

c. Act as depository of any and all monies received from any source for the implementation of this agreement. In this regard, the Director of Finance of Palo Alto shall be responsible upon an official bond for the safe keeping and disbursement of all said monies, provided, that Palo Alto may self-insure for this liability.

d. Act as custodian of all property used for the operation of the Program. In this regard, the official bond now provided by Palo Alto for any public officer who, under this agreement, will have charge of, handle, or have access to any money or property of the Program, shall be considered sufficient, and no further bonding shall be required for purposes of this agreement.

e. Provide each party with reports on the Program in the format and at such time as the Policy Committee may determine.

f. Act as administering agency pursuant to Section 6506 of the Government Code.
ARTICLE IV

Equipment

1. Present Equipment. The equipment to be used for the Program, which that exists as of the date of execution of this agreement, consists of various tools and equipment used for rescue. This equipment is owned and in the possession of Palo Alto and Menlo Park, respectively.

2. Acquisition of Capital Equipment. As of the effective date of this agreement, the parties have agreed to allocate $80,000 towards purchase of the following capital equipment, prioritized as follows:

   a. Two rigid hull inflatable rescue boats, motors and equipment.

   b. One 18-20 foot air boat and equipment.

   c. Safety equipment for rescue personnel and victims, to the extent of finances available.

3. Contribution of the Parties to Cost of Capital Equipment. Palo Alto and Menlo Park shall each pay $40,000 towards the cost of acquiring the equipment described in paragraph 2 of this article. As of the date of execution of this agreement, Palo Alto and Menlo Park represent that the respective sums of $40,000 each have been set aside by previous actions of their governing bodies and have been irrevocably committed for the purpose set forth in paragraph 2 of this article. These sums shall be in addition to any payments which may be required pursuant to paragraph 1b of Article VI. All equipment purchased jointly pursuant to this agreement shall be under the control of the Administrator and used in accordance with paragraph 5 of this article; provided, that for purposes of disposition of assets upon termination, in accordance with Article VI, each party's "ownership share" of the equipment shall be equal to the percent of each party's respective share of the original cost of acquisition.

4. Procedure for Acquiring Equipment. Under the direction of the Policy Committee, Palo Alto shall prepare, or cause to be prepared, specifications for all equipment to be purchased pursuant to this agreement, and shall obtain bids, award and enter into contracts, and supervise any necessary construction. The parties anticipate that the capital purchases will take the form of separate contracts to be awarded at different times. Each time Palo Alto makes an award of contract it shall notify all of the other parties to the agreement that the award has been made.

5. Use of Equipment. During the term of this agreement, and subject to the provisions of this paragraph, any party may use the equipment for rescue training purposes in accordance with any rules and regulations which may be established by the Policy Committee. Usage of this equipment shall also be
conditioned on each party fulfilling its obligation to pay its prorata share for maintenance and operating costs, as more specifically described in Article VI. The parties shall have exclusive use of the equipment for rescue training and emergency operations, except that additional uses by a party or nonparty may be authorized by the Policy Committee.

6. Maintenance of Equipment. Menlo Park shall maintain all equipment described in paragraph 2 of this article. Routine maintenance and minor repair services that can be performed by Menlo Park employees shall be provided at no cost to the other parties. The cost of repairs and other services that must be contracted for, and the cost of parts required for repairs of a non routine nature, shall be shared by the parties in accordance with Article VI. Notwithstanding Menlo Park's duties under this paragraph, any party or nonparty who damages any equipment in a use not covered by this agreement shall be solely responsible for the repair of said equipment.

ARTICLE V

Water Rescue Training

1. Initial Training. The parties to this agreement shall, through the efforts of their respective staffs, develop standardized training procedures, operations and supporting training materials.

2. Expanded Training. The governing bodies of two or more parties may elect to expand the scope of the initial training. The nature of such expansion and the allocation of costs of such expanded training shall be subject to agreement of the participating parties at that time and shall be incorporated into an addendum to this agreement, or in a separate contract between the participating parties in the expanded training. Inauguration of the expanded training shall not affect the initial training as developed by the parties.

