Emergency Medical Services

First Responder Advanced Life Support

Services Agreement

C-2019-60

County of Alameda

and

The City of Hayward

Date: July 1, 2019

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DEFINITIONS AND ACRONYMS

5150 CALL	Services involving a patient who has been (or shall be) placed on a hold for psychiatric evaluation, including transport to a psychiatric facility in accordance with the California Code of Regulations Welfare and Institutions Code, §5150 and EMS Policies.
AMBULANCE	As defined pursuant to Title 13 of the California Code of Regulations, §1100.2. A vehicle specially constructed, modified or equipped, and used for the purpose of transporting sick, injured, convalescent, infirm, or otherwise incapacitated persons, and compliant with state requirements.
ACRECC	Alameda County Regional Emergency Communications Center.
ALS	Advanced Life Support – EMT-P Level of service, as defined in California Health and Safety Code, Division 2.5, §1797.52.
ARRIVAL AT INCIDENT	The moment the FRALS unit is fully stopped at the Incident Location and Field Personnel notify the Dispatch Center of the arrival.
BASE HOSPITAL	As defined in California Health and Safety Code, Division 2.5, §1797.58. The Base Hospital for Alameda County is Alameda County Medical Center, Highland Campus.
BLS	Basic Life Support – EMT-B level of service, as defined in California Health and Safety Code, Division 2.5, §1797.60.
BOARD	Alameda County Board of Supervisors.
CAD	Computer Aided Dispatch.
CONTINUING EDUCATION (CE)	As defined in the California Code of Regulations, Title 22, Chapter 11.
CITY	City of Hayward
CITY'S MEDICAL DIRECTOR	A California licensed physician, experienced in the field of emergency medical services, and employed by the City to provide medical oversight to City's field personnel, in conjunction with the EMS medical director.
COUNTY	The County of Alameda.
COUNTY CONTRACTED PRIVATE PROVIDER	The Contractor selected by the County through a competitive process, and under agreement with the County, to provide 911 emergency medical ground ambulance response and transportation at an Advanced Life Support (ALS) level of service, and where specified in their Agreement, Basic Life Support (BLS) level of service (herein known as Falck Northern California.)
COUNTY DESIGNATED EMERGENCY MEDICAL DISPATCH CENTER OR MEDICAL DISPATCH CENTER	A medical dispatch center designated by the County that uses call prioritization and pre-arrival instructions based on a County-approved Medical Priority Dispatch System, and is accredited as a Center of Excellence by the National Academies of Emergency Dispatch. Referred to as "Medical Dispatch Center" in this document.

COUNTY EMS	Used in this Agreement to refer to Alameda County Emergency Medical Services, a Division of the Health Care Services Agency, and designated as the Local EMS Agency (LEMSA) for Alameda County.
COUNTY EMS DIRECTOR	The director of the Alameda County Emergency Medical Services, a Division of the Health Care Services Agency.
COUNTY EMS MEDICAL DIRECTOR	The physician in the position of Medical Director for Alameda County Emergency Medical Services, a Division of the Health Care Services Agency.
COUNTY EMS POLICIES	Policies and procedures issued by the Alameda County Emergency Medical Services that are contained in the Alameda County Emergency Medical Services Field Manual and/or Administration Manual, which may be revised from time to time.
DATA COLLECTION SYSTEM	The software and hardware used to collect, store and report on information from the provision of Services, which includes the Patient Care Reports.
DISASTER	An occurrence of a natural catastrophe, technological accident, or human caused event that has resulted in severe property damage, deaths, and/or multiple injuries.
EMSA	Emergency Medical Services Authority of the State of California.
EMT	Emergency Medical Technician.
ERZ	Emergency Response Zone, as depicted in EXHIBIT A - DEPICTION AND DEFINITION OF CITY'S PRIMARY RESPONSE AREA.
FEDERAL	Refers to United States Federal Government, its departments and/or agencies.
FIELD PERSONNEL	City's paramedics and EMTs responsible for responding to 911 requests for emergency first responder services pursuant to this Agreement.
FTE	Full-Time Equivalent: a unit that indicates number of employees required to perform the services of the Agreement assuming that all employees work a full-time schedule
PERCENTILE (FRACTILE)	A method of measuring data in which all applicable data are stacked in ascending order and the total number is calculated as a percentage of the total number of calls. (e.g.: a 90th percentile standard is one where 90% of the applicable calls are answered within the response standard, while 10% take longer than the standard.)
FIRST RESPONDER (AGENCY)	Entities with an agreement with the County to provide first responder service to the scene of a medical emergency.
FIRST RESPONDER ADVANCED LIFE SUPPORT (FRALS) SERVICE(S)	City's provision of 911 emergency advanced life support medical response as required by this Agreement in accordance with EMS Policy.
FIRST RESPONDER ADVANCED LIFE SUPPORT UNIT (FRALS)	Fire or rescue response vehicle staffed and equipped with a minimum of one California State licensed and Alameda County accredited paramedic, as defined in EMS policies, capable of providing ALS care at scenes of medical emergencies.
INCIDENT LOCATION	The destination address or location of the patient to which the FRALS is dispatched.
LEMSA	Local Emergency Medical Services Agency, as defined in California Health and Safety Code, Division 2.5, §1797.94.

SECTION 2 - TERM

2.1 The term of the agreement shall be July 1, 2019 through June 30, 2024. The EMS Agency and City may extend this Agreement by mutual agreement for up to an additional five (5) years.

