

A G R E E M E N T

THIS AGREEMENT is made and entered into this 22nd day of June, 2021, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, ("COUNTY"), and the CITY OF FRESNO, a California Municipal Corporation, whose address is 2600 Fresno Street, Fresno, California 93721, ("CITY").

RECITALS:

WHEREAS, CITY receives calls requesting both fire suppression services and emergency medical services ("EMS"); and

WHEREAS, CITY transfers those calls for fire suppression services and EMS to COUNTY's EMS Communications Center for dispatching the appropriate emergency ambulances and equipment; and

WHEREAS, CITY's FIRE Department ("FIRE") continues to desire to receive dispatching services for fire suppression calls, which may include dispatching of non-transport first responder services, (collectively, "FIRE Dispatching Services") from COUNTY's EMS Communications Center; and

WHEREAS, COUNTY has provided dispatching services for CITY through Agreements and successor Agreements since February 1, 2006; and

WHEREAS, it is to the mutual benefit and in the best interest of the parties hereto to have a combined EMS and FIRE Dispatching Services for the purpose of providing improved services to the public; and

WHEREAS, it is a goal of COUNTY and CITY to maintain a consolidated dispatching services in Fresno County; and

WHEREAS, it has been determined by CITY and COUNTY there is a need to provide EMS dispatching services and FIRE Dispatching Services through a centralized and combined effort by COUNTY's EMS Communications Center and FIRE; and

WHEREAS, COUNTY's EMS Communications Center is staffed and operated by K.W.P.H. Enterprises, doing business as American Ambulance, a California corporation ("PROVIDER") through that certain Emergency Medical Services Provider Agreement for Emergency Ambulance Services,

1 dated May 16, 2017 (COUNTY Agreement No. 17-218), by and between COUNTY and PROVIDER,
2 including all amendments thereto (the "EMS PROVIDER Agreement").

3 NOW, THEREFORE, in consideration of their mutual covenants and conditions, the parties
4 hereto agree as follows:

5 **1. SERVICES**

6 A. COUNTY shall be responsible for and provide each of the following:

7 (1) COUNTY shall obtain and maintain dispatching equipment, hardware,
8 software (including software licenses), and other technologies, which will be utilized for the triage and
9 entry of information for FIRE Dispatching Services in COUNTY's EMS Communications Center
10 computer aided dispatch ("CAD") system, in connection with COUNTY's performance of its FIRE
11 Dispatching Services under this Agreement; and

12 (2) COUNTY shall be responsible for selection, configuration, installation, and
13 maintenance of equipment, hardware, software and other technologies associated with this Agreement.
14 Such equipment, hardware, software (including software licenses), and other technologies purchased
15 and/or obtained by County through this Agreement shall be the sole property of COUNTY. In the event
16 CITY purchases and/or obtains software (including software licenses) for sole use by CITY, then CITY
17 shall be responsible for on-going maintenance, and replacement costs; and

18 (3) COUNTY shall provide FIRE Dispatching Services requiring responses by
19 FIRE apparatuses as follows:

20 (a) COUNTY's EMS Communication Center shall provide all FIRE
21 Dispatching Services in accordance with FIRE's Policies and Procedures affecting FIRE Dispatching
22 Services under this Agreement ("FIRE's Policies and Procedures") (to the extent that they relate only to
23 dispatch), which shall be subject to review by COUNTY's EMS Director, or designee (the "COUNTY's
24 Representative"), as provided in Section 1.C.(2) herein.

25 (b) COUNTY's EMS Communication Center shall dispatch FIRE's
26 apparatuses through CITY's radios and electronic communications systems, and in accordance with
27 FIRE's Policies and Procedures (to the extent that they relate only to dispatch), which shall be subject
28 to review by COUNTY's Representative, as provided in Section 1.C.(2) herein.

1 (c) In accordance with FIRE's Policies and Procedures, COUNTY's
2 EMS Communications Center shall provide pre-arrival instructions to callers requesting FIRE's
3 services.