ARTICLE VI

Financial Matters

1. Determination of Budget and Costs.

a. Budget. The Policy Committee shall develop a budget, including the annual operating cost for the Program, for the following fiscal year, by February 1 of each year. The recommended budget shall be submitted to the governing body of each party for approval on or before September 1 of each year. To comply with Palo Alto's two-year budget process, the Policy Committee shall provide an estimated second year budget every two years, which will then be finalized and adopted in the interim year. The parties agree that the budget attached to this agreement as "Exhibit A" shall be approved as the budget for the remaining portion of fiscal year 1991-92.
b. Funding by Each Party. During each fiscal year hereof, each party shall pay its share of the amount needed to fund the approved budget for the Program for such fiscal year, as determined pursuant to paragraph 3 of this article. Payment shall be made in two equal installments, each September 15th and December 15th. Payments shall be delivered to the Director of Finance of Palo Alto. Funds not expended at the end of a fiscal year shall automatically be deemed reappropriated to the same budgeted item as of the commencement of the following fiscal year, and may be expended prior to the adoption of the budget for said following fiscal year.

c. Interest. If any party fails to make a payment when due, the amount due shall accrue interest at the rate of ten percent per annum until fully paid.

d. Verification. Palo Alto shall make available to each other party at any reasonable time, at Palo Alto City Hall, all records, documents, computer files, data, and accounts of whatever kind of format which may be required to analyze and verify the actual cost of the Program. If any party disagrees with the actual cost as determined by Palo Alto, the staffs of all parties shall meet and confer regarding the actual cost. If the parties fail to agree, the parties may arbitrate the matter pursuant to paragraph 2 of Article VII.

2. Accounting. Each party shall be strictly accountable for all funds received by it and shall maintain adequate records of all receipts and disbursements pursuant to this agreement. In addition thereto, each party shall maintain such additional records relating to the establishment, ownership, maintenance, operation, and use of the Program and the resources thereof, as is appropriate. Each party shall have the right, at any reasonable time, to inspect and examine the books and other records of each other party insofar as they relate to the Program. The parties agree that accounts maintained pursuant to this agreement shall not accrue interest; provided, that any account in which a balance of $100,000 or greater is maintained, shall accrue interest at the average rate accruing to Palo Alto's General Fund accounts.

3. Apportionment Formula. The cost for maintaining and operating the Program shall be apportioned among the parties by equal shares. The cost for initial training shall be those costs described in Article V. Costs for operating the Program shall include those costs incurred in repair and maintenance of the equipment, which are not the sole responsibility of Menlo Park. The costs to any party for non-capital items, including but not limited to, administrative costs of supplies and employee labor costs, shall be borne by such party and shall not be computed in the annual budget pursuant to paragraph 1a of this article.

4. Limitation of Financial Obligation. No party shall have the power or the authority to incur any obligation pursuant to this agreement in excess of the amount apportioned therefor by the
budget or otherwise specifically authorized by the parties.

5. Payments in Excess of Budgeted Amounts. Upon agreement of the parties, upon a recommendation of the Policy Committee, increases in the costs of budgeted items as well as the costs of necessary items not reflected in the approved budget shall be funded by assessing all parties for an equal amount of such extra costs. Such assessment(s) shall be payable upon the terms agreed to by the parties.

6. Force Majeure. No party hereto shall be liable for any failure to perform as required by this agreement, or any amendment hereto to the extent such failure to perform is caused by any reason beyond the control of such party, or by reason of any of the following occurrences: strikes, labor disturbances or labor disputes of any character, failure of any governmental approval required for full performance, riots, civil disorders or commotions, war, acts of aggression, floods, earthquakes, acts of God, or similar occurrences; provided that such party shall exercise its best efforts to provide the best possible alternative performance and to prevent the foregoing occurrences from obstructing full performance. Such occurrences shall not cause the termination of this agreement and shall not affect this agreement except as provided in this paragraph.

7. Reimbursement Upon Early Termination. If any party to this agreement withdraws from the agreement, such party shall not be entitled to reimbursement of any funds previously paid pursuant to this agreement except as specifically agreed to by the remaining parties to the agreement. Further, in the event of early withdrawal, any monies owing and unpaid by such party pursuant to paragraph 1a of this article shall be paid by such party unless such debt is specifically excused by the remaining parties to the agreement.

