



CITY OF OAKDALE CITY COUNCIL AND OAKDALE FIRE PROTECTION DISTRICT BOARD JOINT MEETING AGENDA



The City of Oakdale recognizes and supports the Choose Civility program, an initiative of the Stanislaus County Office of Education.

City Council Chambers
277 North Second Avenue • Oakdale • CA 95361

Wednesday, May 29, 2019

5:00 PM

City Council Chambers

*Welcome to your City of Oakdale City Council
and Oakdale Fire Protection District joint meeting.*

Oakdale City Council:

*Mayor J.R. McCarty
Mayor Pro Tem Cherilyn Bairos
Council Member Ericka Chiara
Council Member Richard Murdoch
Council Member Christopher Smith*

Oakdale Fire Protection District Board:

*President Jane Lopes
Vice Chairperson Ryan Cope
Director Paul Rivera
Director Vincent Victorine*

Note: California law prohibits the City Council and Oakdale Fire Protection District Board from taking action on any matter that is not on the posted agenda unless it is determined to be an emergency by the Council/Board. All items will be referred to staff for follow-up and placed on a future agenda.

- 1. Call to Order – 5:00 p.m.**
- 2. City Council / District Board Members Present/Absent**
- 3. Pledge of Allegiance**
- 4. Presentations/Acknowledgements**

None Scheduled.

- 5. Additions/Deletions**

- 6. Public Comments**

This is the time set aside for citizens to address the City Council/District Board on issues within the City Council's and District Board's jurisdiction that are not on the posted agenda this evening. The Mayor will ask for a show of hands of those individuals present who wish to address the Council/District Board. Individual speakers are asked to keep spoken comments within a five-minute duration, although this time limit may be modified based on the number of people who indicate their desire to address the Council/District Board.

- 7. Consent Agenda**

None Scheduled.

- 8. Public Hearings**

None Scheduled.



**CITY OF OAKDALE CITY COUNCIL
OAKDALE FIRE PROTECTION DISTRICT BOARD
JOINT MEETING AGENDA
Wednesday, May 29, 2019**

9. Staff Reports

- 9.1 Discuss, Review, and Approve Fire Services Agreement between the City of Modesto, Oakdale Fire Protection District and the City of Oakdale.

10. City Council / District Board Items

11. Adjournment

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Hall, 209-845-3571. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28CFR 35.102-35.104 ADA Title II).

Any documents produced by the City and distributed to a majority of the City Council and Oakdale Fire Protection District Board regarding any item on this agenda will be made available in the City Clerk's office at City Hall located at 280 North Third Avenue, Oakdale, California.

DECLARATION OF POSTING

I, Julie Christel, Deputy City Clerk for the City of Oakdale, certify that I caused to be posted a copy of the City of Oakdale City Council and Oakdale Fire Protection District Board Joint Meeting Agenda for the Joint Meeting of Wednesday, May 29, 2019 at the City Council Chambers, 277 North Second Avenue, Oakdale, CA, 95361 on Friday, May 24, 2019.

Dated: Friday, May 24, 2019

/s/Julie Christel

Julie Christel

Council Services and Legislative Records Manager

Deputy City Clerk

"Cowboy Capital of the World"

5/24/19

AGREEMENT TO PROVIDE FIRE PROTECTION SERVICES BETWEEN THE CITY OF MODESTO, THE CITY OF OAKDALE, AND THE OAKDALE FIRE PROTECTION DISTRICT

This Agreement (“Agreement”) is made and entered into this ~~1st-11th~~ day of ~~July-June~~ 2019 (the “Effective Date”), by and between the City of Modesto (“City”), a California municipal corporation, the City of Oakdale (“Oakdale”), a California municipal corporation, and the Oakdale Fire Protection District (“District”), a California special district. City, Oakdale, and District are sometimes individually referred to as a “Party” and collectively referred to as the “Parties” in this Agreement.

RECITALS

WHEREAS, City provides fire protection, prevention, suppression services, and related services such as emergency medical services, emergency preparedness, mitigation of hazardous materials incidents, and special operations including, but not limited to, confined space rescue, technical rescue, and water rescue within the territorial limits of the City and in unincorporated areas of the County of Stanislaus (“County”); and

WHEREAS, Oakdale and District desire to contract with City for the provision of fire protection services, within Oakdale’s and District’s jurisdictional boundaries; and

WHEREAS, City is willing and able to perform fire protection services; and

WHEREAS, the Parties desire to enter into a fruitful and long-term partnership for the provision of such fire protection services; and

WHEREAS, the Parties agree that this Agreement will ensure provision of fire protection services within Oakdale and the District; and

WHEREAS, it is the desire of the Parties to address, by this Agreement, all matters which are related to the services to be provided to Oakdale and District by City; and

WHEREAS, this Agreement is entered into pursuant to Government Code sections 54981 and 6502, and Health and Safety Code section 13800 *et seq.*, including, but not limited to, sections 13861, 13862, 13863, and 13878; and

WHEREAS, the Parties acknowledge they have complied with the provisions of the Meyers-Milias-Brown Act (Gov. Code §§ 3500 *et seq.*) and applicable laws, rules, and ordinances with respect to its employees affected by this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants in this Agreement, it is agreed by and between the Parties hereto as follows:

**ARTICLE I
DEFINITIONS**

1.1. Capital Improvements.

"Capital Improvements" means any planned improvements, capital upgrades, or replacements of equipment, vehicles, apparatuses, fire stations and/or other facilities or property, excluding Major Repairs and Minor Repairs.

1.2. **Fire Services.**

"Fire Services" means those services described in Article IV of this Agreement and listed under Health and Safety Code section 13862.

