

NAPA COUNTY AGREEMENT NO. 6466

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of this 1st day of July, 2012, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and TOWN OF YOUNTVILLE, a municipal corporation, hereinafter referred to as "TOWN";

RECITALS

WHEREAS, COUNTY has equipment and personnel and is willing to provide fire protection services within the jurisdictional boundaries of TOWN; and

WHEREAS, TOWN has need of such services and desires to contract with the COUNTY for the provision of such fire protection services under the terms and conditions set forth herein, as authorized by Government Code section 55632;

TERMS

NOW, THEREFORE, COUNTY and TOWN agree as follows:

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2014, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination) or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of each party to the other under this Agreement shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes) and 21 (Access to Records/Retention). The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, unless either party gives the other party written notice of intention not to renew no less than one hundred and twenty (120) days prior to the expiration of the then current term. Such notice of nonrenewal may be given on behalf of COUNTY by the Napa County Executive Officer or designee thereof. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30.
2. **Scope of Services.** COUNTY shall provide TOWN those services set forth in Exhibit "A", attached hereto and incorporated by reference herein.
3. **Compensation.** TOWN shall compensate COUNTY for the operations, maintenance, equipment replacement costs incurred by COUNTY when providing the services described in Exhibit "A" in the amounts set forth in Exhibit "B", attached hereto and incorporated by reference herein.

4. **Method of Payment.** TOWN shall pay the compensation required under Paragraph 3 upon submission of quarterly invoices by COUNTY in the manner and subject to the credits set forth in Section C of Exhibit "B".

5. **Independent Contractor.** COUNTY shall perform the services required under this Agreement as an independent contractor. COUNTY and its officers, agents, employees and contractors are not, and shall not be deemed, TOWN employees for any purpose, including workers' compensation and employee benefits. COUNTY shall, at COUNTY's own risk and expense, determine the method and manner by which duties imposed on COUNTY by this Agreement shall be performed; provided, however, that TOWN may monitor the work performed by COUNTY. TOWN shall not deduct or withhold any amounts whatsoever from the compensation paid to COUNTY, including, but not limited to amounts required to be withheld for state and federal taxes. As between the parties to this Agreement, COUNTY shall be solely responsible for all such payments. Nothing in this Paragraph shall be construed to limit, restrict or otherwise modify the authority of TOWN to establish fire code regulations within the jurisdictional limits of TOWN to the full extent permitted by law.

6. **Specific Performance.** It is agreed that COUNTY, including its agents, employees, contractors and volunteers, shall be the sole providers of the services required by this Agreement. Because the services to be performed by COUNTY under the terms of this Agreement are of a special, unique, unusual, extraordinary, and intellectual or time-sensitive character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in an action of law, TOWN, in addition to any other rights or remedies which TOWN may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by COUNTY.

7. **Insurance.** COUNTY shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

(a) Workers' Compensation insurance. To the extent required by law, COUNTY shall provide or require its contractors to provide workers' compensation insurance for the performance of any of COUNTY's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide TOWN with certification of all such coverages upon request by TOWN's Risk Manager.

(b) Liability insurance. The following liability insurance coverages, issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better or equivalent self-insurance:

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than TEN MILLION DOLLARS (\$10,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of COUNTY or any officer, agent, or employee of COUNTY under this Agreement except for acts or omissions performed in strict compliance with express direction by TOWN's governing board, officers or personnel. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) Professional Liability/Errors and Omissions. RESERVED

(3) Comprehensive Automobile Liability Insurance. A comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with COUNTY's business of not less than TEN MILLION DOLLARS (\$10,000,000) combined single limit per occurrence.

(c) Certificates. All insurance coverages referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of TOWN's Risk Manager, demonstrated by other evidence of coverage acceptable to TOWN's Risk Manager, which shall be filed by TOWN Manager, upon request; shall name TOWN, its officers, employees, and agents as additional insureds; shall be kept current during the term of this Agreement; shall provide that TOWN shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability. For the commercial general liability insurance coverage referenced in 7(b)(1) and, where the vehicles are covered by a commercial policy rather than a personal policy, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) COUNTY shall also file with the evidence of coverage an endorsement from the insurance provider naming TOWN, its officers, employees, agents and volunteers as additional insureds and waiving subrogation, and the certificate or other evidence of coverage shall provide that if the same policy applies to activities of COUNTY not covered by this Agreement then the limits in the applicable certificate relating to the additional insured coverage of TOWN shall pertain only to liability for activities of COUNTY under this Agreement, and that the insurance provided is primary coverage to TOWN with respect to any insurance or self-insurance programs maintained by TOWN. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. Upon request by TOWN's Risk Manager, COUNTY's Risk Manager shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

