

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY

DEPT: District Attorney

BOARD AGENDA #: *B-6

AGENDA DATE: July 26, 2016

SUBJECT:

Approve the Memorandum of Understanding between Stanislaus County, the City of Modesto, the City of Ceres and Stanislaus Consolidated Fire Protection District, to continue the Regional Fire Investigations Unit.

BOARD ACTION AS FOLLOWS:

No. 2016-383

On motion of Supervisor O'Brien, Seconded by Supervisor Withrow
and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: Chiesa

Abstaining: Supervisor: None

1) Approved as recommended


2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST:


ELIZABETH A. KING, Clerk of the Board of Supervisors

C-6-K-12
C-2-C-14
File No. DF-20-A-16

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: District Attorney
Urgent Routine

BOARD AGENDA #: *B-6

AGENDA DATE: July 26, 2016

CEO CONCURRENCE: 

4/5 Vote Required: Yes No

SUBJECT:

Approve the Memorandum of Understanding between Stanislaus County, the City of Modesto, the City of Ceres and Stanislaus Consolidated Fire Protection District, to continue the Regional Fire Investigations Unit.

STAFF RECOMMENDATIONS:

1. Approve the Memorandum of Understanding between Stanislaus County, the City of Modesto, the City of Ceres and Stanislaus Consolidated Fire Protection District, to continue the Regional Fire Investigations Unit.
2. Authorize the Chief Executive Officer, Sheriff and District Attorney or their designees to sign the Memorandum of Understanding between Stanislaus County, the City of Modesto, the City of Ceres, and the Stanislaus Consolidated Fire Protection District.

DISCUSSION:

The Stanislaus Regional Fire Investigations Unit (FIU) was first established in October 2015. The FIU represents a partnership of County agencies (District Attorney, Sheriff and Fire Warden), and a number of local law enforcement and fire agencies covering all areas of the County (with the exception of the City of Turlock). The FIU is supported by staffing and other resources contributed from partner agencies, and a financial contribution from the Less-Than County-Wide Fire Tax as recommended in the annual Stanislaus County Fire Authority Business Plan.

The goal of the Fire Investigations Unit (FIU) is the proper investigation of all fires and explosions while providing for the effective criminal investigation and prosecution of those incidents that are determined to be criminal acts. The Stanislaus Regional FIU has law enforcement personnel conduct the criminal investigations and fire agency personnel conduct the fire origin and cause determinations. Under this model, each discipline is working to their core strengths and competencies and as a result any prosecution can better withstand legal scrutiny. Successful outcomes are accomplished by providing the proper training and leadership to the FIU members so that they can conduct thorough investigations consistent with current national standards, utilizing modern scientific methods to ensure accurate findings and ultimately the apprehension and prosecution of criminals while protecting the rights of the accused.

Approve the Memorandum of Understanding between Stanislaus County, the City of Modesto, the City of Ceres and Stanislaus Consolidated Fire Protection District, to continue the Regional Fire Investigations Unit.

In September 2015, the Board of Supervisors approved the first Memorandum of Understanding (MOU) between the County, the City of Modesto, the City of Ceres and the Stanislaus Consolidated Fire Protection District, to implement the Regional Fire Investigation Unit. The MOU was effective October 1, 2015 through June 30, 2016. A successor MOU was scheduled to be considered by the Board of Supervisors on June 28, 2016, prior to the expiration of the original agreement, however staff identified a required change in the MOU language which resulted in a brief delay in preparing this item for final Board consideration. Member agencies have maintained the continuity of FIU operations while awaiting final consideration of the amended 2016-2017 MOU.

On May 17, 2016, the Board of Supervisors approved and authorized the Fire Warden to implement the Fiscal Year 2016-2017 Stanislaus County Fire Authority Business Plan (Plan). The Plan includes \$388,670 to support the Regional Fire Investigations Unit (FIU) contingent upon a partnership between fire, law enforcement and the District Attorney. The services provided by the Regional FIU as defined in the Plan are:

- Determine origin and cause of fires in compliance with NFPA 921 guidelines
- Provide documentation and assistance to law enforcement agencies for follow up of criminal fire investigations
- Provide documentation and assistance to District Attorney's office regarding criminal fire investigations
- Provide documentation and assistance to private fire investigators and insurance industry representatives regarding civil fire investigations
- Establish and deliver an effective training program for chief and company officers throughout the County to conduct preliminary fire investigations and initial origin and cause determinations following NFPA 921 guidelines
- Establish effective lines of communications with partner agencies to promote information sharing
- Provide training for fire investigation staff to increase their skills and proficiency in the field of fire investigation
- Provide a quarterly report to the Fire Authority that outlines the number of fires investigated, case status, dollar loss, and number of arrests by jurisdiction
- Facilitate regular meetings for all county fire agencies to discuss issues and concerns related to fire investigations

The District Attorney is proposing a one year Memorandum of Understanding for Fiscal Year 2016-2017 to identify the process by which FIU member agencies will carry out the fire investigations portion of the Fiscal Year 2016-2017 Stanislaus County Fire Authority Business Plan adopted by the Stanislaus County Board of Supervisors.

