



TO THE HONORABLE MAYOR AND COUNCIL:

DATE: April 28, 2015

SUBJECT: APPROVAL OF THE AGREEMENT BETWEEN THE CITY OF CONCORD AND THE CITY OF CLAYTON TO PROVIDE FOR DISPATCH, COMPUTER AIDED DISPATCH SYSTEM SERVICES, AND TEMPORARY HOLDING AND DETENTION SERVICES UNTIL JUNE 30, 2020

Report in Brief

The City of Concord has a long history of providing Police support services to the City of Clayton which includes dispatch, Computer Aided Dispatch (CAD) system, and temporary holding and detention services. The current Agreement expires on June 30, 2015.

Staff recommends Council approve the attached Agreement between the City of Concord and the City of Clayton for Dispatch, Computer Aided Dispatch (CAD) system services, temporary holding and detention services for five years beginning July 1, 2015 and continuing until June 30, 2020, and authorize the City Manager to execute the Agreement. The Clayton City Council approved the agreement at its April 7, 2015 meeting.

Discussion

Staff believes it is appropriate for the Council to approve this Agreement because it provides mutual benefits to both communities. Clayton benefits from the provision of the services at a reasonable price. Concord receives compensation for the cost of providing the services. Both communities benefit from the continued strong relationship between the two cities.

The Agreement will allow the Concord Police Department to provide Police Dispatch services, including 911 call-taking, for the City of Clayton. Additionally, Clayton Police use the Concord Police Computer Aided Dispatch (CAD) system, Crime Management System and EZ-Writer system to facilitate communications, reporting and records functions. Concord's Information Technology Department provides the technical support of these Concord systems employed by the Clayton Police Department.

**ACCEPTANCE OF AGREEMENT BETWEEN THE CITY OF CONCORD AND THE CITY OF
CLAYTON TO PROVIDE FOR DISPATCH, COMPUTER AIDED
DISPATCH SYSTEM SERVICES, AND TEMPORARY HOLDING AND
DETENTION SERVICES UNTIL JUNE 30, 2020**

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Fiscal Impact

The cost to the City of Concord for providing the service required by the agreement is paid from the City's general fund; but under the terms of the proposed Agreement, those costs are reimbursed in full by the City of Clayton, and placed in the City of Concord's general fund. With one exception, the costs are reimbursed on a monthly basis (with each payment representing one twelfth of the yearly cost to Concord of providing these services). During Years One and Two of this agreement, Clayton shall pay Concord the sum of \$20,089.50 monthly.

Notably, the agreement includes a cost escalation factor. Specifically, beginning in Fiscal Year 2017, the City of Clayton shall pay to the City of Concord the previous year's costs, plus an inflation factor of five (5) percent. This annual escalation clause remains in effect throughout the term of the agreement.

Additionally, the agreement includes a provision that within thirty (30) days of its execution requires the City of Clayton to pay the City of Concord a one-time sum of \$79,260 for their share of the cost of the City's Records Management System purchase and implementation.

Public Contact

Posting of the Council Agenda as required by law.

Recommendation for Action

Staff recommends the City Council approve the Agreement with the City of Clayton which authorizes the City of Concord to provide the City of Clayton with Dispatch, Computer Aided Dispatch System Services and Detention Services, and authorize the City Manager to execute the agreement, which was approved by the Clayton City Council at its April 7, 2015 meeting.

Prepared by: Bill Roche
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Valerie J. Barone
City Manager

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**AGREEMENT FOR DISPATCH, DETENTION AND INFORMATION TECHNOLOGY
SUPPORT SERVICES
(Cities of Concord and Clayton)**

THIS AGREEMENT FOR DISPATCH, DETENTION AND INFORMATION TECHNOLOGY SUPPORT SERVICES ("Agreement") is entered into effective the 1st day of July 1, 2015 by and between the City of Concord, California ("Concord") and the City of Clayton, California ("Clayton") (each a "City" and collectively, the "Cities"), both being California municipal corporations.

Recitals

A. Clayton and Concord entered into an Agreement for Police Dispatch, Detention and Information Technology Support Services on September 28, 1999 (hereinafter "1999 Agreement"). The 1999 Agreement was amended on February 27, 2001 and superseded by an Agreement dated August 17, 2009 (hereinafter "2009 Agreement"), also for the provision of Police Dispatch, Detention and Information Technology Support Services. The term of the 2009 Agreement was set to expire on June 30, 2014, however, on June 18, 2014, the 2009 Agreement was amended, extending the term through June 30, 2015. The parties now desire to enter into this Agreement for Dispatch, Detention and Information Technology Support Services (hereinafter "2015 Agreement" or "Agreement"), which shall supersede all preceding agreements described in this Paragraph A.

