

ATTACHMENT 1

AMERICAN CANYON AGREEMENT NO. 2023-05

CITY OF NAPA AGREEMENT NO. C2023-680

COOPERATIVE JOINT POWERS DISPATCHING SERVICES AGREEMENT

Between the American Canyon Fire Protection District and the City of Napa

This Cooperative Joint Powers Dispatching Services Agreement for the administration and operation of centralized emergency response dispatching services ("Agreement") is made and entered into under the joint exercise of powers provisions of the Government Code of the State of California, California Government Code Section 6500-6536, between the City of Napa, a California charter city and municipal corporation ("City"), and the American Canyon Fire Protection District ("ACFPD"), a subsidiary special district of the City of American Canyon of the State of California ("American Canyon") is effective on the date last signed by the City, which is identified on the signature page as the "Effective Date." City and American Canyon Fire Protection District are public entities organized and operating under the laws of the State of California and each is a public agency as defined in California Government Code Section 6500. City and ACFPD may be referred to collectively as "the parties."

RECITALS

- A. The City and ACFPD have agreed that a centralized service for dispatching certain emergency vehicles and related services within the City and the area served by ACFPD will eliminate duplication of services and will achieve cost savings and operational efficiencies to the benefit of both parties and all residents within the City and American Canyon Fire Protection District.
- B. Concerning the operation of a centralized service for dispatching emergency vehicles and related services within American Canyon Fire Protection District, the City and ACFPD have previously executed the following Dispatching Services Contracts and Amendments (hereinafter referred to as "Prior Agreements"):
- ACFPD Contract Number (No.) 2011-04 and City Contract No. C2011-49, executed by the parties on or about March 15, 2011;
 - ACFPD Contract No. 2013-04 and City Contract No. C2013-298 executed by the parties on or about June 24, 2013;
 - Amendment No. 1 to ACFPD Contract No. 2013-04 and City Contract No. C2013-298 on or about June 2, 2015;
 - Amendment No. 2 to ACFPD Contract No. 2013-04 and City Contract No. C2013-298 on or about May 30, 2017;
 - Amendment No. 3 to ACFPD Contract No. 2013-04 and City Contract No. C2013-298 on or about October 27, 2017;
 - Amendment No. 4 to ACFPD Contract No. 2013-04 and City Contract No. C2013-298 on or about March 27, 2018;
 - Amendment No. 5 ACFPD Contract No. 2013-04 and City Contract No. C2013-298 on or about October 23, 2019;
 - Amendment No. 6 to ACFPD Contract No. 2013-04 and City Contract No. C2013-298 on or about December 16, 2022, with a termination date of June 30, 2022.
- C. Prior Agreements apportioned annual costs of such centralized dispatching service between the parties. ACFPD and City now desire to enter into a new 5-year agreement establishing the provisions for apportionment of annual costs, including maintenance and system capital improvements under the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions identified herein, the parties hereby agree as follows:

1) SCOPE OF WORK.

a) The parties hereby terminate and supersede (by this Agreement) all previous provisions of the Prior Agreements; provided, however, that the obligations of either party under this Agreement

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paragraphs 12, 13 and 15 shall continue in full force and effect in relation to acts or omissions occurring during the term of the Prior Agreements (prior to effective date of this Agreement).

b) The City shall provide the Participating Agencies (as identified on Exhibit "A," attached hereto and incorporated herein by reference) the services identified in this Agreement, with the goal of providing all services customarily necessary for the efficient operation of a 911/Emergency Call Receiving Center and Emergency Dispatch and Communications Center by a city or county. These services shall include the receipt of 911 and all other emergency calls for service, and the dispatch of fire, police, sheriff, emergency medical and other needed emergency services for the benefit of the Participating Agencies. 911 calls for fire services for the Napa County Fire Department shall be forwarded immediately to California Department of Forestry and Fire Protection, hereinafter referred to as "Cal FIRE," for dispatching of Napa County Fire resources.

