



**MEETING DATE:** June 26, 2024

**FROM:** Susan Scarlett

**RE:** City of Portola and Beckwourth Peak Fire Protection District Asset Transfer Agreement

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**EXECUTIVE SUMMARY:**

With the formation of the Beckwourth Peak Fire Protection District, the City will be transferring personal and real property to the District. The attached draft sets forth the assets to be transferred. Staff has been working on the title transfers for vehicles, the information on deeds for the Fire stations and coordinating the transition with the District.

There are two changes to the agreement that will be made but are not in this draft. The first is to give 14 days instead of 3 from the Effective date for the grant deeds to be executed. The other change is to indicate that the vacant property be conveyed to the District by Quit claim deed.

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**RECOMMENDATION:**

Approve the agreement with an Effective Date of June 30, 2024 and with the pending changes described.

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**ATTACHMENTS:**

- A. BFPD DRAFT ASSET TRANSFER AGREEMENT FINAL

# **CITY OF PORTOLA AND BECKWOURTH PEAK FIRE PROTECTION DISTRICT**

## **ASSET TRANSFER AGREEMENT**

This ASSET TRANSFER AGREEMENT (this “Agreement”) is entered into as of \_\_\_\_\_, 2024 (the “Effective Date”), by and between the City of Portola (“City”) and the Beckwourth Peak Fire Protection District (“BPPFD” or “District”). City and District may be referred to as “Party” or the “Parties” in this Agreement.

### **Recitals**

WHEREAS, the City, on February 22, 2023, adopted a resolution requesting Plumas Local Agency Formation Commission (“LAFCo”) initiate proceedings to form the BPPFD, pursuant to the Fire Protection District Law of 1987 (California Health and Safety Code Section 13800-13970) and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.); and

WHEREAS, a joint application was filed with the Executive Officer of Plumas LAFCo by the City, Beckwourth Fire Protection District (BFD), Sierra Valley Fire Protection District (SVFPD), and Gold Mountain Community Services District (GMCSA), proposing the formation of BPPFD such that the entirety of the eastern region of Plumas County would be included within the boundaries of the newly formed district, including all of Portola, the entirety of BFD and GMCSA, and a majority of the territory within SVFPD, which would result in subsequent dissolution of BFD and SVFPD, the divestiture of fire protection and emergency medical services by Portola and GMCSA, and identifying BPPFD as the successor agency for all four applicants; and

WHEREAS, the applicants jointly conducted a feasibility study and developed a Plan for Service that set forth the terms of the reorganization and transfer of service, including transfer of assets, property, personnel and equipment; and

WHEREAS, the applicants each adopted initiating resolutions, including terms and conditions as stated in the initiating resolutions, all of which documents are by this reference incorporated herein:

- Resolution 2543 adopted February 22, 2023, by the City of Portola City Council;
- Resolution 2203.01 adopted March 15, 2023, by the Beckwourth Fire Protection District;
- Resolution 2022-23-004 adopted February 17, 2023, by the Gold Mountain Community Services District;

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- Resolution 2023-02 adopted March 14, 2023, by the Sierra Valley Fire Protection District; and
- Feasibility Study and Plan for Services developed by the Local Emergency Services Study Group (LESSG).

WHEREAS, on June 12, 2023, Plumas LAFCo adopted the BPFDP Formation and Reorganization of Portola, BFD, GMCSO, and SVFPD (Resolution 2023-0004), subject to terms and conditions, including the transfer of property, revenues, expenses, assets, and fund balances; and

WHEREAS, the City dedicated real and personal property assets to be accepted by the BPFDP “as-is” with all leases or other liabilities attached thereto.