B. The Cities acknowledge that each requires dispatch, detention and information technology support services and that fair, equitable and proportional sharing of the reasonable costs associated with such services will benefit both Cities and their citizens.

C. Concord has provided police dispatch, detention and information technology support services to Clayton for approximately 15 years. In exchange for the monetary compensation set forth this 2015 Agreement and the attachments thereto, Concord agrees to continue to provide the services to Clayton as set forth in this Agreement, subject to the terms and conditions herein.

D. The Cities have agreed to simplify the calculation of annual operating costs by using the fiscal year 2013-14 costs to determine a new baseline upon which to calculate future annual costs.

WHEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Provision of Services. Concord and Clayton shall perform those services and carry out that work described in the "Service Plan" appended hereto as Exhibit "A" and incorporated herein by reference (the "Services").
2. Payment for Services. Clayton shall pay Concord those costs/fees described in the "Cost and Payment Provisions," appended hereto as Exhibit "B" and

incorporated herein by reference. The costs/fees set forth therein are effective July 1, 2015.

3. Term. The initial term of this Agreement shall be five (5) years, commencing on July 1, 2015 and continuing until July 1, 2020, unless terminated as hereafter provided. Thereafter, this agreement shall automatically renew for an additional five (5) year period, unless notification of termination is given as provided herein. The first year of this Agreement (fiscal year 2015) shall hereinafter be referred to as "Year One," and all subsequent years shall be sequentially referenced in the same manner.
4. Termination of Agreement. This Agreement may be terminated by either City, at its sole discretion, upon at least six (6) month's advance written notice to the other City. This Agreement may also be terminated without such notice upon the written agreement of both Cities.
5. Termination by Default. Upon the default of either City in the performance of any of its obligations under this Agreement, where such failure continues for a period of ten (10) calendar days after written notice of such default is received, the non-defaulting City may immediately terminate this Agreement upon giving notice of termination to the defaulting City. Prior to termination, either City may request a dispute resolution proceeding pursuant to the terms of this Agreement. However, if the default cannot reasonably be cured within ten (10) calendar days, then the Agreement may not be terminated if the defaulting City commences cure within the ten (10) days and thereafter diligently prosecutes such cure to completion.
6. Modification and Amendments. This Agreement may be modified or amended in writing upon the mutual agreement of the Cities.
7. Notification Obligations. Clayton will provide reasonable advance notice to Concord if any of the following events occur: (1) the addition of housing and/or commercial development of 50 or more mailing addresses or the addition of 5 or more streets/courts/alleys/lanes or public roads fronting residences or business in the Clayton; (2) annexation of additional land by Clayton after the execution of this 2015 Agreement; and (3) construction of new cell towers/sites within Clayton city limits.
8. Legal Relationship of the Cities. The only legal relationships established by this Agreement are those created by contract. This Agreement is not intended to, and does not, create the relationship of agent, servant, employee, partnership, joint venture or association, nor of a joint powers authority.
9. Implementation of Agreement. The Cities acknowledge that not every detail, issue or definition affecting the implementation of the Agreement can be

contemplated at the time of this Agreement's drafting and execution. Therefore, each City will implement this Agreement in good faith, respecting the intent of this Agreement and the provisions thereof. This Agreement is the product of the mutual drafting efforts of both Cities and thus no interpretation shall be given that would favor one City over the other.

- 10. Indemnity. Except as to the sole negligence or willful misconduct of Concord, Clayton will defend, indemnify and hold Concord, its officers, agents and employees, harmless from any and all loss, damage, claims, demands, liability, expense or cost, including attorney's fees, which arise out of, or are in any way connected with the performance of, the services by Clayton or any of Clayton's employees, agents or subcontractors, notwithstanding that Concord may have benefited from their services.

Except as to the sole negligence or willful misconduct of Clayton, Concord will defend, indemnify and hold Clayton, its officers, agents and employees, harmless from any and all loss, damage, claims, demands, liability, expense or cost, including attorney's fees, which arise out of, or are in any way connected with the performance of, the services by Concord or any of Concord's employees, agents or subcontractors, notwithstanding that Clayton may have benefited from their services.

- 11. Notices, Contact Persons. The contact persons for this Agreement shall be, and any notice required to be given, shall be deemed properly delivered if mailed, postage pre-paid to:

For Concord:
 Chief of Police
 Concord Police Department
 1350 Galindo Street
 Concord, CA 94520

For Clayton:
 Chief of Police
 Clayton Police Department
 6000Heritage Trail
 Clayton, CA 94517

Each City will notify the other of any changes of address that would require any notice or delivery to be directed to another address.

