

AGREEMENT

THIS AGREEMENT is made and entered into this 9th day of June, 2020, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and CITY OF KERMAN, a City, whose address is 850 S. Madera Avenue, Kerman, CA, hereinafter referred to as "CITY". COUNTY and CITY may be collectively referred to herein as "Parties" or in the singular as "Party."

WITNESSETH:

WHEREAS, CITY desires to secure law enforcement dispatch services/9-1-1 answering responsibilities for CITY from COUNTY, through the Fresno County Sheriff-Coroner-Public Administrator's Office, within CITY's boundaries;

WHEREAS, COUNTY has provided these services to CITY through its Sheriff's Office or its designee ("Sheriff's Office") since July of 2010;

WHEREAS, COUNTY, through its Sheriff's Office, can continue rendering such services to CITY;

WHEREAS, COUNTY Agreement Number 19-024, the current agreement between CITY and COUNTY for the provision of such services, terminated on June 30, 2019;

WHEREAS, COUNTY desires to enter into this Agreement, effective retroactive to July 1, 2019, to provide such services during the term of this Agreement; and

WHEREAS, COUNTY agrees to render such law enforcement dispatch services/9-1-1 answering responsibilities for CITY within the CITY's boundaries, according to the terms and conditions hereinafter set forth, and CITY agrees to pay COUNTY the cost of performing such services at the rates and under the terms and conditions herein set forth.

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

1. SERVICES PROVIDED BY COUNTY

A. Law Enforcement Dispatch Services: COUNTY agrees its Sheriff's Office will provide, within the limitations of this Agreement, training to CITY's police personnel in the use of the Sheriff's Office's radio procedures and language as deemed necessary by the parties. This training shall

1 cover the computer priority system, uniformity of dispositions, and radio language and discipline, as set
2 forth in Exhibit A, attached hereto and incorporated herein by this reference, for the term of this
3 Agreement, which shall be for a period of three (3) years, commencing on July 1, 2019, through and
4 including June 30, 2022. This Agreement may be extended for two (2) additional consecutive twelve
5 (12) month periods upon written approval of both parties no later than thirty (30) days prior to the first
6 day of the next twelve (12) month extension period. COUNTY agrees, through its Sheriff's Office, to
7 receive phone calls at the Sheriff's Office's communications center for requests to dispatch CITY's
8 police department personnel for the purpose of providing law enforcement services. The Sheriff's Office
9 shall dispatch CITY's police department personnel in response to such requests. The dispatching
10 services provided for under this Agreement do not include, and the Sheriff's Office will not be
11 responsible for providing, any dispatch services for requests for emergency medical services or fire
12 suppression services. Phone calls the Sheriff's Office receives requesting emergency medical services
13 or fire suppression services within CITY boundaries shall be transferred to the emergency medical
14 services dispatching center.

15 B. The rendition of contract services, the standards of performance, the discipline of
16 officers, and other matters incident to the performance of such services and the control of personnel so
17 employed, shall remain with COUNTY. In the event of a dispute between the parties as to the extent and
18 duties and functions to be rendered under this Agreement, or the minimum level or manner of such
19 performance of such services, the determination made by COUNTY shall be final and conclusive.

20 C. The performance of law enforcement dispatch/9-1-1 answering responsibilities for
21 CITY by COUNTY Sheriff's Office, including the standards of performance, the discipline of officers, and
22 all other matters incident to the performance of law enforcement services and the control of law
23 enforcement personnel, shall be the right and responsibility of COUNTY. In the case of a dispute
24 between the Parties as to the extent, duties, or functions to be rendered under this Agreement, or the
25 minimum level or manner of such performance of such services, the determination made by the
26 COUNTY, through its Sheriff's Office, shall be final and conclusive.

1 D. Because the Agreement is effective retroactive to July 1, 2019, any services that
2 have been performed since July 1, 2019, prior to the execution of this Agreement, are hereby approved
3 and ratified by the parties.

