

INTER-AGENCY AGREEMENT BETWEEN THE CITY OF SAN PABLO and CONTRA COSTA COMMUNITY COLLEGE DISTRICT FOR THE PROVISION OF DISPATCH SERVICES THROUGH THE TRI-CITY AGREEMENT

This agreement is entered into between the City of San Pablo (hereinafter "City") and the Contra Costa Community College District (hereinafter "District") to provide dispatch services to the District ("Agreement") through the Tri-City Dispatch Services and CAD/RMS Agreement dated May 11, 2017 among the City of San Pablo, City of Pinole and the City of Hercules ("Tri-City Agreement").

1. **Purpose of Agreement:** City will provide District with dispatch services from the Pinole Police Department, pursuant to the Tri-City Agreement, which is attached and incorporated as Exhibit A into this Agreement. The City is bound by the terms of the Tri-City Agreement, so the District and City must abide by those terms as well in carrying out this Agreement. This Agreement shall be read consistently with the Tri-City Agreement, which shall prevail over any inconsistent terms in this Agreement. The Parties agree to cooperate in the execution of any additional agreements, documents, policies and procedures, which may be required to carry out the terms of this Agreement.
2. **Term:** The effective date of this Agreement is July 1, 2017 and terminates June 30, 2022, unless the Tri-City Agreement is terminated or the City withdraws from the Tri-City Agreement. If the City withdraws from the Tri-City Agreement or the Tri-City Agreement is terminated, the City will work with the District in transitioning to another source for dispatch services, but will be under no obligation to provide such services to the District or be liable for costs or damages due to such transition.
3. **City Obligations:** The City has agreed to add the seven (7) District Officers assigned to the Contra Costa College Campus in San Pablo to the City's sworn officer list under the Tri-City Agreement to ensure District and its Officers at the Contra Costa College Campus receive dispatch services provided by the Pinole Police Department under the Tri-City Agreement. The District will provide its own RMS services.

The City will provide the District two (2) Mobile licenses, two (2) 2 Factor Authentication (2FA) licenses, and two (2) Net-Motion licenses.

4. **District Obligations:** The District will comply with all applicable terms in the Tri-City Agreement.

The District currently utilize two (2) Panasonic Tough-books for their Mobile Data Computers. The District is going to purchase two (2) G-Tech MDCs for the two patrol vehicles assigned to the Contra Costa College Campus.

The following specifications are required in regards to the G-Tech MDCs:

- Model F-110
- RFID Reader built in to back of unit
- Havis Docking Rack 3-pass

5. **Service and Maintenance:** The City's Information Technology Division (hereinafter "IT Division") will provide the following services to the District for only the two (2) MDC's assigned to the Contra Costa College Campus.

- Installation of software for Mobile, 2FA, and Net-Motion
- Upgrades of software for Mobile, 2FA, and Net-Motion
- Trouble shooting software problems

Compensation for the abovementioned services will be based on time and material at an hourly rate of \$51.00 in addition to the annual costs set forth in Section 6.

The District will be responsible for maintaining the following:

- Mnemonics: CCC-V056 & CCC-V066
- Hardware replacement
- Internet services
- Miscellaneous software i.e. Microsoft Office
- Anti-Virus software

6. **Annual Costs:** For Fiscal Year 17-18 (July 1, 2017 to June 30, 2018) the City will incur a cost of \$11,400.00 in dispatching costs for the additional seven District Officer at the Contra Costa College Campus. The District will be responsible for paying the City in the sum of \$11,400.00 each year of the five (5) year contract

within 30 days of the City's issuance of an invoice expected to occur in June for the following fiscal year:

- FY 17-18: \$11,400.00
- FY 18-19: \$11,400.00
- FY 19-20: \$11,400.00
- FY 20-21: \$11,400.00
- FY 21-22: \$11,400.00

7. **Accountability of Funds:** The City shall account for all District funds and the service and maintenance of the District MDCs. The City will maintain appropriate records and reports regarding all work. The City shall provide a financial report upon request of the District following each fiscal year in which this Agreement is in effect.
8. **Relationship of the Parties:** It is expressly understood that no agency, employee partnership, joint venture or other separate entity is established by the Agreement. Each Party retains control over their own employees, who will be subject to that agency's rules and regulations.
9. **Property and Equipment:** All property and equipment purchased and/or used by the City in the performance of services and maintenance for the District shall remain the property and equipment of the City throughout the term of this Agreement. The City shall have the responsibility of maintaining property and equipment utilized in the performance of services and maintenance for the District.
10. **Termination:** This Agreement may be terminated by either party, at their sole discretion, upon ninety days (90) advance written notice thereof to the other. Upon termination, the District shall be entitled only to a refund of the monthly proration of \$11,400 if paid in advance and no other refunds. If a Party fails to cure any material breach, following notice and an opportunity to cure, the other Party may terminate this Agreement for cause not less than thirty (30) days from the date of the notice.