SECTION 3 - SERVICES/PRIMARY SERVICE AREA

3.1 City shall identify and provide a representative, available to respond at all times within City's Primary Service Area and authorized to act on behalf of City in all operational matters. City shall provide the specific means for contacting the designated representative.

3.2 City shall be responsible for ensuring dispatch and responding to requests for emergency medical services originating within its primary service area.

3.3 **First Responder Advanced Life Support (FRALS) Services**

The City shall provide FRALS services to requests for medical assistance as defined by local policy and procedure. Response procedures shall be based on the algorithms in the Medical Priority Dispatch System (MPDS) protocols (TABLE A - PERSONNEL AND RESPONSE TIME REQUIREMENTS) including 5150 calls. As per MPDS and State regulations (CA Health and Safety Code Section 1798(a) – Medical Control), call prioritization must be determined under the direction of the Medical Director.

a. City shall provide FRALS service to patients until transfer of patient care to arriving transport resource if applicable, according to County EMS Policies, or a medical physician of competent authority in accordance with County EMS Physician-on-scene policy.

b. Services shall be provided to all areas within the Primary Service Area and as otherwise required by this Agreement. A map of the City's Primary Service Area is attached as EXHIBIT A - DEPICTION AND DEFINITION OF CITY'S PRIMARY SERVICE AREA.

3.4 **Standards**

a. City shall be available to provide FRALS services 24 hours per day, 7 days per week, 52 weeks per year without interruption, for the full term of the Agreement. These services shall be provided without regard to the patient's race, color, national origin, religion, sexual orientation, age, sex, or ability to pay.

b. City shall work cooperatively with the County EMS Director, EMS Medical Director, and other County staff and agencies to fulfill the terms and conditions of this Agreement. Likewise, the County EMS Director, EMS Medical Director, and other County staff and agencies shall work cooperatively with the City's Fire Chief and other City staff.

3.5 Primary Service Area

City, within the area designated herein as City's Primary Service Area, which includes the entire area within the City of Hayward, and as described in EXHIBIT A - DEPICTION AND DEFINITION OF CITY'S PRIMARY SERVICE AREA.

SECTION 4 - FIRST RESPONDER COOPERATION/DESIGNATION

4.1 City's personnel shall cooperate fully with transporting ambulance personnel to facilitate the timely and effective transfer of patient care at the scene; according to Alameda County EMS policy.

4.2 City agrees that FRALS units shall be staffed to provide 24 hours a day, 7 days a week coverage and meet the performance standards mutually agreed to and set forth in this Agreement.

SECTION 5 - PERFORMANCE STANDARDS

5.1 Response Times

City's response time for requests for emergency medical services shall be dispatched according to MPDS categories and shall meet the following performance standards:

a. City's Response Times shall be calculated on a monthly basis for reporting purposes to determine performance using Percentile (Fractile) Response Time measurements. Response Times for departments with low call volume (less than 100 calls per month) shall be calculated once the City has responded to 100 calls.

b. City's Response Time for Services in the Primary Service Area shall meet the requirements in Table A, below. City shall make a best effort to achieve a 90% performance level based upon the Response Times in TABLE A - PERSONNEL AND RESPONSE TIME REQUIREMENTS.

c. A City not using MPDS shall respond to all calls using the Priority 1 Response Times.

MPDS CATEGORY:	Response Time
Priority 1	08:30 min.
Priority 2	08:30 min.
Priority 3	08:30 min.
Priority 4	N/A

TABLE A - PERSONNEL AND RESPONSE TIME REQUIREMENTS

5.2 **Response Time Measurement**

a. Response Time shall be measured in minutes and integer (whole) seconds from the time the call is received by City from the dispatch center until arrival at the Incident Location by the FRALS, or until the call is cancelled by a public safety agency or dispatch center.

b. City's FRALS shall report on-scene time or staging location time to its dispatch center immediately upon arrival at the scene/staging location.

5.3 **Calculating Changes in Call Priority**

a. **Upgrades -** If an assignment is upgraded prior to the Arrival at Incident of the FRALS (e.g. from a Priority 4 to Priority 2), City's performance shall be calculated based on the shorter of:

- Time elapsed from dispatch to time of upgrade plus the higher priority Response Time standard, or,
- The lower priority Response Time standard.
- In all such cases, the electronic PCR shall indicate the reason why the priority status was upgraded to provide the ability for quality assurance/quality improvement review.

b. **Downgrades -** If a call is downgraded by dispatch, prior to arrival on scene of the FRALS (e.g. from a Priority 2 to a Priority 4), City's performance shall be determined by:

- If the time of the downgrade occurs after the FRALS has exceeded the higher priority Response Time standard, the higher priority Response Time standard shall apply; or,
- If the time of the downgrade occurs before the FRALS has exceeded the higher priority Response Time standard, the lower priority Response Time standard shall apply.
- In all such cases, the electronic PCR shall indicate the reason why the priority status was downgraded to provide the ability for quality assurance/quality improvement review.

c. **Canceled Calls**

If a call is canceled prior to the FRALS Arrival at Incident, the performance shall be calculated based on the elapsed time from dispatch to the time the call was canceled.

