

**JOINT POWERS AGREEMENT  
ESTABLISHING THE CENTRAL COUNTY FIRE DEPARTMENT**

This Agreement is dated April 20, 2004 (the "Agreement Date") and is entered into by the City of Burlingame and Town of Hillsborough.

**RECITALS**

This Joint Powers Agreement is predicated upon the following:

- A. The parties are public corporations or entities organized and operating under the laws of the State of California.
- B. The Member Agencies have the authority to perform fire suppression activities, Emergency Medical Services with their respective fire agencies, and other related activities.
- C. The Member Agencies are desirous of improving the quality and level of Fire and Emergency Medical Services within their communities through the sharing of resources and expertise.

**NOW, THEREFORE**, the Member Agencies, for and in consideration of the mutual benefits, covenants and agreements set forth herein, agree as follows:

**SECTION 1 - PURPOSE**

- A. The purpose of this Agreement is to enhance the quality of service and to better utilize available resources. To accomplish this, the parties hereby desire to establish a single public authority by joint powers agreement pursuant to Government Code sections 6500 and following to manage and coordinate the provision of various fire, emergency medical, and disaster preparedness services within the City of Burlingame and the Town of Hillsborough.
- B. As a further objective of this Agreement, the public authority may coordinate the activities and operations of the respective Member Agencies' Fire/Emergency Medical Services with other jurisdictions to achieve the most efficient and effective delivery system possible to the benefit of the communities involved.

**SECTION 2 - DEFINITIONS**

- A. "Fire and Emergency Medical Services" shall mean the provision of fire suppression, prevention, training, public education, disaster preparedness, emergency medical services, and directly related activities.
- B. "Fire Stations and Equipment" shall mean the fire stations located within the Member Agencies and all fire engines and other fire equipment, emergency medical vehicles and equipment and all other equipment commonly in use by the Fire Departments of each Member Agency on the date hereof, together with replacements thereof and additions thereto.

C. "Department Personnel" shall mean those employees providing the fire, emergency medical, and disaster preparedness services on behalf of the Department (defined below), whether they are employees of the Member Agencies or the Department.

D. "Member Agency" shall mean any public agency which is a signatory and party to this Agreement

E. "Mutual Aid Agreements," shall mean those existing and future agreements between public agencies which have been developed to ensure a comprehensive and effective response to fires and medical calls within the jurisdictions of the member agencies and other fire and medical agencies

### **SECTION 3 - ESTABLISHMENT OF THE CENTRAL COUNTY FIRE DEPARTMENT**

The Member Agencies hereby create an entity to be known as the Central County Fire Department (hereinafter referred to as "Department"). The Department shall be an entity that is separate from the Member Agencies and shall be responsible for the administration of this Agreement.

### **SECTION 4 - TERM**

This Agreement shall be effective July 1, 2004 and shall continue in effect until terminated as provided herein.

### **SECTION 5 - POWERS OF THE DEPARTMENT**

The Department shall have the power to make and enter into contracts and subcontracts; to employ agents and employees; to incur debts, liabilities or other obligations; to apply for, receive and utilize funds from all available sources, including federal, state and local funds; to make payments due under contracts, grants, or any other source authorized and approved by the Board of Directors; to take such actions as necessary to implement or fulfill obligations entered into; to pursue those actions and activities necessary to ensure the cost effective and efficient operation for the purposes set forth above and to do all other acts deemed necessary or convenient to achieve the purpose and objectives of the Department.

### **SECTION 6 - BOARD OF DIRECTORS**

A. Governing Board. The Department shall be governed by a Board of Directors ("Board") consisting of two representatives from each of the Member Agencies.

B. Qualifications. Representatives to the Board shall be members of the City Council of the Member Agency that they represent. As determined by each Member Agency, the Mayor or Council of each Member Agency shall appoint the representatives from his/ her or its Member Agency and shall fill any vacancies should a representative of such Member Agency cease to serve as a Board member for any reason. A representative office on the Board will become automatically vacant when a representative is no longer serving as a member of the City Council of the Member Agency.