1.3. **Fiscal Year.**

"Fiscal Year" means the annual period commencing on July 1 and ending June 30 of any calendar year.

1.4. **Major Repair.**

"Major Repair" means any unplanned repair or maintenance work in excess of \$5,000.

1.5. **Minor Repair.**

"Minor Repair" means any repair or maintenance work of a preventive and routine nature due to normal wear and tear for \$5,000 or less.

**ARTICLE II
TERM OF AGREEMENT**

2.1. **Initial Term.** The initial term of this Agreement shall be for three (3) years from July 1, 2019 through June 30, 2022.

2.2. **Extension of Term.** This Agreement may, by approval of all Parties and their governing bodies, be extended for one additional two (2) year term; provided, however, that all Parties receive final approval for such extension no later than June 30, 2021. Due to Fiscal Year appropriation and budget planning, June 30, 2021 shall be considered a firm date, unless all the Parties agree in writing to allow a later date for approval by the Parties' respective governing bodies.

2.3. **Termination.** Notwithstanding Sections 2.1 and 2.2 and any other provision of this Agreement, any Party may terminate this Agreement by providing twelve (12) months' written notification to the other Parties, and the term of this Agreement or any extension thereof shall be shortened accordingly. Written notification of termination shall be in the form of a Resolution by the applicable Party's governing body. The twelve (12) months' written notification requirement shall not be triggered until such Resolution is tendered, delivered, or mailed to the other Parties. Notwithstanding the foregoing, the City may terminate this Agreement pursuant to Sections 6.2 and 6.5 of this Agreement. During the twelve (12) months' termination period, the non-terminating Parties shall have the right to meet and confer to enter into a new Agreement for fire services between them, and any new agency.

ARTICLE III OAKDALE AND DISTRICT STATIONS, VEHICLES, AND EQUIPMENT

3.1. **Title and Use of Equipment, Vehicles and Apparatuses.** Oakdale and District shall maintain ownership and title of vehicles, equipment, and apparatuses, including such property described-identified in Exhibit A, and shall permit, allow, and does hereby authorize City to utilize such property ~~described in Exhibit A~~ (and any other such property, vehicles, apparatuses, or equipment so hereafter authorized-acquired by Oakdale and District) to provide services to Oakdale and District pursuant to this Agreement, and provide any necessary, required, or reasonably requested local, state, and federal mutual and automatic mutual aid, or statewide master mutual aid and assistance by hire pursuant to the California Fire Assistance Agreement. Each apparatus shall be assigned to the Party's station that owns the apparatus and equipment. Exception will be for short-term or special need use elsewhere in the City system.

3.2. **Title and Use of Stations.** Oakdale shall maintain ownership and title of Fire Station 27 (450 S Willowood Drive, Oakdale, California), Fire Station 28 and Fire Station 28 Training Annex (325 E. G Street, Oakdale, California). District shall maintain ownership and title of Fire Station 29 (17700 Main Street, Knights Ferry Oakdale, California) and Fire Station 30 (13200 Valley Home Road, Valley Home, California). Oakdale and District shall provide the City with full and complete access and full and complete use of Fire Station 27, Fire Station 28 and Fire Station 28 Training Annex, Fire Station 29, and Fire Station 30 (collectively, the "Stations"), as identified in Exhibit B of this Agreement, to the same extent that City would enjoy if it owned such Stations and all the fixtures, equipment, and appurtenances therein.

3.3. **Maintenance and Repairs.**

A. City shall only bear all actual costs of Minor Repairs of equipment, vehicles, and apparatuses and Stations owned by District and Oakdale, including such property described-identified in Exhibit A and Exhibit B.

B. Major Repairs shall be promptly paid by the Party with ownership or title of such property. For any third-party products or services needed to effectuate such repairs, the owning Party shall be required to procure and contract the necessary services or products and comply with all laws and rules regarding same. City shall not bear any financial responsibility or liability arising from, or related to, Major Repairs and the owning Party agrees to defend, indemnify, and hold the City harmless from any such liability. In the event that Oakdale or District contracts or otherwise hires a third-party contractor to perform any Major Repairs, Oakdale or District shall require any such third-party contractor to have general liability insurance with minimum limits of \$2,000,000 per occurrence and \$4,000,000 in the aggregate. City shall be named as an additional insured on any such coverage

C. Except for Notwithstanding those duties set forth in the preceding paragraph, the City shall serve as project manager for Major Repairs. As project manager, City shall provide cost estimates, plan and coordinate the work, and seek approval from District or Oakdale prior to the commencement of work. City shall facilitate and manage the work through completion and keep District and Oakdale reasonably abreast of any material changes, including without limitation, changes in scope of work, budget, and/or change orders.

D. Should an insurable event result in damage to any property or Stations owned by District or Oakdale, including such property so-identified on Exhibit A and Exhibit B, the Party with title or ownership of such property shall bear the portion of the actual replacement cost exceeding any insurance proceeds collected by such Party for said damage.

3.4. **Inspection of Oakdale and District-Owned Property.** City agrees to reasonably inspect all real property, buildings, equipment and apparatuses owned by Oakdale or District, including such property identified described in on Exhibit A and Exhibit B to ensure they meet the appropriate and applicable fire service and safety standards.