4 (d) COUNTY's EMS Communications Center shall provide inter-
5 agency coordination regarding requests for FIRE services, mutual aid, and instant-aid services, and
6 order specialized fire equipment from CITY or other agencies (e.g., hazardous materials equipment, or
7 "jaws of life"), which may be needed to handle an incident, and perform other related duties, all in
8 accordance with FIRE's Policies and Procedures (to the extent that they relate only to dispatch), which
9 shall be subject to review by COUNTY's Representative, as provided in Section 1.C.(2) herein.

10 (e) COUNTY's EMS Communications Center shall track all activity of
11 FIRE's apparatuses utilizing the COUNTY's EMS Communications Center CAD system.

12 (f) COUNTY's EMS Communications Center shall develop and
13 maintain processes which assist in dispatching other fire agencies to areas included in CITY automatic
14 aid agreements to include those agencies outside the COUNTY's EMS Communications Center.

15 (g) COUNTY's EMS Communications Center shall maintain processes
16 and capabilities with other dispatch centers which assist in fire dispatching, including Automatic Vehicle
17 Location (AVL), unit status, and some form of CAD to CAD process where call information is
18 automatically shared between agencies regardless of dispatch center location.

19 (h) COUNTY shall provide notification to chief officers and duty
20 officers as needed for applicable emergency incidents using phone, email or text messaging according
21 to dispatch policy.

22 (j) COUNTY shall record all telephone and radio transmissions and
23 provide instant playback as needed. Upon request, County shall provide audio recordings to FIRE.

24 (k) COUNTY shall provide reports to CITY as requested. COUNTY
25 must be given reasonable time to develop custom reports or reports that are not already developed.

26 (l) COUNTY shall provide one (1) radio operator be designated, who
27 is dedicated to dispatching FIRE's apparatuses, and also provide uninterrupted backup dispatcher
28 coverage as necessary through all other on-duty operators at COUNTY's EMS Communications

1 Center.

2 (m) COUNTY shall provide a minimum of one (1) dispatch supervisor
3 be on duty at COUNTY's EMS Communications Center twenty-four (24) hours a day, seven (7) days a
4 week. The supervisor shall be available to CITY's on-duty fire administration as needed.

5 (n) COUNTY will pursue and maintain maximum points for the
6 Insurance Services Office (ISO) - Fire Suppression Rating Schedule for emergency communications
7 requirements within its control and area of responsibility, with the exception of category 430 – dispatch
8 circuits.

9 (o) COUNTY shall provide that dispatch staff is trained at the
10 emergency fire dispatch level as agreed upon by CITY and COUNTY.

11 (p) COUNTY shall maintain an up-to-date manual of FIRE's Policies
12 and Procedures (subject to review by COUNTY's Representative, as provided in Section 1.C.(2)
13 herein) for all dispatch staff, and shall provide for training and continuing education of dispatch staff as
14 needed.

15 (q) The goal is for the immediate dispatch of a fire apparatus in
16 accordance with CITY FIRE approved dispatch protocols as developed with consideration of the
17 National Fire Protection Administration (NFPA) Standard 1221. The Total Alarm Handling (TAH) time
18 will be measured from the time the telephone is answered by the call taker in EMS Communications to
19 the time that the first fire apparatus is alerted to the incident either by radio, telephone, station alerting
20 device, or any other mutually agreed upon method of alerting. A review shall occur for all cases in
21 which dispatches are over ninety (90) seconds on a bi-monthly basis, and results will be evaluated for
22 improvement opportunities by the Fire Dispatch Continuous Quality Improvement (CQI) Committee.
23 The Fire Dispatch CQI Committee shall meet regularly to identify
24 and recommend improvement opportunities to the CITY FIRE dispatch protocols.

25 (r) COUNTY shall provide monthly reports on the CITY key
26 performance measures and other areas as agreed upon by the CITY and COUNTY.

