



Agreement to Provide Information Services

Between

**County of Santa Barbara**

And

**Montecito Fire Protection District**

## AGREEMENT TO PROVIDE INFORMATION SERVICES

**THIS AGREEMENT** (hereafter "Agreement") is made by and between the County of Santa Barbara, a political subdivision of the State of California ("COUNTY"), and the Montecito Fire Protection District ("DISTRICT"), wherein COUNTY agrees to provide and DISTRICT agrees to accept the services specified in the exhibits attached hereto and incorporated by reference (the "Exhibits").

**WHEREAS**, the DISTRICT has requested COUNTY to provide certain information systems services ("Information Systems Services"), as set forth more fully in the Exhibits.

**WHEREAS**, the COUNTY is willing to provide such Information Systems Services on the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVE.** The designated representatives for DISTRICT and for the COUNTY shall be set forth in the Exhibits. The representatives listed in each exhibit shall administer only those services specified in the exhibit. Changes in designated representatives shall be made only after advance written notice to the other party.

2. **NOTICES.** Any notice or consent provided pursuant to this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered to the contact specified in Paragraph 26. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.**

A. COUNTY agrees to provide Information Systems Services to DISTRICT in accordance with the Exhibits. Additional services and compensation may be contracted for by amendment of the Exhibits. Such amendment may be approved by agreement of COUNTY management and DISTRICT management without the action of the legislative bodies of the COUNTY and DISTRICT, to the extent authorized by such legislative bodies.

B. Both parties acknowledge their continuing need for separate legal advice as to the Information Systems Services administered hereunder. DISTRICT shall consult with legal counsel as necessary to ensure that the Information Systems Services meet DISTRICT's needs, protect DISTRICT's interests and comply with applicable laws. DISTRICT shall be solely responsible for the legal work associated with the interpretation and prosecution of DISTRICT's ordinances and rules, and defense of the content and application of such ordinances and rules.

C. Each party shall rely on his own legal counsel for legal advice.

4. **CONFIDENTIALITY.** The COUNTY will take reasonable steps to keep in confidence all of the DISTRICT's confidential information it receives in connection with this Agreement and will not use such confidential information without the DISTRICT's written consent.

5. **TERM.**

A. **Basic Term.** The term of this agreement shall commence on \_\_\_\_\_, 2007, and continue through \_\_\_\_\_, 200 \_\_, unless sooner terminated pursuant to Paragraph 13, below, or extended as described in Paragraph 5.B.

B. **Extended Term.** The term of this Agreement may be extended for successive periods of one (1) year if the legislative body of both parties determine to so extend the term and written notice of such renewal is given to both parties at least three (3) months prior to expiration of the existing term. The extended terms shall be referred to as First Extended Term, Second Extended Term, et cetera.

C. **Annual Appropriations Limitation.** In accord with the debt limitation provisions of the California Constitution, DISTRICT and COUNTY each acknowledge that future annual budgetary appropriations for payment and services provided pursuant to this Agreement are subject to the approval of the respective legislative bodies of DISTRICT and COUNTY.

6. **COMPENSATION OF COUNTY.** COUNTY shall be paid for performance under this Agreement in accordance with the terms of the Exhibits. Additional services and compensation may be contracted for by the amendment of the Exhibits and such amendment may be approved by agreement of COUNTY management and DISTRICT management without the action of the legislative bodies of the COUNTY and DISTRICT, to the extent authorized by such legislative bodies.

7. **INDEMNIFICATION AND INSURANCE.**

A. **Indemnification by DISTRICT.** DISTRICT shall indemnify, defend and hold COUNTY and COUNTY's agents, officers and employees, harmless from and against all claims, damages, losses, causes of action and expenses, including attorneys' fees, for any personal injury, bodily injury, loss of life or damage to property, violation of any federal, state or municipal law, ordinance or constitutional provision, or other cause which arise out of, relate to, or result from the activities or omissions, negligent or otherwise, under this Agreement of DISTRICT, and DISTRICT's officers, agents and employees.

B. **Indemnification by COUNTY.** COUNTY shall indemnify, defend and hold DISTRICT, and DISTRICT's agents, officers and employees, harmless from and against all claims, damages, losses, causes of action and expenses, including attorneys' fees, for any personal injury, bodily injury, loss of life or damage to property, violation of any federal, state or municipal law, ordinance or constitutional provision, or other cause which arise out of, relate to, or result from the activities or omissions, negligent or otherwise, under this Agreement of COUNTY, and COUNTY's officers, agents and employees.

8. **OWNERSHIP OF EQUIPMENT.** COUNTY shall be the owner of all items incidental to the performance of this Agreement. No transfer of ownership of equipment from COUNTY to DISTRICT shall occur as a result of this Agreement unless explicitly transferred in an exhibit attached and incorporated into this Agreement.

9. **INDEPENDENT CONTRACTOR.** It is expressly understood between the parties to this Agreement that no employer/employee relationship is intended; the relationship of COUNTY to DISTRICT

being that of an independent contractor. DISTRICT and COUNTY retain sole and independent liability for the actions of the employees of each.

10. **NONDISCRIMINATION.** COUNTY hereby notifies DISTRICT that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and DISTRICT and COUNTY agree to comply with said ordinance.

11. **NONEXCLUSIVE AGREEMENT.** DISTRICT acknowledges that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with other Santa Barbara County agencies to provide the same or similar services.