In situations where the FRALS unit has responded to a location other than the Incident Location (e.g. staging areas for hazardous materials/violent crime incidents, non-secured scenes, or where rugged terrain precludes access), Arrival at Incident shall be the time the FRALS arrives at the designated staging location or the nearest public access point to the patient's location.

5.4 **Performance Reporting Exemptions**

a. City may request that a late response be excluded from the calculation of Performance Reporting ("an Exemption"), if that call falls into one of the following categories:
   - A declared Multi-Casualty Incident ("MCI") or disaster that the County EMS Director determines has had a material impact on City's resources.
   - There was a delay because information relayed by the Medical Dispatch Center was substantially incorrect so as to prohibit timely arrival at the call.

b. Request for an Exemption must be in writing and received by the County EMS Director within ten (10) calendar days following the end of the month in which the event occurred. Performance Reporting Exemptions may be granted by the County on a per call basis, following review and investigation by the County. Calls that are approved as an Exemption shall not be included in the calculations for Performance Reporting. Such requests must include all of the following:
   - Detailed description of the circumstances causing the response delay
   - Date and time of the occurrence
   - Dispatch agency name
   - Unit number
   - Originating location of responding unit
   - The request must include performance reports for the month in which the incident occurred and written documentation supporting the request.

SECTION 6 - ADDITIONAL SERVICE PROVISION

6.1 **5150 Response**

a. City shall respond paramedic ALS level personnel to 5150 Calls dispatched as Priority 2.
   1. If the patient does not require medical clearance at an emergency department, the City may cancel the ALS ambulance and request through the appropriate dispatch center that a BLS ambulance or County approved alternative transport resource

transport the patient to the appropriate psychiatric facility, in accordance with County EMS Policies regarding psychiatric patient care.

b. 5150 calls initially dispatched as Priority 4 by an Emergency Medical Dispatch (EMD) Center will be responded to by the appropriate transport provider. City is not required to respond FRALS to 5150 calls dispatched as Priority 4.

6.2 **Multi-Casualty Incident/Disaster Response**

a. City shall make every effort to provide resources in response to mutual aid requests in accordance with County mutual aid agreements during a declared or an undeclared disaster or Multi-Casualty Incident ("MCI").

b. Incident Notification - City shall have a mechanism in place to communicate current field information to ACRECC during a medical response to: a) MCIs, b) disaster responses, c) hazardous materials incidents, and d) other unusual occurrences, as described in EMS Policies.

c. Interagency Training for Exercises/Drills - City is encouraged to participate in exercises, disaster drills, and interagency training.

SECTION 7 - QUALITY IMPROVEMENT

7.1 City shall work with County EMS to develop a Quality Improvement template that shall be used to develop a Quality Improvement Plan. The Quality Improvement Plan shall:

a. Be consistent with the requirements of the State California for emergency medical system quality improvement, including those contained in Title 22, Chapter 12.

b. Be consistent with County EMS Policies.

c. Incorporate performance assurance, process measurement and control, and process improvements.

d. Measure clinical indicators as developed through collaborative efforts with the County.

e. Be based on current EMS research and call demand.

f. Endeavor to ensure the long-term economic viability of the EMS system while maximizing value to the community.

7.2 The City shall provide the County EMS Director with an updated Quality Improvement Plan annually on February 1st of each year.

7.3 City shall ensure that personnel in leadership positions actively oversee the implementation of the Quality Improvement Plan, including but not limited to:

a. Ensuring the agency is represented at County EMS workgroups and/or committees dealing with quality improvement.
b. Designating a manager to oversee City's quality improvement plan.
c. Submitting required reports to the County.
d. Actively participating in quality improvement and/or research projects designed to improve the quality of emergency medical services in Alameda County.

SECTION 8 - PERSONNEL REQUIREMENTS

8.1 City shall provide a highly qualified and experienced physician, Registered Nurse, or Paramedic to implement and oversee City's Quality Improvement Plan. This individual shall be responsible for the medical Quality Improvement/Assurance evaluation of City's services.

8.2 City shall ensure appropriate personnel represent the department at County EMS meetings.

8.3 City shall submit via email, on or before February 1st of each year, an annual list of all paramedics with license dates and expiration dates as specified in County EMS Policies.

8.4 **Personnel Licensure/Certification/Training Requirements:**

a. Field Personnel performing First Responder services under the Agreement shall at all times be appropriately certified and/or licensed to practice in the State of California and in the case of Paramedics, accredited in Alameda County.
b. City shall, at all times, retain copies of current licenses, certifications, and training documentation for Field Personnel performing First Responder services and provide electronically if requested by EMS Director.

SECTION 9 - ELECTRONIC PATIENT CARE REPORT AND DATA COLLECTION SYSTEM

9.1 City shall ensure its employees use and are trained on a National EMS Information System (NEMSIS) and California EMS Information System (CEMSIS) compliant Patient Care Report ("PCR") for patient documentation on all calls, including:

a. patient contacts;
b. canceled calls; and,
c. non-transports, with the exception of refusal of service and disaster response, pursuant to County EMS Policies.

9.2 First Responder personnel:

a. First responder personnel shall provide to responding ambulance personnel a report, at a minimum field notes, on all care provided and assessment prior to arrival of the ambulance.

b. The PCR shall be completed and entered into the County system prior to the end of shift but no later than 24 hours following the call. When extenuating circumstances occur, and for responses that are of lower acuity, the PCR may be completed by the next work shift as long as the timeline does not exceed 96 hours.