8. Disposition of Assets Upon Termination of Agreement. Upon termination of this agreement, all personal property acquired with, or traceable to, money provided by the parties hereto shall be distributed among the parties on a just and equitable basis, by agreement of the parties, upon the recommendation of the Policy Committee; provided, however, that the distribution of any equipment (or the proceeds therefrom) purchased with the original $80,000 contribution from Palo Alto and Menlo Park shall be made in accordance with the provisions of paragraph 3 of Article IV.

9. Liability and Insurance. Each party to this agreement agrees to defend, indemnify and hold harmless the other parties with respect to any claim or action for damages arising or alleged to have arisen from such party's negligent act or omission, whether within the scope of this agreement or not. Any party storing or otherwise possessing equipment covered by this agreement shall insure or cause to be insured such equipment, at such party's expense; provided, however, that Menlo Park shall provide insurance coverage for all equipment for which it has maintenance responsibilities pursuant to paragraph 6 of Article IV, the cost of
which shall be apportioned among the parties in accordance with paragraph 3 of this article.

ARTICLE VII

General Provisions

1. Notices. All notices required or given pursuant to this agreement shall be deemed sufficiently given if in writing and if either personally served upon, or mailed by registered or certified mail to the Clerk of the governing body of the receiving party.

2. Settlement of Disputes or Controversies. Should any dispute or controversy arise in connection with this agreement, the governing bodies of the disputing parties may elect to arbitrate the dispute or controversy in accordance with this paragraph. In the event of such election, the governing body of each party to the agreement may appoint or designate one disinterested person as an arbitrator. In the event an even number of arbitrators is chosen, the arbitrators chosen by the parties shall choose an additional arbitrator. The arbitrators so chosen shall act as a board of arbitrators in connection with any such dispute or controversy, and the decision of the arbitrators, approved by a majority vote of the members of the board of arbitrators, shall be binding and conclusive upon all parties to the agreement.

3. Modification of Agreement. No term, provision, or condition of this agreement shall be altered, amended, or departed from or be held or construed to have been waived except by the unanimous agreement and consent of all parties, in accordance with paragraph 1 of Article I, specifically authorizing such alteration, amendment, or waiver. It is understood, however, that some parts of this agreement are stated in general terms to preserve a reasonable degree of flexibility. It is further understood that the Fire Chiefs of the parties, acting as the Policy Committee, may execute operating memoranda from time to time to clarify the rights and obligations of the parties; and that the Fire Chief of Palo Alto may execute memoranda specifically relating to Palo Alto's duties as Administrator.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the date first hereinabove written.

ATTEST:  

City Clerk

APPROVED AS TO FORM:

Sr. Asst. City Attorney

CITY OF PALO ALTO

By: ____________________________

Mayor

MENLO PARK FIRE PROTECTION
DISTRICT

By: ____________________________

Its: President
AGREEMENT BETWEEN THE CITY OF PALO ALTO AND THE MENLO PARK FIRE PROTECTION DISTRICT FOR AUTOMATIC AID AND INTERJURISDICTIONAL FIRE PROTECTION SERVICE, EMERGENCY MEDICAL AND RESCUE AND FIRST RESPONSE SERVICES

This Agreement, made and entered into on __________, 2011, by and between the City of Palo Alto ("City") in Santa Clara County and the Menlo Park Fire Protection District ("Fire District") in San Mateo County in the State of California

RECITALS

WHEREAS, in 1999 the City and Fire District entered into an Automatic Aid and Interjurisdictional Fire Protection Agreement for the benefit of the City of Palo Alto and Menlo Park Fire Protection District; and

WHEREAS, the parties to this agreement provide emergency medical and rescue services, fire protection, as well as mitigate other types of emergency and non-emergency incidents; and

WHEREAS, it is in the best interest of the citizens within Santa Clara and San Mateo County and each individual jurisdiction to provide the most expeditious response to render emergency medical and rescue assistance and to suppress fires, as well as mitigate other types of emergencies and non-emergency incidents; and

WHEREAS, each party is desirous of providing to the other a reasonable and reciprocal exchange of emergency medical and rescue, fire and other emergency and non-emergency services on a day-to-day basis; and

WHEREAS, this agreement is authorized and provided for by provisions of the Health and Safety and Government Codes of the State of California and acts and statutes of the Federal Government, where applicable.