27 (s) COUNTY shall provide necessary support staff to provide
28 responsiveness (within seven [7] days) to changes in CAD system, including global information system

1 updates, response criteria, update of street layers, CAD/mobile software updates, protocols, and
2 CAD/RMS interface(s).

3 (t) COUNTY will integrate a formal quality improvement process that
4 identifies problems by the field, formalizes a tracking mechanism, provides feedback to the sender,
5 determines solutions, establishes timelines for correction, shares the information with all dispatch
6 personnel, and formalizes a CQI review of dispatcher performance.

7 (u) COUNTY and CITY will work together with the State of California,
8 Department of General Services in order to maintain a secondary public safety answering point (PSAP)
9 designation for FIRE.

10 (v) COUNTY will track all 9-1-1 call data related to FIRE operations
11 (fire/EMS/rescue/hazmat, etc.), which would qualify for State of California, Department of General
12 Services 9-1-1 funding as a secondary PSAP.

13 (w) If 9-1-1 funds are received from State of California, Department of
14 General Services, for the FIRE secondary PSAP designation, the CITY agrees to allow COUNTY to
15 use said funds to enhance FIRE dispatch operations in accordance with the State of California,
16 Department of General Services 9-1-1 funding guidelines.

17 (x) During specific CITY events (i.e., Fourth of July, times of local
18 disaster, large scale emergency, or unusual call volume), CITY FIRE may assign a City staff member
19 to the EMS dispatch center for observation or to serve as a temporary Dispatch Liaison to direct the
20 assignment of CITY FIRE resources, at which time deviation from routine dispatch procedures outlined
21 herein will be granted.

22 B. It is understood by the parties hereto that COUNTY's provision of FIRE
23 Dispatching Services herein does not include any COUNTY provision of fire suppression services, and
24 that COUNTY is providing FIRE Dispatching Services herein to CITY on a non-exclusive basis.

25 C. CITY shall perform the following functions:

26 (1) CITY shall provide all fire suppression services for all fire suppression
27 calls dispatched by COUNTY's EMS Communications Center requiring FIRE apparatuses.

28 (2) FIRE shall consult with COUNTY's Representative in developing FIRE's

1 Policies and Procedures relating to dispatch only. CITY shall provide FIRE's Policies and Procedures
2 relating to dispatch to COUNTY for review thereof by COUNTY's Representative. CITY shall not
3 approve FIRE's Policies and Procedures relating to dispatch until first having conferred with COUNTY's
4 Representative and such representative agrees such policies and procedures are not inconsistent with
5 the COUNTY's EMS Communication Center's policies and procedures. COUNTY's Representative
6 shall have neither the right nor the duty to approve the number of FIRE apparatuses or personnel, or
7 amount of FIRE equipment or other resources, that FIRE deems sufficient to respond to any calls for
8 FIRE Dispatching Services, or other FIRE's Policies and Procedures unrelated to dispatch. FIRE shall
9 be reasonable in developing FIRE's Policies and Procedures relating to dispatch such that those
10 policies and procedures are substantially consistent with COUNTY's EMS Communication Center's
11 Policies and Procedures.

12 (3) CITY shall participate in continuing education and training to COUNTY's
13 EMS Communications Center radio operators and staff regarding the dispatching and management of
14 FIRE resources.

15 (4) CITY shall assure all calls to CITY for EMS and fire suppression services
16 are immediately transferred to COUNTY's EMS Communications Center.

17 (5) CITY shall provide COUNTY with data, which includes the exact times
18 EMS and fire suppression calls are received at CITY's Police Department Communications Center (or
19 other point of CITY contact, if any) and transferred to COUNTY's EMS Communications Center.

20 (6) CITY agrees to provide an internal quality improvement program, which
21 includes the participation of COUNTY and PROVIDER.

22 (7) CITY shall be responsible for the provision and maintenance of all radio
23 and computer equipment in FIRE apparatuses and CITY owned radio infrastructure.