9.3 **Data Collection System for Patient Care Reports**

a. City shall ensure its PCR is in an electronic format and that the data contained within the PCR is able to be imported into the County Data Collection System.

SECTION 10 - MEDICAL OVERSIGHT/COMPLIANCE WITH MEDICAL PROTOCOLS

10.1 All parties shall function in and comply with the Firefighter Procedural Bill of Rights (FPBOR).

10.2 The EMS Medical Director shall provide medical oversight to the City's paramedics and EMTs on issues relating to patient care in collaboration with the City's Fire Department Medical Director in those cities where there is a Fire Department Medical Director.

10.3 City shall comply with medical protocols, online medical control, and other requirements as established by the County EMS Medical Director as defined in the Alameda County Field Protocol Manual and the Alameda County Administrative Policies, and/or provided by the County (e.g.: Base Hospital services, authority to perform certain medical interventions, etc.).

SECTION 11 - VEHICLES AND EQUIPMENT

11.1 City shall acquire and maintain FRALS units, on-board medical supplies, medications, and equipment to be used to perform FRALS services.

a. City may acquire medical supplies, medications, and equipment from the County Contracted Private Provider to the extent specified by the Agreement between the County Contracted Private Provider and the County.

b. The provision of medical supplies, medications, and equipment by the County Contracted Private Provider beyond what is specified in the Agreement between the County Contracted Private Provider and the County shall be subject to negotiation between the City and the County Contracted Private Provider.

11.2 **FRALS Unit Markings**

FRALS units shall display the following signage, on both sides:

a. Level of service (e.g., "Paramedic Unit" or "Paramedic")

b. City's name

11.3 **Equipment:**

a. All on-board medical supplies, medications, equipment, and personal communications equipment used by City shall meet or exceed the minimum requirements of the EMS Policies and this Agreement.

b. City shall have and submit to County policies regarding the acquisition, stocking and security of controlled substances carried on Service Vehicles.

c. Equipment and supply requirements may be modified with the approval of the EMS Director, including modifications due to changes in technology.

d. The County may inspect FRALS units for EMS related equipment and supplies with prior notice.

11.4 **Failure to meet minimum in-service equipment and supply requirements:**

a. If any Service Vehicle fails to meet the requirements, as contained in EMS Polices, the County shall notify the City, as specified in this agreement.

b. In addition, if the EMS Director determines that the failure to meet requirements is critical, the Service Vehicle shall be removed from FRALS emergency service until the non-compliance is corrected.

SECTION 12 - REQUIRED REPORTS

12.1 City shall provide, within thirty (30) calendar days after the first day of each month, reports addressing its performance during the preceding month with respect to the clinical, and operational performance requirement, in the form and manner required by the EMS Director. To the extent that EMS is able to generate reports from the data collection system; City will be relieved of the responsibility to submit these reports. Reports shall include, but are not limited to:

a. Response Time Performance reports

b. Reports on patient/customer complaints

c. Clinical Reports (e.g.: protocol compliance, intubation success rate, etc.)

d. Other reports as requested by County with reasonable notice.

12.2 Other reports may be required less frequently than monthly, as determined by the EMS Director.

12.3. County shall provide notice to City at least two (2) months in advance of any change to required reports, frequency, or due dates.

12.4 **Response Time Performance:**

a. Response Time data, including reports received from the dispatch center, shall be used by City and County to evaluate City's performance.

b. If Response Time performance is below 90% for any calendar month, or longer period if required to accumulate 100 responses (see Section 5.1). City shall identify the causes and shall document efforts to eliminate problems on an ongoing basis.

c. City shall submit a performance improvement plan with the Response Time performance report. The performance improvement plan shall identify each problem that contributed to a failure to meet Response Times and steps being taken to correct the problem.

d. Response Time reporting and times shall be documented as set forth in this Agreement.

12.5 **Compliance with Protocols**

a. City shall report monthly on the overall compliance with EMS Policies and performance on all calls in a format by the Quality Council and provided by EMS.

b. Data for compliance shall be submitted in aggregate and stratified by categories identified in the Quality Improvement Plan and approved by the EMS Director.

12.6 **Quality Improvement**

a. City shall develop a clear and concise set of processes and practices designed to identify and address opportunities for improvement. The description of these processes shall include the approach for achieving and maintaining measurable outcomes.

b. City shall provide reports that update progress on quality improvement projects as agreed upon by the City and the EMS Director.

c. City shall participate with the County's quality plan and follow all EMS policies regarding quality improvement and provide appropriate data.

SECTION 13 - PERFORMANCE PROVISIONS

13.1 Response Time -

a. City shall be notified any time Response Time performance drops below 90% for any calendar month. Response Times for fire departments with low call volume (less than

100 calls per month) shall be evaluated when the City has responded to 100 calls. Once the 100-call level is exceeded, the number of calls to achieve the 100 call threshold will start over in the next month.

b. Calculating FRALS response times:

- Performance will be calculated based on combining the Priority 1, Priority 2 and Priority 3 levels of responses.
- If Response Time performance drops below 90% for any response time Category in any calendar month, City shall develop and implement a performance improvement plan. Should response time performance drop below 90% for a second month within the subsequent 11-month period, City shall submit for approval with its monthly performance report a performance improvement plan acceptable to the EMS Director and shall implement that plan. The performance improvement plan shall identify each problem that led to the delayed response(s) and the step(s) to be implemented to correct each deficiency. A third month of failure to meet the 90% response time performance requirement within any 12 month period shall require the City's authorized signatory to this Agreement to provide prompt written assurances of performance and a corresponding plan acceptable to the EMS Director to correct the deficiencies in City's performance within ten (10) days of notice from County EMS. City's failure to provide such written assurances within the required time and/or diligently commence and perform in accordance with the written plan will result in the EMS Director notifying the City Manager/City Administrator.

c. If FRALS calls are not categorized at the City's dispatch center, performance will be measured as if all calls are within the Priority 1 Category.