(d) Deductibles/Retentions. RESERVED

8. Hold Harmless/Defense/Indemnification. To the full extent permitted by law, COUNTY and TOWN shall each defend, indemnify and hold harmless each other as well as their respective officers, agents and employees or contractors from any claims, suits, proceedings, loss or liability, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising out of or connected with any acts or omissions of that party or its officers, agents, employees, volunteers, or other contractors or their subcontractors, when performing any activities or obligations required of that party under this Agreement. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are

protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

9. **Termination for Cause.** If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within one hundred and twenty (120) days of receipt of written notice from the other party describing the nature of the breach, the non-defaulting party may, in addition to any other remedies it may have, terminate this Agreement by giving twenty (20) days prior written notice to the defaulting party in the manner set forth in Paragraph 13 (Notices). COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for cause.

10. **Other Termination.** This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party specifying the effective date thereof at least One (1) year prior to the effective date, as long as the date the notice is given and the effective date of the termination are in the same fiscal year; provided, however, that no such termination may be effected by COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination. COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for the convenience of COUNTY.

11. **Payment for Work upon Expiration or Termination.** COUNTY shall be entitled to receive compensation for any satisfactory work completed prior to expiration or receipt of the notice of termination or commenced prior to receipt of the notice of termination and completed satisfactorily prior to the effective date of the termination; except that COUNTY shall not be relieved of liability to TOWN for damages sustained by TOWN by virtue of any breach of the Agreement by COUNTY whether or not the Agreement expired or was otherwise terminated, and TOWN may withhold any payments not yet made to COUNTY for purpose of setoff until such time as the exact amount of damages due to TOWN from COUNTY is determined.

12. **No Waiver.** The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

13. **Notices.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

COUNTY

County Fire Chief
Napa County Fire Department
1199 Big Tree Road
St. Helena, CA 94574

CONTRACTOR

Town Manager
Town of Yountville
6550 Yount Street
Yountville, CA 94599

14. **Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** COUNTY hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, (or in the case of CDF/Cal Fire, with substantially equivalent policies), copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. TOWN also agrees that it shall not engage in any activities, or permit its officers, agents and employees to do so, during the performance of any of the services required under this Agreement, which would interfere with compliance or induce violation of these policies by COUNTY employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Supervisors on March 26, 1991.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment" revised effective August 23, 2005.

(c) County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991.

(d) Napa County Information Technology Use and Security Policy adopted by resolution of the Board of Supervisors on April 17, 2001. To this end, all employees and subcontractors of COUNTY whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

15. **Confidentiality.** Confidential information is defined as all information disclosed to COUNTY which relates to TOWN's past, present, and future activities, as well as activities under this Agreement. COUNTY shall hold all such information as COUNTY may receive, if any, in trust and confidence, except with the prior written approval of TOWN Manager. Upon cancellation or expiration of this Agreement, COUNTY shall return to TOWN all written and descriptive matter which contains any such confidential information, except that COUNTY may retain for its files a copy of TOWN's work product if such product has been made available to the public by COUNTY.

16. **No Assignments or Subcontracts.** A consideration of this Agreement is the personal reputation of COUNTY's Fire Department; therefore, COUNTY shall not assign any interest in this Agreement or subcontract any of the services COUNTY is to perform hereunder without the prior written consent of the TOWN Manager, which shall not be unreasonably withheld. The inability of the assignee to provide personnel equivalent in experience, expertise, and numbers to those provided by COUNTY, or to perform any of the remaining services required under this

Agreement within the same time frame required of COUNTY shall be deemed to be reasonable grounds for TOWN to withhold its consent to assignment. TOWN expressly agrees that COUNTY may provide any of services set forth in Exhibit "A": through CDF/Cal Fire. TOWN also expressly agrees that COUNTY may provide the fire suppression services set forth in Exhibit "A" through volunteer fire departments when acting as members of the COUNTY Fire Department pursuant to Napa County Agreement No. 3819 ("MOU"), as such may be amended from time to time, and also through the fire departments (including volunteer fire departments) of other public agencies when responding (including "move up and cover" response) pursuant to mutual aid under state law or automatic aid under contract with COUNTY.