- 12. Payment. In accordance with the Cost and Payment Provisions set forth in Exhibit B, Clayton shall within thirty (30) days of the execution of this agreement pay Concord the one-time sum of \$79,260 for Records Management System purchase and implementation, as referenced in Exhibit B to this agreement. Clayton shall make monthly payments to Concord for Concord's cost of providing police dispatch, detention and information technology support services to Clayton, as referenced in Exhibit B to this agreement. Each monthly payment shall be made on the first day of the month, commencing on July 1, 2015. Each payment shall represent one-twelfth of the total annual amount owed for the fiscal year in which the payment is made. For example, during Years One and Two of this Agreement, Clayton shall pay Concord the sum of \$20,089.50 on the first day of each month.

13. Dispute Resolution. Should any dispute arise out of this Agreement including but not limited to the termination thereof, either City may request that it be submitted to mediation. If the Cities cannot agree upon the identity of a mediator within thirty (30) days after a City requests mediation, then each City shall select a mediator and those two mediators will select a third mediator to mediate the dispute. The Cities shall meet in mediation within thirty (30) days of the selection of a mediator. The cost of mediation shall be borne equally by the Cities. Neither City shall be deemed the prevailing party. 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. The mediation process, once commenced by a meeting with the mediator shall last until agreement is reached by the Cities but not more than sixty (60) days, unless the maximum time is extended by the Cities. Should litigation be commenced, each City shall be responsible for its own attorneys' fees and costs, and shall not be entitled to collect such fees and costs from the other City.
14. Entire Agreement. This Agreement, together with any other written document referred to or contemplated by it, embodies the entire Agreement and understanding between the Cities relating to the subject matter contained therein. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both Cities. This Agreement replaces, in its entirety, all prior Agreements for Dispatch, Detention and Information Technology Support Services.
15. Successors and Assigns. It is mutually understood and agreed that this Agreement will be binding upon the Cities and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Concord without the prior consent of Clayton, which shall not be unreasonably withheld.
16. Authority. The individuals executing this Agreement and the instruments referenced in it on behalf of the Cities each represent and warrant that they have the legal power, right and actual authority to bind the Cities to the terms and conditions of this Agreement.
17. Severability. If any section, clause, or phrase of this Agreement, or the application thereof to any City or any other person or circumstance, is held to be invalid by a final decision of a court of competent jurisdiction, it shall be deemed severable and the remainder of this Agreement, or the application thereof to any City or any other person or circumstance, shall not be affected thereby.
18. Section Headings. The section headings herein are for the convenience of the Cities only and shall not be deemed to govern, limit, modify, or in any manner

affect the scope, meaning, or intent of the provisions or language of this Agreement.

- 19. Choice of Laws. This Agreement is made in Contra Costa County, State of California, under the Constitution and laws thereof, and shall be construed and enforced in accordance with the laws of the State of California.

IN WITNESS WHEREOF, this Agreement is executed by the City of Concord, City Manager, authorizing such execution, and by the City of Clayton, City Manager.

CITY OF CONCORD:

CITY OF CLAYTON

By: _____
Valerie Barone, City Manager

By: _____
Gary Napper, City Manager

Date: _____

Date: _____

ATTEST:

ATTEST

Joelle Fockler, City Clerk

Janet Brown, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Mark S. Coon
City Attorney

By: _____
Malathy Subramanian
City Attorney

EXHIBIT A

SERVICE PLAN/DESCRIPTION OF SERVICES

1. **Dispatch Function**

Concord Police Department (CPD) is the defined Public Safety Answering Point (PSAP) for calls for Clayton police service originating within the Clayton City limits, including cell phone based calls for service assigned by the cellular carrier to the Concord PSAP regardless of the specific geographic location of the originating call.

- (a) CPD Dispatch will provide emergency and non-emergency call handling pursuant to Policies, Procedures, Practices and Standards employed by CPD Dispatch in responding to Concord-based calls for service.
- (b) Clayton agrees to use and comply with all Concord Police Department Policies Procedures, Practices and Standards associated with dispatching Officers, including such amendments as may be deemed necessary by the Concord Police Department, as approved by the Chief of Police, and review in advance with the Clayton Chief of Police.