4 2. OBLIGATIONS OF THE CITY

5 A. CITY agrees to convert the radios in its police vehicles to such frequencies as
6 required by the Sheriff's Office's communications system. CITY shall also place radios in its police
7 vehicles that have a primary and secondary channeling ability, as determined by the Sheriff's Office, for
8 the purpose of ensuring reasonable communications backup.

9 B. CITY shall have its police personnel use such alpha-numerical identifier system
10 as determined by the Sheriff's Office, and CITY assumes responsibility for keeping the Sheriff's Office
11 communications system secure, as required by law.

12 C. CITY agrees that its personnel shall comply with the Sheriff's Office radio
13 procedures, and that it shall hold its employees accountable for failing to comply with such radio
14 procedures.

15 D. CITY shall timely pay COUNTY for services rendered under this Agreement.
16 Payment for services shall be made as provided by Section 5, "COMPENSATION/INVOICING," of this
17 Agreement.

18 3. TERM

19 The term of this Agreement shall be for a period of three (3) years, commencing on July 1, 2019,
20 through and including June 30, 2022. This Agreement may be extended for two (2) additional consecutive
21 twelve (12) month periods upon written approval of both parties no later than thirty (30) days prior to the first
22 day of the next twelve (12) month extension period. The County Sheriff or her or his designee ("Sheriff") is
23 authorized to execute such written approval on behalf of COUNTY based on CITY's satisfactory
24 performance of its obligations hereunder.

25 4. TERMINATION

26 A. Non-Allocation of Funds - The terms of this Agreement, and the services to be
27 provided hereunder, are contingent on the approval of funds by the appropriating government agency of
28 COUNTY. Should sufficient funds not be allocated, the services provided may be modified, or this

1 Agreement terminated, at any time by giving CITY thirty (30) days advance written notice.

2 B. Breach of Contract - COUNTY may immediately suspend or terminate this
3 Agreement in whole or in part, where in the determination of COUNTY there is:

- 4 1) An illegal or improper use of funds;
- 5 2) A failure to comply with any term of this Agreement;
- 6 3) A substantially incorrect or incomplete report submitted to COUNTY;
- 7 4) Any delay in payment by CITY.

8 C. Without Cause - Under circumstances other than those set forth above, this
9 Agreement may be terminated by COUNTY upon the giving of thirty (30) days advance written notice of an
10 intention to terminate to CITY.

11 5. COMPENSATION/INVOICING:

12 A. CITY shall pay monthly to COUNTY the compensation agreed for performing the
13 dispatching services under this Agreement, as set forth in Section 1(A), above, at the applicable rate for
14 such services and the methodology for determining such compensation as delineated in Exhibit A, which is
15 attached hereto and incorporated herein by reference. After the approval of the applicable rates for such
16 services by the Board of Supervisors for a Fiscal Year, which shall take effect and be in full force and effect
17 thirty (30) days from and after its passage, there shall be no increase to the monthly compensation amount
18 due to COUNTY for services provided to CITY under this Agreement during that specific Fiscal Year as the
19 rates for that Fiscal Year are set forth in COUNTY's Master Schedule of Fees, Charges, and Recovered
20 Costs, Section 2609, subdivision (d) for Dispatcher Per Capita, in place at the time the services are
21 provided. The parties also recognize and agree that the monthly compensation due to COUNTY for
22 services rendered under this Agreement may be updated from time to time based upon changes to the "per
23 resident charge" and "population estimate" figures in Exhibit A. COUNTY shall provide CITY with written
24 notice of charges to the monthly compensation due to COUNTY. Such notice shall be given in March of
25 2019 and March of 2020, and yearly thereafter during the term of this Agreement. Upon CITY's approval of
26 the changes to the monthly compensation due to COUNTY due to changes to the "per resident charge" and
27 "population estimate" figures, the new monthly compensation amount shall be effective July 1st of the same
28 year notice of the change was given by COUNTY. CITY will compensate COUNTY for performing the

1 dispatching services under this Agreement, to be paid over twelve payments for that Fiscal Year and
2 COUNTY shall invoice CITY monthly for the previous month's services.