3.5. **Capital Improvements.**

A. Capital Improvements shall be paid for by the Party with ownership or title of such property. For any third-party products or services needed to effectuate such Capital Improvements, the owning Party shall be required to procure and contract the necessary services or products and comply with all laws and rules regarding same. City shall not bear any financial responsibility or liability arising from, or related to, such Capital Improvements and the owning Party agrees to defend, indemnify, and hold the City harmless from any such liability. In the event that Oakdale or District contracts or otherwise hires a third-party contractor to perform any Capital Improvement, Oakdale or District shall require any such third-party contractor to have general liability insurance with minimum limits of \$2,000,000 per occurrence and \$4,000,000 in the aggregate. City shall be named as an additional insured on any such coverage.

B. ~~Except for~~Notwithstanding those duties set forth in the preceding paragraph, the City shall serve as project manager for Capital Improvements. As project manager, City shall provide cost estimates, plan and coordinate the work, and seek approval from District or Oakdale prior to the commencement of work. City shall facilitate and manage the project through completion and keep District and Oakdale reasonably abreast of any material changes, including without limitation, changes in scope of work, budget, and/or change orders.

C. Oakdale and District shall maintain a Capital Improvements program for projects to ensure funds are annually appropriated for the actual costs required to replace, improve, and/or repair their respective facilities, Stations, apparatuses, equipment, and property described herein (*e.g.* roofs, HVAC systems, exterior/interior paint, etc.). If the City identifies any needed Capital Improvements it must submit them annually to Oakdale and/or District by March 15th, with cost estimates and reasonable supporting documentation, for Oakdale and District's annual budget development process.

3.56. **Personal Protective Equipment ("PPE").** Oakdale and District agree to transfer the following PPE for each of- up to nine (9) captains and nine (9) engineers and seven (7) firefighters: (i) two sets of structural turnouts each, (ii) wildland boots-packs and associated gear, (iii) water rescue equipment and EMS. For any additional needed PPE arising from this Agreement, the City may negotiate separately with Stanislaus Consolidated Fire Protection District ("SCFPD") or any third party for additional firefighters transferring to City. ~~The cost of such additional PPE shall be borne equally by City, District, and Oakdale.~~

3.67. **Return Upon Termination.** City will return all equipment, apparatuses, property, and Stations, including such property identified in Exhibit A and Exhibit B, to District and Oakdale upon termination of this Agreement, with reasonable wear and tear expected.

ARTICLE IV DUTIES OF CITY UNDER THIS AGREEMENT

4.1. **Scope of Services.** City shall provide Fire Services, as more specifically described in this Article, within the jurisdictional area of Oakdale and District (see Exhibit C for service area map). In providing such services, City shall administer the provisions of Oakdale Municipal Code Chapter 12 entitled “Fire Protection” (“Oakdale Fire Code”) and applicable laws. Throughout the term of the Agreement and as reasonably needed or as requested by Oakdale, City shall consult with Oakdale regarding City's implementation of the provisions of this Agreement.

4.2. **Bi-Annual Review of Services.** Unless otherwise waived by all the Parties, City agrees to, and shall cooperate in, a bi-annual review of the expectations outlined in this Article shall take place at a mutually agreeable time between the Parties. If deficiencies areas of improvement are identified in the course of this review, then a reasonable corrective action plan shall be mutually developed and agreed upon. Such corrective action shall be memorialized in a writing signed by all the Parties.

4.3. **Advisory Committee.** An Advisory Committee, consisting of Oakdale City Manager, two representatives from the Oakdale City Council, two representatives from the District Board, and the City's Fire Chief and City Manager, shall be formed to and provide input discuss and provide advisory input regarding and policy direction for the Fire Chief to carry out in reference to the delivery of Fire Services for Oakdale and District. -To the extent permitted by law, applicable personnel rules, and/or controlling labor agreements, the Advisory Committee will also reasonably participate and provide input in the the City Fire Department's annual budget development and labor negotiations, to the extent such activities materially impact or affect Oakdale and District. The Advisory Committee shall agree to meet no less than onee twice per year at a mutually agreeable time and location.

4.4. **Description of Support and Fire Prevention Services to be provided by City.** The City shall provide the following fire prevention and support services necessary to maintain Fire Services within Oakdale and District:

A. Fire Services program planning and administration consistent with the terms and conditions of this Agreement.

B. Assist in the development and administration of annual Oakdale and District Fire Services budgets.

~~C. Coordination and administration of Oakdale and District Fire Services sub-programs as authorized and funded within the Oakdale and District Fire Services budget, as that budget may be modified from year to year.~~

DC. Providing and supporting an “Intern and/or Reserve” Firefighter Program.

5/24/19

Augmenting minimum staffing to increase company safety, efficiency and provide training opportunities for interns.

ED. Delivery and documentation of federal and state-mandated firefighter training as well as provision of additional training as authorized and funded within the City's budget.

FE. Assist with emergency and disaster management within the Oakdale Emergency Operations Center as timely requested by the Oakdale City Council.

GF. Coordination of procurement of all routine operational supplies, services, and equipment as necessary to provide the Fire Services outlined in this Agreement.

HG. When requested by Oakdale and District, provide plan review services of all development and building plans to ensure compliance with applicable fire and life safety codes and regulations, as well as inspection of fire protection and fire alarm systems for compliance with applicable codes and standards. Oakdale and District shall collect fees and automatically reimburse the City for fire prevention services at rates that are identified in Oakdale's and District's fire prevention rate schedule.

HI. City shall coordinate and provide reasonable assistance to help ensure that fire safety inspections of all state-mandated occupancies and enforcement of weed abatement within Oakdale and District will be performed by the Stanislaus County Fire Wardens Office at no cost to either Oakdale, District or City. This may be by contract with the Stanislaus County Fire Wardens Office at no cost to either Oakdale, District or City through; provided, that sufficient funding continues through the "Less Than Countywide Fire Tax" assessment.