11. **Force Majeure.** If by reason of *force majeure* any Party is unable in whole or in part to perform the obligations under this Agreement, such Party shall not be in default during the continuance of such inability. The term "*force majeure*" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of such Party.
12. **Warranty.** City provides the hardware, software, services and ancillary systems without any warranty or condition, expressed or implied. San Pablo specifically disclaims any implied warranties of title, merchantability, fitness for a particular purpose, and non-infringement. District acknowledges that the systems may not operate totally without interruption. City makes no representations, warranties, or guarantees regarding uptime for the systems.
13. **Operational Concerns.** The Parties shall attempt to resolve operational concerns or complaints in the most expeditious manner. If necessary, these concerns or complaints shall be documented and forwarded through the complaining Party's chain of command in the Police Department.

If there are concerns or complaints regarding a particular employee or contractor, those shall be addressed first verbally to the Police Sergeant liaison for the Party employing or engaging the particular employee/contractor. If the particular employee is not a Police Department employee, then the Police Sergeant will coordinate with the appropriate supervisor or Department Head.

If the matter cannot be resolved informally, the complaining Party may be asked to put those complaints in writing, addressed to the individual listed under Section 20, "Notices," who shall respond to all complaints in writing within three (3) weeks of receipt of any written complaint regarding the status thereof, and shall continue to update the complaining Party with the status thereof every forty-five (45) days until disposition. It is the intent of the Parties that all complaints be resolved within ninety (90) days of receipt.

If the concern is causing immediate harm or is hazardous to Officer safety, it will be brought to the attention of the appropriate Watch Commander for immediate action, as well as any necessary documentation.

14. Dispute Resolution.

- A. In the event that a Party disputes any provision or interpretation of or performance under this Agreement, including cost of service or billing, or contends there has been a material breach of the Agreement, the Parties shall meet to attempt to resolve the dispute. Disputes not resolved at the City Manager and Police Chief (or his/her designee) level may be escalated by giving written notice to the other Party of the need to proceed with non-binding mediation. It is the Parties' intention to avoid the cost of litigation and to resolve any issues that may arise amicably if possible.
- B. Within ten (10) business days from the effective date, pursuant to Section 20, of written notice from one Party to the other indicating that a dispute is to be mediated, the Parties shall mutually select one person from the Judicial Arbitration and Mediation Services ("JAMS") or other mediation service provider, who shall mediate the dispute. The Parties should select a qualified professional with expertise in the subject matter of the dispute. If the Parties are unable to mutually agree upon a mediator within fourteen (14) business days following the notice, the Parties shall each designate one person as a mediator within twenty (20) business days following the notice.
- C. These two designated mediators shall mutually select a third mediator (also a qualified professional with expertise in the subject of the dispute) within twenty (20) business days of the notice. The one selected mediator shall mediate the dispute. The mediation shall be completed within thirty (30) business days of the appointment of the mediator. The mediation shall be conducted in accordance with the discretion of the mediator. However, if the mediator is unable to resolve the dispute within thirty (30) business days and the Parties do not agree to an extension of time, the mediator shall submit specific and written recommendations for full resolution of the dispute within ten (10) business days thereafter. The Parties shall consider the written recommendations of the mediator.
- D. The fees and expenses of the one selected mediator shall be divided equally between the Parties, but otherwise each Party shall be responsible for their

own costs and expenses. The above deadlines shall be enforced unless extensions are mutually agreed upon or granted to either Party by the mediator for good cause shown.

- E. No Party shall be permitted to file a legal action without first requesting mediation and making a good faith attempt to reach a mediated settlement. Should litigation be commenced, each Party shall be responsible for its own attorneys' fees and costs and not entitled to collect such fees and costs from the other Party.