C. Term. Subject to subsection 6(b), the representatives selected by each of the Member Agencies shall serve one or more terms of two (2) years on the Board, unless earlier removed by the City Council of the Member Agency that they represent or otherwise are no longer a member of the Board.

D. Board Officers. The Board shall elect one of its members to serve as Chairperson and one member as Vice Chairperson, each to serve a term of two (2) years unless earlier removed by the Board.

E. Meetings. The Board shall hold publicly noticed meetings as needed but at least annually. Meetings shall be held in San Mateo County at a place(s) to be designated in the Department Bylaws.

F. Quorum and Voting. A majority of the regular members of the Board of Directors shall constitute a quorum for the transaction of business. Each member of the Board shall have one vote. The affirmative votes of a majority of the total number of Board members shall be required to take any action.

G. Mediation. Because the Board has an even number of Board members as well as a requirement of attaining a majority vote of members to take action, there may be times when the Board is unable to reach a decision on an important issue. If the Board reaches such a point, the Board may refer the matter to the City Councils of the Member Association for resolution, or if the Board elects not to do so then any member of the Board may refer the matter to mediation. In the latter event, mediation shall proceed under the rules of JAMS (Judicial Arbitration and Mediation Services) before resorting to court action. Mediation fees shall be paid equally by the Member Agencies.

## SECTION 7 – POWERS AND DUTIES OF GOVERNING BOARD

In addition to the powers and duties set forth elsewhere in this Agreement, the Board of Directors shall have the following powers and duties:

A. Approve an annual budget for the Department;

B. As agreed upon by the Member Agencies, determine the level of fire, emergency medical and disaster preparedness services to be provided by the Department, through the employees of the Member Agencies, and within the limits of the Member Agencies or pursuant to Mutual Aid Agreements;

C. Make and enter into contracts or sub-contracts to receive or provide services on behalf of the Member Agencies;

D. Incur debt, liabilities and obligations on behalf of the Department as pertains to the common purposes as set forth above;

E. Invest Department funds pursuant to the investment policy of the Member Agency acting as Treasurer of our Department unless modified by the Board;

F. Receive contributions, donations or grants of property, funds, services, or other forms of assistance from any source; and

G. Coordinate its activities with other Joint Powers Authorities or public agencies established for similar purposes in pursuing the common purposes set forth above.

#### SECTION 8 – DEPARTMENT PERSONNEL

Until such time as the Board, with the agreement of all Member Agencies, determines that some or all of the Department Personnel should become employees of the Department, all Department Personnel, including the Chief Administrative Officer and the Fire Chief, shall be employees of either the City of Burlingame or Town of Hillsborough, as provided below. Further, unless and until the Board decides otherwise:

- A. Department Personnel, which as of the Agreement Date are employees of a particular Member Agency, shall remain employees of said Member Agency;
- B. Replacements of Department Personnel caused by employee resignation or termination shall become employees of the Agency in which the vacancy occurs; and
- C. Department Personnel in their capacity of employees of the Member Agencies shall attain no rights to any benefits or other rights from the Department.

New position allocations that represent an increase in Department Personnel over that existing as of the Agreement Date shall require Board approval and shall become an employee of either Member Agency or the Department, as the Board shall determine.

If either Member Agency (the "Reducing Agency") determines that a reduction in Department Personnel is required, and such reduction is not required by the other Member Agency, then subject to the provisions of the applicable collective bargaining agreement covering the employees in question, the reduction shall occur only with respect to the employees of the Reducing Agency. If the other Member Agency determines that either the reduction in services attendant to the layoff or any reduction of its employees is unacceptable, the matter shall be referred to the City Councils of the Member Agencies for resolution, failing which it shall be referred to mediation as provided in Section 6 G. above.