JI. Issuance of operational permits to, and associated inspections of, applicable businesses within Oakdale and District as required in Appendix Chapter 1, Section 105.6 of the 2007 California Fire Code, and as that Section may have been amended or may be amended in the future. Oakdale and District shall collect fees and automatically reimburse City for said operational permits and inspections.

KJ. Inspections of Business, Commercial and Industrial occupancies. Fees collected by Oakdale will be provided to City for providing this service.

LK. Investigation of all fires to establish origin and cause as well as coordination with law enforcement on all criminal prosecutions resulting from such investigations. The City may contract for fire investigation services. This service will be provided through the Stanislaus Regional Fire Investigation Unit and will be paid for through Less Than Countywide Tax.

ML. Maintenance of sufficient, segregated records relating to provision of Fire Services to Oakdale and District, including, but not limited to response time data for all incident responses. At a minimum, such records shall be sufficient to meet any and all federal and state reporting obligations as they relate to the provision of Fire Services, including but not limited to annual audits, mutual aid, and reimbursement for disaster response, hazardous material response, or other incident responses. Such records, reports and response data shall be provided to Oakdale

5/24/19

and District at their request.

NM. Annual Inspections of the Oakdale Police Department holding cell and the Oakdale Municipal Airport.

ON. Enforce the provisions of Chapter 12 of the Oakdale Municipal Code relating to Fireworks (which adopts and amends the California Fire Code) and as that Chapter may be amended in the future. Enforcement of illegal fireworks will not be the responsibility of the City. City will coordinate and reasonably assist with applicable law enforcement agencies on the enforcement.

PO. Involved with Site Plan review for new proposed projects ensuring access, water supply and special conditions are included in the design. City shall be involved in General plan updates and input on Specific plan developments. City shall coordinate with Oakdale and District regarding the adoption of the Fire Code and applicable law, including Municipal Code ordinance amendments.

QP. Conduct field fire flows for fire protections system design. This is a cost for service reimbursement to the City. Fees received for services delivered will be automatically reimbursed to the City.

RQ. Coordinate the planning, development, and delivery of fire prevention and safety education programs for schools, businesses, community associations, child-care providers, and other members of the community. Fire prevention and life safety programs will be tailored to educate Oakdale and District residents and business community in order to help preserve life and property.

SR. Participate, plan, and inspect special events such as the annual Rodeo parade and event, Community fairs (Chocolate Festival), Farmers Market, and other special events.

FS. The City shall not provide weed abatement services, but shall work with District and Oakdale to help identify a weed abatement enforcement program.

UT. City will work with Parties to address Hazard mitigation which may include coordinating Community forums for development of "Fire Safe Community" to address and reduce the wildland fire threat. Specific area of concern is the Riparian Habitat along the Stanislaus River corridor in the Knights Ferry and City of Oakdale Communities. Coordination will be with CalFIRE and other stakeholders.

4.5. Incident Response Within Jurisdictions of Oakdale and District. The following criteria shall apply to incident response within Oakdale and District jurisdictions, including fire suppression, emergency medical response, rescue services, hazardous materials response, and response to any other emergency or non-emergency request for service.

A. Chief Officer Coverage. City shall provide a qualified Shift Battalion Officer-, to be immediately available for response and management of emergency incidents as

necessary to provide incident command and coordination functions within the jurisdictional boundaries of Oakdale and District, including the authority to commit expenditure of Oakdale and District funds (e.g., request aircraft or specialized equipment to mitigate emergency equipment) to mitigate an emergency incident ~~consistent with the ordinances, policies and procedures of Oakdale and District.~~

B. Staffing. City shall provide, on a twenty-four (24) hour, seven-(7) day per-week basis, one (1) three (3)-member company at Station 27, and one (1) three (3)-member company at Station 28. At either (but not both) station 29 or 30, City shall provide one (1) two (2)-member engine company. Fire Stations 28 and 29 and 30 shall be staffed with personnel trained and qualified to perform water rescue services. Additional qualified fire personnel may be assigned to the Oakdale and District station(s) as determined by the City Fire Chief or his/her designee to provide supplemental Fire Services or staffing for special events, anticipated weather events, or other situations within the City's budget as that budget may be modified from year to year, and operational capacity. Minimum staffing level for District shall be two (2) members per company, and minimum staffing for Oakdale shall be three (3) members per company. It is the desire of all Parties to reach minimum staffing levels of three (3) per company, and staff all four (4) Stations.

C. Emergency. Oakdale and District shall continue to contract with and pay the Stanislaus Regional 911 for dispatch services.

D. Major Disaster Response. In the event of a major disaster in Oakdale and/or District, City will provide support to the Oakdale Emergency Operations Center (EOC). In the event of a multi-jurisdictional emergency or disaster, coordination of fire resources may be performed from the Emergency Operations Center.

E. Statewide Mutual Aid and Assistance by Hire. City may respond to requests for mutual aid or assistance-by-hire by other agencies within the State of California pursuant to the California Statewide Master Mutual Aid Agreement or the California Fire Assistance Agreement, as approved by the Fire Chief or his or her authorized designee. Oakdale and/or District shall credit or reimburse City for any mutual aid monies it receives relating to City's use of personnel assigned to Oakdale and/or the District. District and/or Oakdale shall be entitled to reimbursement for apparatuses or vehicles owned by District and/or Oakdale and City shall not claim any entitlement thereto.

4.6. **Miscellaneous.**

A. False Fire Alarms. City will enforce the provisions of Chapter 12 of the Oakdale Municipal Code providing for recovery of costs associated with responses to false fire alarms.