The Regional FIU, as outlined in the recommended MOU, will continue to be administered and managed by the District Attorney's office with two fire investigators from the Modesto Fire Department, one fire investigator from Stanislaus Consolidated Fire Protection District and one from the Ceres Fire Department. The Stanislaus County Fire Warden's office will support the Regional FIU by acting as Fiscal Agent. Key functions of the District Attorney include: review and verify member agency resource contributions to the FIU on a quarterly basis; approve

Approve the Memorandum of Understanding between Stanislaus County, the City of Modesto, the City of Ceres and Stanislaus Consolidated Fire Protection District, to continue the Regional Fire Investigations Unit.

billings for payment by the Stanislaus County Fire Warden’s Office; compile and produce data/statistics related to FIU performance, including monthly/quarterly/annual fire incidents consistent with the Fiscal Year 2016-2017 Business Plan.

Also included in the MOU language is authorization of the FIU to occupy the Modesto Fire Department, Airport Station (#8). There is no rental charge for the space itself, however the FIU agrees to maintain the grounds and minor facility needs and will be responsible for the electric utility bill. The Modesto Fire Department will continue to pay for water and sewer. The electric utility costs will be paid for out of the FIU’s existing operational overhead budget. Funding of \$20,000 has been set aside for operational overhead, equipment, materials and supplies to operate the FIU. This will cover increased costs for the facility with no contribution from the County General Fund.

In 2015-2016, during the Regional FIU development phase, an agreement with the City of Modesto was extended to September 30, 2015 to enable the City to continue providing fire investigation services until the Regional FIU was put into place. The FIU became fully operational October 1, 2015. Once a full year of statistical and financial data has been gathered, the District Attorney’s Office will present a full analysis of the program to the Board of Supervisors in December 2016. This will allow staff time to compile and analyze complete statistics from a full 12-month operational cycle, (October 1, 2015 to September 30, 2016).

Currently the FIU has incident data for the first two quarters of October 1, 2015 to March 31, 2016. As seen in the following chart, the distribution of incidents between areas inside the City of Modesto (49%) and all other areas (51%) has materialized very closely to the initial projections of the FIU program relying on historical data showing 50% of incidents typically occur within the City of Modesto.

FIU Responses for October 1, 2015 - March 31, 2016		
Area	Number of Calls	Percent of Calls
Modesto	210	49.0%
Stanislaus Consolidated	50	11.7%
Ceres	48	11.2%
Burbank	27	6.3%
Turlock Rural	19	4.4%
Keyes	13	3.0%
Patterson	13	3.0%
WestStan	12	2.8%
Denair	9	2.1%
Hughson	9	2.1%
Salida	8	1.9%
Woodland	4	0.9%
Mountain View	3	0.7%
Westport	3	0.7%
Newman	1	0.2%
Total	429	100%

Approve the Memorandum of Understanding between Stanislaus County, the City of Modesto, the City of Ceres and Stanislaus Consolidated Fire Protection District, to continue the Regional Fire Investigations Unit.

POLICY ISSUE:

Board of Supervisors' approval of the recommended Memorandum of Understanding between Stanislaus County, the City of Modesto, the City of Ceres and Stanislaus Consolidated Fire Protection District is required to maintain the continuity of operational policies and standards which support implementation of fire investigation services approved in the 2016-2017 Fire Authority Business Plan.

FISCAL IMPACT:

Financial support for the Regional FIU is provided in the form of staffing and other resources contributed from partner agencies, and a financial contribution from the Less-Than County-Wide (LTCW) Fire Tax as recommended in the annual Stanislaus County Fire Authority Business Plan. County contributions to the program are in the form of unreimbursed staffing resources allocated through the District Attorney's Office (equivalent of 1.5 full-time positions).

There is no additional fiscal impact to the District Attorney's budget associated with the approval of the 2016-2017 Memorandum of Understanding.

A financial model was developed upon the initial implementation of the Regional FIU to ensure that funds provided through the LTCW Fire Tax were not used to subsidize services provided to areas outside of the LTCW Fire Tax service area. In accordance with the approved 2016-2017 Fire Authority Business Plan, \$388,670 has been appropriated to provide Fire Investigations Services to jurisdictions served by the LTCW Fire Tax. This includes all areas of the County with the exception of the Cities of Modesto and Turlock, each of whom does not contribute to this funding source.

The MOU identifies the allocation of the LTCW Fire Tax funding as follows:

- Stanislaus Consolidated Fire Protections District– up to \$165,000 for one Fire Investigator position and related tools/materials/supplies.
- Ceres Fire Department – up to \$165,000 for one Fire Investigator position and related tools/materials/supplies.
- Stanislaus County DA - up to \$20,000 for operational overhead/equipment/materials/supplies to operate the FIU.
- An additional one-time allocation of \$38,670 for specific training and equipment of the FIU members to be managed by the Stanislaus County District Attorney. These funds must be equally matched by other resources outside of LTCW Fire jurisdiction in accordance with the approved Fire Authority Business Plan.

A preliminary review has been conducted for the first six months of FIU program finances to evaluate the financial value of all combined resources contributed from each member agency, as compared to the distribution of incidents occurring inside and outside of the LTCW service area. This preliminary review indicates that the cost of services provided in the LTCW service area exceeds the amount of LTCW funding that has been made available to support the

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Regional FIU, and therefore confirms that LTCW Fire Tax revenue is not being used to subsidize non-contributing service areas. A complete analysis of the financial and operational impacts of the Regional FIU will be presented to the Board of Supervisors upon the conclusion of the first full year of program operations in order to validate the initial program projections.