13.2 Failure to Respond – Notification shall be made to the County for a failure by the City to provide FRALS to a location within the Primary Service Area where a response has been requested by the dispatch center. If the County becomes aware of a possible failure to respond prior to the City, the County shall notify the City. Each incident shall be reviewed by a panel of three, including the EMS Director or their designee and two Fire Chiefs selected by the Alameda County Fire Chiefs Association who are not involved in the incident. After review, the panel shall provide recommendations to the involved City which shall not be unreasonably rejected.

13.3 Failure to Meet Minimum In-Service Equipment/Supply Requirements - Notification shall be made to the County for a failure by the City to meet minimum in-service equipment/supply requirements. If the County becomes aware of a possible failure to meet in-service requirements prior to the City, the County shall notify the City. Upon recognition or notification of a failure to meet minimum requirements, the FRALS unit shall be taken out of service until the City can validate that the minimum in-service equipment/supply requirements are met.

SECTION 14 - COOPERATION WITH EMS SYSTEM/COMMUNITY EDUCATION

14.1 City shall submit an updated plan for medical education programs for the community in its service area and submit a report to EMS no later than February 1st of each year describing these programs.

14.2 City agrees to participate and assist in the development of system changes subject to negotiated costs, if any.

14.3 County agrees to continue obtaining input from all participating Cities prior to implementing change to system policies and procedures.

14.4 City shall participate and assist in changes related to emergency medical services in Alameda County through their participation in committee meetings, and work groups (e.g.: Emergency Medical Oversight Committee, Quality Council and Data Steering Committee)..

SECTION 15 - ADMINISTRATIVE PROVISIONS

15.1 Material Breach

a. Willful failure of City to provide Services under this Agreement in substantial compliance with the requirements of the applicable Federal, State, and County of Alameda laws, rules, and regulations shall constitute a material breach. Minor infractions of such requirements shall not constitute a material breach unless such infractions are willful and repeated.

b. Acts or omissions that shall constitute a material breach by City include but are not limited to the following:

- Willful falsification of data supplied to County during the course of operations, including but not limited to dispatch data, patient report data, Response Time data, financial data, or falsification of any other data required under Agreement;

- Willful failure to maintain equipment in accordance with the requirements of this Agreement;
- Willful attempts to intimidate or punish employees who participate in protected concerted activities, or who form or join any professional associations;
- Chronic and persistent failure to require employees to conduct themselves in a professional and courteous manner, and to present a professional appearance;
- Repeated failure to meet Response Time requirements after receiving notice of non-performance from the EMS Director;
- Failure to maintain required insurance; and/or
- Failure to timely obtain and maintain the necessary licensing and/or certification required by law to provide Services.

15.2 Notice and Cure of Material Breach

a. County shall give City written notice, return receipt requested, setting forth with reasonable specificity the nature of a material breach.

b. City shall have the right to cure the material breach within ten (10) calendar days of receipt of notice. Within three (3) calendar days of receipt of a material breach notice, the breeching party shall deliver, in writing, a plan of action to cure the material breach.

c. If the material breach, by its nature, cannot reasonably be cured within ten (10) calendar days, City may request additional time to complete cure of the breach.

15.3 County Remedies

a. County shall have the right to terminate this Agreement in addition to any other legal remedy in the event of a material breach that is not cured within ten (10) calendar days or additional time granted by County.

b. County's remedies for any breach are non-cumulative and in addition to any other remedy available to the County.

c. If the County determines any breach has occurred, County may require City to submit a corrective action plan for approval by the EMS Director. Failure to submit and implement any requested corrective action plan as approved by the EMS Director may be considered a material breach.

15.4 Continuous Service Delivery – County and City agrees that there is a public health and safety obligation to assist in every effort to ensure uninterrupted and continuous service delivery

in the event of a material breach, even if the party disagrees with the determination of material breach.

15.5 Annual Performance Evaluation

a. The County may evaluate the performance of the City on an annual basis. City shall provide a report to the County to assist in this evaluation within 60 calendar days of written notice by County of its intention to conduct a performance evaluation.

b. The report may require the following information:

- Response Time performance
- Clinical performance in accordance with the Quality Improvement Plan
- Innovative programs that have been initiated to improve system performance
- Update on community education programs and other community initiatives
- Other information as requested by County
- Other information City would like considered by County.

15.6 Assurance of Performance

a. If at any time, the County believes City may not be adequately performing its obligations under this Agreement or that City is not performing the Services as required by this Agreement, County shall provide notice to the City specific nature of City's deficient performance and may there upon request from City prompt reply as to the notice of deficiency, and a written plan acceptable to County, for the correction of deficiencies in City's performance.

b. City shall provide such reply and a written plan within ten (10) calendar days of the receipt of the County's notice, and shall thereafter diligently commence and fully perform such written plan.

c. City's failure to reply to such notices or to provide a written plan within the required time is a material breach of this Agreement.