B. Hazardous Materials Releases. City will enforce the provisions of Chapter 12 of the Oakdale Municipal Code or Modesto Municipal Code providing for recovery of costs associated with responses to releases of hazardous materials.

C. Master Fee Schedules and Cost Recovery.

(i) District. City will ~~administer~~ administer the District ordinance number 2018-01 for purposes of administering the billing and collection efforts of all such applicable fees. City also reserves the right to seek fee reimbursement for services rendered that are not covered by Ordinance number 2018-01 or require a level of staffing and/or property that are above and beyond the usual and customary resources required for services. District shall not unreasonably withhold City’s entitlement to such fees on such occasions.

 (ii) Oakdale. City will be entitled to fee reimbursement for actual costs for services rendered pursuant to any and all applicable fee schedules or ordinances of Oakdale that provide and allow for such fees. Oakdale shall be responsible for administering the billing and collection efforts of all such applicable fees.

ARTICLE V DUTIES OF OAKDALE AND DISTRICT

5.1. **Payment for Fire Services.** Oakdale and District shall compensate City for the provision of Fire Services as further described in Article VI of this Agreement.

5.2. **Major Repairs and Capital Improvements.** As set forth in Article III of this Agreement, Oakdale and District agree to pay for the cost of Major Repairs and Capital Improvements for all property owned by them, including such property identified in Exhibit A and Exhibit B.

~~5.3. **Cost Recovery.** Oakdale and District shall not be entitled to any revenue or reimbursement, except as otherwise provided in this Agreement, for any services rendered by City in connection with this Agreement and shall reimburse City for all services it provides pursuant to any applicable Oakdale or District fee schedule or any cost recovery otherwise authorized by contract or law.~~

ARTICLE VI ANNUAL FIXED FEE FOR FIRE PROTECTION SERVICES

6.1. **Annual Fixed Fee for Services.** Oakdale and District agree to pay City for all services provided pursuant to the terms and conditions of this Agreement in the amounts and times as set forth in Exhibit E-D and this Article.

A. The Fee Payment Schedule as set forth in Exhibit E-D is based upon the three (3) year budget projection describing the total reasonably anticipated costs of providing Fire Services for each Fiscal Year or portion thereof ~~as identified in Exhibit D~~. Should the City realize fiscal benefits through economies of scale if it contracts with additional agencies for fire services, the fee for service paid by Oakdale and District under this Agreement may be revised. Notwithstanding any other provision of this Agreement, the annual fixed fee does not include those fees and costs not appropriated and reflected ~~on Exhibit D in this Agreement~~, including without limitation, District and/or Oakdale Pension Obligation Bond Payments, Retiree Medical Payments, and assessment collection fees, ~~CALPers~~ CalPERS Side Fund, Station 27 Bond Payment, and other liabilities or financial indebtedness.

B. On the last day of each month throughout the duration of this Agreement, Oakdale and District agrees to remit to City payments amounting to 1/12th of each of their respective annual fiscal obligation hereunder, pursuant to the fee schedule set forth in Exhibit Done twelfth (1/12) of the Fiscal Year budget projection as prepayment for that month's services throughout the duration of this Agreement. Oakdale is and District are responsible to pay the full monthly amounts as each are required pursuant to Exhibit ED, regardless of whether or not it receives reimbursement for any amounts from District.

6.2. **Delinquent Payments.** In the event that Oakdale or District fails to pay the entire amount described in Section 6.1.B. above within fifteen (15) calendar days of the due date, interest shall accrue to the unpaid balance at an annual equivalent rate equal to the higher of (1) the Prior Year Penalty Factor; or (2) the legal rate of interest on a judgment in the Superior Courts of the State of California, determined from the date the payment was originally due. The Prior Year Penalty Factor shall be the interest rate earned on City's entire investment portfolio for the preceding Fiscal Year plus two percent (2%). For example, if the rate of return on City's entire investment portfolio for the preceding Fiscal Year was four percent (4%), the Prior Year Penalty Factor will be six percent (6%).

A. In the event that Oakdale or District does not pay the required monthly payment as identified in Section 6.1.B. within thirty (30) calendar days of the due date, the City shall provide notice that all Fire Services may be terminated in thirty (30) calendar days.

B. In the event that Oakdale or District does not pay the required monthly payment plus interest at the end of the thirty (30) calendar day notification period give pursuant to Section 6.2.A, the City shall have the option to terminate Fire Services immediately and without further notice.

6.3. **Service Level Reductions.** If budgetary constraints require service level reductions by any Party, all Parties agree to meet and confer.

6.4. **Start-Up Cost.** Oakdale and District will be responsible for all "one-time" start-up cost that is agreeable to all Parties. Start-up costs include turnouts and re-branding (station and engine identifiers).

~~6.5. **Unanticipated Service Level Increase.** If unanticipated or unexpected circumstances cause a material increase in service requirements, City shall be entitled to a meet and confer process with District and Oakdale to explore an increase in contract cost for the remainder of the contract term with the service level increase. City shall have the right to terminate the contract upon six (6) months' notice in the event the Parties cannot agree on terms.~~

ARTICLE VII PERSONNEL

7.1. **Recruitment of Employees.** In addition to any other recruitment choices, City shall hold a lateral recruitment for new employees from Stanislaus Consolidated Fire Protection District to staff the Oakdale and District stations. Employees must be in "good standing" and meet City minimum requirements. City reserves all rights and shall not be obligated to hire any

lateral firefighters from such recruitment.

A. Prior to being offered positions with City, Oakdale and District employees must complete a LiveScan background review. Employees who are identified to have felony arrests or other convictions that would prevent them from serving as a public safety employees will not be considered as employees in “good standing” and will not be offered employment positions with the City.