3 B. As indicated in Exhibit A, the rate specified per resident (Dispatcher Per Capita) to
4 be charged by COUNTY, and subsequently paid by CITY, are the rates set forth in the County's Master
5 Schedule of Fees, Charges, and Recovered Costs, Section 2609, subdivision (d), for performing the
6 dispatching services under this Agreement. The parties agree that if and when the Master of Schedule of
7 Fees, Charges, and Recovered Costs, Section 2609, subdivision (d), is amended, changed, or revised, in
8 any way that changes the rates being charged for the services identified in this Agreement, that the new
9 rates will be charged by COUNTY, and paid by CITY, for any services provided pursuant to this Agreement,
10 from the date of amendment, change, or revision, going forward. The parties further agree that if and when
11 the Master of Schedule of Fees, Charges and Recovered Costs is amended, changed, or revised, in any
12 way that changes the rates being charged for the services identified in this Agreement, such amended,
13 changed, or revised rate will automatically, and without any notice to CITY, be incorporated into this
14 Agreement, replacing any contrary or conflicting rate, from the effective date of the amendment, change, or
15 revision in the rate(s), and will become the new rate to be paid by CITY to COUNTY for services provided,
16 from the effective date of the rate change forward. The parties acknowledge that COUNTY's Master
17 Schedule of Fees, Charges, and Recovered Costs is subject to change.

18 C. COUNTY shall submit monthly invoices to CITY, and CITY shall pay COUNTY
19 within thirty (30) calendar days of receipt of any such invoice. At the expiration or termination of this
20 Agreement, COUNTY may, in the discretion of the Sheriff's Office, submit a final invoice for all amounts
21 then unpaid, including any remaining, unpaid portion of law enforcement dispatch services, and CITY shall
22 pay the full amount of this invoice within thirty (30) days of receipt thereof. Any payment made more than
23 30 days after receipt of an invoice may result in contract termination or service reduction, in the sole
24 discretion of the Sheriff's Office, without any penalty or recourse against COUNTY.

25 6. INDEPENDENT CONTRACTOR: In performance of the work, duties and obligations
26 assumed by COUNTY under this Agreement, it is mutually understood and agreed that COUNTY, including
27 any and all of COUNTY'S officers, agents, and employees, will at all times be acting and performing as an
28 independent contractor, and shall act in an independent capacity and not as an officer, agent, servant,

1 employee, joint venturer, partner, or associate of CITY. Furthermore, CITY shall have no right to control or
2 supervise or direct the manner or method by which COUNTY shall perform its work and function. However,
3 CITY shall retain the right to administer this Agreement so as to verify that COUNTY is performing its
4 obligations in accordance with the terms and conditions thereof.

5 CITY and COUNTY shall comply with all applicable provisions of law and the rules and regulations,
6 if any, of governmental authorities having jurisdiction over matters the subject thereof.

7 The Parties shall be solely liable and responsible for providing to, or on behalf of, their employees
8 all legally-required employee benefits. In addition, Parties shall be solely responsible and save the other
9 Party harmless from all matters relating to payment of each Party's employees, including compliance with
10 Social Security withholding and all other regulations governing such matters.

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

13 8. NON-ASSIGNMENT: Neither party shall assign, transfer or sub-contract this Agreement
14 nor their rights or duties under this Agreement without the prior written consent of the other party.

15 9. HOLD HARMLESS: CITY agrees to indemnify, save, hold harmless, and at COUNTY'S
16 request, defend COUNTY, its officers, agents, and employees from any and all costs and expenses
17 (including attorney's fees and costs), damages, liabilities, claims, and losses occurring or resulting to
18 COUNTY in connection with the performance, or failure to perform, by CITY, its officers, agents, or
19 employees under this Agreement, and from any and all costs and expenses (including attorney's fees and
20 costs), damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who
21 may be injured or damaged by the performance, or failure to perform, of CITY, its officers, agents, or
22 employees under this Agreement.