## Agreement

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties do agree as follows:

1. **Real and Personal Property.** In consideration of the terms and conditions of this Agreement, including recognizing that the District is providing services to City residents, the City shall convey to BPFDP the real and personal property, further described in the Asset Transfer Schedule attached hereto as **Exhibit A** (“Dedicated Property”) without any additional charge or fee.
2. **Term.** The Agreement shall commence upon the Effective Date and shall terminate upon the transfer of all Dedicated Property as set forth in this Agreement.
3. **Contingencies to Conveyance.** City’s obligation(s) to convey the Dedicated Property and the District’s obligation(s) to accept and take ownership of the Dedicated Property are contingent upon the prior satisfaction of each and all of the following conditions and contingencies (collectively the “Contingencies”). These Contingencies are intended for the mutual benefit of both the City and the District, and neither party shall have any obligations to the other under this Agreement unless and until each Contingency is satisfied and/or mutually waived by both of the Parties. The Contingencies to City’s obligation to convey and transfer the Dedicated Property to the District include all of the following:
  - (a) Satisfaction of any lawful conditions precedent to such approval.
4. **Limited Representations and Warranties Pledged.** City pledges the following representations and warranties to the District, and no other:

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(a) City of Portola is a California municipal corporation formed in the State of California and is in good standing under the laws thereof.

(b) City of Portola holds title to the Dedicated Property free and clear of all liens and encumbrances except those which may be the subject of a federal, state, or local grant agreement and are disclosed to District as set forth below.

5. **Due Diligence.** All Parties to this Agreement agree to immediately commence all reasonable actions or undertakings necessary to fulfill their obligations hereunder and shall diligently pursue the same throughout the term of this Agreement. Consistent with Sections 19 and 20, City shall provide the District with all necessary and available information, assistance, reports, maps, and funding agreements or restrictions regarding the Dedicated Property to allow each Party to meet the Contingencies in Section 2.
6. **Good Faith.** The City and District will cooperate with each other in good faith; will be timely, fair and act in accord with law and procedure; and will work towards a successful transition. The City shall execute any future documentation, if any should be required to transfer the Dedicated Property to District.
7. **Binding Effect.** The Parties to this Agreement mutually agree that it shall be binding upon their respective heirs, personal representatives, successors or assigns.
8. **Entire Agreement.** This Agreement, along with the additional deeds and conveyance instruments contemplated hereby, represent the entire Agreement between the Parties in connection with the transactions contemplated hereby and the subject matter hereof. This Agreement may not be modified except by a written agreement signed by both City and District.
9. **Waiver.** No waiver by any party at any time of any breach of any provision of this Agreement shall be deemed a waiver or a breach of any other provision herein or a consent to any subsequent breach of the same or another provision. If any action by any party shall require the consent or approval of another party, such consent or approval of such action on any one occasion shall not be deemed a consent to or approval of such action on any subsequent occasion or a consent to or approval of any other action.
10. **Captions and Headings.** The captions and paragraphs numbers appearing in this Agreement are inserted only as a matter of convenience and do not define, limit, construe, or describe the scope or intent of this Agreement. Unless otherwise indicated, all references to sections are to this Agreement. All exhibits and recitals included and referred to in this Agreement are attached to it and incorporated in it by this reference.

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11. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same instrument.
12. **Governing Law.** This Agreement has been prepared, negotiated, and executed in, and shall be construed in accordance with, the laws of the State of California. Any action or proceeding relating to or arising out of this Agreement shall be filed, if a state action, in the Superior Court of the State of California for the County of Plumas, or if a federal action, in the Eastern District of California of the United States District Court.
13. **Invalidity of Any Provision.** If any provision (or any portion of any provision) of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction under present or future laws effective during the term of this Agreement, the legality, validity, and enforceability of the remaining provisions (or the balance of such provision) shall not be affected thereby.
14. **Drafting of Agreement.** City and District acknowledge that this Agreement has been negotiated at arm's length, that each party has been represented by independent counsel and that this Agreement has been drafted by both Parties and no one party shall be construed as the draftsman.
15. **Attorney's Fees.** If either Party named herein brings an action or proceeding to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action (or proceeding), on trial or appeal, shall be entitled to its reasonable attorneys' fees to be paid by the losing Party as fixed by the court.
16. **Survival.** The representations, warranties, obligations, and the remedies for breach of obligations in this Agreement shall survive the expiration or termination of this Agreement.
17. **Time of the Essence.** Time is of the essence in this Agreement.
18. **Notices.** All notices to be given under this Agreement shall be in writing and sent by (a) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail, (b) a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with the courier, or (2) telecopy or similar means if a copy of the notice is also sent by United States Certified Mail, in which case notice shall be deemed delivered on transmittal by fax machine or other similar means, provided that a transmission report is generated by reflecting the accurate transmission of the notices, as follows:

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***CITY:***

*City of Portola*  
*Attention: City Manager*  
P. O. Box 1225  
Portola, CA 96122

***DISTRICT:***

*Beckwourth Peak Fire Protection District*  
*Attn: District Board Chair or Fire Chief*  
180 Main Street  
Beckwourth, CA 96129

These addresses may be changed by written notice to the other party, provided that no notice of a change of address shall be effective until actual receipt of that notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

**19. Review of Personal Property.** Upon execution of this Agreement and for all items of personal property that are Dedicated Property, City shall:

- (a)
- (b) Deliver to District copies, of grant agreements, purchase records and receipts, contractor and vendor warranties, all other contracts, or other documents of material importance to the property or the operation of the property, and any other documents related to the property as requested by the District.
- (c) District shall have three (3) days after the Effective Date to take possession of the personal property. The District may request that City execute a bill of sale in substantially the form set forth in **Exhibit B** to document the transfer of such property to the District.

**20. Review of Real Property.** Upon execution of this Agreement and for all parcels of real property that are Dedicated Property, City shall:

- (a) Provide District with access to the Dedicated Property to inspect every parcel of real property.
- (b) Deliver to District copies, whenever available, of grant agreements, purchase records and receipts, surveys, tax bills, as-built mechanical, electrical, and structural plans and specifications, and applicable flood plain maps, to the extent available; contractor and vendor warranties, a copy of any notice of any statutory or code violation pertaining to the personal property received by City

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in the previous five (5) years and any documents pertaining to the resolution, evidence of satisfaction of all governmental requirements with respect to the use, operation, or transfer of the real property, including without limitation, building permits, information regarding any and all historic designations, certificates of occupancy, all other contracts or other documents of material importance to the real property or the operation of the real property, and any other documents related to the real property as requested by the District.

- (c) Within three (3) days of the Effective Date, City shall execute a grant deed in substantially the form set forth in **Exhibit C** to transfer such property to the District. The Parties understand and agree that the transfer of any real property shall be subject to a right of reversion in the event that District or its successor no longer provides fire protection and emergency medical services to the City or its successor. Such reversion shall be in substantially the form set forth in **Exhibit C**.

**21. Representations and Covenants of District.** District makes the following representations and covenants, each, and all of which shall survive any and all inquiries and investigations made by the City and shall survive the expiration of this Agreement.

- (a) District acknowledges and agrees that the Property is transferred and conveyed to, and accepted by District, in an “AS IS” condition with all faults, except that it will be transferred and conveyed to District free and clear of all liens and encumbrances except those that are expressly set forth in this Agreement. District acknowledges that it is accepting the Property on the basis of District's own investigation of the physical and environmental conditions of the Property, including subsurface conditions, and District assumes the risk that adverse physical and environmental conditions may not have been revealed by its own investigation.
- (c) It is expressly understood and agreed that following conveyance to District, the City shall have no obligation to share in the cost and expense of maintaining and operating the Dedicated Property, or any portion thereof, and that any such costs and expense shall be District's sole and exclusive responsibility.

**22. Effect of Recitals.** The Recitals shown above are considered true, are incorporated into this Agreement by this reference as though fully set forth and are binding on the Parties.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first written above.