15.7 Mutual Termination - This Agreement may be terminated early by mutual written agreement of the City and the County.

15.8 Termination for Cause

a. If City fails to cure any material breach, following notice and opportunity to cure, County, upon written notice to City, may terminate this Agreement for cause. The termination shall be effective on the date specified in the written notice. If the County determines that

City's breach threatens public health and safety, County may immediately terminate this Agreement.

b. City shall be responsible for all costs incurred by County due to termination for cause.

SECTION 16 - GENERAL PROVISIONS

16.1 Permits and License

a. City shall be responsible for and shall hold any and all required Federal, State or local permits or licenses required to perform its obligations under the Agreement.

b. It shall be entirely the responsibility of City to schedule and coordinate all applications and application renewals as necessary to ensure that City is meeting its obligation under the Agreement and is in complete compliance with Federal, State and local requirements for permits and licenses as necessary to provide the services.

c. City shall be responsible for ensuring that its employee's State and local certifications as necessary to provide the services, if applicable, are valid and current at all times.

16.2 Observation and Inspections

a. County representatives may at any time directly observe City's operations at the dispatch center or Fire Stations that house FRALS units. Prior to any inspection the County shall notify the on-duty officer at least forty-eight (48) hours in advance.

b. A County representative may schedule a ride-along on any of City's units, provided that in exercising this right to inspection and observation, County representatives conduct themselves in a professional and courteous manner, shall not interfere with City employee's duties, and shall at all times be respectful of City's employer/employee relationships.

c. A County representative may schedule during normal business hours and as often as may be reasonably deemed necessary, meetings to examine any EMS related business records, including incident reports, patient records, financial records related to EMS billing of City pertaining to the provision of emergency medical services. County may audit, copy, make transcripts, or otherwise reproduce such records as needed for County to fulfill its oversight role. If requested by the County, City shall have 10 business days to provide requested documents.

d. County shall notify City of any critical issues discovered during an observation or inspection.

16.3 Relationship of the Parties

Nothing in this Agreement shall be construed to create a relationship of employer and employee or principal and agent, partnership, joint venture, or any other relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of the Agreement. Nothing in the Agreement shall create any right or remedies in any third party, it being solely for the benefit of the County and City.

16.4 Independent Contractor

a. No relationship of employer and employee is created by this Agreement. City is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by City nor for any obligations or liabilities incurred by City.

b. City, its employees, subcontractors, and agents shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

c. City shall be solely liable for and obligated to pay directly all applicable payroll taxes (including Federal and State income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of City's failure to pay such amounts.

d. City shall comply with all applicable Federal and State workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees and shall not be treated or considered in any way as officers, agents and/or employees of County.

16.5 Indemnification

Each party shall indemnify, defend, protect, hold harmless, and release the other, their elected bodies, officer, agents, and employees, from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs, or expense (including attorney's fees and witness costs) arising from or in connection with, or caused by any negligent act or omission or willful misconduct of such indemnifying party, except to the extent the indemnified party contributed to the negligence or willful misconduct. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts.

16.6 Insurance

City shall at all times during the term of the Agreement with the County maintain in force the insurance coverage specified in EXHIBIT B- MINIMUM INSURANCE REQUIREMENTS, and shall comply with all those requirements as Stated therein.

16.7 Conformity with Law and Safety

a. In performing Services under this Agreement, City shall, at all times, observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including Federal, State, municipal, and local governing bodies, having jurisdiction over the Services, including, but not limited to, all applicable provisions of the California Occupational Safety and Health Act. It shall be City's sole responsibility to be fully familiar with all such applicable laws, ordinances, and regulations. City shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any failure by City to comply with such laws, ordinances, codes and regulations.

b. If a death, serious personal injury, or substantial property damage occurs in connection with City's performance of this Agreement and warrants submission of an Alameda County EMS Unusual Occurrence Report (as per EMS Policy). City shall immediately notify County by contacting the Alameda County Regional Emergency Communications Center (ACCREC), as per EMS policy, and ask to speak to the EMS person on-call. City shall promptly submit to County a written report, in such form as may be required by County, of all accidents that occur in connection with this Agreement. This report must include:

- the name and address of the injured or deceased person(s);

- the name and address of City's sub-contractor, if any;
- the name and address of City's liability insurance carrier; and
- a detailed description of the accident and whether any of County's equipment, tools, material or staff were involved.

16.8 Debarment and Suspension Certification

a. City shall comply with applicable Federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations ("CFR") 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

b. City certifies to the best of its knowledge and belief, that it and its principals:

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded by any Federal department or agency; and,
- Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under Federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.

16.9 Ownership of Documents

City shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or used by City for the Services, and shall defend, indemnify and hold County harmless from any claims for infringement of patent or copyright arising out of such use. The County's rights under this Paragraph shall not extend to any computer software used to create such Documents and Materials.