BOARD OF SUPERVISORS' PRIORITY:

Approval of the recommended actions supports the Board's priorities of A Safe Community, Effective Partnerships and Efficient Delivery of Public Services by maximizing the use of limited resources to the benefit of the broader community.

STAFFING IMPACT:

It is anticipated that existing staff from the District Attorney, Sheriff, and Fire Warden's offices will continue to provide support for the Regional FIU. County partner agencies are also engaged in regular meetings to discuss future, long term operational models for the FIU. Any future staffing impacts as a result of this planning process will be returned to the Board of Supervisors for consideration.

The District Attorney Lieutenant assigned as the Manager of the FIU is funded with General Fund resources in an existing Lieutenant position and manages the FIU as a 50% collateral assignment. The District Attorney Criminal Investigator assigned full time as the FIU Coordinator is also funded through General Fund resources in the District Attorney's Budget.

CONTACT PERSON:

Birgit Fladager, District Attorney (209)525-5550

ATTACHMENT(S):

Stanislaus Regional Fire Investigation Unit Memorandum of Understanding

ATTACHMENT

Stanislaus Regional Fire Investigation Unit (FIU)

A Multi-Jurisdictional, Multi-Discipline Public Safety Program

July 1, 2016



MEMORANDUM OF UNDERSTANDING

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STANISLAUS REGIONAL FIRE INVESTIGATION UNIT (FIU)

Memorandum of Understanding

PREAMBLE

Parties to the Understanding:

This Memorandum of Understanding (MOU) is between Stanislaus County, including the Stanislaus Regional Fire Investigation Unit, herein referred to as “FIU”, the Stanislaus County District Attorney’s Office, the Stanislaus County Fire Warden’s Office, the Stanislaus County Sheriff’s Department, along with the Stanislaus Consolidated Fire Protection District, the Modesto Fire Department, and the Ceres Fire Department, herein referred to as “Member Agencies.” The employees of the member agencies that are assigned to the FIU are herein referred to as “Members”.

By authority of the Stanislaus County Board of Supervisors (BOS) the Stanislaus County Fire Warden, in accordance with the Fiscal Year 2016-2017 Stanislaus County Fire Authority Business Plan, intends to partner with law enforcement, fire and the DA to implement the Regional FIU. The purpose of this Memorandum is to identify the process by which the FIU Member Agencies will carry out the fire investigations portion of the Fiscal Year 2016-2017 Stanislaus County Fire Authority Business Plan adopted by the Stanislaus County Board of Supervisors on May 17, 2016 “Exhibit A”.

I. OVERVIEW

The Stanislaus Regional Fire Investigations Unit (FIU), under the leadership of the Stanislaus County District Attorney’s Office, the County Fire Chiefs via the Stanislaus County Fire Authority and the County Law Enforcement Executives via the Stanislaus LEX Committee, have developed a regional and collaborative approach to providing fire investigations services in Stanislaus County. The FIU consists of the Stanislaus County District Attorney’s Office, Stanislaus Consolidated Fire Protection District, Modesto Fire Department, Ceres Fire Department, and the Stanislaus County Fire Warden. These agencies have joined together as a team to properly investigate the origin and cause of all fires and to provide for the effective criminal investigation and prosecution of arson fires.

II. MISSION

The goal of the FIU is the proper investigation of all fires and explosions while providing for the effective criminal investigation and prosecution of those incidents that are determined to be criminal acts. This will be accomplished by providing the proper training and leadership to the FIU members so that they can conduct thorough investigations consistent with current national standards, utilizing modern scientific methods to ensure accurate findings and ultimately the speedy apprehension and prosecution of criminals while protecting the rights of the accused.

III. OBJECTIVES

- A. Carry out the FY 2016-2017 Stanislaus County Fire Authority Business Plan as adopted by the Stanislaus County Board of Supervisors.
- B. Properly investigate fires and explosions consistent with NFPA 921, *Guide for Fire and Explosion Investigations*.
- C. Provide Investigators who meet or exceed the qualifications specified in NFPA 1033, *Standards for Professional Qualifications for Fire Investigators*.
- D. Ensure that the supervision of the unit is consistent with NFPA 1037, *Standard for Professional Qualifications for Fire Marshals* (who supervise Fire Investigators).
- E. Attempt to decrease the number of arson related fires within Stanislaus County by identifying, arresting, and prosecuting serial arsonists.
- F. Gather and analyze statistical data to identify arson trends in Stanislaus County and to deploy FIU resources accordingly with a primary focus on the serial/complex/large financial loss arson incidents.
- G. Analyze the statistical data to ensure that the workload between the areas served by the Less Than County Wide Fire Service Tax and those served by the City of Modesto remain fair and equitable.
- H. Provide assistance to agencies for specific arson related problems within their respective jurisdictions and to provide a high level of investigative knowledge and expertise.
- I. Provide training in the area of arson recognition, investigative techniques, evidence collection, and enforcement methods to allied agencies' personnel.

- J. Maintain membership in and attend the California Conference of Arson Investigators (CCAI), Round Table 18 (Stanislaus, San Joaquin, Calaveras, and Tuolumne Counties) training meetings.
- K. Vigorously prosecute all fire and explosives related crimes as a deterrent for potential arsonists in the future.