12. **ASSIGNMENT.** Neither DISTRICT nor COUNTY shall assign any of its rights or transfer any of its obligations under this Agreement without the prior written consent of the other party and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

13. **TERMINATION.** It is the parties' intention that termination be governed by the provisions of the various exhibits hereto. In the absence of any provision to the contrary,

A. **By COUNTY.** COUNTY may terminate this Agreement in whole or in part at any time, whether for COUNTY'S convenience or because of the failure of DISTRICT to fulfill the obligations as set forth herein.

1. **For Convenience.** COUNTY may terminate this Agreement upon six (6) months (182 days) written notice. Upon the date of termination, COUNTY shall cease work and notify DISTRICT as to the status of its performance.

2. **For Cause.** Should DISTRICT default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY'S sole option, terminate this Agreement by written notice which shall be effective upon receipt by DISTRICT.

B. **By DISTRICT.** DISTRICT may terminate this Agreement in whole or in part at any time, whether for DISTRICT's convenience or because of the failure of COUNTY to fulfill the obligations as set forth herein.

1. **For Convenience.** DISTRICT may terminate this Agreement upon six (6) months (182 days) written notice. COUNTY shall be entitled to payment for services rendered through the termination date including any prorated amount of compensation due hereunder less payments, if any, previously made.

2. **For Cause.** Should COUNTY default in the performance of this Agreement or materially breach any of its provisions, DISTRICT may, at DISTRICT'S sole option, terminate this Agreement by written notice which shall be effective upon receipt by COUNTY.

C. Notwithstanding any other payment provision of this Agreement, DISTRICT shall pay COUNTY for service performed to the date of termination. "Termination in part" shall include termination of services provided under any individual exhibit hereto.

14. **SECTION HEADINGS.** The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

15. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

16. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to COUNTY or DISTRICT is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

17. **NO WAIVER OF DEFAULT.** No delay or omission of COUNTY or DISTRICT to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY or DISTRICT shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY or DISTRICT.

18. **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement, its several exhibits and other documents incorporated herein by reference, contain the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

19. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

20. **ATTORNEYS FEES.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of any alleged dispute, breach, default or misrepresentation in connection with this Agreement, then the successful or prevailing party shall be entitled to recover reasonable attorneys fees and other costs incurred in the action, in addition to any other relief to which it may be entitled.

21. **COMPLIANCE WITH LAW.** COUNTY and DISTRICT shall, each at its sole cost and expense, comply with all County, State and Federal ordinances, regulations and / or statutes now in force or which may hereafter be in force with regard to the Agreement. The judgment of any court of competent jurisdiction, or the admission of DISTRICT or COUNTY in any action or proceeding against DISTRICT or COUNTY, whether DISTRICT or COUNTY is a party thereto or not, that DISTRICT or COUNTY has violated any such ordinance, regulation and / or statute, shall be conclusive of the fact as between DISTRICT and COUNTY.

22. **CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California

23. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

24. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, DISTRICT and COUNTY each hereby warrant that they shall not have breached the terms or conditions of any other contract or agreement to which DISTRICT or COUNTY may be obligated, which breach would have a material effect hereon.

25. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in this Agreement. In the event of conflict between the provisions contained in the numbered sections of this Agreement, Exhibits and subsequent contract Amendments, the most current contract Amendment shall prevail over the provisions, Exhibits and/or prior Amendments.

26. **REPRESENTATION BY COUNSEL** The parties hereto acknowledge that both have been represented by counsel and have participated in the drafting of this agreement and that therefore no ambiguity or inconsistency in the wording of this agreement should be construed to the detriment of either party because of their status as a drafter of this agreement.

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26. **CONTACTS.** The following persons are designated as contacts for the parties:

Administrative and Billing:

COUNTY    Name: Brian Duggan  
                 105 East Anapamu, Suite 108  
                 Santa Barbara, CA 93101  
                 (805) 568-2631

DISTRICT    Name: Charlene Lim  
                 595 San Ysidro Road  
                 Santa Barbara, CA 93108  
                 (805) 969-4332

Operational and Technical

COUNTY    Name: Virginia Butterfield  
                 105 East Anapamu, Suite 304  
                 Santa Barbara, CA 93101  
                 (805) 568-2607

DISTRICT    Name: Geri Simmons  
                 595 San Ysidro Road  
                 Santa Barbara, CA 93108  
                 (805) 969-2537

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IN WITNESS WHEREOF, the parties have executed this Agreement to be effective \_\_\_\_\_, 2007 after it is fully executed by the appropriate DISTRICT, then COUNTY officials.

COUNTY OF SANTA BARBARA

MONTECITO FIRE PROTECTION DISTRICT

By: \_\_\_\_\_  
Chair, Board of Supervisors

By: Roland Jensen  
Roland Jensen, President

Date: \_\_\_\_\_

Date: MARCH 19, 2007

ATTEST:

ATTEST:

MICHAEL F. BROWN,  
CLERK OF THE BOARD

By: Kevin Wallace  
Kevin Wallace, Clerk

By: \_\_\_\_\_  
Deputy

Date: MARCH 19, 2007

APPROVED AS TO FORM:  
STEPHEN SHANE STARK  
COUNTY COUNSEL

APPROVED AS TO CONTENT:

By: [Signature]  
Deputy County Counsel

Kevin Wallace  
Kevin Wallace, Fire Chief

APPROVED AS TO FORM:

APPROVED AS TO FORM:  
Price Postel & Parma LLP

By: [Signature]  
Risk Manager

By: [Signature]  
Eric P. Hvolbøll

APPROVED AS TO FORM:  
ROBERT W. GEIS, CPA  
AUDITOR-CONTROLLER

By: [Signature]