23 COUNTY agrees to indemnify, save, hold harmless and, at CITY's request, defend CITY, its officers,
24 agents and employees from any and all costs and expenses, (including attorney's fees and costs),
25 damages, liabilities, claims, and losses occurring or resulting to CITY in connection with the performance,
26 or failure to perform by COUNTY, its officers, agent, or employees under this Agreement and from any and
27 all costs and expenses (including attorney's fees and costs), damages, liabilities, claims, and losses
28 occurring or resulting to any person, firm, or corporation who may be injured or damaged by the

1 performance, or failure to perform, of COUNTY, its officers, agents, or employees under this Agreement.

2 The provisions of this Section 9 shall survive termination of this Agreement.

3 10. INSURANCE

4 Without limiting the right of either party to obtain indemnification from the other party or any third
5 parties, it is understood and agreed that CITY and COUNTY shall each maintain, at their sole expense,
6 insurance policies or a program of self-insurance, including but not limited to, an insurance pooling
7 arrangement and/or Joint Powers Agreement (JPA) to fund their respective liabilities throughout the term of
8 the Agreement. Coverage shall be provided for comprehensive general liability, automobile liability,
9 professional liability, and workers compensation exposure. Evidence of Insurance, Certificates of Insurance
10 or other similar documentation shall not be required of either party under this Agreement.

11 11. AUDITS AND INSPECTIONS: COUNTY shall at any time during business hours, and as
12 often as CITY may deem necessary, make available to CITY for examination all of its records and data with
13 respect to the matters covered by this Agreement. COUNTY shall, upon request by CITY, permit CITY to
14 audit and inspect all of such records and data necessary to ensure COUNTY'S compliance with the terms
15 of this Agreement.

16 If this Agreement exceeds ten thousand dollars (\$10,000.00), COUNTY and CITY shall be subject
17 to the examination and audit of the California State Auditor for a period of three (3) years after final payment
18 under contract (Government Code Section 8546.7).

19 12. NOTICES: The persons and their addresses having authority to give and receive notices
20 under this Agreement include the following:

| | |
|--------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>21 <u>COUNTY</u> 22 Fresno County Sheriff Captain 23 P.O. Box 1788 24 Fresno, CA 93717 25 FAX No.: 559-488-3699</p> | <p><u>CITY</u> 26 City Manager 27 850 S. Madera Avenue 28 Kerman, CA 93630 PHONE No.: 559-846-9384 FAX No.: 559-846-6199</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|

25 All notices between the COUNTY and CITY provided for or permitted under this Agreement must
26 be in writing and delivered either by personal service, by first-class United States mail, by an overnight
27 commercial courier service, or by telephonic facsimile transmission. A notice delivered by personal service
28 is effective upon service to the recipient. A notice delivered by first-class United States mail is effective

1 three COUNTY business days after deposit in the United States mail, postage prepaid, addressed to the
2 recipient. A notice delivered by an overnight commercial courier service is effective one COUNTY business
3 day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery
4 instructions given for next day delivery, addressed to the recipient. A notice delivered by telephonic
5 facsimile is effective when transmission to the recipient is completed (but, if such transmission is completed
6 outside of COUNTY business hours, then such delivery shall be deemed to be effective at the next
7 beginning of a COUNTY business day), provided that the sender maintains a machine record of the
8 completed transmission. For all claims arising out of or related to this Agreement, nothing in this section
9 establishes, waives, or modifies any claims presentation requirements or procedures provided by law,
10 including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code,
11 beginning with section 810).

12 13. GOVERNING LAW: Venue for any action arising out of or related to this Agreement shall
13 only be in Fresno County, California.

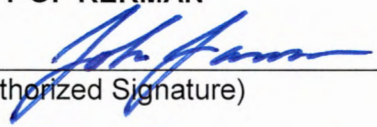
14 The rights and obligations of the parties and all interpretation and performance of this Agreement
15 shall be governed in all respects by the laws of the State of California.

