

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA  
AND THE CITY OF MILPITAS  
FOR EMERGENCY MEDICAL DISPATCH SERVICES**

**BACKGROUND**

The City of Milpitas (“CITY”) wishes to contract with a provider of emergency medical dispatch (“EMD”) services for the provision of EMD services on its behalf. This Agreement between the County of Santa Clara (“COUNTY”) and the CITY for EMD services (“Agreement”) outlines the terms and conditions by which the COUNTY shall provide effective, timely and efficient emergency medical dispatch services to the CITY.

**THE AGREEMENT**

**Article 1. Nature of Services**

**1.1 Scope of Services**

The service obligations of the parties are described in Exhibit A “Emergency Medical Dispatch Process & Procedural Requirements,” which is attached and incorporated into this Agreement.

**Article 2. Compensation**

**2.1 Amount of Payment**

The CITY shall compensate the COUNTY for the services provided under this Agreement in accordance with the cost methodology set forth in Exhibit B “Compensation for Services,” which is attached and incorporated into this Agreement. The costs set forth in Exhibit B are inclusive of all costs incurred in providing the services, and the COUNTY shall not charge the CITY general overhead costs in accordance with Government Code Section 51350.

**2.2 Payment Terms**

The CITY shall pay the COUNTY within thirty (30) days of receipt of quarterly billing for services.

**Article 3. Term and Termination**

**3.1 Term of Agreement**

(a) This Agreement is effective for five (5) years beginning at 12:00 a.m., July 1, 2020 and ending at 11:59 p.m. on June 30, 2025 unless terminated earlier in accordance

with Section 3.2 or extended pursuant to the provisions herein.

- (b) This Agreement may be extended for up to three (3) additional one (1) year terms. The parties will execute any amendments necessary to implement such extensions.
- (c) Exhibits A and B are living documents and may be updated as required during the life of this Agreement, subject to approval by the parties. The parties will execute any amendments necessary to implement such updates.

### **3.2 Termination**

#### **(a) Termination for Cause**

Either party may terminate this Agreement for cause upon ninety (90) days written notice to the other in accordance with Section 6.1. For purposes of this Agreement, cause includes, but is not limited to, a material breach of this Agreement or a violation of any applicable laws. Such notice will specify the reason for termination and will indicate the effective date of the termination.

#### **(b) Opportunity to Cure**

- (1) The non-breaching party will give written notice of a material breach to the breaching party, specifying the breach.
- (2) The breaching party will not be deemed in default of this Agreement and the nonbreaching party will not institute proceedings or exercise any remedies against the breaching party unless the breach has not been cured, corrected or remedied within:
  - (A) 15 days after notice of the breach is provided; or
  - (B) upon mutual agreement of the parties, within a longer period as may be reasonably required to cure, correct or remedy the breach, provided the breaching party has commenced to cure, correct or remedy the breach within fifteen (15) days after notice is provided and diligently and continuously pursues such cure, correction or remedy.

#### **(c) Termination for Convenience**

Either party may terminate this Agreement without cause by giving the other party ninety (90) days written notice.

#### **(d) Compensation in the Event of Termination**

In the event of termination, the COUNTY shall be entitled to compensation for services performed prior to the effective date of the termination as provided herein.

#### **Article 4. Mutual Indemnification**

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the County and the City agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify, defend with counsel acceptable to the non-indemnifying party, whose approval shall not be unreasonably withheld, and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring wholly by reason of the negligent acts or omissions or willful misconduct of the other party hereto, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other party under this Agreement.

#### **Article 5. Dispute Resolution**

In the event of any dispute between the parties arising from or relating to this Agreement, the parties will attempt to resolve the dispute initially by informal means. Upon the request of either party, the contract administrators of each party will meet to discuss the dispute, will exchange any information that they mutually agree is relevant to the issues in dispute, and will use all reasonable efforts to resolve the dispute without the need for further proceedings.