2) LEVEL OF SERVICE. All emergency telephone lines and other approved methods of emergency notification of City and ACFPD shall terminate at the Communications Center. Communications Center staff shall answer all such emergency calls for service and dispatch, or notify the appropriate emergency services provider according to the policies and procedures of the Communications Center. The City shall maintain no fewer than three (3) Public Safety Dispatchers scheduled at the Communications Center at all times, including one (1) Supervisor or Acting Supervisor.

3) JURISDICTIONAL COORDINATION. The City, through the Communications Center, shall make every reasonable effort to:

a) Dispatch all emergency services according to the policies and procedures of the Communications Center. The policies and procedures of the Communications Center shall incorporate the policies and procedures of each Participating Agency and the requirements of the County Emergency Medical Services Agency; provided that a copy of any such policies and procedures are provided to the City.

b) Dispatch emergency medical services only in accordance with the respective operating boundaries of each emergency medical service provider, as approved in writing by the County Emergency Medical Services Agency.

c) ACFPD shall keep the Communications Manager (as described in Section 8 of this Agreement) informed of the applicable policies and procedures (including terms and conditions of any relevant contracts) relative to dispatching emergency units.

d) ACFPD and Communication Center staff may report any unusual occurrence involving the Dispatch Center and ACFPD, utilizing the ACFPD Unusual Occurrence (UO) Report (ExhibitC). Each UO Report will be communicated to appropriate mutually agreed staff, but shall always include the Communications Manager for the City and Assistant Fire Chief for ACFPD. City and ACFPD shall communicate within two business weeks their respective findings, resolution or status regarding the matter documented within an UO Report.

4) COMPENSATION.

a) ACFPD shall pay City, as compensation in full for services during the term of this Agreement at the rate identified in Exhibit "B," attached hereto and incorporated herein by reference.

b) In addition to the rate identified in Exhibit B, ACFPD shall pay the monthly wireless fee per data line as described in Exhibit B.

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- c) In addition to the rate to be paid by the ACFPD pursuant to Agreement paragraph 4(a), the ACFPD shall also separately pay its pro rata share of the cost of anticipated capital system improvements to equipment, software or other system upgrades to the Communication Center's Computer Aided Dispatch (CAD) system. The ACFPD's pro rata share of such costs shall not exceed the percentage of the annual volume of calls as compared to the volume of calls for Benefitting Agencies as listed in Exhibit A, for the full prior calendar year.
- d) In the event that City identifies unanticipated requirements for capital improvements, unanticipated emergency repairs or maintenance costs during the course of this Agreement, City and ACFPD agree to meet and discuss the need and financial ability to fund such capital improvements, unanticipated repairs or maintenance costs. Any such modification to add such additional costs shall be documented in a written amendment to this agreement and effective upon approval by the Governing Bodies of the City and the ACFPD.
- e) City and ACFPD agree to meet and discuss the need and financial ability to add staff to the Communications Center. Any such modification to add such additional costs shall be documented in a written amendment to this agreement and effective upon approval by the Governing Bodies of the City and the ACFPD.
- f) City and ACFPD will meet and agree on an adjusted yearly base rate if a tax or bond measure is passed, or a grant is awarded, that offsets the required budget for the Communications Center.
- g) Under separate Agreement, City and ACFPD have agreed to implement jointly the Tablet Command system. There are no additional costs specifically attributable to ACFPD for the implementation of the system. In the future, if there are costs attributable specifically to ACFPD (i.e. software maintenance), the terms to address those costs will be addressed via amend to this Agreement.
- 5) TERM. The term of this Agreement shall be from July 1, 2022, until June 30, 2027, unless terminated earlier as provided herein; except that the obligations of the parties under Paragraph 12 (Insurance) and Paragraph 13 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of this Agreement.
- 6) METHOD OF PAYMENT. ACFPD agrees to pay City in two equal payments per fiscal year during the term of this Agreement. Such payments will be made within 30 days after billing by the City and as follows:
- a) City agrees to bill ACFPD for July 1 through December 31 services during the first week of July of each year for the term of this Agreement and to bill ACFPD for January 1 through June 30 services during the first week of January of each year for the term of this Agreement.
- b) ACFPD agrees to not seek from City any State reimbursement funds made to the City for training (California Peace Officers Standards and Training or other), equipment or other reimbursements customarily received by 911 Centers.
- 7) TERMINATION OF AGREEMENT. This Agreement may be terminated by either party, for convenience (with or without cause), in the following manner only: The party desiring to terminate this Agreement must give not less than six (6) months written notice of its intent to terminate. The starting date for calculating the six (6) month period shall be June 30 or December 31, which ever first occurs following the effective date of the written notice (under Agreement Paragraph 11). ACFPD shall pay for the services received up to and including the effective date of the termination.