NOW, THEREFORE, in consideration of these mutual covenants, the parties hereto agree as follows:

1. Type of Assistance.

(a) Purpose. This agreement is intended to provide for automatic response by the closest emergency first response unit for use in fire suppression and first responder medical and rescue emergency incidents within individual jurisdictional fire boundaries in Santa Clara and San Mateo County.

For purposes of this agreement, the party providing automatic aid into the adjacent jurisdiction shall be identified as the “Assisting Agency” and the party receiving automatic aid shall be identified as the “Agency Having Jurisdiction”.
(b) **Automatic aid response.** The automatic aid response shall consist of the closest available and appropriate Engine or Truck Company and shall follow each agency’s jurisdictional guidelines and deployment plan or model. Battalion coverage is based upon each Agency Having Jurisdiction but shall include the AHJ and next closest Menlo Park or Palo Alto Battalion Chief for confirmed structure fires or secondary incidents requiring a Battalion Commander.

(c) **Availability to provide automatic aid.** Specific jurisdictional response deployment will be determined by each agency. Should the closest automatic aid unit be unavailable due to circumstances related to “Brown Out, Black Out or Station Closure”, the parties agree to meet together prior to creation of the impact in order to mitigate any potential adverse affects to either party. The agencies agree to contact each others respective Battalion Chief and Communications Center daily or when ever it is most reasonable during the period of impact to update operational status. In the event that agreement can not be reached the “assisting agency” has the option of “refusing” automatic aid.

(d) **Types of emergencies for which automatic aid will be provided.** Code 3 emergencies which require the use of red lights and sirens by responding fire units are the only incidents for which provisions are made for automatic aid under this agreement.

Calls for public service, post-fire investigations, invalid assistance and similar responses which do not require the use of red lights and sirens by the responding fire units are not incidents for which provisions are made for automatic aid under this agreement.

(e) **Assignment of resources for automatic aid.** Resources not pre-assigned to incidents shall officially attach themselves to an incident per the discretion of the Agency Having Jurisdiction or by authority of the Fire Chief. Assigned units are expected to check into staging or directly to the command post incidents involving more than a single resource.

In addition, each agency agrees to provide the specialized services and participate in the training described in **Attachment A**.

2. **Insurance and Liability.**

No debt, liability, or obligation of one party shall be the debt, obligation, or liability of another party. Each party shall provide, in its discretion, insurance for its personnel and entity.

The Agency Having Jurisdiction agrees to indemnify, defend, and hold harmless the Assisting Agency from all costs, expenses, claims, liabilities or damages, including attorneys’ fees and cost of defense, to persons or property arising out of or in any way connected with the Agency Having Jurisdiction’s actions in response to the alarm or call for service, with the exception of the active negligence or willful misconduct of the Assisting Agency.

The Assisting Agency agrees to indemnify, defend, and hold harmless the Agency Having Jurisdiction from all costs, expenses, claims, liabilities or damages, including attorneys’ fees and cost of defense, to persons or property arising out of or in any way connected with the
Assisting Agency’s actions in response to the alarm or call for service, with the exception of the active negligence or willful misconduct of the Agency Having Jurisdiction.

3. **Worker’s Compensation.** Each party shall provide, at its sole expense, the required worker’s compensation insurance coverage necessary for its own employees. It is recognized that at such times as one Agency provides aid to another Agency pursuant to the terms of this Agreement, the employees of the Assisting Agency may claim to have become special employees on a temporary basis, of the Agency Having Jurisdiction. Should any such claim result in any worker’s compensation claim being asserted, it is hereby agreed that each such claims shall be the responsibility and liability of the Assisting Party as general employer to process, defend, and pay, if necessary.