## SECTION 9 - CHIEF ADMINISTRATIVE OFFICER

A. The Board shall appoint the City Manager of one of the Member Agencies to serve as Chief Administrative Officer for a two-year term. Unless otherwise decided by the Board, the appointment shall alternate between the City Managers of the Member Agencies. The Chief Administrative Officer shall be responsible for the coordination and operation of the Department on a day-to-day basis and ensuring that the policies and direction of the Board of Directors are implemented operationally and administratively.

B. The Chief Administrative Officer shall take those actions necessary to modify inter jurisdictional responses under Mutual Aid Agreements, Automatic Aid Agreements, and the Greater Alarm Plan to operationally implement this Agreement. The Chief Administrative Officer shall have the authority to approve changes in the Department's annual budget which do not exceed in the aggregate two percent (2%) of the total amount of the budget, as approved by the Board.

C. The Chief Administrative Officer shall have the authority to hire, promote, demote, impose disciplinary action and/or terminate employees of the Department and may delegate this authority to the Fire Chief, as the Chief Administrative Officer may determine and in accordance with the prevailing memoranda of understanding with employee associations and Department personnel. With regard to personnel not then employed or not to be hired by the Department, the Fire Chief shall recommend any hiring decision, promotion, or disciplinary action to the impacted employee's City Manager, and the applicable City Manager will have the authority to impose such action in accordance with the terms of the applicable collective bargaining agreement covering the employee in question.

## SECTION 10 - FIRE CHIEF OF THE DEPARTMENT

A. After taking into account input from the City Managers, the Chief Administrative Officer shall appoint the Fire Chief. If the City Managers are in disagreement regarding the proposed appointee, a majority of the City Managers shall select the appointee. If the City Managers are evenly divided on the selection, they shall select a City Manager of a City in San Mateo County who shall vote to accept or reject the appointee. If he or she votes to accept, the appointee shall be selected. If he or she votes to reject, the City Managers of the Member Agencies and the Chief Administrative officer shall determine a procedure for identifying another proposed appointee.

B. The Fire Chief of the Department shall conduct the day-to-day operations of the Department, coordinate and supervise all training, and make recommendations to the Board and the Chief Administrative Officer regarding the conduct and operation of the Department.

C. The Fire Chief will administer and supervise the planning, organizing, directing and implementing programs of the Department working under the general guidance and policy direction of the Chief Administrative Officer. The Fire Chief will supervise and manage the Department Personnel and will plan, coordinate, supervise and evaluate Department operations. The Fire Chief will establish policies and procedures for the Department in order to implement directives from the Chief Administrative Officer and Board of Directors. The Fire Chief shall take those actions necessary to modify inter-jurisdictional responses under Mutual Aid Agreements, Automatic Aid Agreements, and the Greater Alarm Plan.

#### SECTION 11 - SECRETARY OF DEPARTMENT

After consultation with the Member Agency City Manager(s), the Chief Administrative officer shall appoint an employee of one of the Member Agencies to act as Secretary to the Department, who shall be responsible for maintaining all necessary records on behalf of the Department. The Secretary may appoint an employee of his or her Member Agency to act as Assistant Secretary, subject to approval of the Chief Administrative Officer.

#### SECTION 12 - TREASURER OF DEPARTMENT

A. After consultation with the Member Agency City Manager(s), the Chief Administrative Officer shall appoint an employee of one of the Member Agencies to act as Treasurer of the Department. The Treasurer shall maintain all financial records on behalf of the Department at a location determined by the Board. The Board shall also appoint one of the Member Agencies as depository which will have custody over all Department funds without regard to their source.

B. The Treasurer shall also act as Controller for the Department and shall perform all such functions such as disbursement of revenues, payment of outstanding obligations of the Department and other similar functions.

#### SECTION 13 - METHODS OF PROCEDURE

A. Within forty-five (45) days after the date of this Agreement, each Member Agency shall appoint its representatives to the Board of Directors and shall give notice of the organizational meeting of the Central County Fire Department. At that meeting, the Department shall adopt bylaws to provide for its regular meetings and elect a Chairperson and Vice-Chairperson and carry out such further business, consistent herewith, as it deems proper.