2. **Computer Aided Dispatch System**

Concord will allow and support Clayton Police Department's use of the Computer Aided Dispatch (CAD) system currently employed by the City of Concord Police Department, under the following conditions:

- (a) Concord will provide system software and communication software to Clayton, charging Clayton for the costs incurred by Concord associated with Clayton's use of the system, as set forth in Exhibit "B" to this Agreement (Cost and Payment Provisions).
- (b) Clayton agrees to procure and maintain at its sole expense all computers and associated communications and vehicle locations equipment in accordance with the specifications provided by Concord.
- (c) Clayton agrees to procure and maintain at its sole expense a data communications line between the Clayton Police Department or Clayton City Hall and a location designated by Concord for purposes of extending Concord's Law Enforcement Network to Clayton. Such communications line shall conform to the Department of Justice security requirements, including any revisions or amendments enacted subsequent to the execution of this Agreement.

3. **Desktop, Vehicle and Network Infrastructure Support and Maintenance**

- (a) The City of Concord Information Technology Department shall provide desktop and/or laptop support, Mobile Data Computer (MDC) support for [insert brand and model] units in police vehicles (including the same mobile data connectivity used to support Concord Police Department Units), and network cabling, routing, and packet switching support for all law enforcement computers connected to the Clayton Police Department Computer Network.
- (b) The aforementioned support will be provided at the cost/rate set forth in Exhibit B to this 2014 Agreement ("Cost and Payment Provisions"), which is premised on the assumption that the computers (PC's and laptops) utilized by Clayton are no older than four (4) years and the MDC's are no older than six (6) years, or are the same model used by the Concord Police Department. Clayton shall be responsible for the equipment and recurring monthly costs of providing mobile data connectivity to Clayton's police vehicles, as set forth in Attachment B.
- (c) At Clayton's discretion, Clayton may bundle any desired MDC purchase and installation with Concord's purchase and installation schedule. Any such arrangement shall be governed by a side letter to this agreement.
- (d) Clayton retains the right to select any MDC it deems appropriate. Should Clayton select a different MDC make, model or configuration than Concord, Clayton recognizes and agrees that Concord's Information Technology ("IT") support staff may not be able to support the MDC's and may not be able to guarantee functionality with existing software, such as the CAD system.

4. **Electronic Messaging System**

Concord will procure, install, configure, support, replace, and maintain an Electronic Messaging system (e-mail). Concord will permit and support Clayton Police Department's use of the e-mail system currently employed by the Concord Police Department, under the following conditions:

- (a) Concord will provide e-mail system software and communication software and/or licenses to Clayton, charging Clayton for the direct incremental costs incurred by Concord associated with Clayton's use of the system.

- (b) Clayton agrees to procure and maintain at its sole expense all computer and associated equipment required to utilize Concord's electronic messaging system.
- (c) Clayton may, at its sole discretion, utilize Concord as the source of the equipment described in Subsection b of this Paragraph 4, and also utilize Concord to maintain said equipment. If Clayton elects to do so, said equipment and the servicing thereof shall be governed by a separate Agreement/Memorandum of Understanding (MOU) between Clayton and Concord.
- (d) Clayton recognizes the need for, and agrees to, periodic Electronic Messaging System maintenance periods as shall be developed over time to facilitate continued smooth operation of said system. Such maintenance periods will be scheduled and noticed in accordance with any service level agreements in place governing the various systems. Concord will in good faith work with Clayton to minimize any disruption caused thereby.

5. **Records Management System.**

Concord will procure, install, configure, support and maintain a Law Enforcement Records Management System that will meet Clayton's needs at a service level determined and agreed to by the Concord Police Department and Concord Information and Technology Department. Concord will support and allow Clayton Police Department's use of the RMS employed by the Concord Police Department, under the following conditions:

- (a) Concord will provide RMS system software and communications software to Clayton, charging Clayton in accordance with the Costs and Payments Schedule, appended as Exhibit "B" to this Agreement.
- (b) Clayton agrees to provide and maintain at its sole expense all computer and associated equipment, software and licenses necessary to utilize Concord's RMS System.
- (c) Clayton understands the need for, and agrees to, periodic maintenance periods as shall be developed over time to facilitate continued efficient operation of the various systems. Such maintenance periods will be scheduled and noticed in accordance with any service level agreements in place governing the various systems.

- (d) Clayton agrees to comply, at its sole cost, with current applicable California Department of Justice (DOJ) security requirements including any changes, revisions, or amendments as may be made over the term of this 2015 Agreement.
- (e) Clayton understands and agrees that Concord will function as the point of contact for the DOJ for the Clayton Police Department, as respects matters related to the provision of records management services.

