

AGREEMENT

THIS AGREEMENT is made and entered into this 6th day of June, 2017, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY," and the **CITY OF SELMA**, a Municipal Corporation, whose address is 1710 Tucker Street, Selma CA 93662, hereinafter referred to as "CITY".

WITNESSETH:

WHEREAS, CITY receives calls requesting CITY'S fire department ("CITY FIRE") for emergency services and emergency medical first responder services ("EMS"); and

WHEREAS, CITY receives calls requesting both fire suppression services and EMS and transfers these calls to COUNTY's EMS Communications Center for dispatching the appropriate emergency vehicles; and

WHEREAS, CITY FIRE now desires to receive dispatching services for fire suppression calls, which will include dispatching of non-transport first responder services, (collectively, "CITY FIRE Dispatching Services") from COUNTY'S EMS Communications Center; and

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

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

WHEREAS, COUNTY'S EMS Communications Center is staffed and operated by K.W.P.H. Enterprises, Inc., doing business as American Ambulance, a California corporation ("PROVIDER"); and

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

1. SERVICES

A. Subject to CITY timely paying COUNTY for CITY FIRE Dispatching Services (defined in Section 4 herein):

(1) COUNTY shall be responsible for dispatching equipment, hardware, software (including software licenses), and other technologies, which will be utilized for the triage and entry of information for CITY FIRE Dispatching Services in COUNTY'S EMS Communications Center computer aided dispatch ("CAD") system, in connection with COUNTY'S performance of its CITY FIRE Dispatching Services under this Agreement. In the event that CITY requests additional technologies, not currently available in COUNTY'S EMS Communications Center, CITY shall be solely responsible for all costs to purchase and maintain said technology and/or equipment; and

(2) COUNTY shall be responsible for selection, configuration, installation, and maintenance of all dispatching equipment, hardware, software and other technologies associated with this Agreement. All dispatching equipment, hardware, software (including software licenses), and other technologies purchased and/or obtained through this Agreement shall be the sole property of COUNTY; and

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

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

(b) COUNTY'S EMS Communication Center shall dispatch CITY FIRE'S apparatuses through radio and electronic communications, and in accordance with CITY FIRE'S Policies and Procedures (to the extent that they relate only to dispatch), which shall be subject to review by COUNTY'S Representative, as provided in Section 1.C.(2) herein. CITY FIRE shall work collaboratively with COUNTY on policies and procedures that are consistent with other fire agencies that are being dispatched in COUNTY'S EMS Communications Center.

(c) COUNTY'S EMS Communications Center shall provide pre-arrival instructions to callers requesting CITY FIRE Dispatch Services.

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

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

(f) COUNTY shall record all telephone and radio transmissions and provide instant playback as needed. COUNTY shall retain recordings for a minimum of one-hundred eighty (180) days.

(g) COUNTY shall provide reports to CITY as requested. COUNTY must be given sufficient time to develop custom adhoc reports or reports that are not already developed.

(h) COUNTY shall provide one (1) radio operator for dispatching of CITY FIRE'S apparatuses twenty-four (24) hours a day, seven (7) days a week. CITY understands that the radio operator is not dedicated for the sole purpose of CITY and that the radio operator may be dispatching other fire and EMS providers. CITY FIRE shall work collaboratively with COUNTY on policies and procedures that are consistent with other fire agencies that are being dispatched in COUNTY'S EMS Communications Center. COUNTY shall provide that dispatch staff shall be trained in emergency fire dispatch.

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

(j) COUNTY shall maintain an up-to-date manual of CITY FIRE'S Policies and Procedures (subject to review by COUNTY'S Representative, as provided in Section

1.C.(2) herein) for all dispatch staff, and shall provide for training and continuing education of dispatch staff as needed.

(k) The goal for the immediate dispatch of a fire apparatus, in accordance with CITY FIRE approved dispatch protocols, and excluding multiple unit responses, reassigned responses and other situations beyond the COUNTY'S EMS Communications Center control, shall be sixty (60) seconds. The dispatch time will be measured from the time the telephone is answered by the call taker to the time the first fire apparatus is alerted to the incident either by radio, telephone, pager or station alerting device. A review shall occur for all cases in which dispatches are over ninety (90) seconds, and results will be evaluated for improvement opportunities by the Fire Dispatch Continuous Quality Improvement (CQI) Committee.