B. Use of Facilities and Equipment. By entering into this Agreement, the Member Agencies agree that the Department may use the Fire Stations and Equipment, ownership of which shall remain in the individual Member Agencies unless otherwise expressly agreed in writing between the Agencies.

C. Assignment of Personnel. The Member Agencies agree that the Agencies' Department Personnel will be assigned to the Department to act under the direction of the Fire Chief of the Department as provided in this Agreement. Until becoming employees of the Department, employees shall remain employees of the individual Member Agencies from which they are assigned.

#### SECTION 14 - MAINTENANCE AND OPERATION COSTS: COST ALLOCATION

A. Annual Budget. The Department shall adopt a budget for maintenance and operation costs, and costs of special services in time to allow approval by the Member Agencies prior to June 30th of each fiscal year, beginning with the fiscal year commencing July 1, 2004. The Department's fiscal year shall be July 1 to June 30. Each Member Agency shall prepare its own annual budget for capital costs related to Department services.

B. The Fire Chief in conjunction with the Chief Administrative Officer will prepare the annual budget for submission to the Board.

C. Records and Accounts. The Department shall cause to be kept accurate and correct books of account, showing capital costs (if any), special services costs, and maintenance and operation costs of the Department. Each Member Agency shall maintain accurate and correct books of account showing all Department Personnel costs and the costs of maintenance and operation of the Fire Stations and Equipment, which it owns, including liability, casualty and workers' compensation insurance and a reasonable depreciation reserve for capital items. The aforescribed books and records shall be open to inspection at all times during normal business hours by either Member Agency. The Treasurer shall cause all financial records of the Department to be audited by an independent public accountant or certified public accountant at least once a fiscal year and a copy of the audit to be delivered promptly to each Member Agency.

D. Allocation of Expenses. Until changed by mutual agreement of the Member Agencies, effective July 1, 2004 the costs and expenses described in subsection C. above shall be allocated sixty percent (60%) to City of Buttingame and forty percent (40%) to the Town of Hillsborough. Background documents relative to the cost allocation formula are attached as Exhibit A. Notwithstanding the foregoing, unless otherwise agreed by the Board, (i) capital expenditures shall be borne by the Member Agency electing to incur the expenditure; and (ii) each Member Agency shall bear the PERS retirement and retiree medical costs of its employees.

E. Until such time as the Department Personnel become employees of the Department, each Member Agency shall establish its own budget covering the costs of the Department Personnel who are employed by the Member Agency, the costs of operating the Fire Stations and Equipment within its jurisdiction and anticipated capital expenditures. In preparing such budget and including expenditures pursuant thereto, from time to time the Board shall consider merging all or portions of these separate budgets into the annual Department budget.

#### SECTION 15 - LIABILITY AND SELF-INSURANCE

A. The Department shall be responsible for obtaining general and vehicle liability insurance coverage for its activities, as the Board deems appropriate. This insurance coverage may be provided through an insurance program of one of the Member Agencies if allowed.

B. If damage occurs to any real or personal property of a Member Agency that is occupied or operated by Department Personnel, the Member Agency shall be responsible for any repairs or replacement without contribution by other Member Agencies or the Department. Each Member Agency is also responsible for any maintenance, repair, or replacement due to normal wear and tear, loss or damage to its own real or personal property.

C. No debt, liability, or obligation of the Department shall constitute a debt, liability or obligation of any Member Agency.

D. Except as expressly authorized by the Member Agencies, no Member Agency shall be responsible for the acts and omissions of another Member Agency's officers or employees nor shall a Member Agency incur any liabilities arising out of the services and activities of another Member Agency's officers or employees.

E. If the Department is held liable upon any judgment for damages caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, the pro rata share of each Member Agency in the satisfaction of such a judgment shall be based upon each Member Agency's allocation of expenses pursuant to Section 14 (D) above.