6. **Software Licensing and Version Updates**

- (a) The software versions (for Microsoft Office, Outlook etc.) shall be licensed by the Clayton Police Department at its sole expense and shall be kept current with the version(s) in use at the Concord Police Department. Support for software used by the Clayton Police Department that is different from or in addition to that used by the Concord Police Department shall be on a best efforts basis only. Concord's IT Department will spend a maximum of one (1) hour troubleshooting this software. Additional service needed to render such software compatible with Concord's shall be at Clayton's sole cost, which shall be additional to the costs set forth in Exhibit B. Clayton understands and agrees that ultimate resolution of any incompatibility software utilized by Clayton may necessitate Clayton changing to the same software used by Concord's Police Department, at Clayton's sole cost.
- (b) Clayton understands that Concord intends to remain within one release of the most current Microsoft Office Suite which includes Word, Excel, PowerPoint, Outlook, etc., and other manufacturer's software currently in use by the Concord Police Department. The City of Concord will provide reasonable notice to Clayton of any planned upgrades to allow the Clayton Police Department to obtain any required licenses. Software that is older than one release previous to the most current version available will be supported on a best efforts basis only. Concord's IT Department will spend a maximum of one (1) hour troubleshooting this software to resolve issues concerning incompatibility. Clayton understands and agrees that ultimate resolution of any incompatibility software utilized by Clayton may necessitate Clayton obtaining upgraded software, and that Clayton will obtain any necessary upgrades at Clayton's sole cost, which shall be additional to the costs set forth in Exhibit B.

7. **Detention Services**

Concord will accept individuals arrested by Clayton into Concord's temporary holding facility. Detainees shall be booked, detained (as necessary),

administered a Preliminary Alcohol Screening Test (as appropriate), and where appropriate, transferred to the Contra Costa County Detention Facility in Martinez ("CCCFM). Concord shall apply its detention guidelines, as set forth in Concord Police Department General Order 47 ("Jail Manual"), a copy of which has been provided to Clayton. Prisoners not meeting Concord's Jail Manual guidelines will not be accepted.

EXHIBIT B

COST AND PAYMENT PROVISIONS

The annual costs currently incurred by Concord to provide the services described in the Attached Agreement for Dispatch, Detention and Information Technology Services are as follows:

Component	Ongoing Vendor Costs (per year)	Labor	Comment
Dispatch Services, PD		\$144,494 ¹	6% of CPD dispatch budget based on number of calls handled by dispatch
CAD & associated equipment maintenance, including TriTech VisNet Mobile Client Licenses, TriTech VisNet AVL Client Licenses, Net Motion License, and desktop, vehicle and network infrastructure support and maintenance.	\$11,613		6 % of annual maintenance cost for all dispatch system equipment and fees
Electronic Messaging System /Email Services	\$699		4.91% of Microsoft Enterprise CAL License cost (\$14,238)
Records Management System <ul style="list-style-type: none"> Hardware, Software, Annual Maintenance, Licensing 	\$9,655		Amount does not include third party Public Safety Corp. software, which is not utilized by Clayton.
Miscellaneous Police Services/Detention Services		\$31,042	Time spent by CSO & Records Staff for booking, holding, PAS, transport and records administration
IT Staff Costs		\$43,571	IT staff costs for supporting all Clayton systems (no telephone or voicemail support)
Total Annual Clayton Costs:	\$21,967	\$219,107	

Grand Total - \$241,074

A one-time cost of \$79,260 for RMS equipment purchase and implementation shall be paid by Clayton to Concord upon the execution of this Agreement. If this Agreement is terminated by Clayton for cause or by Concord for convenience in years 1-10, Concord shall issue a refund to Clayton in an amount proportional to the term of the Agreement remaining from the effective date of termination.

¹All figures are rounded off to the nearest dollar.

COST PAYMENTS - YEARS ONE AND TWO OF AGREEMENT. Based on the cost breakdown set forth in the above table, Clayton agrees to pay Concord the sum of TWO HUNDRED AND FORTY-ONE THOUSAND, SEVENTY-FOUR DOLLARS in Years One and Two of this Agreement (Fiscal Years 2015-16 and 2016-17). As noted above, Clayton shall also pay Concord the one-time cost of \$79,260 for RMS equipment purchase and implementation upon the execution of this Agreement.

ANNUAL ESCALATION FOLLOWING YEAR TWO OF AGREEMENT. Based on the above-detailed cost breakdown, the ongoing increase in labor and materials costs and the impracticability and cost of reevaluating Concord's costs for providing the services described in this Agreement for Dispatch, Detention and Information Technology Services on an annual basis, Clayton agrees that in each year following the expiration of Year Two of this 2014 Agreement (Fiscal year 2017-18 and thereafter), Clayton shall pay to the City of Concord the previous year's costs, plus an inflation factor of five (5) percent.