B. Prior to being offered new positions with the City, lateral Oakdale and District recruited employees must provide proof they process a valid California Driver’s license and current Emergency Medical Technician certification. Employees who fail to provide proof they process a valid California Driver’s license and current Emergency Medical Technician certification will not be considered employees in “good standing” and will not be offered employment positions the City.

7.2. **Seniority.** All lateral recruits will be hired as new employees, and seniority within new employees will be determined by original hire date from home agency, pursuant to MCFFA MOU and any applicable personnel rules, laws, policies, procedures of the City.

7.3. **Rank.** ~~–It is the desire of the City to recruit up to twenty-five (25) members of sufficient rank to provide the contractual services provided herein, including up to nine (9) Fire Captains, nine (9) Fire Engineers and six (6) Firefighters for the staffing of the contract. However, this is subject to change.~~

7.4. **Effect of Termination.** ~~On~~ Upon the expiration of this Agreement, it is Oakdale and District’s present intent ~~intend~~ to offer employment to City fire department personnel so affected by such termination.

7.5. **Subject to Personnel Rules and Laws.** Nothing in this Article or Agreement as it pertains to the recruitment, employment, retention, or separation of personnel shall apply to the extent it is in conflict with any applicable personnel rules, laws, policies, procedures, and bargaining agreements or MOUs, including the MCFFA MOU.

ARTICLE VIII INDEMNIFICATION AND INSURANCE

8.1. **Mutual Indemnification.**

A. City shall indemnify, defend and hold harmless the District and Oakdale (including their elected or appointed officials, employees, agents, volunteers, and attorneys as the same may be constituted now and from time to time hereafter) to the extent allowed by law and in proportion to City’s fault, against any and all third-party liability for claims, demands, costs, or judgments (direct, indirect, incidental, or consequential) involving bodily injury, personal injury, death, property damage, or other costs and expenses (including reasonable attorneys' fees, costs and expenses) arising or resulting from the negligent acts or omissions of its own elected or appointed officers, agents, employees, volunteers, or representatives carried out pursuant to the obligations of this Agreement.

____B. District and/or Oakdale shall indemnify, defend and hold harmless the City (including its elected or appointed officials, employees, agents, volunteers, and attorneys as the same may be constituted now and from time to time hereafter) to the extent allowed by law and in proportion to District and/or Oakdale's fault, against any and all third-party liability for claims, demands, costs, or judgments (direct, indirect, incidental, or consequential) involving bodily injury, personal injury, death, property damage, or other costs and expenses (including reasonable attorneys' fees, costs and expenses) arising or resulting from their negligent acts or omissions of their own elected or appointed officers, agents, employees, volunteers, or representatives carried out pursuant to the obligations of this Agreement.

8.2. **Mutual Indemnification Obligations Survive Termination.** As to activities occurring or being carried out in performance of this Agreement and during the term of this Agreement, the obligations created by Agreement Section 8.1 shall survive termination of this Agreement.

8.3. **Public Liability and Property Insurance.**

~~(a)~~A. Each Party shall maintain in effect, at its own cost and expense, the following insurance coverage provided either through a bona fide program of self-insurance, commercial insurance policies, or any combination thereof:

(i) Commercial general liability or public liability with minimum limits of \$2,000,000 per occurrence and \$4,000,000 in the aggregate.

(ii) City will provide auto liability insurance including owned, leased, non-owned, and hired automobiles, with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

(iii) The City shall maintain Workers' Compensation in accordance with California Labor Code Section 3700 with a minimum of \$1,000,000 per occurrence for employer's liability, for the duration of time that such workers are employed.

(iv) All risk property insurance, excluding earthquake and flood, on all permanent property of an insurable nature in an amount sufficient to cover at least one hundred percent (100%) of the replacement costs of said property. In any event, Oakdale shall maintain property insurance coverage for all the real property and buildings identified in Exhibit B.

~~(b)~~B. All insurance required by this Agreement shall:

(i) Be placed: (1) with companies admitted to transact insurance business in the State of California and with a current A.M. Best rating of no less than A:VI or with carriers with a current A.M. Best rating of no less than A:VII; or (2) disclosed self-insurance with limits acceptable to the other Party.

(ii) Provide that each Party's insurance is primary and non-contributing insurance to any insurance or self-insurance maintained by the other Party and that the insurance of the other Party shall not be called upon to contribute to a loss covered by a Party's insurance.

~~(c)~~C. Each Party shall file certificates of insurance with the other Party evidencing that the required insurance is in effect.

8.4. **Workers' Compensation.**

~~(a)~~A. City shall provide Oakdale and District an endorsement that its Workers Compensation insurer waives the right of subrogation against Oakdale, its officers, officials, employees, and volunteers for all claims on or after the Effective Date of this Agreement during the tenure of said Agreement.

~~(b)~~B. All injuries that occur prior to the execution of this Agreement and all Workers' Compensation claims that are filed prior to this Agreement shall remain the responsibility of Oakdale and District. Oakdale's third-party administrator for the Workers' Compensation shall provide the City's third-party administrator for Workers' Compensation, a list of all active claims of all City of Oakdale personnel who will become employees of the City, prior to the execution of this Agreement.

**ARTICLE IX
MISCELLANEOUS**

9.1. **Amendments to Agreement.** No part of this Agreement shall be altered or amended without written agreement of the Parties.

9.2. **Assignment.** The rights and obligations of the Parties under this Agreement are not assignable and shall not be delegated without the prior written approval of all Parties.