24 **2. TERM**

25 A. The term of this Agreement shall be for a period of one (1) year, commencing on
26 July 1, 2021 through and including June 30, 2022. This Agreement may be extended for two (2)
27 additional consecutive twelve (12) month periods upon written approval by both parties no later than
28 ninety (90) days prior to the first day of the next twelve (12) month period. The Director of Public Health

1 or designee is authorized to execute such written approval on behalf of COUNTY based on satisfactory
2 performance.

3 B. When this Agreement terminates, COUNTY shall promptly provide CITY with the
4 data generated through the FIRE Dispatching Services provided herein in a commonly usable
5 electronic format.

6 **3. TERMINATION**

7 A. Non-Allocation of Funds - The terms of this Agreement, and the services to be
8 provided hereunder, are contingent on the approval of funds by the appropriating governmental
9 agency, provided, however, should sufficient funds not be allocated, (i) the services provided may be
10 modified at any time upon the parties' mutual written agreement, or (ii) this Agreement may be
11 terminated at any time by the non-appropriating governmental agency giving the other party at least
12 ninety (90) days advance written notice of an intention to terminate .

13 B. Without Cause - Under circumstances other than those set forth above, this
14 Agreement may be terminated by CITY or COUNTY upon giving the other party at least ninety (90)
15 days advance written notice of an intention to terminate.

16 C. Material Breach - Either party may terminate this Agreement at any time for cause
17 upon ten (10) days advance written notice to the other party, in the event of the other party's material
18 breach of its obligations herein and provided that such breach is not cured during such ten (10) day
19 notification period. The party receiving such notice may respond to said notice and any charges
20 contained therein within that ten (10) day period.

21 D. CITY shall compensate or provide funding to COUNTY for FIRE Dispatching
22 Services performed prior to termination of this Agreement.

23 E. In no event shall any payment or funding by CITY pursuant to this Agreement
24 constitute a waiver by CITY of any breach of this Agreement which may then exist on the part of
25 COUNTY, nor shall such payment or funding impair or prejudice any remedy available to CITY with
26 respect to the breach.

27 F. The waiver by either party of a breach by the other of any provision of this
28 Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the

1 same or a different provision of this Agreement. No provisions of this Agreement may be waived unless
2 in writing and signed by all parties to this Agreement. Waiver of any one (1) provision herein shall not
3 be deemed to be a waiver of any other provision herein.

4 **4. COMPENSATION FOR SERVICES**

5 A. For COUNTY's performance of CITY FIRE Dispatching Services herein, CITY
6 agrees to pay COUNTY and COUNTY agrees to receive an annual payment of Eight Hundred Forty
7 Five Thousand Six Hundred Forty and 00/100 Dollars (\$845,640).

8 B. CITY shall pay COUNTY no later than July 31 of each year of the Agreement
9 pursuant to Section 4. A. (above), without the necessity of COUNTY submitting invoice to CITY. The
10 annual payment shall be remitted to COUNTY at the following address: Department of Public Health –
11 Emergency Medical Services Division, P.O. Box 11867, Fresno CA 93775. Should the contract
12 terminate early, the county shall reimburse CITY, within 30 days, a prorated amount based on
13 termination date.

14 C. In the event that CITY and COUNTY have authorized the first one (1) year
15 extension, COUNTY may submit proposed pricing revisions to CITY no later than one hundred and
16 twenty (120) days prior to the end of the initial one (1) year period, which shall be subject to negotiations
17 by CITY. In the event that CITY and COUNTY have authorized the second one (1) year extension,
18 COUNTY may submit proposed pricing revisions to CITY no later than one hundred and twenty (120)
19 days prior to the end of the first one (1) year period, which shall be subject to negotiations by CITY.

