

MEMORANDUM OF AGREEMENT

BETWEEN THE COUNTY OF CONTRA COSTA AND THE CITY OF BRENTWOOD PERTAINING TO MUTUAL AID ASSISTANCE PROVIDED TO RESPOND TO THE COVID-19 PANDEMIC

This Memorandum of Agreement (“Agreement”) is made and entered into on _____, 2021, and effective as of July 29, 2021 (the “Effective Date”), by and between the City of Brentwood, a municipal corporation (“City”) and the County of Contra Costa, a political subdivision of the State of California (“County”) (each a “Party” and collectively, the “Parties”).

RECITALS

WHEREAS, a novel coronavirus that causes a respiratory illness referred to as coronavirus disease 2019 (“COVID-19”) has resulted in a pandemic; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency to exist in California as a result of COVID-19; and

WHEREAS on March 10, 2020, the County Board of Supervisors declared the existence of a local emergency throughout Contra Costa County caused by the introduction of COVID-19; and

WHEREAS, on March 16, 2020, the City Manager, acting in his role of Director of Emergency Services, proclaimed a local emergency to exist in the City of Brentwood due to the COVID-19 Pandemic (“the Proclamation”); and

WHEREAS, the Proclamation was ratified by the City Council on March 17, 2020, by Resolution No. 2020-36; and

WHEREAS, on March 22, 2020, President Trump approved a Major Disaster Declaration for the State of California in connection to COVID-19 and ordered federal funding available to state, tribal and local governments for emergency protective measures, including direct federal assistance to bolster California’s COVID-19 emergency response efforts; and

WHEREAS, the California Department of Public Health (“CDPH”) has contracted with Logistics Health, Inc., a subsidiary of OptumServe Health Services (“LHI”), to provide specimen collection, testing services, and vaccination administration (“COVID-19 Services”) as part of the state’s COVID-19 response effort under the Governor’s emergency declaration; and

WHEREAS, CDPH has requested counties to identify collection and vaccination sites for COVID-19 Services; and

WHEREAS, the County has identified the Brentwood Education & Technology Center, located at 101A Sand Creek Road in the City of Brentwood, California (the “Premises”), as a suitable location for COVID-19 Services, and requested the City to make the Premises available for this purpose;

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the Parties agree as follows:

1. Term. The term of this Agreement shall commence on July 29, 2021, and continue through December 31, 2021 (the "Term"), unless terminated early in accordance with Section 10 or extended by mutual agreement of the Parties.
2. Use of Premises. City shall make the Premises available for exclusive use by CDPH and by LHI and any other service providers with whom CDPH may contract (collectively "Contractors") to provide COVID-19 Services and services related thereto, including but not limited to security and sanitation services, in accordance with Exhibit A attached hereto and incorporated herein by reference, through the Term of this Agreement.
3. Payment. Given the public purpose of the COVID-19 Services, City has agreed to the use of the Premises by CDPH and its Contractors, at no cost, through the Term of this Agreement. City calculates the deferred value of the use of the Premises to be \$37,477.00 per month, consistent with previous rental fees associated with the Premises.
4. Indemnification. Each Party shall defend, indemnify, and hold the other Party, its officials, officers, employees, agents, and volunteers, harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), or claims for injury or damage arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officials, officers, employees, agents, or volunteers.
5. Injuries. To the extent that County or City personnel provide services under this Agreement, such services will be considered to be disaster service activities under Government Code section 3100, and subject to applicable worker's compensation requirements.
6. Disclaimer of Condition of Premises. City makes no warranty or representation of any kind or nature regarding the Premises or the fitness of the Premises for the use intended by CDPH and its Contractors.
7. Compliance with Laws. The Parties will comply with all applicable local, state, and federal laws and regulations with respect to the terms and conditions of this Agreement.
8. Amendments. This Agreement may be amended by mutual consent of the Parties. Any amendment will be in writing, signed by both Parties.
9. Waivers. The waiver by either Party of any breach or violation of any term, covenant, or condition of this Agreement or of any applicable law will not be deemed to be a waiver of such term, covenant, condition or law or of any subsequent breach or violation of same or of any other term, covenant, condition or law.
10. Termination. Each Party may terminate this Agreement upon 30 days written notice to the other Party.
11. Notices. Any notices relating to this Agreement will be given in writing and will be deemed sufficiently given and served for all purposes when delivered personally, by email, by

facsimile or by generally recognized overnight courier service, or five (5) days after deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, addressed as follows:

For City:

City of Brentwood
150 City Park Way
Brentwood, CA 94513
Phone No. (925) 516-5444
Facsimile No. (925) 516-5447
Attn: Parks and Recreation Director
E-mail: bmulder@brentwoodca.gov

For County:

Contra Costa County
651 Pine St. 10th Floor
Martinez CA 94553
Phone No. (925) 655-2043
Attn: Timothy Ewell,
Chief Assistant County Administrator
E-mail:
DOC.Logistics@cchealth.org

Either Party may change its address for purposes of this section by giving the other Party written notice of the new address in the manner set forth above.

12. Entire Agreement. This Agreement constitutes the entire agreement of the Parties and will supersede all prior offers, negotiations, and agreements with respect to the subject matter of this Agreement.

13. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed to be an original, but such counterparts together will constitute one and the same instrument. A copy of this Agreement will be as effective as an original.

14. Severability. If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the Parties as though the unenforceable provision was not contained in this Agreement. However, if the invalid, illegal or unenforceable provision materially affects this Agreement, the Agreement may be terminated by either Party pursuant to Section 10 of this Agreement.

15. Costs; Reimbursement. Each Party will be responsible for its own mutual aid assistance costs and other costs arising from this Agreement, and for seeking any reimbursement from the State of California, Federal Emergency Management Agency or any other source of funding. County shall not be responsible for making claims for funding or reimbursement on behalf of the City.

16. Contractual Relationship. City understands and acknowledges that the County has no contractual relationship with the State of California, CDPH or Contractors for the provision of the COVID-19 Services under this Agreement, and, accordingly, no right or authority to manage or direct the activities of the State of California, CDPH or Contractors at the Premises. County shall not be deemed to be working in concert with the State of California, CDPH or Contractors, nor shall the State of California, CDPH or Contractors be deemed to be a contractor of the County.

17. Disputes. In the event of a dispute between the Parties as to the language of this Agreement or its construction or meaning of any term, this Agreement shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences

concerning its terms or interpretation may be construed against any party to this Agreement.

18. Digital/Electronic Signatures. Using a City-approved method, this Agreement may be executed through the use of digital or electronic signatures in accordance with Government Code Section 16.5. The presence of an electronic signature on this Agreement will be construed as the Parties' consent to do business electronically.

COUNTY OF CONTRA COSTA

CITY OF BRENTWOOD

By: _____
Timothy Ewell,
Chief Assistant County Administrator

By: _____
Tim Ogden, City Manager

ATTEST:

By: _____
Margaret Wimberly, City Clerk

APPROVED AS TO FORM:

Mary Ann McNett Mason
County Counsel

APPROVED AS TO FORM:

By: _____
Deputy County Counsel

By: _____
Damien Brower, City Attorney

Attachments: Exhibit A

Exhibit A

Use of the Premises

- CDPH and Contractors will use the Premises for the purposes described in the Agreement by appointment. Staff will be present Sunday through Saturday, 6:00 a.m. to 8:00 p.m.
- CDPH and Contractors will be issued keys by the City to access the Premises. All keys must be returned to City upon expiration of this Agreement.
- At the end of each day of use, CDPH and Contractors will provide cleaning services and, as may be needed, off hours security for the Premises.
- CDPH and Contractors will remove all biohazardous materials from the Premises on a regular basis, but no less than once per day when the Premises is being used.
- CDPH and Contractors will provide all supplies, staff and operational security necessary to provide the COVID-19 Services at the Premises.