IV. FIU ORGANIZATION

The FIU will be a multi-agency, multi-discipline task force involving law enforcement and fire agencies. The FIU will be managed and supervised by a Lieutenant from the Stanislaus County District Attorney's Office, (SCDA) Bureau of Investigation and will be coordinated by a District Attorney's Office, Bureau of Investigation Criminal Investigator. Full time FIU Fire Investigators will be assigned from the career fire agencies within the county based on training, experience, and agency willingness to participate. The FIU fire agency staffing consist of one Investigator from the Ceres Fire Department (CFD), one Investigator from the Stanislaus Consolidated Fire Protection District (SCFPD), and two Investigators from the Modesto Fire Department (MFD).

Responsibility for the day-to-day conduct of the FIU operations is vested in the District Attorney's Office or their designee. The FIU will be comprised of an FIU Manager, FIU Coordinator, FIU Administrative Investigator/Assistant Coordinator (40 hour), and three (3) FIU Duty (Shift) Investigators.

A. FIU Manager

1. In recognition that the field of fire investigation is primarily a law enforcement function, the FIU Manager will be a Lieutenant from the Stanislaus County District Attorney's Office, Bureau of Investigation.
2. The FIU Manager will be responsible for the management of the FIU as well as the supervision of the FIU members. The FIU Manager will provide the direction of the FIU via the FIU Coordinator. The FIU Manager will establish a projected yearly budget for the FIU and provide an accounting of money expenditures to the Stanislaus County Fire Warden's Office which serves as the fiscal agent for the FIU.
3. The FIU Manager will serve as the liaison between the FIU and the member's parent agencies as well as the county Fire Chiefs via the Stanislaus County Fire Authority and the county Police Chiefs via the Stanislaus Law Enforcement Executives. The FIU Manager position was added as a collateral duty to an existing SCDA Bureau of Investigation Lieutenant up to 50% of his time. The FIU Manager reports to the Chief Investigator for the Stanislaus County District Attorney's Office, Bureau of Investigation.

B. FIU Coordinator

1. The FIU Coordinator position will be at the rank of District Attorney's Office, Bureau of Investigation, Criminal Investigator II, and will be responsible for the day-to-day operation and coordination of the FIU. The FIU Coordinator will also conduct the review of all reports generated by FIU members will report directly to the FIU Manager. The FIU Coordinator will serve as the primary law enforcement Investigator in the FIU and as such will be responsible for the criminal investigation of fires determined to be criminal acts and for the triage and assignment of follow up investigation as needed to other FIU members. The FIU Coordinator will liaison with the other law enforcement investigative units in the county and will coordinate the investigations that cross jurisdictional lines. The FIU Coordinator is funded internally through the District Attorney's Office budget.

C. FIU Administrative Investigator/Assistant Coordinator

1. The FIU Administrative (Admin) Investigator/Assistant Coordinator position will be at the rank of Fire Investigator. The FIU Admin Investigator will work a forty (40) hour week and as the Assistant Coordinator will serve as the FIU Coordinator in the Coordinator's absence. The Admin Investigator will also conduct technical and administrative reviews of the FIU reports. The Admin Investigator will assist the FIU Coordinator in conducting follow up investigation, scheduling training, acquiring equipment, and maintaining the FIU statistics. The Admin Investigator will assist the FIU Manager and FIU Coordinator in making decisions related to fire investigation from a fire agency perspective.
2. The FIU Administrative Investigator will be selected by the FIU Manager and FIU Coordinator based on qualifications and the needs of the FIU. The Admin Investigator can be rotated among the FIU members at the discretion of the FIU Manager however; the position will normally be staffed for a minimum of 3 years at a time.

D. FIU Duty (Shift) Investigators

1. The FIU Duty (Shift) Investigator's position will be at the rank of Fire Investigator. The Duty Investigators will be assigned to A, B, or C shift and will work a 48 hour on, 96 hour off schedule. The Duty Investigator is responsible for the 24 hour monitoring of active fire responses within the Regional FIU area of operation. The FIU Duty Investigators will respond to, conduct and properly document the origin and cause investigation for fire incidents consistent with the Standard Operating Procedures (SOP's) for the FIU.

2. The FIU Duty Investigators will report directly to the FIU Coordinator and in his absence to the Admin Investigator. This will ensure the investigations are conducted in an appropriate manner consistent with NFPA 921.

E. Seniority in the FIU

1. It is understood that personnel assigned to the FIU will have seniority within their own agency. That seniority and the benefits associated with it within their parent agency as dictated by their own collective bargaining MOU and agency policies will not be affected by assignment to the FIU. That agency seniority however, will not carry over to the FIU. The seniority of members assigned to multi-agency units is normally determined by the date one begins service in the unit. In this case where the entire unit is being established at one time, this methodology will not initially apply.
2. In recognition of this, for purposes of shift assignment, time off, vehicle/equipment assignment, training opportunities, or any other purpose traditionally handled by seniority, the members of the FIU will either come to mutual agreement or the decision will be made by the FIU Coordinator and FIU Manager.

F. Selection

1. The FIU will be staffed by qualified personnel initially referred by the participating agencies. Due to the critical nature of the program and the stringent training requirements for Fire Investigators as established by NFPA 1033, *Standard for Professional Qualifications for Fire Investigators*, the final decision on which personnel will be assigned to the FIU will be with the District Attorney's Office. This will be based on training and qualifications, past job performance, investigative aptitude, willingness to learn, and ability to work well with others in a task force type assignment. Assignment to the FIU should normally be for a minimum of 3-5 years and may be extended upon mutual agreement.