20 D. COUNTY must submit adequate documentation to substantiate any requested
21 change in compensation.

22 **5. INDEPENDENT CONTRACTOR**

23 A. In performance of the work, duties, and obligations assumed by COUNTY under
24 this Agreement, it is mutually understood and agreed that COUNTY, including any and all of
25 COUNTY's officers, agents, and employees will at all times be acting and performing as an
26 independent contractor, and shall act in an independent capacity and not as an officer, agent, servant,
27 employee, joint venture, partner, or associate of CITY. Furthermore, CITY shall have no right to control
28 or supervise or direct the manner or method by which COUNTY shall perform its work and function,

1 except for COUNTY's compliance with FIRE's Policies and Procedures, herein. However, CITY shall
2 retain the right to administer this Agreement so as to verify that COUNTY is performing its obligations
3 in accordance with the terms and conditions thereof. COUNTY and CITY shall comply with all
4 applicable provisions of law and the rules and regulations, if any, of governmental authorities having
5 jurisdiction over matters which are directly or indirectly the subject of this Agreement.

6 B. Because of its status as an independent contractor, COUNTY shall have
7 absolutely no right to employment rights and benefits available to CITY employees. COUNTY shall be
8 solely liable and responsible for providing to, or on behalf of, its employees all legally-required
9 employee benefits. In addition, COUNTY shall be solely responsible and save CITY harmless from all
10 matters relating to payment of COUNTY's employees, including compliance with Social Security,
11 withholding, and all other regulations governing such matters. It is acknowledged that during the term
12 of this Agreement, COUNTY may be providing services to others unrelated to CITY or to this
13 Agreement.

14 **6. MODIFICATION**

15 Any matters of this Agreement may be modified from time to time by the written
16 agreement of all the parties hereto without, in any way, affecting the remainder.

17 **7. HOLD-HARMLESS**

18 A. CITY agrees to indemnify, save, hold harmless, and at COUNTY's request, defend
19 COUNTY, including its officers, agents, and employees, from any and all costs and expenses (including
20 attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to COUNTY in
21 connection with the performance, or failure to perform, by CITY, including its officers, agents, or
22 employees under this Agreement, and from any and all costs and expenses (including attorneys' fees and
23 costs), damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation
24 who may be injured or damaged by the performance, or failure to perform, of CITY, including its officers,
25 agents, or employees under this Agreement; provided nothing herein shall constitute a waiver by CITY of
26 governmental immunities including California Government Code Section 810 et seq.

27 B. COUNTY agrees to indemnify, save, hold harmless, and at CITY's request,
28 defend CITY, including its officers, agents, and employees from any and all costs and expenses

1 (including attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to
2 CITY in connection with the performance, or failure to perform, by COUNTY, including its officers,
3 agents, or employees, or PROVIDER, under this Agreement, and from any and all costs and expenses
4 (including attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to
5 any person, firm, or corporation who may be injured or damaged by the performance, or failure to
6 perform, of COUNTY, including its officers, agents, or employees, or PROVIDER under this Agreement;
7 provided nothing herein shall constitute a waiver by COUNTY of governmental immunities including
8 California Government Code Section 810 et seq.

9 C. In the event of concurrent negligence on the part of COUNTY or any of its
10 officers, agents or employees, or PROVIDER, and of CITY or any of its officers, agents, or employees,
11 the liability for any and all such claims, demands and actions in law or equity for such costs and
12 expenses (including attorneys' fees and costs), damages, and losses shall be apportioned under the
13 State of California's theory of comparative negligence as presently established or as may be modified
14 hereafter.

15 D. This Section 7 shall survive termination or expiration of this Agreement.

16 **8. INSURANCE**

17 Without limiting the indemnification of each party as stated in Section 7 above, it is
18 understood and agreed that CITY and COUNTY shall each maintain, at their sole expense, the
19 following insurance policies or self-insurance programs including, but not limited to, an insurance
20 pooling arrangement and/or Joint Powers Agreement to fund their respective liabilities throughout the
21 term of this agreement. Coverage shall be provided for comprehensive general liability, automobile
22 liability and workers' compensation exposure. Each party will provide the other party with an
23 appropriate Commercial General Liability insurance certificate with limits of not less than Two Million
24 Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000)
25 along with an appropriate endorsement naming the other party as an additional insured on the
26 Commercial General Liability policy.