It is understood that because of the dynamic nature of emergency services, there are situations when the sixty (60) second dispatch goal may not be achieved. Examples of these situations include, but are not limited to:

1. calls with incomplete, inaccurate or no ANI/ALI information (including CAD-to-CAD).
2. calls that do not geo-verify in the CAD.
3. calls in which the reporting party is either unable or unwilling to immediately provide all required information as part of the call taking process (i.e., non-English speaking, hysterical, or uncooperative) or use of Teletype (TTY) or Telecommunication Device for the Deaf (TDD) or audio relay device.

Calls for service that meet one of the above exemption categories shall have a dispatch time of no more than ninety (90) seconds in a minimum of ninety-five percent (95%) of calls received each month.

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

C. CITY shall perform the following functions:

- (1) CITY FIRE shall provide all fire suppression services for all fire suppression calls dispatched by COUNTY'S EMS Communications Center requiring CITY FIRE

apparatuses in accordance with CITY FIRE'S Policies and Procedures.

(2) CITY FIRE shall consult with COUNTY'S Representative in developing CITY FIRE'S Policies and Procedures relating to dispatch only. CITY shall provide CITY FIRE'S Policies and Procedures relating to dispatch to COUNTY for review thereof by COUNTY'S Representative. CITY shall not approve CITY FIRE'S Policies and Procedures relating to dispatch until first having conferred with COUNTY'S Representative and such representative agrees that such policies and procedures are not inconsistent with the COUNTY'S EMS Communication Center's Policies and Procedures, and that CITY FIRE'S Policies and Procedures do not create additional workload for staff or impact other programs in the COUNTY'S EMS Communications Center. COUNTY'S Representative shall have neither the right nor the duty to approve the number of CITY FIRE apparatuses or personnel, or amount of CITY FIRE equipment or other resources, that CITY FIRE deems sufficient to respond to any calls for CITY FIRE Dispatching Services, or other CITY FIRE Policies and Procedures unrelated to dispatch. CITY FIRE shall be reasonable in developing CITY FIRE'S Policies and Procedures relating to dispatch such that those policies and procedures are substantially consistent with COUNTY'S EMS Communication Center's Policies and Procedures.

(3) CITY shall provide continuing education and training to COUNTY'S EMS Communications Center radio operators and staff regarding the dispatching and management of CITY FIRE resources, as needed.

(4) CITY shall assure that all calls to CITY for CITY FIRE calls for service are immediately transferred to COUNTY'S EMS Communications Center.

(5) Upon request of COUNTY, CITY shall provide COUNTY with data that includes the exact times that EMS and CITY FIRE calls for service are received at CITY'S Police Department Communications Center (or other point of CITY contact, if any) and transferred to COUNTY'S EMS Communications Center.

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

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

2. TERM

A. This Agreement shall become effective on the July 1, 2017 and shall continue in full force and effect, and terminate on the 30th day of June, 2020 at 11:59 P.M., unless sooner terminated as provided herein.

B. This Agreement may be renewed with approval of CITY and COUNTY through written amendment and modification of terms and conditions herein set forth.

C. Upon the termination of this Agreement, COUNTY shall promptly provide CITY FIRE with the data generated through the CITY FIRE Dispatching Services provided herein in a commonly usable electronic format.

3. TERMINATION

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

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

C. Material Breach - Either party may terminate this Agreement at any time for cause for the other party's material breach of its obligations herein if not less than thirty (30) days' advance, written notice has been given to the other party and such breach remains uncured within that thirty (30) day period. The party receiving such notice may respond to said notice and any charges contained therein within that thirty (30) day period.

D. CITY shall compensate or provide funding to COUNTY for any services performed or costs incurred under this Agreement prior to any termination of this Agreement.

4. COMPENSATION FOR SERVICES

A. For COUNTY'S performance of FIRE Dispatching Services herein, CITY agrees to pay COUNTY and COUNTY agrees to receive compensation pursuant to Schedule A, attached hereto and incorporated herein by this reference. In no event shall compensation for COUNTY'S performance of CITY FIRE Dispatching Services under this Agreement be in excess of the amounts listed as follows:

(1) For the period of July 1, 2017 through June 30, 2018, the amount of this Agreement shall not exceed Fourteen Thousand One Hundred Seventy-Four and 68/100 Dollars (\$14,174.68).