#### **SECTION 16 – INSURANCE; PRE-EXISTING CONDITIONS**

A. Until such time as the Board determines otherwise, comprehensive liability coverage for the Department shall be afforded by the City of Burlingame naming the Department as an additional insured on the City of Burlingame's comprehensive liability insurance policy, and any additional costs incurred by the City in connection therewith shall be subject to the cost sharing formula set forth in Section 15 C. above. However, Member Agencies and the Department understand and acknowledge that this liability coverage is being extended as an additional insured coverage pursuant to a memorandum of coverage of ABAG PLAN Corporation and the additional insured coverage may not encompass the liability coverages that the Department desires and needs. The City of Burlingame makes no warranties or guarantees of any kind of the extent or scope of the coverages that would be provided, and the Department should independently evaluate the coverages and determine whether separate, independent, or additional coverages are appropriate or desirable. At such time as employees, and/or equipment of the Member Agencies is transferred to the Department, the Department shall carry its own workers compensation and/or casualty insurance. It is understood that payment of any claims or judgments under the self-insured retention of the City of Burlingame applicable to this policy shall be subject to the cost allocations of Section 14 G. above, and no Member Agency shall be entitled to file a claim against ABAG PLAN to pay for its contribution to the self-insured retention involved in that particular claim settlement or judgment pursuant to that Section

B. Workers compensation and liability claims relating to incidents occurring prior to the effective date of this Agreement shall be the sole responsibility of the Member Agency with respect to which the incident occurred.



## SECTION 17 - ADDITION OF MEMBER AGENCIES

Any local agency may apply for membership in the Department. Addition of an agency to the Department shall require amendment of this Agreement by Addendum and approved pursuant to Section 21 below. The Department may require such contributions and conduct such investigations, as it may deem appropriate as a condition of application and approval of additional member agencies.

## SECTION 18 - WITHDRAWAL

A Member Agency may withdraw from this Agreement by filing written notice of intention to do so with the other Member Agencies at least six (6) months in advance of the beginning of a Department fiscal year.

## SECTION 19 - DISPOSITION OF ASSETS UPON WITHDRAWAL OF A MEMBER AGENCY

The withdrawal of any Member Agency from this Department shall not terminate this Agreement of the Department provided at least two (2) Member Agencies remain. No Member Agency, by withdrawing, shall, except as may be provided in a written agreement between the contributing Member Agency and the Department, be entitled to payment or return of fund paid or property donated, if any, by the Member Agency to the Department or to any distribution of its assets except for its proportionate share of any unobligated fund balance held by the Department.

## SECTION 20 - TERMINATION; DISPOSITION OF ASSETS

This Agreement may be terminated and the Department dissolved upon the consent of all of the Member Agencies. Upon termination of this Agreement and dissolution of the Department, all funds shall first be used to pay expenses, and then allocated upon the formula then-current under Section 14(D) above. The proportionate shares of any assets, equipment or supplies owned by the Department shall be returned to the Member Agencies on that same formula; however, if the Member Agencies are unable to agree on how to distribute some or all of the non-monetary assets, the disputed assets shall be sold and the proceeds distributed according to the formula described in Section above. Funds in a depreciation reserve account of either Member Agency subject to the cost allocation formula under Section 14(D) shall be considered an asset of the Department for purposes of this Section Twenty.

## SECTION 21- AMENDMENT

This Agreement may be amended from time to time with the written consent of all of the Member Agencies.

**SECTION 22- SEVERABILITY**

Should any part, term or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with the law of the State or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

**SECTION 23- SUCCESSORS**

This Agreement shall be binding upon and shall inure to the successors of the respective Agencies. Neither Member Agency may assign any right or obligation hereunder without the prior written consent of the Department.

IN WITNESS THEREOF, the parties hereto have set their hands the day and year first hereinabove written.