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8) OPERATIONS. The Communications Center shall be administrated and operated by the City of Napa Police Department. A Communications Manager, or other designee as appointed by the Chief of Police, will be responsible for day-to-day administration and management of the Communications Center, in the carrying out of their duties, the Communications Manager will communicate regularly and in a timely manner with the appropriate ACFPD personnel regarding operational issues and any problems that may arise.

9) LOCATION. The Communications Center shall be in a facility that is appropriate for the efficient operation of the Communications Center, as determined by the City.

10) PERSONNEL. All personnel assigned to the Communications Center shall be hired and salaried under policies and procedures of City and shall be City employees.

11) NOTICES. All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give to the other party shall be addressed to the other party at the address set forth below. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

ACFPD

Geoff Belyea, Fire Chief
American Canyon Fire Protection District
911 Donaldson Way East
American Canyon, CA 94503

CITY

Gus Ulloth, Communications Manager
City of Napa
P.O. Box 660
Napa, CA 94559

12) INSURANCE. City and ACFPD shall both maintain in full force and effect throughout the term of this Agreement and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

a) Workers' Compensation Insurance. City and ACFPD shall each independently maintain workers' compensation insurance as required by the State of California and Employer's Liability Insurance covering their respective employees in the amount of \$1,000,000.

b) General Liability Insurance. City and ACFPD shall each independently maintain general liability insurance limits no less than \$1,000,000 per occurrence for bodily injury, personal injury and property damages. If Commercial General Liability Insurance or other form with a general aggregate liability is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit I.

13) INDEMNIFICATION.

a) To the full extent permitted by law, ACFPD will indemnify, hold harmless, release, and defend the City (including its officers, elected or appointed officials, employees, volunteers, agents and attorneys) from and against any and all liability or claims (including actions, demands, damages, injuries, settlements, losses, or costs [including legal costs and attorney's fees]) (collectively, "**Liability**") of any nature, arising out of, pertaining to, or relating to ACFPD's acts or omissions under this Agreement. Consistent with Civil Code Section 2782, ACFPD will not be obligated to indemnify City for the proportionate share of the Liability caused by the City's active negligence, sole negligence, or willful misconduct. ACFPD's indemnification obligations under this Agreement are not limited by any limitations of any insurance held by ACFPD's, including, but not limited to, workers' compensation insurance.

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To the full extent permitted by law, City will indemnify, hold harmless, release, and defend ACFPD (including its officers, elected or appointed officials, employees, volunteers, agents, and attorneys) from and against any and all liability or claims (including actions, demands, damages, injuries, settlements, losses, or costs [including legal costs and attorney's fees]) (collectively, "**Liability**") of any nature, arising out of, pertaining to, or relating to City's acts or omissions under this Agreement. Consistent with Civil Code Section 2782, City will not be obligated to indemnify ACFPD for the proportionate share of the Liability caused by the ACFPD's active negligence, sole negligence, or willful misconduct. City's indemnification obligations under this Agreement are not limited by any limitations of any insurance held by ACFPD, including, but not limited to, workers' compensation insurance.

14) INDEPENDENT ENTITIES

Although this Agreement is a Joint Powers Agreement as authorized by California Government Code 6500 *et seq*, City and American Canyon Fire Protection District are independent entities, and City and ACFPD and the respective officers, agents employees and attorneys of City and ACFPD are not, and shall not be deemed, employees of the other agency for any purpose, including but not limited to worker's compensation and employee benefits.