CITY OF PORTOLA

**CITY OF PORTOLA AND BECKWOURTH PEAK FIRE  
PROTECTION DISTRICT**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BECKWOURTH PEAK FIRE PROTECTION DISTRICT**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**List of Exhibits:**

- Exhibit A** -- Description/Schedule of Real and Personal Property
- Exhibit B** – Template Bill of Sale
- Exhibit C** – Template Grant Deed



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PROTECTION DISTRICT**

*[Attach exhibits]*

# CITY OF PORTOLA AND BECKWOURTH PEAK FIRE PROTECTION DISTRICT

## EXHIBIT A Property Schedule

Real Property:

APN #	Address	Facility	Improvements
125-203-008	420 N. Gulling St.	North Side Station	yes
125-203-007	420 N. Gulling St.	Vacant land	no
126-074-003	316 First Avenue	South Side Station	yes

Personal Property:

Vehicles/Equipment

ID #	Vin #	Year/Make	Description
9322	1FVDCYBS3HZ71906	2008 Freightliner	Westates built, type 1 engine, light rescue, 1500 gpm 850 gal, 5 seats, 4 SCBA seats
9331	IXPBVMRDXD251645	1976 Peterbuilt	3000 gall support tender, 2 seats
9372	3C7WRNEL0HG695638	2017 Dodge 5500	Type 6 Engine, BLS response, 300 gpm, 450 gal, 4 seats
9321	1FVDBSO1HJ21556	2001 Freightliner	Westates built, type 1 engine, light rescue, 1250 gpm, 750 gal, 5 seats, 3 SCBA seats
9352		2005 Ford Expedition	BLS response, 5 seats
Support 1	1FDSS34F31HA42485	Ford	Van body

Other Personal Property\* – South Side Station

Miscellaneous Tools  
Ground Monitors  
Generators  
Miscellaneous Hardware  
Small Toolboxes with tools  
Station Barbeque  
Furniture  
Office Desks & Chairs  
Kitchen Appliances  
Kitchen Cookware/Dishes/Utensils  
Tables & Chairs  
Televisions - 2

Other Personal Property\* – North Side Station

Washer/Dryer  
Hose Washer  
Office Desk  
Spare Hose – 1.5," 3", 4"  
Generator

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\*All remaining Fire Department sundry supplies, clothing, safety gear and equipment

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**EXHIBIT B  
TEMPLATE BILL OF SALE**

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned, City of Portola, (“Seller”), does hereby sell, grant, transfer, convey, and deliver to the Beckwourth Peak Fire Protection District, (“Buyer”), all title, interest, and ownership to the following described personal property (“Personal Property”) to wit:

**TO HAVE AND TO HOLD** the same unto the Buyer and Buyer’s successors and assigns forever.

The Personal Property is being transferred to Buyer “AS IS” as more particularly set forth in that certain Asset Transfer Agreement between Seller and Buyer, dated \_\_\_\_\_.

IN WITNESS WHEREOF, the Seller has caused this Bill of Sale to be executed in its name by its duly authorized representative as of the date set forth below.

DATED: \_\_\_\_\_

CITY OF PORTOLA

By \_\_\_\_\_

Title \_\_\_\_\_

**CITY OF PORTOLA AND BECKWOURTH PEAK FIRE PROTECTION DISTRICT**

**EXHIBIT C  
TEMPLATE GRANT DEED**

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO**

BECKWOURTH PEAK FIRE PROTECTION DISTRICT  
180 Main Street  
Beckwourth, CA 96129  
ATTN: Fire Chief

**EXEMPT FROM RECORDING FEES PURSUANT  
TO GOVERNMENT CODE SECTION 27383**

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: \_\_\_\_\_

**Grant Deed**

The undersigned Grantor(s) declare(s): Beckwourth Peak Fire Protection District is exempt from property taxes. Documentary transfer tax is \$\_\_\_\_\_.

- Computed on full value of property conveyed, or
- Computed on full value less value of liens and encumbrances remaining at time of sale.
- Unincorporated area  City of \_\_\_\_\_ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

hereby GRANT(S) to

the following described real property in the City of \_\_\_\_\_  
County of \_\_\_\_\_  
State of California:

SEE ATTACHED EXHIBIT A (Property)



**CITY OF PORTOLA AND BECKWOURTH PEAK FIRE  
PROTECTION DISTRICT**

Signature: \_\_\_\_\_ (seal)