

DISPATCH SERVICES AGREEMENT – SAN DIEGO / CHULA VISTA

THIS AGREEMENT is made by and between the City of San Diego, (“San Diego”), a municipal corporation; and the City of Chula Vista (“Agency”), a municipal corporation; (herein collectively known as “Parties” or individually as “Party”), for the provision of fire and emergency medical dispatch services.

RECITALS

WHEREAS, San Diego and Agency have organized and equipped fire departments charged with the duty of fire protection and rescue within the limits of said cities; and

WHEREAS, if required by law, Agency, by way of Resolution Number _____ dated _____, approved by Chula Vista City Council, resolved that Agency’s interests would be best served by entering into an agreement with San Diego to outsource Agency’s fire and emergency medical dispatch services to San Diego; and

WHEREAS, San Diego desires to provide Agency with fire and emergency medical dispatch services under the terms described in this Agreement and

WHEREAS, it would be to the benefit of each Party for San Diego to continue to provide fire and emergency medical dispatch services to Agency in order to increase the health and safety of all affected residents; and

WHEREAS, Agency desires and intends per the terms of this Agreement to pay San Diego for services;

NOW THEREFORE, in consideration of the above recitals and the mutual covenants and conditions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Agency and San Diego agree as follows:

A. TERM.

This Agreement shall become effective retroactively to July 1, 2018 and shall expire at midnight on June 30, 2023. The Parties shall review this Agreement every year to ensure applicability of all terms and policies. Any modification shall be set forth in writing and be signed by the Parties.

The Agreement term may be extended for five (5) additional years by written agreement of the Parties, and subject to the San Diego Mayor’s authorization of a contract extension and the authorization of Agency.

B. OBLIGATIONS OF THE PARTIES.

The descriptions herein outline specific aspects relevant to the performance of the emergency dispatch services by San Diego.

San Diego adheres to State recommendations for call answering times and bases dispatcher staffing upon meeting those performance standards.

To the extent that safety or technological changes warrant an amendment of the specific service or method employed to provide the Fire and Emergency Medical Dispatch Services contemplated herein, neither Party may unreasonably refuse to implement safety or technological changes.

1. The dispatch services that will be provided by San Diego include:

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- a) Processing all fire and medical related emergency calls via the 911 Secondary Public Safety Answering Point ("PSAP").
 - b) Triageing medical calls using a triage process which includes:
 - i. Automated triage with call downgrading features.
 - ii. Coordinated dispatch efforts with Agency's ambulance provider for ambulances within Agency's jurisdiction, via an automated Computer Aided Dispatch ("CAD") to CAD interface.
 - c) Dynamic Automatic Vehicle Location ("AVL") driven dispatch of closest available resource(s), across City lines, to given emergency, incident type(s), and location(s).
 - d) Paging Services between San Diego's CAD and a messaging services interface.
 - e) Fire Station Alerting via a CAD to a station alerting interface. San Diego will interface with Agency's existing, self-managed station alerting system given that it is supported by San Diego's existing interface system, currently USDD, and as an unsupported legacy option for WestNet.
 - f) Mobile Data Computer ("MDC") or other mobile platform services including mapping, live-routing, and loading of Agency's self-managed pre-plans.
 - g) Records Management System ("RMS") services for a CAD to a Fire RMS interface given that it is supported by San Diego's existing interface system, currently WATER, and a FireHouse interface as an unsupported legacy option. Agency will bear the costs for other new, unsupported interfaces if required.
 - h) Additionally, Agency may receive a periodic download of CAD data.
 - i) Agency acknowledges that this contract does not require San Diego to perform analysis of Agency's CAD or response data. However, San Diego may extend the use of secured Internet applications for viewing, analyzing and reporting Agency's CAD data ("web services"). These web services may include on-line dashboards and canned reports with pre-established data collection points, call for service statistics and/or other incident specific data.
 - j) Any additional or special services provided are described in **Addendum A**.
2. **Additional Services and Equipment.** Additional services and equipment utilized in the performance or support of dispatch services may be provided by San Diego, as agreed to by the parties, which may include but is not limited to: equipment (modems, mobile data computers, phones, etc.), enterprise device management services, software applications and licenses.

C. COMPENSATION AND PAYMENT SCHEDULE

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Agency agrees to pay San Diego for services rendered under this Agreement on a fiscal year basis, defined as July 1 through June 30. For budgeting and planning purposes, San Diego will provide Agency with an Annual Operating Plan (**Attachment 1**) for the upcoming fiscal year.