17. **Amendment/Modification.** Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. In particular, only TOWN, through its TOWN Council in the form of an amendment of this Agreement, may authorize extra and/or changed work if beyond the scope of services prescribed by Exhibit "A". Failure of COUNTY to secure such authorization in writing in advance of performing any of the extra or changed work shall constitute a waiver of any and all rights to adjustment in the contract price or contract time and no compensation shall be paid for such extra work, except where compensation is authorized by separate agreement, including mutual aid and automatic aid agreements, between the parties, or pursuant to state or federal law.

18. **Interpretation; Venue.**

(a) Interpretation. The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.

(b) Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate either party to submit to mediation or arbitration any dispute arising under this Agreement.

19. **Compliance with Laws.** CONTRACTOR shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. Such laws shall include, but not be limited to, the following, except where prohibited by law:

(a) Non-Discrimination. During the performance of this Agreement, COUNTY and its subcontractors shall not deny the benefits thereof to any person on the basis of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), or political affiliation or belief nor shall they discriminate unlawfully against any employee or applicant for employment because of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability, genetic information, or medical condition (including

cancer, HIV and AIDS), use of family care leave, or political affiliation or belief. COUNTY shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, COUNTY shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to COUNTY services or works required of COUNTY by the State of California pursuant to agreement between TOWN and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof as if set forth in full, and COUNTY and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

(b) Documentation of Right to Work. COUNTY agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of COUNTY performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. COUNTY shall make the required documentation available upon request to TOWN for inspection.

(c) Inclusion in Subcontracts. To the extent any of the services required of COUNTY under this Agreement are subcontracted to a third party, COUNTY shall include all of the provisions of this Paragraph 19 in all such subcontracts as obligations of the subcontractor.

20. **Taxes.** COUNTY agrees to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. COUNTY agrees to indemnify and hold TOWN harmless from any liability it may incur to the United States or the State of California as a consequence of COUNTY's failure to pay or withhold, when due, all such taxes and obligations. In the event that TOWN is audited for compliance regarding any withholding or other applicable taxes or amounts, COUNTY agrees to furnish TOWN with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** TOWN, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall have access to any books, documents, papers and records of COUNTY which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, COUNTY shall maintain all required records for at least seven (7) years after TOWN makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

22. **Authority to Contract.** COUNTY and TOWN each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement.

23. **Conflict of Interest.**

(a) Covenant of No Undisclosed Conflict. The parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 87100, et seq., relating to conflict of interest of public officers and employees. COUNTY hereby covenants that it presently has no interest not disclosed to TOWN and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as TOWN may consent to in writing prior to the acquisition by COUNTY of such conflict. COUNTY further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. COUNTY agrees that if such financial interest does exist at the inception of this Agreement, TOWN may terminate this Agreement immediately upon giving written notice without further obligation by TOWN to COUNTY under this Agreement.

(b) Statements of Economic Interest. COUNTY acknowledges and understands that TOWN has developed and approved a Conflict of Interest Code as required by state law which requires any officer or employee of COUNTY or contractor of COUNTY performing services under this Agreement to file with the Elections Division of the Napa County Assessor-Clerk Recorder "assuming office", "annual", and "leaving office" Statements of Economic Interest as a "consultant" of TOWN, as defined in section 18701(a)(2) of Title 2 of the California Code of Regulations, unless TOWN has been determined in writing that such persons, although holding a "designated" position as a consultant, has been hired to perform a range of duties so limited in scope as to not be required to fully comply with such disclosure obligation then COUNTY shall inform such persons of their obligations to timely comply with all filing obligations for a consultant under COUNTY's Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest. It shall be the responsibility of TOWN to make the requirements of its Conflict of Interest Code available to the officers, employees, contractors and volunteers of COUNTY performing services under this Agreement to enable them to determine their responsibility for such filings may be satisfied in the form of an expanded Statement of Economic Interest when the officer or other person having such a filing obligation under TOWN's Conflict of Interest Code is also complying with filing responsibilities arising from the performance of his or her duties to COUNTY a part of COUNTY's Fire Department.

