

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF BRENTWOOD, THE CITY OF OAKLEY, CONTRA COSTA
COUNTY, AND THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT
FOR THE IMPLEMENTATION OF RECOMMENDATIONS OF
THE FIRE AND MEDICAL SERVICES TASK FORCE**

This Memorandum of Understanding (MOU) is entered into on the ____ day of _____, 2016 by and between the City of Brentwood (Brentwood), the City of Oakley (Oakley), Contra Costa County (County) and the East Contra Costa Fire Protection District (District), all California public agencies (each a Party; and collectively, Parties).

RECITALS

A. The District provides fire prevention and fire and medical emergency response services to the District, which covers 249 square miles and a population of over 110,000.

B. The District's jurisdiction is comprised of the entire cities of Brentwood and Oakley, as well as several unincorporated communities in Contra Costa County.

C. The District is funded primarily by property taxes, receiving an average of 7 cents per dollar paid, and lacks a dedicated funding source sufficient to provide requisite fire and medical emergency prevention and response services.

D. District voters and property owners have not passed a parcel tax or benefit assessment measure to increase funding for the District.

E. A lack of sufficient funding has required the District to reduce fire and medical response services, including with the recent closure of two fire stations, despite continuously increasing call volumes.

F. The District is currently served with only three fire stations and nine firefighters for any given shift, relying on neighboring agencies and CalFire for additional resources.

G. A task force (the Task Force) was formed to identify and recommend both short-term and long-term solutions to improve fire and medical emergency response capabilities within the District.

H. Task Force members include the Fire Chief for Contra Costa Fire Protection District; the Fire Chief and a Battalion Chief for the District; the Chiefs of Staff from County Supervisors Mary Piepho's and Karen Mitchoff's offices; the President, Vice-President and Board Member for Firefighters Association Local 1230; the City Manager for Oakley, and the City Manager for Brentwood.

I. The Task Force met on multiple occasions, discussed various challenges hampering the District, and identified short and long-term solutions to improve fire and emergency medical responses within the District.

J. The Task Force developed specific recommendations (the Recommendations) that were ultimately adopted by the Parties in the manner further described below.

K. On November 2, 2015, the District's Board of Directors adopted the Recommendations and authorized preparation of this MOU by Resolution 2015-22.

L. On November 10, 2015, the City Council of Brentwood adopted the Recommendations and authorized preparation of this MOU by Resolution 2015-167.

M. On November 10, 2015, the City Council of Oakley adopted the Recommendations and authorized preparation of this MOU by Resolution 127-15.

N. On November 17, 2015, the County Board of Supervisors adopted the Recommendations and authorized preparation of this MOU by Resolution 2015/424.

O. On December 7, 2015, the District's Board of Directors adopted revised Recommendations and reauthorized preparation of this MOU by Resolution 2015-25.

P. On February __, 2016, the City Council of Brentwood authorized execution of this MOU by Resolution 2016-__.

Q. On February __, 2016, the City Council of Oakley authorized execution of this MOU by Resolution __-16.

R. On February __, 2016, the County Board of Supervisors authorized execution of this MOU by Resolution 2016/__.

S. On February __, 2016, the District's Board of Directors authorized execution of this MOU by Resolution 2016-__.

T. The Parties desire to formally memorialize the Final Recommendations as set forth in the attached Exhibit A (the Final Recommendations) and establish a process for funding a fourth fire station within the District and other elements of the Final Recommendations.

AGREEMENT

NOW, THEREFORE, Brentwood, Oakley, the County, and the District agree as follows:

1. Agreement on Final Recommendations. The Parties agree to work cooperatively to implement the Final Recommendations that are set forth in the attached Exhibit A.
2. Term. This MOU will commence on the date that the last party signs it, which will be the date first written above; and, unless earlier terminated or extended, will end on July 31, 2017.
3. Payment. Upon receipt of an invoice from the District, the other Parties will pay in the manner set forth in the attached Exhibit B, Payment; and in the amounts set forth in the Cost Allocation Table also contained in Exhibit B.