1. **For Dispatching Services.** San Diego shall be compensated for the performance of services and specified in Section B1 as a cost per call. Dispatch fees are subject to change each fiscal year based on the following:
 - a) The adopted budget for personnel costs which includes fringe and overhead, and;
 - b) Prior year actuals for non-personnel expenditures (NPE). Should the Agency's call volume exceed the prior year by 5% or more, an increase to the NPE will be equal to the percentage of the increased call volume (rounded up to the tenth percent).
 - c) Should the Agency's call volume from the prior year not increase, or the increase is less than 5%, an escalator of 5% will be applied to the NPE.
2. **For Additional Services & Equipment.** San Diego shall be reimbursed for the costs of any additional services and equipment specified in Section B.2, which have been procured on behalf of Agency and which may also include connectivity and start-up costs. Agency may elect additional options in accordance with the "Annual Operating Plan."
 - a) Costs will be calculated based on vendor fees per service or unit of equipment.
 - b) Services and equipment fees are subject to change annually based on vendor rates.
3. **Invoices & Due Date:** San Diego shall provide to Agency, on a quarterly basis, an invoice statement for services rendered under this Agreement and payment by Agency shall be remitted thirty (30) days thereafter. If Agency disputes any charges it shall nonetheless remit the full amount without waiving its right to a return of the disputed amount.
4. **Records:** The Parties shall maintain books, records, logs, documents, and other evidence sufficient to record all actions taken with respect to rendering services under this Agreement throughout the performance of services and for ten (10) years following completion of services under this Agreement. The parties further agree to allow for mutual inspection, copying and auditing of such books, records, documents and other evidence at all reasonable times.

D. DATA SHARING.

Data Sharing policies are outlined in **the Data Sharing Agreement (Attachment 2)**.

E. INDEMNIFICATION.

In the performance of dispatching services,

1. Agency agrees to defend, indemnify, protect, and hold San Diego and its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Agency employees, volunteers, agents, or officers which arise from, or are connected with, or are caused or claimed to be caused by the acts or omissions of Agency, its agents, officers, employees, or volunteers, and agrees to be responsible for all expenses of investigating and defending against same; provided however,

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that Agency's duty to indemnify and hold harmless shall not include any claims or liability alleged to be arising from the negligence or willful misconduct of San Diego, its agents, officers, or employees.

2. San Diego agrees to defend, indemnify, protect, and hold Agency and its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to San Diego employees, volunteers, agents, or officers which arise from, or are connected with, or are caused or claimed to be caused by the acts or omissions of San Diego, its agents, officers, employees, or volunteers, and agrees to be responsible for all expenses of investigating and defending against same; provided, however, that San Diego's duty to indemnify and hold harmless shall not include any claims or liability alleged to be arising from the negligence or willful misconduct of Agency, its agents, officers, or employees.

F. RIGHT TO TERMINATE FOR CONVENIENCE

Either Party may terminate the services agreed to pursuant to this Agreement by giving written notice of such termination to the other Party. Such notice shall be delivered by certified mail with return receipt for delivery to the noticing Party. The termination of the services shall be effective one hundred & eighty (180) days after the receipt of this notice by the noticed Party.

G. RIGHT TO TERMINATE FOR DEFAULT

If either Party fails to perform or adequately perform any obligation required by this Agreement, that Party's failure constitutes a Default. If the defaulting Party fails to satisfactorily cure a Default within ten (10) calendar days of receiving written notice from the other Party specifying the nature of the Default, or if the nature of the Default is (1) not for the payment of services, and (2) requires more than ten (10) calendar days to remedy, and the defaulting Party fails to diligently pursue such action necessary to remedy the Default, the other Party may immediately cancel and/or terminate this Agreement, and terminate each and every right of the defaulting Party, and any person claiming any rights by or through the defaulting Party under this Agreement. The rights and remedies of the non-defaulting Party enumerated in this paragraph are cumulative and shall not limit the non-defaulting Party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or enacted or established at a later date, that may be available to the Parties against the other Party.

H. CITY OF SAN DIEGO CONTRACT REQUIREMENTS

To the extent appropriate in light of the rights and duties specified in this contract, and as applicable to particular parties, the following requirements shall apply:

1. **Drug-Free Workplace.** Agency agrees to comply with San Diego's Drug Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference.
2. **ADA Certification.** Agency hereby certifies that it agrees to comply with San Diego's "Americans With Disabilities Act" Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference.

I. PRODUCT ENDORSEMENT

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Agency acknowledges and agrees to comply with the provisions of San Diego's Administrative Regulation 95-65, concerning product endorsement. Any advertisement identifying or referring to San Diego as the user of a product or service requires the prior written approval of San Diego.