(2) For the period of July 1, 2018 through June 30, 2019, the amount of this Agreement shall not exceed Fourteen Thousand Three Hundred Thirty and 60/100 Dollars (\$14,330.60).

(3) For the period of July 1, 2019 through June 30, 2020, the amount of this Agreement shall not exceed Fourteen Thousand Four Hundred Eighty-Eight and 23/100 Dollars (\$14,488.23)

B. Payments by CITY shall be in arrears, for services provided during the preceding month, within forty-five (45) days after receipt and verification of COUNTY'S invoices by CITY FIRE. All payments shall be remitted to COUNTY at the following address: County of Fresno, Department of Public Health – Emergency Medical Services Division, P.O. Box 11867, Fresno, California, 93775.

5. INVOICING

COUNTY shall invoice CITY quarterly, addressed to the City of Selma, Fire Department, 1710 Tucker Street, Selma, California, 93662, Attention: Fire Chief.

6. INDEPENDENT CONTRACTOR

In performance of the work, duties, and obligations assumed by COUNTY under this Agreement, it is mutually understood and agreed that COUNTY, including any and all of COUNTY'S officers, agents, and employees will at all times be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner, or associate of CITY. Furthermore, CITY shall have no right to control or

supervise or direct the manner or method by which COUNTY shall perform its work and function, except for COUNTY'S compliance with CITY FIRE'S Policies and Procedures, herein, and as described in Section 1.A.(3)(h) of this Agreement. However, CITY shall retain the right to administer this Agreement so as to verify that COUNTY is performing its obligations in accordance with the terms and conditions thereof. COUNTY and CITY shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters which are directly or indirectly the subject of this Agreement.

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

6. MODIFICATION

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

7. HOLD-HARMLESS

A. CITY agrees to indemnify, save, hold harmless, and at COUNTY'S request, defend COUNTY, including its officers, agents, and employees, from any and all costs and expenses (including attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to COUNTY in connection with the performance, or failure to perform, by CITY, including its officers, agents, or employees under this Agreement, and from any and all costs and expenses (including attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of CITY, including its officers, agents, or employees under this Agreement.

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

(including attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to CITY in connection with the performance, or failure to perform, by COUNTY, including its officers, agents, employees or PROVIDER, under this Agreement, and from any and all costs and expenses (including attorneys' fees and costs), damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of COUNTY, including its officers, agents, employees or PROVIDER under this Agreement.

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

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

8. INSURANCE

Without limiting the indemnification of each party as stated in Section 7 above, it is understood and agreed that CITY and COUNTY shall each maintain, at their sole expense, insurance policies or self-insurance programs including, but not limited to, an insurance pooling arrangement and/or Joint Powers Agreement to fund their respective liabilities throughout the term of this agreement. Coverage shall be provided for comprehensive general liability, automobile liability, professional liability, and workers' compensation exposure. Evidence of Insurance, Certificates of Insurance or other similar documentation shall not be required of either party under this Agreement, except for Commercial General Liability coverage. Each party will provide the other party with an appropriate Commercial General Liability insurance certificate with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000) along with an appropriate endorsement naming the other party as an additional insured on the Commercial General Liability policy. COUNTY shall cause PROVIDER to maintain insurance coverage that is consistent with the current EMS PROVIDER Agreement between COUNTY and PROVIDER.

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9. CONFIDENTIALITY

All services performed by COUNTY under this Agreement shall be in strict conformance with all applicable Federal, State of California and/or local laws and regulations relating to confidentiality.

10. NON-DISCRIMINATION

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

11. RECORDS

Each party shall maintain its records in connection with the respective services referred to under this Agreement. Such records must be maintained for a minimum of three (3) years. Records must also be maintained a minimum of three (3) years after the termination of this Agreement. The party generating the records shall maintain ownership of the records upon termination of this Agreement.

12. AUDITS AND INSPECTIONS

Each party shall at any time during business hours, and as often as the other party may deem necessary, make available to the other party for examination all of the former party's records and data with respect to the matters covered by this Agreement. Each party shall, upon request by the other party, permit the other party to audit and inspect all such records and data necessary to ensure the former party's compliance with the terms of this Agreement.

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

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13. PROVIDER

The parties hereto acknowledge that PROVIDER, or its replacement, if any during the term of the PROVIDER Agreement, will carry out COUNTY'S provision of dispatching services herein. In the event of any such replacement of PROVIDER, the replacement EMS Provider Agreement will be on substantially the same terms as the EMS Provider Agreement to the extent that it concerns this Agreement, as provided herein.