4. **Equipment and Resources.**


5. **Incident Command and Management.**

The Incident Command System (ICS) and the National Incident Management System (NIMS) will be utilized for all incident responses.

6. **Agency Having Jurisdiction.**

The highest ranking officer of the Agency Having Jurisdiction will have operational responsibility and the final authority as to strategic and tactics deployed at the incident. If the first arriving officer on scene is from the Assisting Agency, that officer will assume command until an officer from the Agency Having Jurisdiction responds to the incident and assumes command.

It shall be the responsibility of the officer in command to summon additional personnel and equipment, if needed, to handle the emergency.

As soon as the officer in command determines that no further assistance is required, the officer in command will inform the Communications Center to “cancel” any other responding units.

It shall be the responsibility of the Agency Having Jurisdiction to utilize their staffing and equipment for overhaul and clean up operations after a fire. The Assisting Agency shall, provide assistance for overhaul and clean up, if available.

Resources from the Assisting Agency shall be released from the scene of an emergency as soon as is possible or at the request of the Assisting Agency’s command team.
7. Fire Incident Reporting.

The Agency Having Jurisdiction, if it responds to an incident, will be responsible for completing, filing, recording, and storing all reports including reports mandated by local and state governments and agencies. If the Agency Having Jurisdiction does not in fact respond to an incident, the assisting agency will be responsible for completing, filing, recording and storing all reports (unless otherwise provided by law) and shall additionally transmit a copy of each report to the Agency Having Jurisdiction for the incident upon request.

8. Response Area Boundary.

Each jurisdiction’s boundary for response is listed and clearly delineated in Attachment B.

9. Coordination and Communications

Upon execution of this agreement, both agencies shall provide each other with current standard response maps and pre-plans for the designated areas and shall provide updated versions within 30 calendar days of changes which may occur.

Contact shall be made to the dispatch centers through pre-established communication or computer links requesting the appropriate unit per this agreement.

All necessary information including address, type of emergency, radio frequency, and related information that is available shall be relayed to the responding unit by dispatching communications center and updated as appropriate.

Automatic aid shall be delivered first based on closest station and then by type of apparatus need. If the requested type of unit is not in the station requested and its actual location at the time of the request would result in an extended response time, the requesting agency dispatch center will be advised of the delay to ensure that closest available unit will respond.

In the event the automatic aid unit of either party is not available to provide assistance pursuant to this agreement, the dispatcher for the assisting agency shall promptly notify the Agency Having Jurisdiction.

Each jurisdictions’ dispatcher is to advise their respective on-duty Battalion Chief when automatic aid is being provided.

Radio coordination of responding units shall be handled by the dispatch center of the Agency Having Jurisdiction. When apparatus is in a joint response, the frequency(s) of the Agency Having Jurisdiction will be used.

Both agencies agree to share radio frequencies when needed as a result of their dual response to a given incident. Further, both agencies agree to give the other the right to communicate using the frequencies listed in Attachment C.
The right of either party to use these frequencies is with the express control of either jurisdictions’ command and dispatch center.

10. Compensation

All services provided by the “parties” under this agreement shall be performed without monetary compensation unless bordering agencies agree to a compensation arrangement made outside of this agreement related to shared services, consolidation, brown outs, black outs or station closures. The mutual advantages, protections and services afforded by this agreement are mutually agreed to be adequate compensation for both agencies.

11. Third Party Beneficiaries.

Nothing set forth in this Agreement shall create, nor is it intended to create, third party beneficiaries who may rely upon a breach in the relationship(s) established in this Agreement to assert a cause(s) of action in their behalf.


The effectiveness of the procedures contained in this agreement shall be evaluated at least annually by the respective Fire Chiefs of the agencies which are party to this agreement.

13. Legal Relationship.

For purposes of this agreement, the parties concur by signature that employees so assigned to automatic aid or special details will remain the employee of each individual agency and the responsibility of the respective agencies.

14. Termination.

This agreement may be terminated by either agency at any time during its term by providing written notice of intent to terminate 30 days in advance of the requested termination.