#### **Article 6. Miscellaneous**

##### **6.1 Notice**

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing:

To the CITY:

Attn: John Clum, Police Support Services Manager  
City of Milpitas  
Milpitas Police Department  
1275 N. Milpitas Blvd.  
Milpitas, CA 95035

To the COUNTY:

Attn: Communications Director  
County of Santa Clara  
Communications Department  
2700 Carol Drive  
San Jose, CA 95125

## **6.2 Compliance and Nondiscrimination**

The parties will comply with all applicable Federal, State, and local laws and regulations. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended, the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973 (Sections 503 and 504), the California Fair Employment and Housing Act (Government Code sections 12900 et seq.), and California Labor Code sections 1101 and 1102. The parties will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor will the parties discriminate in the provision of services provided under this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

## **6.3 Relationship of Parties; Independent Contractor**

COUNTY will perform all work and services described in this Agreement as an independent contractor and not as an officer, agent, servant or employee of CITY. None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Agreement. The parties are not and will not be construed to be in a relationship of joint venture, partnership or employer-employee. Neither party has the authority to make any statements, representations or commitments of any kind on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided in this Agreement.

## **6.4 Governing Law**

This Agreement has been executed and delivered in, and will be construed and enforced in accordance with, the laws of the State of California.

## **6.5 Assignment**

The parties may not assign this Agreement or the rights and obligations hereunder without the specific written consent of the other.

#### **6.6 Entire Agreement**

This document represents the entire Agreement between the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of this Agreement are merged into this Agreement.

#### **6.7 Amendments**

This Agreement may only be amended by an instrument signed by the parties.

#### **6.8 Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

#### **6.9 Severability**

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

#### **6.10 Waiver**

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing and shall apply to the specific instance expressly stated.

#### **6.11 Survival**

All provisions of this Agreement allocating liability between the CITY and the COUNTY, payment obligations, and the duty to defend, indemnify and hold harmless shall survive the termination of this Agreement.

#### **6.12 Integration and Order of Precedence**

This Agreement, including all Exhibits, represents the entire and integrated contract between the CITY and the COUNTY and supersedes all prior negotiations, representations, or agreements, either written or oral. In the event of a conflict between

the provisions of the main body of the Agreement and its Exhibits, the provisions of the main body shall control. In the event of a conflict between Exhibits A and B, the provisions of Exhibit A shall control.

**6.13 Time of the Essence**

The parties acknowledge that time is of the essence of this Agreement. Either party's failure to complete any of the obligations outlined herein during the term of the Agreement shall be deemed a breach of the Agreement.

**6.14 Contract Execution**

Unless otherwise prohibited by law or COUNTY policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the COUNTY.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the COUNTY and CITY have caused this Agreement to be executed by their duly authorized representatives as of the day and year written above.

**Signed:**

COUNTY OF SANTA CLARA

CITY OF MILPITAS

by \_\_\_\_\_  
Procurement Department

by \_\_\_\_\_  
Steven McHarris, Interim City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to Form and Legality:

Approved as to Form:

\_\_\_\_\_  
Nancy Clark, Deputy County Counsel

\_\_\_\_\_  
Christopher J. Diaz, City Attorney

Approved:

\_\_\_\_\_  
Walter C. Rossmann,  
Risk Manager/Director of Finance

Approved as to Content:

\_\_\_\_\_  
Armando Corpuz, Chief of Police

Exhibits to this Agreement:

- Exhibit A – Emergency Medical Dispatch Process & Procedural Requirements
- Exhibit B – Compensation for Services

## EXHIBIT A

### EMERGENCY MEDICAL DISPATCH PROCESS & PROCEDURAL REQUIREMENTS

To ensure the safe and efficient transfer of callers requiring Emergency Medical Dispatch (EMD) services from Milpitas Communications to County Communications, Milpitas Communications and County Communications agree to process 9-1-1 and ten-digit calls using the following process and procedural requirements:

1. Milpitas Communications will use a “3-way” telephone call transfer process to route callers to County Communications for EMD services. This process will:
  - Use a “one-button” method to minimize transfer time;
  - Result in Milpitas Communications Dispatchers:
    - Using a scripted transfer statement prior to caller transfer; and
    - Remaining on the line silently until the provision of an MPDS “Determinant” or until call demand requires them to leave the call.
2. County Communications will provide Milpitas Communications with continuous (24 hours per day, 7 days per week) EMD services using International Academy of Emergency Dispatch (IAED) certified Emergency Medical Dispatchers. All dispatchers providing EMD services will use the most current version of the Medical Priority Dispatch System as determined by the IAED.
3. County Communications will use IAED certified Emergency Medical Dispatch Quality (EMD-Q) reviewers to score and calculate protocol compliance reports. The number and method of cases for review will be in accordance with IAED Accreditation requirements.
4. County Communications agrees to participate in periodic “special case” reviews, in the event they are requested by Milpitas Communications.
5. County Communications and Milpitas Communications agree that the determination “EMD Is Unavailable” will occur following a “three-ring” wait time for EMD caller transfers to County Communications for 9-1-1 or designated ten-digit number transfers.
6. County Communications and Milpitas Communications agree to work together to develop or revise policies and procedures for the receipt and management of callers requiring EMD services following written request by either agency.
7. County Communications will include Milpitas Communications and Milpitas Fire Department personnel in quality improvement feedback processes and the Medical Dispatch Review Committee used to maintain and improve EMD compliance to protocol.

County Communications will also provide quarterly protocol compliance reports reporting:

- Percentage of cases that are High Compliance



- Percentage of cases that are Compliant
  - Percentage of cases that are Partial Compliance
  - Percentage of case that are Low Compliance
  - Percentage of cases that are Non-Compliant
8. County Communication will maintain IAED ACE (Accredited Center of Excellence) compliance levels, which are currently:
- Partial Compliance – 10% or less of cases
  - Low Compliance – 10% or less of cases
  - Non-Compliant – 7% or less of cases
9. County Communications will provide eight Field Responder Guides (FRG), or access codes for an electronic app FRG to Milpitas Fire Department.

**EXHIBIT B**

**COMPENSATION FOR SERVICES**

Emergency Medical Dispatching (EMD) Cost and Billing Methodology

Total Santa Clara County Communications Department costs for providing dispatching services are allocated to four service areas (law enforcement, medical, fire and local government), based on the most recent three-year average number of events. Costs include direct expense and indirect dispatch operations expense. Of the amount allocated to medical dispatching, 5% is attributable to the COUNTY’s EMD program cost and is apportioned between all agencies receiving EMD services from the COUNTY, based on proportionate average event activity for the past three years.

EMD costs will be estimated based on the most current budget cost information available for the applicable fiscal year and will be established each year of the Agreement by March 31 to be effective the following fiscal year beginning July 1. In the first quarter of the fiscal year after the service year, actual event activity data will be used to calculate actual cost and make an adjustment to the previous year’s billing. The increase or decrease adjustment will not exceed 5% above or below the previously billed amount. The COUNTY shall notify the CITY of any adjustment prior to billing the CITY’s final fourth quarterly installment.

EMD Program Cost for Fiscal Year 2021 (and Example Methodology for Outlying Years):

\$437,867	FY 2020/21 Total EMD Cost (5% of Total Estimated Medical Dispatching Cost)
x 12.94 %	City of Milpitas Share of EMD Activity 3,098 Milpitas EMD events = 12.94% of 23,948 total EMD events handled by COUNTY (events averaged for FY 2017 – FY 2019)
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\$56,660	City of Milpitas EMD Cost for FY 20120/21 (subject to +/- 5% adjustment after July 1, 2021)

1. The CITY has the right to inspect COUNTY documentation upon request.
2. Billing questions may be directed by email to Accounts Payable at [Accounts.Payable@911.sccgov.org](mailto:Accounts.Payable@911.sccgov.org)