16 14. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between CITY
17 and COUNTY with respect to the subject matter hereof, and supersedes all previous Agreement
18 negotiations, proposals, commitments, writings, advertisements, publications, and understanding of any
19 nature whatsoever, unless expressly included in this Agreement.

20 15. COUNTERPARTS: This Agreement may be executed in any number of counterparts, each
21 of which shall be deemed an original, but all of which together shall constitute one and the same
22 Agreement, binding on the Parties according to its terms and conditions.

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

3
4 **CITY OF KERMAN**

5 
6 (Authorized Signature)

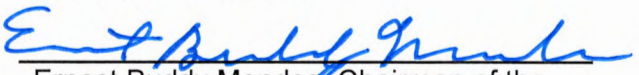
7 JOHN JANSONS
8 Print Name & Title

9 City Manager

10 850 S. Madera Avenue
11 Kerman, CA 93630

12 Mailing Address

COUNTY OF FRESNO

13 
14 Ernest Buddy Mendes, Chairman of the
15 Board of Supervisors of the County of
16 Fresno

ATTEST:

17 Bernice E. Seidel
18 Clerk of the Board of Supervisors
19 County of Fresno, State of California

20 By: Susan Bishop
21 Deputy

22 **FOR ACCOUNTING USE ONLY:**

23 ORG: 31113320

24 Account: 4975

25 Fund: 0001

26 Subclass: 10000
27
28

“Exhibit A”

CITY agrees to pay COUNTY for the performance of law enforcement dispatch services/9-1-1 answering responsibilities under Sections 1(A) and 5 of the Agreement, as follows:

- COUNTY agrees to perform contracted services for CITY at the rate specified below per resident of CITY (as determined by the State Department of Finance certified population estimated as of January 1st of that year) until such time as the rate is updated pursuant to Section 5, “COMPENSATION/INVOICING,” of this Agreement. Under this Agreement, COUNTY’s cost recovery will be 100%, at the then-current rate (i.e. the rate listed at the time the service is provided) listed in the Master Schedules of Fees Charges, and Recovered Costs, Section 2609, subdivision (a), for the Dispatcher Per Capita at the rate, per hour. CITY acknowledges that these rates are subject to change, as delineated in the Agreement. The total amount of the Law Enforcement Dispatch Services to be provided and paid for, and the manner of invoicing, is depicted in the Agreement.

Monthly Charge for FY 2019-20 (July 1, 2019 – June 30, 2020) (hereinafter the “2019-2020 Monthly Charge”) is split, due to COUNTY Board’s late approval of Master Schedule of Fees (MSF) on October 22, 2019, and reflects the new MSF rates effective December 1, 2019 for the following:

The methodology to calculate these amounts is as follows:

(July 1, 2019 – November 30, 2019)

Per-resident charge = \$14.79 (100% of \$14.79 per resident)

Number of residents in CITY (as determined by State Department of Finance certified population estimate as of January 1, 2019) = 15,495

2019-2020 Monthly Charge = $(\$14.79/\text{resident} \times 15,495 \text{ residents})/12 \text{ months} =$

\$19,097.59/month

1 (December 1, 2019 – June 30, 2020)

2 Per-resident charge = \$15.49 (100% of \$15.49 per resident)

3 Number of residents in CITY (as determined by State Department of Finance certified population estimate
4 as of January 1, 2019) = 15,495

5 2019-2020 Monthly Charge = $(\$15.49/\text{resident} \times 15,495 \text{ residents})/12 \text{ months} =$

6 \$20,001.46/month

7

8 The monthly charge during the rest of the term following the end of FY 2019-20 (July 1, 2019 – June 30,
9 2020) (after the current rates above) will be determined upon approval of the MSF rate, as set forth in the
10 COUNTY's Master Schedule of Fees, Charges, and Recovered Costs, and total number of residents in
11 CITY of that year, for the term of this Agreement.

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