G. Certification

1. It is recognized that the science used in fire investigation has changed tremendously in the past decade and will continue to evolve as the science improves. It is the intention of the Regional FIU to have highly trained and independently certified Investigators conducting fire investigations for the purpose of finding the truth, not simply to seek arrests and prosecutions. To that end, the FIU Investigators will be encouraged to seek independent and tested certification through one of the professional fire investigation organizations to include but not be limited to; The International Association of

Arson Investigators (IAAI), the National Association of Fire Investigators (NAFI), or the California Conference of Arson Investigators (CCAI).

H. Discipline

1. Personnel assigned to the FIU but not meeting an acceptable level of performance or standards, or refusing to comply with the FIU standard operating procedures, may be removed from the FIU and transferred back to their parent agency. If the FIU Manager has cause to remove an FIU member, he will discuss the issue with the parent agency. If the parent agency disagrees with the determination, the matter will be referred to the District Attorney who will confer with the parent agency executive but will retain the final authority. It is agreed that the resolution of operational issues at the lowest level is in the best interest of the FIU.
2. In all cases where a violation of a policy or procedure is alleged and formal discipline is being considered, the internal investigation and imposition of discipline (if any) will be handled by the FIU member's parent agency. If the allegation involves a matter that is best investigated by a law enforcement agency or is determined to be law enforcement related, (i.e.; excessive use of force, improper search and seizure, or similar), then the parent agency can request that the District Attorney's Office conduct the investigation via the FIU Manager and Coordinator.
3. Any internal investigation would be conducted in accordance with the Firefighter Bill of Rights as specified in 3250-3262 of the California Government Code, and/or the Peace Officer Bill of Rights as specified in 3300-3312 of the California Government Code. Upon completion of the internal investigation a recommendation would be forwarded to the parent agency which has sole discretion on whether a violation is sustained and whether to impose discipline. In any case, the District Attorney's Office retains the right to transfer a member back to their parent agency as previously specified.

V. **FISCAL PROCEDURES**

A. Background of Fiscal Model

1. The FIU is a multi-jurisdictional team formed to improve fire investigations in our County, leveraging financial support/contributions from all participating agencies.
2. Member agencies will provide staff and funding to support the model, remain responsible for their own home-agency funding requirements, and report

financial/statistical data as needed for FIU accounting & budget performance analysis.

3. For Fiscal Year 2016-2017, Stanislaus County will allocate \$350,000 of the Less-Than-Countywide Fire Tax, as approved by the BOS to fire investigations, with an additional one-time expenditure of \$38,670 allocated for specific training and equipment.
4. The Member Agencies accounting and budget operations must provide for documentation of resources dedicated to the FIU for compliance with funding requirements of the Less-Than-Countywide Fire Tax (LTCW) funds, and upon request, be available for audit purposes.

B. Accounting & Budget Roles

1. Program Administration & Operations Management – District Attorney Investigations Bureau will be the Lead Agency for FIU oversight and operations; this is the primary business contact for the FIU. Key functions include: review and verify member agency resource contributions to the FIU on a quarterly basis; approve billings for payment by the Stanislaus Fire Warden, certifying resources provided to the FIU meet the requirements specific to the LTCW Fire Tax funding; compile and produce data/statistics related to FIU performance, including monthly/quarterly/annual fire incidents as outlined in the MOU and consistent with the Fiscal Year 2016-2017 Business Plan.
2. Fiscal Agent – The Stanislaus Fire Warden will be the primary County Budget Entity. Key functions include: receive quarterly billing statements and reports approved and certified by the DA’s office for reimbursement to participating member agencies ; if the conditions set forth in this Agreement are met, issue payments to member agencies within 30 days of receipt of the approved/audited invoice from the DA’s office and consistent with MOU requirements; if the conditions are not met, payment will be made when the necessary processing is completed; compile annual reconciliation of total FIU costs, total fire incidents from the prior fiscal year, and documentation of compliance with requirements of the Less-Than-Countywide Fire Tax funding. The Fiscal Agent will not pay for unauthorized costs or services rendered by member agencies.
3. Fire Investigations Unit Member Agencies – Ceres Fire Department, City of Modesto Fire Department, Stanislaus Consolidated Fire Protection District, Stanislaus County District Attorney, and Stanislaus County Fire Warden will participate in the FIU per the MOU. Each member agency will prepare quarterly billing statements/memo billing of resources contributed to the FIU and deliver documents to the District Attorney’s office no later than the 5th of the month following the end of the quarter (October 5, January 5, April 5, July

5) for submission to the Stanislaus Fire Warden by the 10th of each month following the end of the quarter as outlined above. Each member agency will provide certification of costs with back-up documentation for billing statements or in the case of memo billing, a certification statement to maintain records available for audit for five years from the end of each accounting period. Member agencies agree to share data/statistics budget information and actual costs as needed for FIU billing, reporting, audit and in support of government accounting standards, including requirements of the Less-Than-Countywide Fire Tax funding.