14. FORCE MAJEURE

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

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

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

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

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15. NOTICES

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

COUNTY

Director, County of Fresno
Department of Public Health
P.O. Box 11867
Fresno, CA 93775

CITY

City of Selma
Attn: City Manager
1710 Tucker Street
Selma, CA 93662

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

16. GOVERNING LAW

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

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

17. SEVERABILITY

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

18. ENTIRE AGREEMENT

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

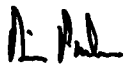
19. NO THIRD PARTY BENEFICIARIES

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

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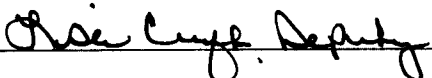
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
day and year first hereinabove written.

COUNTY OF FRESNO:

By: 
Chairman, Board of Supervisors

Date: June 6, 2017

BERNICE E. SEIDEL, Clerk
Board of Supervisors

By: 

Date: June 6, 2017

CITY OF SELMA:

By: 
Mayor Michael Derr

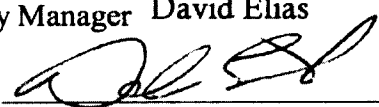
Date: 05/01/2017

City Clerk Reyna Rivera

By: 

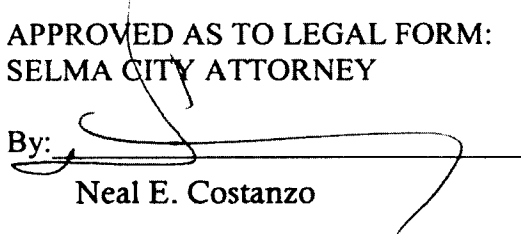
Date: 05/01/2017

City Manager David Elias

By: 

Date: 05/01/2017

APPROVED AS TO LEGAL FORM:
SELMA CITY ATTORNEY

By: 
Neal E. Costanzo

Mailing Address:
Attn.: Fire Department
1710 Tucker Street
Selma, CA 93662

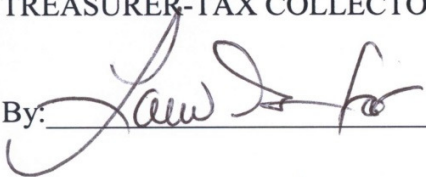
**PLEASE SEE ADDITIONAL
SIGNATURE PAGE ATTACHED**

AGREEMENT BETWEEN COUNTY OF FRESNO
AND CITY OF SELMA

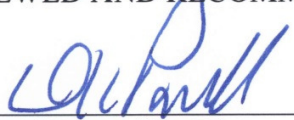
APPROVED AS TO LEGAL FORM:
DANIEL C. CEDERBORG, COUNTY COUNSEL

By: 

APPROVED AS TO ACCOUNTING FORM:
OSCAR J. GARCIA, CPA, AUDITOR-CONTROLLER/
TREASURER-TAX COLLECTOR

By: 

REVIEWED AND RECOMMENDED FOR APPROVAL:

By: 
David Pomaville, Director
Department of Public Health

Fund/Subclass: 0001/10000
Organization: 56201699
Account: 5039

SCHEDULE A

Quarter	Dates of Service	Payment Amount	Payment Due Date
1	July 1, 2017 to September 30, 2017	\$3,543.67	October 15, 2017
2	October 1, 2017 to December 31, 2017	\$3,543.67	January 15, 2018
3	January 2018 to March 31, 2018	\$3,543.67	April 15, 2018
4	April 1, 2018 to June 30, 2018	\$3,543.67	July 15, 2018
5	July 1, 2018 to September 30, 2018	\$3,582.65	October 15, 2018
6	October 1, 2018 to December 31, 2018	\$3,582.65	January 15, 2018
7	January 1, 2019 to March 31, 2019	\$3,582.65	April 15, 2019
8	April 1, 2019 to June 30, 2019	\$3,582.65	July 15, 2019
9	July 1, 2019 to September 30, 2019	\$3,622.05	October 15, 2019
10	October 1, 2019 to December 31, 2019	\$3,622.05	January 15, 2019
11	January 1, 2020 to March 31, 2020	\$3,622.05	April 15, 2020
12	April 1, 2020 to June 30, 2020	\$3,622.08	July 15, 2020