27 CITY shall obtain endorsements to the Commercial General Liability insurance naming
28 the County of Fresno, its officers, agents, and employees, individually and collectively, as additional

1 insured, but only insofar as the operations under this Agreement are concerned. Such coverage for
2 additional insured shall apply as primary insurance and any other insurance, or self-insurance,
3 maintained by COUNTY, its officers, agents and employees shall be excess only and not contributing
4 with insurance provided under CITY's policies herein. This insurance shall not be cancelled or changed
5 without a minimum of thirty (30) days advance written notice given to COUNTY.

6 COUNTY shall obtain endorsements to the Commercial General Liability insurance
7 naming the CITY, its officers, agents, and employees, individually and collectively, as additional
8 insured, but only insofar as the operations under this Agreement are concerned. Such coverage for
9 additional insured shall apply as primary insurance and any other insurance, or self-insurance,
10 maintained by CITY, its officers, agents and employees shall be excess only and not contributing with
11 insurance provided under COUNTY's policies herein. This insurance shall not be cancelled or changed
12 without a minimum of thirty (30) days advance written notice given to CITY,

13 CITY hereby waives its right to recover from COUNTY, its officers, agents, and
14 employees any amounts paid by the policy of worker's compensation insurance required by this
15 Agreement. CITY is solely responsible to obtain any endorsement to such policy that may be
16 necessary to accomplish such waiver of subrogation, but CITY's waiver of subrogation under this
17 paragraph is effective whether or not CITY obtains such an endorsement.

18 COUNTY hereby waives its right to recover from CITY, its officers, agents, and
19 employees any amounts paid by the policy of worker's compensation insurance required by this
20 Agreement. COUNTY is solely responsible to obtain any endorsement to such policy that may be
21 necessary to accomplish such waiver of subrogation, but COUNTY's waiver of subrogation under this
22 paragraph is effective whether or not COUNTY obtains such an endorsement.

23 Within thirty (30) days from the date CITY signs this Agreement. CITY shall provide
24 certificates of insurance and endorsement as stated above for all of the foregoing policies. as required
25 herein, to the County of Fresno, Department of Public Health, P.O. Box 11867, Fresno, CA 93775,
26 Attn: Contracts Section – 6th Floor, stating that such insurance coverage have been obtained and are
27 in full force; that the County of Fresno, its officers, agents, and employees will not be responsible for
28 any premiums on the policies; that for such worker's compensation insurance the CITY has waived its

1 right to recover from the COUNTY. its officers. agents, and employees any amounts paid under the
2 insurance policy and that waiver does not invalidate the insurance policy; that such Commercial
3 General Liability insurance names the County of Fresno, its officers, agents, and employees.
4 individually and collectively, as additional insured, but only insofar as the operations under this
5 Agreement are concerned; that such coverage for additional insured shall apply as primary insurance
6 and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and
7 employees, shall be excess only and not contributing with insurance provided under CITY's policies
8 herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30) days
9 advance, written notice given to COUNTY.

10 Within thirty (30) days from the date COUNTY signs this Agreement. COUNTY shall
11 provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as
12 required herein, to CITY at 911 H. Street, Fresno, CA 93721, stating that such insurance coverage
13 have been obtained and are in full force, that CITY and its officers, agents and employees will not be
14 responsible for any premiums on the policies; that for such worker's compensation insurance the
15 COUNTY has waived its right to recover from CITY, its officers, agents, and employees any amounts
16 paid under the insurance policy and that waiver does not invalidate the insurance policy; that such
17 Commercial General Liability insurance names the CITY, its officers, agents and employees,
18 individually and collectively, as additional insured, but only insofar as the operations under this
19 Agreement are concerned; that such coverage for additional insured shall apply as primary insurance
20 and any other insurance, or self-insurance, maintained by CITY, its officers, agents and employees
21 shall be excess only and not contributing with insurance provided under COUNTY's policies herein;
22 and that this insurance shall not be cancelled or changed without a minimum of thirty (30) days
23 advance, written notice given to CITY.