**CITY OF BURLINGAME**

By: Roseline M. O'Malley

**TOWN OF HILLSBOROUGH**

By: John Regan

**Amendment No. 1 to Joint Powers Agreement of Central County Fire Department**

This Amendment No.1 is made and entered into as of December 1, 2008 by and between the Town of Hillsborough and the City of Burlingame bears the following Recitals:

- A. The Joint Power Agreement creating the Central County Fire Department (the "Department") was entered into on April 20, 2004.
- B. The Department's Board of Directors is composed of two council members from each of the cities.
- C. Alignment of terms for Board Members should be based on Council terms which usually begin in November or December of each year.

Now therefore the parties hereto agree as follows:

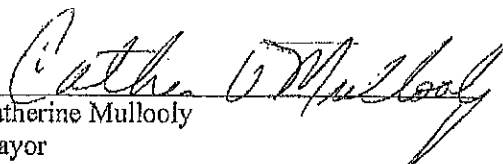
- 1. Section 6(c) of the Joint Powers Agreement is hereby amended in its entirety to read as follows:

"Term. Subject to subsection 6(b), the representative selected by each of the Member Agencies shall serve one or more terms of two (2) years on the Board, unless earlier removed by the City Council of the Member Agency that they represent or otherwise are no longer a member of the board. Each two (2) year term shall commence on the date of the applicable December meeting of the Board, as determined by the appointing Mayor council, or, in event such December meeting is postponed, then on the date of the postponed meeting."

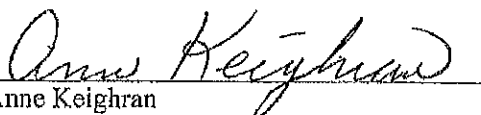
- 2. Subject to the foregoing Amendment, the Joint Powers Agreement remains in full force and effect.

In witness whereof the parties have entered into this Amendment No. 1 as of the date first above written.

**Town of Hillsborough**

By:   
Catherine Mullooly  
Mayor

**City of Burlingame**

By:   
Anne Keighran  
Mayor

**EXHIBIT "A"**

**AMENDMENT NO. 2 TO THE CENTRAL COUNTY FIRE  
DEPARTMENT JOINT POWERS AGREEMENT**

**WHEREAS**, on April 20, 2004, the City of Burlingame and the Town of Hillsborough entered into a Joint Powers Agreement forming a joint powers authority, the Central County Fire Department ("CCFD"), to provide fire protection, suppression and emergency medical services in their respective jurisdictions; and

**WHEREAS**, in April of 2010, the governing Board of the CCFD determined and recommended to the parties to the CCFD that the Joint Powers Agreement be amended to reflect the manner in which revenue received by CCFD was to be credited against costs and how indirect costs were to be charged.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. Section 14D of the Joint Powers Agreement is hereby amended by changing the Section Heading to read "Allocation of Income and Expense" and by adding the following language at the end of the section:

"Indirect costs are not subject to the 60/40 cost allocation formula and in no instance will either Member Agency be required to pay for the indirect costs of the other Member Agency. Indirect costs are Town of Hillsborough and City of Burlingame general management costs for activities; services and equipment required to provide direction and control of the Member Agency as a whole. General management costs consist of general administrative activities, cost for services needed by either Member Agency as a whole, cost of Member Agency memberships, training and travel, and other costs that are necessary for the general operation of either Member Agency.

Any and all revenue generated by the Department shall be program income of the Department. Program income shall be credited against final, actual Department expenditures at year-end prior to applying the 60/40 allocation of expenses as provided above."

2. Subject to the foregoing Amendment, all other terms and conditions of the Joint Powers Agreement, as previously amended, remain in full force and effect.

*[Signatures Follow on Next page]*

IN WITNESS WHEREOF, the undersigned have executed this Amendment No. 2 as of the date first written above.

Town of Hillsborough

By: Christine Krolik  
Christine Krolik, Mayor

Attest: Miyuki Yokoyama  
Miyuki Yokoyama, City Clerk

Date: 7/15/10

City of Burlingame

By: Cathy Baylock  
Cathy Baylock, Mayor

Attest: Mary Ellen Kearney  
Mary Ellen Kearney, City Clerk

Date: 7/20/10