9.3. **Dispute Resolution.** The Parties recognize that this Agreement cannot represent a complete expression of all issues which may arise during the performance of the Agreement. Accordingly, City and Oakdale and District agree to meet and confer in good faith over any issue not expressly described herein to the end that Oakdale and District will obtain the best Fire Services possible under the most favorable economic terms and that City will be fairly and adequately compensated for the services it provides hereunder.

It is the Parties' intention to avoid the cost of litigation and to resolve any issues that may arise amicably if possible. To that end, the Parties agree to meet within ten (10) business days of a request made by the other Party in writing to discuss the issues and attempt to resolve the dispute. If the dispute is not resolved after that meeting, the Parties agree to mediate the dispute within thirty (30) calendar days of the meeting or as soon thereafter as possible. The mediator will be chosen by mutual agreement of the Parties. The costs of mediation will be borne by the Parties equally. No Party may initiate litigation prior to the conclusion of mediation. In any action brought under this Agreement, the prevailing Party shall be entitled to recover its actual costs and attorney fees pursuant to California Civil Code Section 1717.

9.4. **No Waiver.** The waiver of any Party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision. The subsequent acceptance by either Party of any monies that become due hereunder shall not be

deemed to be a waiver for any preexisting or concurrent breach or violation by the other Party of any provision of this Agreement.

9.5. **Parties in Interest.** Nothing in this Agreement, whether express or implied, is intended to confer any rights on any persons other than the Parties to it and their representatives, successors and permitted assignees.

9.6. **Interpretation.** This Agreement shall be interpreted and construed reasonably and neither for nor against any Party, regardless of the degree to which any Party participated in its drafting. Each of the Parties has received the advice of legal counsel prior to signing this Agreement. Each Party acknowledges no other party or agent or attorney has made a promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the subject matter herein to induce another party to execute this Agreement. The Parties agree no provision or provisions may be subject to any rules of construction based upon any Party being considered the Party “drafting” this Agreement.

When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. Whenever a reference is made herein to a particular provision of this Agreement, it means and includes all paragraphs, subparagraphs and subparts thereof, and, whenever a reference is made herein to a particular paragraph or subparagraph, it shall include all subparagraphs and subparts thereof.

9.7. **Captions.** The captions in this Agreement are for convenience and reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

9.8. **References to Laws.** All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or re-codified, unless otherwise specifically provided.

9.9. **References to Days.** All references to days herein are to calendar days, including Saturdays, Sundays and holidays, except as otherwise specifically provided. Unless otherwise required by a specific provision of this Agreement, time hereunder is to be computed excluding the first day and including the last day.

9.10. **Time of Essence.** Time is of the essence of this Agreement and of every part of this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

9.11. **Severability.** If any non-material provision of this Agreement is for any reason deemed to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, and such remaining provision shall be enforced as if such invalid or unenforceable provision had not been contained herein.

9.12 **Choice of Law and Venue.** This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this

5/24/19

Agreement shall be in that state and venue shall be in Stanislaus County, California.

9.13. **Entire Agreement.** This Agreement represents the full and entire Agreement between the Parties regarding the matters covered herein.

9.14. **Counterparts.** This Agreement may be executed in counterparts each of which shall be considered an original.

9.15. **Exhibits.** The following Exhibits are attached hereto and incorporated as if fully set forth herein:

- | | |
|-------------------|---|
| <u>Exhibit A:</u> | Oakdale and District Apparatuses, Equipment, and Vehicles |
| <u>Exhibit B:</u> | Oakdale and District Stations |
| <u>Exhibit C:</u> | Service Boundaries Maps for Oakdale and District |
| <u>Exhibit D:</u> | Fee Payment Schedule (FY19/ <u>20-FY21/22</u>) |

9.16. **Notices.** All notices required or permitted hereunder shall be deemed sufficiently given if delivered by hand, electronic mail, or by United States mail, postage prepaid, addressed to the Parties at the addresses set forth below or to such other address as may, from time to time, be designated in writing.

To Oakdale:

Bryan Whitemyer
Oakdale City Manager
280 N. Third Avenue
City, CA 95361

To City:

Joseph Lopez
City Manager
1010 10th Street
Modesto, CA 95354

To District:

Jane Lopes
District Board President
~~1398 East F~~ STP.O. Box 932
Oakdale, CA 95361

9.17. **Joint Defense/Common Interest.** In the event of a third-party challenge of any

5/24/19

type to this Agreement, the Parties agree to jointly defend the validity and implementation of the Agreement.

9.18. **Further Obligations.** The Parties recognize that this Agreement cannot represent a complete expression of all issues, which may arise during the performance of this Agreement. Accordingly, the Parties agree to meet and confer in good faith over any issues, challenges, prohibitions, or obligations not expressly described herein to the end that City will be fairly compensated and Oakdale and District will obtain sufficient fire services.

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5/24/19

IN WITNESS WHEREOF, the Parties execute this Agreement hereto on the Effective Date.