24 In the event CITY fails to keep in effect at all times insurance coverage as herein
25 provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this
26 Agreement upon the occurrence- of such event.

27 In the event COUNTY fails to keep in effect at all times insurance coverage as herein
28 provided, the CITY may, in addition to other remedies it may have, suspend or terminate this

1 Agreement upon the occurrence of such event.

2 **9. CONFIDENTIALITY**

3 All services performed by COUNTY under this Agreement and any information COUNTY
4 creates, receives, or maintains pertaining to protected health information shall be in strict conformance
5 with all applicable Federal, State of California and/or local laws and regulations relating to confidentiality,
6 including but not limited to all Health Insurance Portability and Accountability Act (HIPAA) regulations.

7 **10. NON-DISCRIMINATION**

8 During the performance of this Agreement, COUNTY shall not unlawfully discriminate
9 against any employee or applicant for employment, or recipient of services, because of race, religious
10 creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic
11 information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation,
12 pursuant to all applicable State of California and Federal statutes and regulations.

13 **11. RECORDS**

14 Each party shall maintain its records in connection with the respective services referred to
15 under this Agreement. Such records must be maintained for a minimum of three (3) years. Records must
16 also be maintained a minimum of three (3) years after the termination of this Agreement. The party
17 generating the records shall maintain ownership of the records upon termination of this Agreement. This
18 Section 11 shall survive expiration or termination of this Agreement.

19 **12. AUDITS AND INSPECTIONS**

20 A. During the term of this Agreement and for a period of three (3) years after final
21 payment under this Agreement, each party shall at any time during business hours, and as often as the
22 other party may deem necessary, make available to the other party for examination all of the party's
23 records and data with respect to the matters covered by this Agreement. During the same period of
24 time, each party shall also, upon request by the other party, permit the other party to audit and inspect
25 all such records and data necessary to ensure the party's compliance with the terms of this Agreement.

26 B. If this Agreement exceeds Ten Thousand and No/100 Dollars (\$10,000.00), COUNTY
27 shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final
28 payment under this Agreement (Government Code Section 8546.7).

1 C. This Section 12 shall survive expiration or termination of this Agreement.

2 **13. PROVIDER**

3 The parties hereto acknowledge that PROVIDER, or its replacement, if any during the
4 term of the EMS PROVIDER Agreement, will carry out COUNTY's provision of FIRE Dispatching
5 Services herein. In the event of any such replacement of PROVIDER, the replacement EMS Provider
6 Agreement will be on substantially the same terms as the EMS PROVIDER Agreement to the extent
7 that it concerns this Agreement, as provided herein.

8 **14. FORCE MAJEURE**

9 A. If either party hereto is rendered unable, wholly or in part, by Force Majeure to
10 carry out its obligations under this Agreement, that party shall give to the other party hereto prompt
11 written notice of the Force Majeure with full particulars relating thereto. Thereupon, the obligations of the
12 party giving the notice, so far as they are affected by the Force Majeure, shall be suspended during, but
13 no longer than, the continuance of the Force Majeure, except for a reasonable time thereafter required
14 to resume performance.

15 B. During any period in which either party hereto is excused from performance by
16 reason of the occurrence of an event of Force Majeure, the party so excused shall promptly, diligently,
17 and in good faith take all reasonable action required in order for it to be able to promptly commence or
18 resume performance of its obligations under this Agreement. Without limiting the generality of the
19 foregoing, the party so excused from performance shall, during any such period of Force Majeure, take
20 all reasonable action necessary to terminate any temporary restraining order or preliminary or
21 permanent injunctions to enable it to so commence or resume performance of its obligations under this
22 Agreement.