4. Notices. Any notice required to be given by any Party, or which any Party may wish to give to another Party, must be in writing and served either by personal delivery or sent by certified or registered mail, postage prepaid, addressed as follows:

To Brentwood:

City of Brentwood
150 City Park Way
Brentwood, CA 94513
Attn: City Manager

To the County:

County of Contra Costa
651 Pine St.
10th Floor, Martinez CA
Attn: County Administrator

To Oakley:

City of Oakley
3231 Main Street
Oakley, CA 94561
Attn: City Manager

To the District:

East Contra Costa Fire Protection District
134 Oak Street
Brentwood, CA 94513
Attn: Fire Chief

Notice will be deemed effective on the date personally delivered or, if mailed, three days after deposit in the United States mail.

5. Successors. This MOU shall be binding upon each Party and any of its successors or assigns. No Party may assign or transfer any part of this MOU without the written consent of the other Parties.

6. Third Parties. This MOU does not confer any benefits on any third party.

7. No Waiver. The failure of any Party to insist upon the strict performance of any of the terms, covenant and conditions of this MOU will not be deemed a waiver of any right or remedy that any Party may have, and will not be deemed a waiver of their right to require strict performance of all of the terms, covenant, and conditions thereafter.

8. Governing Law and Venue. This MOU will be construed and its performance enforced under California law. In the event that a suit is brought by any Party to this MOU, the Parties agree that venue will be exclusively vested in the State courts of the County of Alameda or, if federal jurisdiction is appropriate, exclusively in the United States District Court for the Northern District of California, in Oakland, California.

9. Entire Agreement. This MOU constitutes the entire agreement between the Parties pertaining to its subject matter and supersedes all prior or contemporaneous agreements, representations and understanding of the Parties. The Recitals above and each of the attached Exhibits, are true, correct and made a part this MOU.

10. Amendment. This MOU may be amended or terminated by mutual consent in writing of the Parties.

11. Maintenance of Records. The Parties will retain all digital files, books, documents, papers, accounting records and other evidence pertaining to MOU-related invoice payments for not less than three years after the expiration or termination of this MOU.
12. Review of Records. If requested, the Parties' auditors, or any duly authorized representative of the Parties, will have access to the other Parties' digital files, books, records, and documents that are pertinent to MOU-related invoice payments for audits and examinations for a period of three years after the expiration or termination of this MOU. Timely notice will be provided prior to the conducting of any audit.
13. Severability. If any term, covenant, condition, or provision of this MOU, or the application thereof to any person or circumstance, is to any extent held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions and provisions of this MOU, or the application thereof to any person or circumstance, will remain in full force and effect and will in no way be affected, impaired or invalidated thereby.
14. Dispute Resolution. Should any dispute arise out of this MOU, including but not limited to claims that any of the Parties has failed to meet its obligations established by this MOU, the Parties may meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. The costs of the mediator, if any, shall be paid for by each Party on an equal basis. If a mediated settlement is reached, no Party shall be the prevailing party for the purposes of the resolution of the dispute. No Party shall be permitted to file legal action without first meeting in mediation and maintaining a good faith attempt to reach a mediation resolution. Each Party will bear its own attorney's fees, if any.
15. Withdrawal of Participation. Any Party may withdraw its participation in this MOU by providing the other Parties no less than 6 months' advance written notice of its decision to withdraw. A Party that withdraws its participation will remain responsible for any claims, demands, damages, or liabilities arising from the Party's participation in this MOU. The withdrawing Party shall not be excused from payment of any pending invoices issued pursuant to Exhibit B, Section A, of this Agreement, nor entitled to receive any refund moneys already paid pursuant to Exhibit B, Section A, of this Agreement.
16. Termination. The Parties may, by mutual written agreement, terminate this MOU.
17. Counterparts. This MOU may be executed simultaneously or in counterparts, each of which is to be deemed to be an original, but all of which shall constitute one and the same MOU.
18. Warranty of Authority to Execute MOU. Each Party to this MOU represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this MOU on behalf of the entity that is a Party to this MOU.