APPROVED AS TO FORM:

By: _____
Adam U. Lindgren
Modesto City Attorney

By: _____
Christina D. Alger
Modesto Human Resources Manager (Risk)

By: _____
Tom Hallinan
Oakdale City Attorney

By: _____
William D. Ross
District Counsel

CITY OF OAKDALE,
a California Municipal Corporation

By: _____
Bryan Whitemyer
City Manager

CITY OF MODESTO,
a California Municipal Corporation

By: _____
Joseph P. Lopez
City Manager

ATTEST:

By: _____
Stephanie Lopez
Modesto City Clerk

OAKDALE FIRE PROTECTION DISTRICT,
a California Special District

By: _____
Jane Lopes
District Board President

EXHIBIT A
Oakdale and District Apparatus, Vehicles, and Equipment

Oakdale

ID	NO	VIN	APPARATUS/VEHICLE
07-01	E-28	4S7AT2C967C056582	ENGINE TYPE 1
06-01	E-27	4S7AT2C987C056583	ENGINE TYPE 1
90-02	E-228	457BT9LO3MC003283	ENGINE TYPE 1
01-01	B-28	1HTAA1724CHB24573	ENGINE TYPE 3
82-01	B-227	B1HTAA1724CHB24573	ENGINE TYPE 3
00-03	R-228	4S7HT8292YCO34227	RESCUE
02-05	U-28	1FTNW21FX3EB15019	UTILITY VEHICLE FORD EXPEDITION
02-06	U-228	1FMPU16LO2LA40263	UTILITY VEHICLE FORD F250
97-01	U-27	2FTFX28L3VCA54473	UTILITY VEHICLE FORD F250
18-02	BOAT 28	XMO74004F515/05511434	AB INFLATABLE
10-02	BOAT 228	BO25PF010	POLARIS BOAT

District

ID	NO	VIN	APPARATUS/VEHICLE
05-01	E-29	4S7CT2D965CO49328	ENGINE TYPE 1
99-04	E-30	4ENRAAA88X1000380	ENGINE TYPE 1
96-01	B-227	1HTLFUGN3FHA31313	ENGINE TYPE 3
87-01	B-22	HTSLNDMXMH339384	ENGINE TYPE 3
03-03	G-30	1FDAF57PX3ECO3161	ENGINE TYPE 6
02-04	G-29	1FDAF57F63EA10349	ENGINE TYPE 6
14-01	WT-27	2NKHLJ9X5EM417025	KENWORTH WATER TENDER
00-03	R-28	4S7HT8292YCO34227	HI TECH RESCUE
06-02	U-23	1GNEK13T26J119609	UTILITY CHEVY TAHOE
99-02	U-30	1GCEK19T1XE100690	UTILITY CHEVY 2500
99-01	U-29	1B7HF13Z1XJ620684	UTILTIY DODGE P/U
09-02	BOAT 29	X22PB909/CF5143XC	POLARIS BOAT

EXHIBIT B
Oakdale and District Stations

Oakdale:

Fire Station 27 – 450 S. Willowwood Drive, Oakdale, CA

Fire Station 28 – 325 E. G Street, Oakdale, CA

Fire Station 28 Training Annex – 325 E. G Street, Oakdale, CA

District:

Fire Station 29 – 1770 Main Street, Knights Ferry, CA

Fire Station 30 – 13200 Valley Home Road, Valley Home, CA

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EXHIBIT C
Service Boundaries Maps for Oakdale and District

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EXHIBIT D

FY 2019/2020 Fee Schedule

Total Annual Fee		OFPD		City of Oakdale
\$4,603,568.04		\$1,972,957.73		\$2,630,610.31

Monthly Payments:

Date

7/31/2019	\$164,413.14	\$219,217.53
8/31/2019	\$164,413.14	\$219,217.53
9/30/2019	\$164,413.14	\$219,217.53
10/31/2019	\$164,413.14	\$219,217.53
11/30/2019	\$164,413.14	\$219,217.53
12/31/2019	\$164,413.14	\$219,217.53
1/31/2020	\$164,413.14	\$219,217.53
2/28/2020	\$164,413.14	\$219,217.53
3/31/2020	\$164,413.14	\$219,217.53
4/30/2020	\$164,413.14	\$219,217.53
5/31/2020	\$164,413.14	\$219,217.53
6/30/2020	\$164,413.14	\$219,217.53

Annual Payment

Total:	\$1,972,957.73	\$2,630,610.31
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FY 2020/2021 Fee Schedule

Total Annual Fee		OFPD		City of Oakdale
\$4,889,788.62		\$2,095,623.69		\$2,794,164.93

Monthly Payments:

Date			
7/31/2020		\$174,635.31	\$232,847.08
8/31/2020		\$174,635.31	\$232,847.08
9/30/2020		\$174,635.31	\$232,847.08
10/31/2020		\$174,635.31	\$232,847.08
11/30/2020		\$174,635.31	\$232,847.08
12/31/2020		\$174,635.31	\$232,847.08
1/31/2021		\$174,635.31	\$232,847.08
2/28/2021		\$174,635.31	\$232,847.08
3/31/2021		\$174,635.31	\$232,847.08
4/30/2021		\$174,635.31	\$232,847.08
5/31/2021		\$174,635.31	\$232,847.08
6/30/2021		\$174,635.31	\$232,847.08
Annual Payment Total:		\$2,095,623.69	\$2,794,164.93

FY 2021/2022 Fee Schedule

Total Annual Fee		OFPD		City of Oakdale
\$5,072,706.94		\$2,174,017.26		\$2,898,689.68

Monthly Payments:

Date

7/31/2021	\$181,168.11	\$241,557.47
8/31/2021	\$181,168.11	\$241,557.47
9/30/2021	\$181,168.11	\$241,557.47
10/31/2021	\$181,168.11	\$241,557.47
11/30/2021	\$181,168.11	\$241,557.47
12/31/2021	\$181,168.11	\$241,557.47
1/31/2022	\$181,168.11	\$241,557.47
2/28/2022	\$181,168.11	\$241,557.47
3/31/2022	\$181,168.11	\$241,557.47
4/30/2022	\$181,168.11	\$241,557.47
5/31/2022	\$181,168.11	\$241,557.47
6/30/2022	\$181,168.11	\$241,557.47

Annual Payment

Total:	\$2,174,017.26	\$2,898,689.68
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