16.10 Documents and Materials

a. City shall maintain and make available to County for its inspection and use during the term of this Agreement all EMS related Documents and Materials. This duty shall continue for three (3) years following termination or expiration of this Agreement. City shall not dispose of, destroy, alter, or mutilate such Documents and Materials, for three (3) years following termination or expiration of this Agreement.

b. Retention of Records - City shall retain all documents pertaining to the Agreement including patient care records, as required by Federal and State laws and regulations, and no less than seven (7) years from the end of the fiscal year following termination or expiration of this Agreement. In addition, patient care records for minors shall be retained for a minimum of seven (7) years and/or until the minor turns age 18 plus one year. Upon request, and except as otherwise restricted by law, City shall make these

records available to authorized representatives of the County, the State of California, and the Federal government.

c. Time of Essence - Time is of the essence in respect to all provisions of this Agreement that specify a time for performance. This requirement shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed by this Agreement.

16.11 Notices

a. All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

    a. Personal Delivery: When personally delivered to the recipient, notices are effective on delivery.

    b. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

    c. Overnight Delivery: When delivered by overnight delivery (e.g., Federal Express/Airborne/United Parcel Service/DHL Worldwide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

    d. Facsimile Transmission: When sent by facsimile to the last facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that: a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or b) the receiving party delivers a written confirmation of receipt. Any notice given by facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

16.12 Addresses for purpose of giving notice are as follows:

To County:

County of Alameda
Alameda County EMS
1000 San Leandro Blvd., Suite 200
San Leandro, CA 94577
Attn: EMS Director

To City:

City of Hayward
777 B St.
Hayward, CA 94541
Attn: City Manager

a. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

b. Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

16.13 Equal Employment Opportunity Practices Provisions

a. City shall comply with Title VII of the Civil Rights Act of 1964 and City agrees that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

b. City shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, State that it is an "Equal Opportunity Employer" or that all qualified applicants shall receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.

c. Upon request by County, City shall certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.

d. Upon request by County, City shall provide County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under State or Federal law.

e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act that is prohibited by law.

16.14 Waiver

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

16.15 Assignment Not Allowed

City shall not assign this Agreement to a third party without written consent of the County; nor shall City assign any monies due from County under this Agreement to any third party without written consent of the County.

16.16 End Term Provisions

City agrees to return all County-issued equipment to County in good working order, normal wear and tear excepted, at the termination of this Agreement.

16.17 Entire Agreement

This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between the parties relating to the subject matter of this Agreement. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof.

16.18 Headings

Headings herein are for convenience of reference only and shall in no way affect the interpretation of the Agreement.

16.19 Modification of Agreement

This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties in writing signed by authorized representatives of both parties. When supplementing, amending, or modifying a portion of the Agreement, the entire section containing the proposed changes shall be included in the amendment documentation to show context and for the purpose of clarity. Where there is mutual agreement by City and the EMS Director, the following exhibits may be modified, by a written amendment signed by City and the Director of Health Care Services Agency:

EXHIBIT A - DEPICTION AND DEFINITION OF CITY'S PRIMARY SERVICE AREA

16.20 Survival

The obligations of this Agreement, which by their nature would continue beyond the termination or expiration of the Agreement, including without limitation, the obligations regarding Indemnification, Ownership of Documents, and Conflict of Interest, shall survive termination or expiration.

16.21 Severability

If a court of competent jurisdiction holds in a final decision that any provision of this Agreement is illegal, unenforceable, or invalid in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portions of them, shall not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

16.22 Patent and Copyright Indemnity

City represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("City Products") provided to County under this Agreement infringe any patent, copyright, or other proprietary right. City shall defend, indemnify and hold harmless County, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, "Losses") arising out of or in connection with any claim that any City Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County shall: a) notify City promptly of such claim or suit; b) permit City to defend, compromise, or settle the claim; and, c) provide, on a reasonable basis, information to enable City to do so. City shall not agree without County's prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the City Products.

If City is obligated to defend County pursuant to this Section and fails to do so after reasonable notice from County, County may defend itself and/or settle such claim or suit, and City shall pay to County any and all losses, damages and expenses (including attorney's fees and costs) incurred in relationship with County's defense and/or settlement of such claim or suit.

In the case of any such claim of infringement, City shall either, at its option: a) procure for County the right to continue using the City Products; or b) replace or modify the City Products so that that they become non-infringing, but equivalent in functionality and performance.

Notwithstanding this Section, County retains the right and ability to defend itself, at its own expense, against any claims that City Products infringe any patent, copyright, or other intellectual property right.

16.23 Choice of Law and Venue

This Agreement shall be governed by the laws of the State of California. Venue for actions and proceedings between the parties related to this Agreement shall be Alameda County Superior Court for state actions and the Northern District of California for any federal action.

SIGNATORY

By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

IN WITNESS WHEREOF, the parties execute this Agreement:

County of Alameda

By: _____
Signature

Name: Richard Valle

Title: President of the Board of Supervisors

Date: JUL 19 2019

Approved as to Form:

Donna R. Ziegler, County Counsel

By: _____
K. Scott Dickey, Assistant County Counsel

City

By: _____
Signature

Name: Kelly McAdoo

Title: City Manager

Date: _____

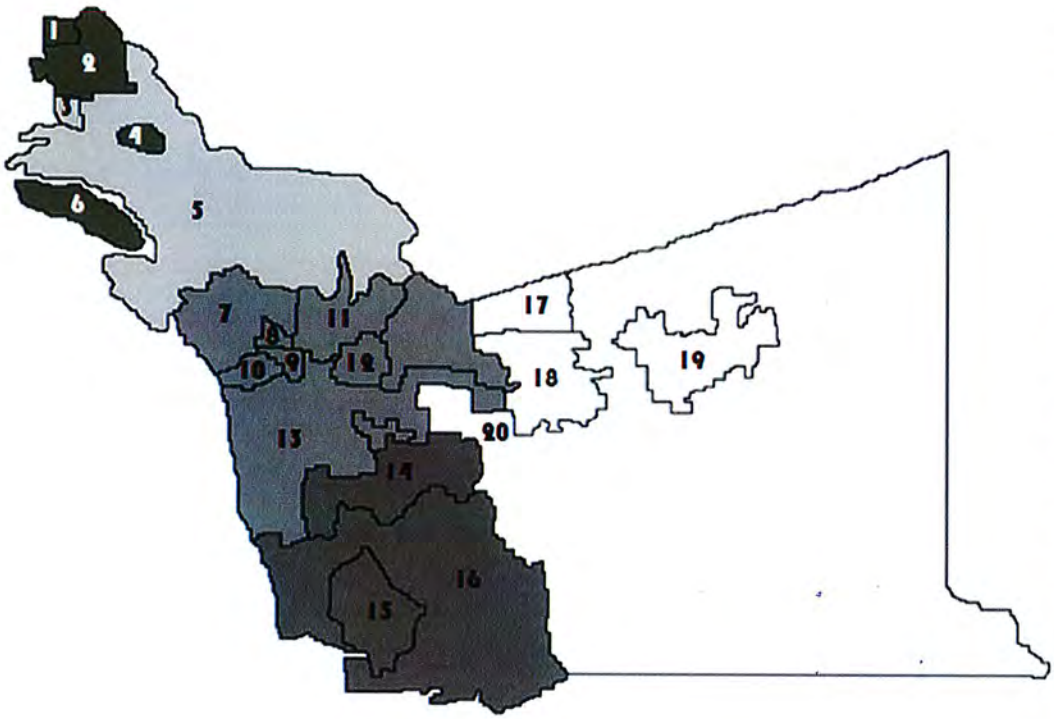
Approved as to Form:

By: _____
Signature

Title Deputy City Attorney

EXHIBIT A - DEPICTION & DEFINITION - CITY'S PRIMARY RESPONSE AREA/EOA

The City's primary response area/EOA is the City of Hayward and Fairview as depicted as #12 and #13 on the Alameda County map below.



1 - Albany
2 - Berkeley
3 - Emeryville
4 - Piedmont
5 - Oakland
6 - Alameda
7 - San Leandro
8 - Ashland
9 - Cherryland
10 - San Lorenzo
11 - Castro Valley
12 - Fairview
13 - Hayward
14 - Union City
15 - Newark
16 - Fremont
17 - Dublin
18 - Pleasanton
19 - Livermore
20 - Sunol

EXHIBIT B - MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the City as a Contractor to the County, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES	MINIMUM LIMITS
A. Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability; Abuse, Molestation, Sexual Actions, and Assault and Battery	$2,000,000.00 per occurrence (CSL) Bodily Injury and Property Damage
B. Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual Contractors with no transportation or hauling related activities	$2,000,000.00 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C. Workers' Compensation (WC) and Employers Liability (EL) Required for all Contractors with employees	WC: Statutory Limits EL: **$1,000,000.00** per accident for bodily injury or disease
D. Professional Liability/Errors & Omissions Includes endorsements of contractual liability and defense and indemnification of the County	$2,000,000.00 per occurrence $5,000,000.00 project aggregate

E. Endorsements and Conditions:

ADDITIONAL INSURED: All insurance required above with the exception of Professional Liability, Personal Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and representatives.

1. **DURATION OF COVERAGE:** All required insurance shall be maintained during the entire term of the Agreement with the following exception: Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following termination and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement.
2. **REDUCTION OR LIMIT OF OBLIGATION:** All insurance policies shall be primary insurance to any insurance available to the Indemnified Parties and Additional Insured(s). Pursuant to the provisions of this Agreement, insurance affected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties.
3. **INSURER FINANCIAL RATING:** Insurance shall be maintained through an insurer with a minimum A.M. Best Rating of A- or better, with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.
4. **SUBCONTRACTORS:** Contractor shall include all subcontractors as an insured (covered party) under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
5. **JOINT VENTURES:** If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by any one of the following methods:
   - Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured (covered party), or at minimum named as an "Additional Insured" on the other's policies.
   - Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured.
6. **CANCELLATION OF INSURANCE:** All required insurance shall be endorsed to provide thirty (30) days advance written notice to the County of cancellation.
7. **CERTIFICATE OF INSURANCE:** Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The require certificate(s) and endorsements must be sent to:
   - Department/Agency issuing the agreement
   - With a copy to Risk Management Unit (125 – 12th Street, 3rd Floor, Oakland, CA 94607)

EXHIBIT C - DEBARMENT AND SUSPENSION CERTIFICATION

1. _____, under penalty of perjury, certifies that, except as noted below, the City, its principal, and any named subcontractor:

   1.1 Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;

   1.2 Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past three years;

   1.3 Does not have a proposed debarment pending; and,

   1.4 Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

2. If there are any exceptions to this certification, insert the exceptions in the following space.

3. Exceptions shall not necessary result in denial of award, but shall be considered in determining Proposer responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

4. Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Agreement. Signing the Agreement on the signature portion thereof shall also constitute signature of this Certification.

Name: Kelly McAdoo

Signature: [signature]

Title: City Manager

Date: __/__/____