C. Accounting & Budget Model Requirements

1. Approximately half of the fire investigations that occur each year are in the City of Modesto, with the remaining half in the LTCW Fire jurisdiction. For simplicity, the Accounting & Budget Model will require reporting of all documented investigations to determine origin and cause, direct costs to the FIU Fiscal Agent for comparison and evaluation at year-end, to ensure that the total cost of all resources which could be attributed to the LTCW service area are equal to or greater than the percentage of incidents which occur in the LTCW jurisdiction on an annual basis.
2. While staff in the FIU will be assigned across the County, the combination of incidents and the full reporting of all entities costs associated with FIU, but not reimbursed by LTCW funds, will likely “over-match” the LTCW funding at year-end.
3. By authority of the Stanislaus County Board of Supervisors (BOS) and in accordance with the Fiscal Year 2016-2017 Business Plan, LTCW Funds of \$350,000 and a one-time allocation of \$38,670 has been appropriated to provide Fire Investigations Services to the LTCW jurisdictions. The funding shall be used in accordance with the 2016-2017 Business Plan and dedicated as follows:
 - Stanislaus Consolidated Fire Protections District– up to \$165,000 for one Fire Investigator position and related tools/materials/supplies.
 - Ceres Fire Department – up to \$165,000 for one Fire Investigator position and related tools/materials/supplies.
 - Stanislaus County DA - up to \$20,000 for operational overhead/equipment/materials/supplies to operate the FIU.
 - An additional one-time allocation of \$38,670 for specific training and equipment of the FIU members to be managed by the Stanislaus County District Attorney. These funds must be equally matched by other resources outside of LTCW Fire jurisdiction in accordance with the approved Fire Authority Business Plan.

4. LTCW funded member agencies accounting requirements include:
 - Quarterly invoice, with documentation/supporting records for actual personnel costs, along with direct charges for tools/materials/supplies. An indirect cost rate/administrative overhead, not to exceed 10% of direct salaries and benefits may also be applied.
 - Reimbursement will be made quarterly, for actual costs, and in the case of the fire entities, not to exceed, a cumulative quarterly total of \$41,250.
 - It is anticipated that the DA will have significant “in-kind” memo billings associated with dedicated investigations staff, management and administrative costs.
 - All member agencies will bear the costs of overtime as “in-kind” support to the FIU.
5. In addition to the resources dedicated to LTCW services/funds, the City of Modesto Fire Department will provide approximately \$350,000 of resources to the FIU for Fiscal Year 2016-2017, primarily associated with two Fire Investigator positions, related tools/materials/supplies and specific training and equipment for the FIU. The value of the resources contributed to the FIU will be compiled in a quarterly memo billing along with documentation of the costs provided in support of fire incidents in the County.
6. The DA will provide reporting of FIU performance to all member agencies, including incidents on a monthly/quarterly/annual basis as described in this MOU, and consistent with the County Fire Authority Business Plan.
7. All member agencies understand and agree that the County shall not be obligated to make any payment hereunder except out of revenue from the LTCW Fire Tax. The County will not provide any additional compensation, nor will the member agencies be asked to provide any additional funding beyond the agreed upon staff/direct support specified in this MOU.
8. Member agencies shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this agreement for a minimum of five (5) years from the termination or completion of this agreement.
9. The Stanislaus Fire Warden as FIU Fiscal Agent, will store and maintain all fiscal records in accordance with Stanislaus County Records Retention policies and the Governmental Accounting Standards Board (GASB). The fiscal records may be accessed by any authorized representative of the Member Agencies, with reasonable advance notice, for the purpose of audit, evaluation or examination.

10. In the event of an audit exception or exceptions, the member agency responsible for not meeting the program or funding requirement or requirements shall be responsible for the deficiency.

D. Year-End Analysis & FIU Performance Outcome

1. The Fiscal Agent will provide an annual reconciliation of total costs per fiscal year, and member agency's resource contributions along with all incidents in the County.
2. It is anticipated that the incidents, from the prior fiscal year, in the LTCW jurisdiction will be equal to or less than the ratio of LTCW funds used in support of the total FIU.
3. It is anticipated that consistency of high quality fire investigations and this shared model of leveraging member agency financial contributions will be cost-effective and assist in future analysis of sustainable operations.

VI. LIABILITY

- A. Each member agency shall be solely liable for the negligent or wrongful acts or omissions of its officers, representatives and employees occurring in the performance of this Memorandum. If any member agency becomes liable for damages caused by a member's solely negligent or wrongful acts or omission, the negligent member agency shall pay such damages without contribution by the Regional FIU or by a party to this agreement.
- B. In the event the Regional FIU is named as a defendant in an action and the member agency whose officers or employees are alleged to have committed the negligent or wrongful act is not so named, or if the identity of the officers or employees who are alleged to be at fault cannot be determined by the pleadings, the County of Stanislaus shall initiate the defense of the action of the Regional FIU. In every case, a member agency not named as a defendant in an action shall promptly take action to intervene in a pending action when it is or becomes apparent that one of its officers or employees is alleged to be at fault; provided, however, that failure of a member agency to become a defendant shall not relieve the member agency of its obligation to indemnify another member agency as provided herein.
- C. Personnel assigned to the Regional FIU shall be deemed to be continuing under the employment of their respective jurisdictions and shall have the same powers, duties, privileges, responsibilities, and immunities as are conferred upon them as a peace officer and/or fire investigator in their own jurisdictions.
- D. Each member agency shall be responsible for the acts of their respective members, as well as for any losses, damages, claims, demands, vehicle accidents,

or other liabilities arising out of that member's services and activities while participating in the Regional FIU. When a member drives a vehicle owned by another agency, the driver's agency assumes all liability associated with the operation of such vehicle, except for the vehicle's mechanical condition. Each member agency shall also be liable for any and all workers compensation benefits for their personnel injured in the course and scope of duty while assigned to the Regional FIU.