CITY OF BRENTWOOD

CITY OF OAKLEY

By: _____
Gustavo Vina
City Manager

By: _____
Bryan Montgomery
City Manager

Date: _____

Date: _____

ATTESTED BY:

By: _____
City Clerk

By: _____
City Clerk

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
City Attorney

By: _____
City Attorney

Date: _____

Date: _____

CONTRA COSTA COUNTY
PROTECTION DISTRICT

EAST CONTRA COSTA FIRE

By: _____
David Twa
County Administrator

By: _____
Joel Bryant
Board President

Date: _____

Date: _____

ATTESTED BY:

By: _____
County Clerk

By: _____
Fire Chief/District Clerk

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
County Counsel

By: _____
Attorney for the District

Date: _____

Date: _____

Exhibit A
Final Recommendations

1. A fourth fire station within the East Contra Costa Fire Protection District (District), known as the Knightsen Fire Station, will be commissioned and fully staffed by the District.

2. Two-years of funding for additional and temporary fire and medical emergency response services will be provided by the District, Brentwood, , Oakley, and Contra Costa County in accordance with Exhibit B to the Memorandum of Understanding Between the Cities of Brentwood (Brentwood) and Oakley, Contra Costa County and the East Contra Costa Fire Protection District for the Implementation of Recommendations of the Fire And Medical Services Task Force, in the amounts identified in the Cost Allocation Table therein.

3. A grass roots, community-based group will be formed by the District, Brentwood, Oakley, and Contra Costa County to educate the public on fire and medical response risks and requirements.

4. Consultant(s) will be engaged by Brentwood to explore the possibility of a 2016 ballot initiative to bring more funding for fire and medical emergency response services in the District.

5. Consideration of the potential 2016 ballot initiative will include whether:
 - a. The District will be an independent special district with an elected board
 - b. The District will change its name to make it clear it is not a “county” agency
 - c. A citizen’s oversight committee will be established to oversee implementation of changes as a result of a successful revenue measure.

6. A master plan commissioned by and for the District will be prepared to address the fire and emergency medical service needs for current and future populations of the District.

**Exhibit B
Payments**

Cost Allocation Table

	<u>1st Year</u>	<u>2nd Year</u>	<u>Total</u>
East Contra Costa Fire Protection District	\$399,352	\$474,626	\$873,978
City of Brentwood	\$190,485	\$475,515	\$666,000
City of Oakley	\$109,315	\$272,887	\$382,202
Contra Costa County	\$89,127	\$222,490	\$311,617
Totals	\$788,279	\$1,445,518	\$2,233,797

Payment Procedures

A. Cost Allocation Invoices

1. Issuance of Cost Allocation Invoices. The East Contra Costa Fire Protection District will submit invoices to the other parties for the amounts listed in the above Cost Allocation Table at the following addresses:

To the City of Brentwood:
City of Brentwood
150 City Park Way
Brentwood, CA 94513
Attn: City Manager

To Contra Costa County:
County of Contra Costa
651 Pine St.
10th Floor, Martinez CA
Attn: County Administrator

To the City of Oakley:
City of Oakley
3231 Main Street
Oakley, CA 94561
Attn: City Manager

2. Cost Allocation Invoice Dates. For Year 1, the District will issue invoices by February 29, 2015. For Year 2, the District will issue invoices by July 31, 2015.

3. Payment of Cost Allocation Invoices. Brentwood, Oakley, and Contra Costa County, will pay the amounts on the District's invoices within thirty business days of receipt.

B. Consultant(s) Costs.

1. Payment of Consultant Invoices. Brentwood and the District are each responsible for paying the invoices of the Consultant(s) engaged by each of them to implement Sections 4 and 6, respectively, of the Final Recommendations set forth in Exhibit A to this MOU (“Consultant Invoices”).

2. Reimbursement of Consultant Invoices. The District and Brentwood may be reimbursed up to \$290,000, in the aggregate, from the funds outlined in the Cost Allocation Table, above, for actual amounts of Consultant Invoices paid. The District Fire Chief and Brentwood City Manager will establish a formula for dividing the aggregate \$290,000 available for Consultant Invoice reimbursements, subject to their mutual agreement.

3. Submittal and Payment of Brentwood Reimbursements for Consultant Invoices. Brentwood will submit invoices for reimbursements contemplated in this Section B to:

East Contra Costa Fire Protection District
134 Oak Street
Brentwood, CA 94513
Attn: Fire Chief

The District will pay Brentwood’s invoices for reimbursement as contemplated by, and limited in, this Section B, within thirty business days of receipt.

4. Payment of District Reimbursements for Consultant Invoices. The District is authorized to reimburse itself, as contemplated by, and limited in, this Section B.