15. **Nondiscrimination.** The Parties shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Agreement. The Parties shall not discriminate against any employee or applicant because of race, color, religious creed, national origin, physical disability, mental disability, medical condition, marital status, sexual orientation, or sex.

16. **Compliance with Laws.** The Parties shall comply with all applicable legal requirements including all federal, state, and local laws (including local ordinances and resolutions), whether or not said laws are expressly stated in this Agreement.

17. **Indemnification and Insurance.**

A. **Mutual Indemnification.** Each Party shall indemnify, hold harmless, and defend the other party (including its elected officials, officers, agents and employees) from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorney's fees) resulting or arising from that party's performance, or failure to perform, under this Agreement.

B. **Records Requests and Litigation Holds.** The Parties shall develop procedures and forms for notifying Pinole and/or San Pablo to provide records needed to respond to a Public Records Act request or subpoena or retention of records due to a potential or actual claim or litigation. The Parties recognize that significant requests are beyond the anticipated budget and may require adjustments to the costs for dispatch services or CAD/RMS. It is the responsibility of the requesting department to ensure that it receives the requested records. Once the records have been provided, it is the responsibility of the requesting department to secure and maintain those records.

C. Insurance. During the term of this Agreement, each Party shall maintain at its own cost and expense the following insurance or self-insurance coverage against claims for injuries to persons or damages to property that may arise from or in connection the performance of the work under this Agreement:

- 1) Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- 2) Automobile Liability Insurance. ISO Form Number CA 00 01 covering any auto (Code 1) with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
- 3) Workers' Compensation Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
- 4) Other Insurance Provisions.__The insurance policies are to contain, or be endorsed to contain, the following provisions:
 - i. Additional Insured Status. Each Party and its officers, officials, employees, and volunteers are to be covered as additional insureds on the Commercial General Liability policy with respect to liability arising out of this Agreement.
 - ii. Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the other Party.
 - iii. Waiver of Subrogation. Each Party hereby grants a waiver of any right to subrogation which any insurer of said Party may acquire by virtue of the payment of any loss under such insurance.

18. **Modifications and Amendments:** This Agreement may only be modified or amended by the mutual written agreement of the City and the District.

19. **Entire Agreement:** This Agreement, with Exhibit A, contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto.

20. **Notices:** Any notices, requests, demands or other communications required or permitted to be given under this contract shall be in writing and shall be deemed to have been given on the date of service if served personally on the Party to whom notice is to be given, by first-class mail registered or certified, postage prepaid, or on the day after dispatching by Federal Express or another overnight delivery service, and properly addressed as follows:

CITY: City of San Pablo
13881 San Pablo Avenue
San Pablo, Ca. 94806
City Manager Matt Rodriguez

DISTRICT: Contra Costa Community College District Police Department
500 Court Street
Martinez, CA. 94553

21. Director of Public Safety Ed Carney **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.

22. **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 Section shall not be applied to the extent that it would result in a frustration of the Parties' intent under this Agreement.

23. **Governing Law; Jurisdiction; Venue.** The interpretation, validity, and enforcement of this Agreement shall be governed by 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 the County of Contra Costa.
24. **Assignment and Delegation.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of the Parties' duties be delegated but for the dispatch services contemplated by the City of Pinole pursuant to the Tri-City Agreement, without the written consent of the other Party. 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. Consent by a Party to one assignment shall not be deemed to be consent to any subsequent assignment.
25. **Successors.** This Agreement shall bind and inure to the benefit of all successors and assigns of the Parties and any associates in interest, and their respective directors, officers, agents, servants, and employees, and the successors and assigns of each of them, separately and collectively.
26. **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.
27. **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 agencies.

City of San Pablo

Contra Costa Community College District

Police Department

By 

By 

Matt Rodriguez, City Manager

David S. Wetmore, 94317
Director of Purchasing and Contracts

Recommended by:

ATTEST:

By _____

By _____

Walt Schuld, Chief of Police

City of San Pablo

ATTEST:

By _____

City Clerk

APPROVED as to FORM

By *Lynn Tracy Nerland*

City Attorney

APPROVED as to FORM

By _____

District Counsel

Exhibit A – Tri-City Dispatch Services and CAD/RMS Agreement dated May 11, 2017