VII. OFFICE SPACE AND EQUIPMENT

- A. The Modesto Fire Department has agreed to provide, without reimbursement, work space for the Regional FIU at Modesto Fire Station 8, located at 737 Airport Way in Modesto, CA. If this office space becomes unavailable or the needs of the Regional FIU change, other locations may be considered. The member agencies shall provide office furniture and supplies. Telephones and miscellaneous office equipment are currently in place and the Modesto Fire Department has authorized its use by the FIU without reimbursement.
- B. The FIU agrees to maintain the station 8 grounds and to pay for all electrical utility costs. The Modesto Fire Department agrees to continue to maintain the facility itself and pay for water and sewer utility costs.
- C. In the event funds or property are contributed to the Regional FIU by one or more of the parties or by an outside source or donation, the Regional FIU shall be strictly accountable for all such funds and property.
- D. Disposition of Assets on Termination
 - 1. At the termination of this Memorandum, any and all personal property which can be identified as having been contributed by a member agency shall be returned to that member agency. Property purchased from Regional FIU funds, contributed by the agency members, or funds granted by a non-party, and property given to the Regional FIU by a non-party, shall become the property of Stanislaus County or their designee. Supplies/assets purchased with LTCW funds, not fully utilized during the course of this agreement will remain the property of Stanislaus County and will be dedicated for use in Fire Investigations and/or other programs/services approved for LTCW funds as administered by the Stanislaus County Fire Warden.

VIII. VEHICLES

- A. FIU Members will provide a vehicle from their parent member agency for their use. This vehicle may be a take home vehicle as the investigators may be required

to respond to fires while off duty. This agreement does not supersede any member agency policy or procedure related to take home vehicles. The member agency providing the vehicle for FIU use will be responsible for fuel and maintenance of the vehicle.

- B. It is recognized that as a multi-agency unit, individual members may need to operate vehicles belonging to the other member's agencies. Regardless of specific policies prohibiting non employees from operating agency vehicles, it is agreed that Regional FIU members are authorized to operate other members' agency vehicles to carry out the assignment of the FIU. As described in "Liability", each member's agency accepts liability for their member while driving a motor vehicle regardless of owner, except in the case of mechanical defect.
- C. The Stanislaus County District Attorney's Office with the assistance of the Sheriff's Department has purchased a dedicated FIU response truck (County ID 94-90) for larger incidents. It is agreed that any member of the FIU can drive this vehicle to accomplish the mission of the FIU. It is agreed that all Stanislaus County District Attorney's Office policies and procedures related to vehicle use will be followed by any FIU members operating county vehicles.
- D. It is recognized that responses to most fire incidents occur in a Code 3 (Lights and Siren) manner. Regional FIU members shall abide by their departments' Code 3 policy and the California Vehicle Code when operating in this manner.
- E. Pursuits involving unmarked vehicles shall be strongly discouraged. However, when Regional FIU members become involved in a pursuit, they shall abide by their departments' pursuit policy established by their respective agency. If a member agency does not have a pursuit policy, they will default to the Stanislaus County District Attorney's Office policy governing pursuits.

IX. ARSON TASK FORCE

- A. The Stanislaus County Arson Task Force was established in 1981 in order to create a system of mutual aid for the suppression of arson fires and apprehension of arsonists. Pursuant to Stanislaus County Board of Supervisors Resolution 2000-360, the task force was reorganized in 2000 with a Joint Powers Agreement addressing the operation and goals of the task force.
- B. In 2006 after the loss of many of the arson task force members through attrition, the City of Modesto was awarded a contract to provide fire investigation services throughout the county under resolution 2006-751. This contract essentially nullified the need for the arson task force, however no action was ever taken to disband the task force or its authority and the task force went inactive.
- C. In 2011, the Stanislaus County District Attorney, who serves as the chairperson of the arson task force governing committee, reinstated the arson task force for

purposes of training and collaboration with the Fire Investigators in the county. A Stanislaus County District Attorney, Bureau of Investigation Lieutenant who is also a Certified Fire and Explosives Investigator was assigned as the coordinator of the arson task force to provide that training and collaboration. The task force members currently meet bi-monthly.

- D. It is the intention of the District Attorney to now disband the Stanislaus County Arson Task Force and merge the function of that task force into the Regional FIU.
- E. All fire and law enforcement agencies within Stanislaus County are encouraged to participate in the Regional FIU instead of the Arson Task Force. It is the intention of the regional FIU that the future full time, FIU Fire Investigators will come from the part time members who will be referred to as "On Call" Investigators. These Investigators can also, upon certification, be available for filling overtime shifts created when full time, FIU investigators take approved time off of work. The level of certification necessary to be eligible to fill overtime shifts, and whether an On Call Investigator meets that level of certification, will be determined by the FIU Manager.

X. STANDARD OPERATING PROCEDURES

The member agencies agree to develop standard operating procedures (SOP's) which will be disseminated to all members. The SOP's will include Reporting, Records Retention and Release requirements, which will be mutually agreed to by all member agencies. In any case where the SOP's of the Regional FIU conflict with the policies or procedures of a member's employing agency, the member shall abide by the directives of his or her own agency.