15. Term

This agreement shall become effective on __________, 2011 and unless terminated earlier as set forth in Section 14, shall remain in full force and effect through ________, 2016. This agreement shall be reviewed by both fire chiefs annually on or around ____ (month), and no later than 90 days prior to ________, 2016 for possible amendments and extension.

Menlo Park Fire Protection District: City of Palo Alto:

______________________________ ______________________________
Menlo Park Fire Protection District City Manager
Interim Fire Chief

Approved as to form:

Sr. Deputy City Attorney
Attachment A

AGREEMENT BETWEEN THE CITY OF PALO ALTO AND THE MENLO PARK FIRE PROTECTION DISTRICT FOR AUTOMATIC AID AND INTERJURISDICTIONAL FIRE PROTECTION SERVICE, EMERGENCY MEDICAL AND RESCUE AND FIRST RESPONSE SERVICES

Palo Alto Airport - Water Rescue Response:
The Fire District agrees to on request of City, provide appropriate water craft response to emergency incidents for the San Francisquito Creek and the San Francisco Bay adjacent to the Palo Alto Airport.

In exchange, the City of Palo Alto support the Fire District in seeking available grant funds and other available forms of financial recovery for incidents involving a municipal airport and related preparedness and rescue activities.

Both agencies are encouraged to establish a Unified Command Post for Water Rescue related emergencies. The first arriving water craft will establish the Operations Branch and designate the need for additional resources.

The Parties will make their best efforts to plan and conduct a minimum of one joint response exercise each calendar year. The exercise will be jointly scheduled by December 1st of the preceding year and will include incident management, water rescue and patient care and handling.

Wildland Interface Response:
Upon mutual aid request, both agencies agree to respond a “Patrol” off road capable mini-pumper or Type III “Brush Rig” to Wildland Interface incidents along San Francisquito Creek, San Francisco Bay, Stanford Hills and the Alpine Road corridor.

The Parties will make their best efforts to plan and conduct a minimum of one joint response exercise each calendar year. The exercise will be jointly scheduled by December 1st of the preceding year and will include incident management, progressive hose lay, pump and roll and fire shelter deployment.

Other Specialized Services

Deceased individuals will be respectfully recovered and addressed by the County Coroners Office of the respective Agency Having Jurisdiction.
Attachment B

AGREEMENT BETWEEN THE CITY OF PALO ALTO AND THE MENLO PARK FIRE PROTECTION DISTRICT FOR AUTOMATIC AID AND INTERJURISDICTIONAL FIRE PROTECTION SERVICE, EMERGENCY MEDICAL AND RESCUE AND FIRST RESPONSE SERVICES

The City of Palo Alto and the Menlo Park Fire Protection District have established the following boundary for response.

City of Palo Alto

The Fire District shall respond into those areas of Palo Alto delineated and enclosed by a solid line on the map identified as “Area A” incorporated by the reference herein. “Area A is generally described as being bordered on the north by Highway 101 at the Embarcadero Road interchange, on the east by Embarcadero Road from Highway 101 extending along Arboretum Road and University Avenue to Campus Drive and then along Junipero Serra Boulevard and San Francisquito Creek to Highway 280, on the south by Highway 280, and on the west by Sand Hill Road from Highway 280 extending along San Francisquito Creek to Highway 101 near its intersection with Embarcadero Road.

Menlo Park Fire Protection District

The Palo Alto Fire Department shall respond into those areas of the Fire District delineated and enclosed by a solid line on the map identified as “Area B” incorporated by reference herein. Area B is generally bounded on the north by Highway 101, on the east by San Francisquito Creek extending to Highway 280, on the south by Highway 280, and on the west by Walsh Road extending to Alameda de las Pulgas to Valparaiso Avenue and thence along Middlefield Road to Ringwood Avenue to Highway 101 to San Francisquito Creek.
Attachment C

AGREEMENT BETWEEN THE CITY OF PALO ALTO AND THE MENLO PARK FIRE PROTECTION DISTRICT FOR AUTOMATIC AID AND INTERJURISDICTIONAL FIRE PROTECTION SERVICE, EMERGENCY MEDICAL AND RESCUE AND FIRST RESPONSE SERVICES

Updated February 1, 2011

Radio Frequencies:

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