24. **Non-Solicitation of Employees.** Each party agrees not to solicit for employment the employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Paragraph shall preclude either party from publishing or otherwise distributing applications and information regarding that party's job openings where such publication or distribution is directed to the public generally.

25. **Third Party Beneficiaries.** Nothing contained in this Agreement shall be construed to

EXHIBIT "A"

SCOPE OF WORK

COUNTY shall provide the following services:

I. Fire Protection Services

- A. COUNTY shall provide fire protection services to TOWN and keep the Yountville Fire Station open and operational. "Fire protection services" shall include fire suppression, fire prevention, rescue, emergency medical service and all life safety hazards.
- B. Staffing will be assigned at the discretion of COUNTY's Fire Chief so as to assure a four-person response seven days a week, 24 hours a day.
- C. COUNTY shall provide "move up and cover" with County resources if regularly assigned resources are unavailable or committed to another incident for an extended duration.
- D. COUNTY'S annual Cooperative Fire Services Agreement with the California Department of Forestry and Fire Protection, including but not limited to, the provisions relating to identification of Yountville Station staffing and the costs related thereto, is hereby incorporated by reference herein.

II. Additional Services. COUNTY shall provide the following additional services, at no additional cost, to TOWN, as needed:

- Hazardous Materials Response Team with equipment (Level A)
- Technical Rescue Team
- Fire Investigation Services
- Emergency Dispatch Service
- Fire Department Administration and Chief Officer Coverage

III. Fire Prevention Services

Public Education Programs: COUNTY shall assist TOWN in providing public education programs and materials for fire prevention education and other public safety awareness programs. COUNTY Fire Department shall include the Yountville School in its Fire Prevention Education program.

Fire Marshal Services: COUNTY shall provide plan review and inspection services to TOWN. All fees for plan review and inspection services shall be paid to the COUNTY by the project applicant or the property owner at the rate set in the COUNTY's Fee Policy.

State mandated business inspections shall be completed annually by the COUNTY. All fees for inspections services shall be paid by the business or property owner at the rate set in the

COUNTY's Fee Policy.

COUNTY shall assist the TOWN by providing recommendations for the triennial adoption of the model building and fire codes.

At the request of the TOWN additional Fire Marshal services can be provided at the hourly rate set annually by the County.

IV. ADJUSTMENTS IN THE LEVEL OF SERVICE. TOWN and COUNTY acknowledge that the level of service to be provided by COUNTY, as outlined above, is dependent upon the continued participation by both TOWN and the Veterans Home of the State of California in the funding of the Operations and Maintenance costs of the Yountville Fire Station. Upon any reduction in TOWN and/or the Vets Home's contribution, this Agreement shall be subject to renegotiation as to scope of services or compensation or both.

EXHIBIT "B"

COMPENSATION AND EXPENSE REIMBURSEMENT

A. Compensation for Operation and Maintenance

TOWN shall pay COUNTY the following annual fees to cover the cost to COUNTY of operations and maintenance required to provide the services required of COUNTY under this Agreement:

Fiscal Year	Amount for Operations and Maintenance	Engine Replacement
FY 2012/2013	\$549,849	\$18,166
FY 2013/2014	\$549,849	\$18,833

For FY 2012/2013, the maximum payment for services will be \$549,849, except that such amount shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and an additional \$18,166 for engine replacement.

For FY 2013/2014, the maximum payment will be \$549,849 except that such amount shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and an additional \$18,833 for engine replacement.

B. Engine Replacement Cost Participation Included in Annual Fee

It is agreed by the parties to this Agreement that for fiscal year 12/13 through fiscal year 13/14, TOWN will be paying one third of one-tenth of the estimated cost of the replacement of Engine 12 and that this amount is included in the annual fees set forth in Paragraph (A) above.

C. Payments and Credits

TOWN shall pay the annual fees on a semi-annual basis, in arrears, upon presentation of invoices to TOWN by COUNTY. In preparing the invoice for the first semi-annual payment each fiscal year, COUNTY shall credit against the sum due the amount of structural fire tax collected or to be collected by COUNTY from within the TOWN Limits during the then-current fiscal year, as determined by the Napa County Auditor and Napa County Treasurer-Tax Collector.