XI. REPORTING

The Regional FIU Coordinator will be responsible for implementing a reporting system for tracking FIU activity and resource utilization. This reporting system will serve as the basis for quarterly reports to the Fiscal Agent and Stanislaus County Fire Warden to ensure accountability of personnel and resources. The quarterly report will be filed with the quarterly invoices, and in accordance with the 2015-2016 Business Plan.

No later than the 15th of each month, the Regional FIU Coordinator will submit an electronic activity report to each Fire agency having jurisdiction as well as the Stanislaus County Fire Warden's office providing status updates on all open and fiscal year-to-date investigations in their jurisdiction. This report will be provided prior to the following month's County Fire Chiefs' meeting.

A. Report Review

1. In coordination with the San Joaquin County FIU, the Stanislaus Regional FIU has agreed to share resources as necessary for the effective investigation

of fires and review of reports as required in NFPA 921. To that end, the Coordinator for the San Joaquin County FIU, or his approved designee, may be tasked with conducting administrative, technical, and peer reviews of Stanislaus Regional FIU reports, and in turn the Stanislaus Regional FIU Manager, Coordinator and Admin Investigator may review San Joaquin FIU reports. Additionally, discussions are taking place that would include the other two counties in the CCAI Round Table 18 area (Calaveras and Tuolumne) to share this same valuable resource. The member agencies agree that a report review by an Investigator from another jurisdiction has the same effect as a review from the Regional FIU staff.

XII. AMENDMENTS TO THE AGREEMENT OR FIU SOP's

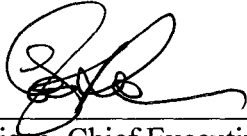
The member agencies agree that the Regional FIU will develop and implement standard operating procedures (SOP's). As issues develop, new policies and procedures may need to be developed to address them. The member agencies agree to remain in communication regarding these changes and meet as necessary to confer prior to implementation.

XIII. TERM OF AGREEMENT

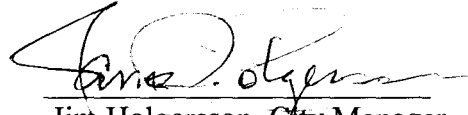
The term of this agreement is from July 1, 2016 through June 30, 2017. Participating agencies may elect to leave the Regional FIU agreement at any time. Any agency wishing to do so shall indicate such intent in writing to the Stanislaus County District Attorney's Office and the Stanislaus County Fire Warden. The termination shall be deemed to take effect not less than 180 days after receipt of the written notice or upon a date established by mutual agreement.

XIV. SIGNATURES

The undersigned represent authority to execute this agreement on behalf of their respective agencies; and in signing this formal agreement, represent concurrence with and support of the Stanislaus County Regional FIU as set forth in this agreement and for the period and purposes as stated herein.



Stan Risen, Chief Executive Officer
Stanislaus County



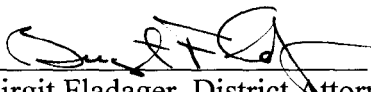
Jim Holgersson, City Manager
City of Modesto



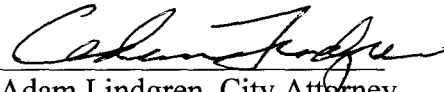
Adam Christianson, Sheriff
Stanislaus County



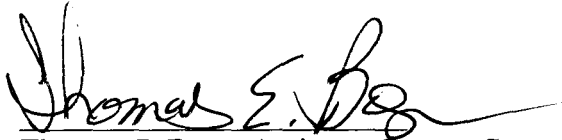
Sean Slamon, Fire Chief
City of Modesto



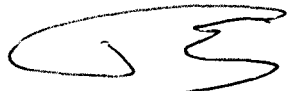
Birgit Fladager, District Attorney
Stanislaus County



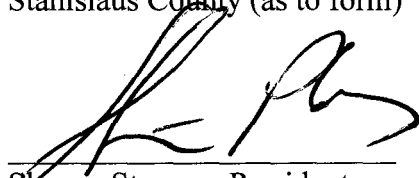
Adam Lindgren, City Attorney
City of Modesto (as to form)



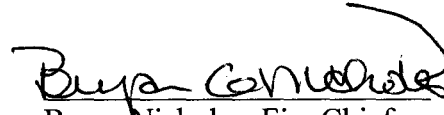
Thomas E. Boze, Assistant County Counsel
Stanislaus County (as to form)



Toby Wells, City Manager,
City of Ceres
Reso. 2016-054; 05/23/2016



Shayne Strasser, President
Stanislaus Consolidated Fire Prot. Dist.



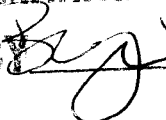
Bryan Nicholes, Fire Chief
City of Ceres

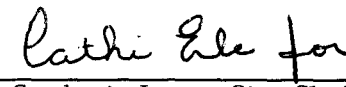


Christopher Diaz, Counsel
Stanislaus Consolidated Fire Prot. Dist.
(as to form)



Tom Hallinan, City Attorney
City of Ceres (as to form)

APPROVED AS TO FORM
MANAGEMENT FORM
BY  DATE 12/20/16

Attest: 
Stephanie Lopez, City Clerk
City of Modesto