J. CONFLICT OF INTEREST

Agency is subject to all federal, state and local conflict of interest laws, regulations and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, et. seq. and 81000, et. seq. San Diego may determine that a conflict of interest code requires Agency to complete one or more statements of economic interest disclosing relevant financial interests. Upon San Diego's request, Agency shall submit the necessary documents to San Diego.

1. Agency shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.
2. In connection with any task, Agency shall not recommend or specify any product, supplier, or contractor with whom Agency has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.
3. If Agency violates any conflict of interest laws or any of these provisions in this Section, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects Agency to liability to San Diego for attorney fees and all damages sustained as a result of the violation.

K. MANDATORY ASSISTANCE

If a third-party dispute or litigation, or both, arises out of, or relates in any way to the services provided under this Agreement, upon either Party's request, the other Party, and its agents, officers, and employees agree to assist in resolving the dispute or litigation. Each Party's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

1. **Compensation for Mandatory Assistance.** The Party seeking the assistance of the other Party will reimburse the assisting Party for any fees and expenses incurred for required Mandatory Assistance as Additional Services. The Party seeking the assistance shall, in its sole discretion, determine whether these fees, expenses, and services rendered under this Section, were necessary due to the assisting Party or its agents', officers', and employees' conduct or failure to act. If the Party seeking assistance determines that such fees, expenses, or services were necessary due to the other Party's or its agents', officers', and employees' conduct, in part or in whole, the Party seeking assistance is entitled to be reimbursed for any payments made for these fees, expenses, or services. Reimbursement may be through any legal means necessary, including either Party's withholding of payment to the other.
2. **Attorney Fees related to Mandatory Assistance.** In providing each other with dispute or litigation assistance, a Party, or its agents, officers, and employees may incur expenses and/or

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costs. The other Party agrees that any attorney fees it may incur as a result of assistance provided under this Section (with the exception for attorney fees as provided in Section K, below) are not reimbursable.

L. JURISDICTION, VENUE & ATTORNEY'S FEES

The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney's fees in addition to any other award made in such suit or proceeding.

M. ENTIRE AGREEMENT; AMENDMENTS

This Agreement contains the entire understanding between the Parties with respect to the subject matter herein. There are no representations, agreement or understandings (whether oral or written) between or among the Parties relating to the subject matter of this Agreement that are not fully expressed herein. This Agreement may only be amended in writing signed by both Parties.

N. SEVERABILITY

If any one or more of the covenants or agreements or portions thereof provided in this Agreement shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such covenant or covenants, such agreement or agreements, or such portions thereof shall be null and void and shall be deemed separable from the remaining covenants or agreements or portions thereof and shall in no way affect the validity or enforceability of the remaining portions of this Agreement, and the Parties shall negotiate in good faith to replace any such covenant, agreement or portion found to be null and void.

O. NOTICES.

Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; (c) by facsimile transmission, upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the following addresses:

To San Diego at:

San Diego Fire-Rescue Department / ECDC
Attn: ECDC Deputy Chief
3750 Kearny Villa Road
San Diego, CA 92123

To Chula Vista at:

Chula Vista Fire Department
Attn: Deputy Chief, Director of Administration
276 Fourth Ave Bldg C
Chula Vista, CA 91910

With a copy to:

San Diego Fire-Rescue Department
Attn: Fire Chief
600 B Street, 13th Floor
San Diego, CA 92101

With a copy to:

Chula Vista Fire Department
Attn: Fire Chief
276 Fourth Ave Bldg C
Chula Vista, CA 91910

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to San Diego City Charter section 265 and San Diego Municipal Code section 22.3222, and by the City of Chula Vista.

CITY OF CHULA VISTA, A Municipal Corporation

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I HEREBY CERTIFY that I can legally bind the City of Chula Vista, and that I have read all of this Agreement and have executed it on behalf of the City of Chula Vista, a municipal corporation.

By: _____
Jim Geering, Fire Chief

Date signed: _____

I HEREBY APPROVE the form of the foregoing Agreement, this _____ day of _____, 2019.

By: _____
Name, City Attorney

CITY OF SAN DIEGO, A Municipal Corporation

By: _____
Colin Stowell, Fire Chief

Date signed: _____

I HEREBY APPROVE the form of the foregoing Agreement, this _____ day of _____, 2019.

MARA W. ELIOTT, San Diego City Attorney

By: _____
Noah J. Brazier, Deputy City Attorney

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ADDENDUM A

No special services are applicable at this time.

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