23 C. The party whose performance is excused due to the occurrence of an event of
24 Force Majeure shall, during such period, keep the other party hereto notified of all such actions required
25 in order for it to be able to commence or resume performance of its obligations under this Agreement.

26 D. "Force Majeure" is defined as an Act of God, act of public enemy, war, and
27 other extraordinary causes not reasonably within the control of either of the parties hereto.

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1 **15. NOTICES**

2 A. The persons having authority to give and receive notices under this Agreement and
3 their addresses include the following:

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5 COUNTY

6 Director, County of Fresno
7 Department of Public Health
8 P.O. Box 11867
9 Fresno, CA 93775

5 CITY

6 City of Fresno
7 Attn: City Manager
8 2600 Fresno Street
9 Fresno, CA 93721

10 Such addresses may be changed by either party upon written notice to the other
11 party given as provided in this Section 15.

12 B. Any and all notices between COUNTY and CITY provided for or permitted under
13 this Agreement or by law shall be in writing and shall be deemed duly served when personally
14 delivered to one of the parties hereto, or in lieu of such personal service, when deposited in the United
15 States mail, postage prepaid, addressed to such party, except for notices of termination, which are
16 effective upon receipt. Notices under this Agreement are not modifications to this Agreement.

16 **16. GOVERNING LAW**

17 A. The parties hereto agree, for the purposes of venue, performance under this
18 Agreement is to be in Fresno County, California.

19 B. The rights and obligations of the parties hereto and all interpretation and
20 performance of this Agreement shall be governed in all respects by the laws of the State of California.

21 **17. SEVERABILITY**

22 The provisions of this Agreement are severable. The invalidity or unenforceability of any
23 one provision in the Agreement shall not affect the other provisions.

24 **18. NON-ASSIGNMENT**

25 Except as otherwise expressly provided herein, neither party shall assign, transfer or sub-
26 contract their rights or duties under this Agreement without the written consent of the other party.

27 **19. ENTIRE AGREEMENT**

28 This Agreement constitutes the entire agreement between CITY and COUNTY with

1 respect to the subject matter hereof and supersedes all previous agreement negotiations, proposals,
2 commitments, writings, advertisements, publications, and understandings of any nature whatsoever
3 unless expressly included in this Agreement. This Agreement may be executed in several counterparts
4 by the parties hereto, in which case, all of such executed duplicate counterpart originals thereof, taken
5 together, shall be deemed to be one and the same legal instrument.

6 **20. NO THIRD PARTY BENEFICIARIES**

7 Notwithstanding anything stated to the contrary in this Agreement, there shall not be any
8 intended third party beneficiaries to this Agreement.

9 **[Signatures follow on the next page.]**

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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and
2 year first hereinabove written.

3 CITY OF FRESNO

4 By Thomas Esqueda
5 Thomas Esqueda, City Manager
6

7 Date: _____

8 ATTEST: Briana Parra
9 ~~YVONNE SPENCE, MMC, CRM~~
10 City Clerk, Interim

11 By Marco Martinez
12 Marco Martinez

13 Date: 6/18/2021

14 Mailing Address:
15 2600 Fresno Street
16 Fresno, CA 93721
17 Phone #: (559) 621-7770
18 Fax #: (559) 621-7776
19 Contact: City Manager

20 Fund/Subclass: 0001/10000
21 Organization #: 56201693
22 Account #: 5039

23 APPROVED AS TO FORM
24 CITY ATTORNEY'S OFFICE
25 BY: [Signature]
26 CITY ATTORNEY
27
28

COUNTY OF FRESNO

By [Signature]
Chairman, Board of Supervisors

Date: June 22, 2021

ATTEST:
BERNICE E. SEIDEL, Clerk
Board of Supervisors

By Rosei Cuyt, Deputy

Date: June 22, 2021