15) PRIVILEGES, IMMUNITIES AND OTHER BENEFITS

In accordance with California Government Code section 6513, all of the privileges and immunities from liability, all exemptions from laws, ordinances and rules, and all pension, relief, disability, worker's compensation, and other benefits which apply to the activity of the trustees, officers, employees or agents of the parties when performing their functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties associated with performance of this Agreement.

16) BEST EFFORTS. City and ACFPD shall use their best efforts to provide the services called for in this Agreement in a reasonable prompt manner. However, due to the emergency nature of the services provided and the number of calls received, all parties to this Agreement understand and agree that no guarantee can be made, or is intended to be made, as a result of the execution of this Agreement, as to the nature of timing of the response by City or ACFPD to any specific emergency.

17) THIRD PARTY BENEFICIARIES. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

18) GENERAL PROVISIONS.

a) Headings. The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

b) Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

c) Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement shall be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in Napa County.

d) Attorney's Fees. In the event any legal action is commenced to enforce or interpret this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred,

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whether or not such action proceeds to judgment.

e) Assignment and Delegation. This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of the duties be delegated without the written consent of the other party to this Agreement. Any attempt to assign or delegate this Agreement without the written consent of the other party shall be void and of no force or effect. A consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

f) Modifications. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

g) Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

h) Entire Agreement. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the services described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

i) Each Parties' Role in Drafting the Agreement. Each party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither party shall rely upon Civil Code Section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

j) Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the City and the ACFPD.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF NAPA:

AMERICAN CANYON FIRE PROTECTION DISTRICT
American Canyon Fire Protection District

Jennifer Gonzales, Chief of Police

By: _____
Leon Garcia, ACFPD Board Chair

Date: _____
("Effective Date")

By: _____
Geoff Belyea, Fire Chief

COUNTERSIGNED:

Erika Leahy, City Auditor

APPROVED AS TO FORM:

Kelly Trujillo, Assistant City Attorney

William D. Ross, ACFPD Counsel

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Exhibit "A"

List of Participating Agencies

Calls for Service total for each agency is calculated by the number of CAD events by CAD agency where the CAD event occurred.

The Benefitting Agencies Calls for Service are allocated as defined below:

- **Napa City CAD Agencies:** Napa Police Department and Napa City Fire Department
- **Napa County CAD Agencies:** American Canyon Police Department, Napa Sheriff Office, Yountville Township Police Department, Napa County Fire, St. Helena Police Department, Calistoga Police Department
- **American Canyon Fire CAD Agency:** American Canyon Fire Protection District
- **American Medical Response CAD Agencies:** EMS CAD events from Napa Fire Department, American Canyon Fire Protection District and Ambulance (AMB) CAD agencies.
- **Animal Services:** ASO Events are subtracted from NPD agency and added to Napa County CAD Agencies Calls for Service.
- **Support Agency CAD events** are CAD events created to support City and County government agencies. Primarily, these events are after hour requests for Public Works Services. The events are currently not cost allocated to any agency; these CAD events account for about 3-4% of the total Calls For Service.

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Exhibit "B"

Rates for service to ACFPD per fiscal year

<u>Fiscal Year</u>	<u>Rate</u>
FY 2022/2023	\$78,712
FY 2023/2024	\$81,073
FY 2024/2025	\$83,505
FY 2025/2026	\$86,010
FY 2026/2027	\$88,590

ACFPD will be responsible for monthly wireless access fee per data line, for each of its supporting devices connected to the CAD system. As of October 2023, ACFPD has 13 lines of service with an average cost of \$42/month. Each line cost varies slightly based on when it was created. The service is provided to the City from Verizon Wireless and the City charges a straight pass-through cost to ACFPD for each data line, which ACFPD will reimburse the City for upon invoice.

ACFPD may increase or decrease the number of lines/devices at their discretion to support devices in their operation. All charges related to the data lines will be reconciled on the billing cycles conducted per paragraph 6(a) above.

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