

AGREEMENT

THIS AGREEMENT is made and entered into this 29th day of January, 2019, 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 the COUNTY, through the Fresno County Sheriff-Coroner-Public Administrator (SCPA)'s Office ("Sheriff"), within CITY's boundaries;

WHEREAS, COUNTY has provided these services to CITY through its SCPA since July of 2010;

WHEREAS, COUNTY, through its SCPA, can continue rendering such services to CITY;

WHEREAS, County Fourth Amendment Number 13-530-4, the current agreement between CITY and COUNTY for the provision of such services, is set to terminate on June 30, 2018;

WHEREAS, COUNTY agrees to render such law enforcement dispatch services/9-1-1 answering responsibilities for CITY within the CITY's boundaries of 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. General Law Enforcement Services: COUNTY agrees its SCPA's Office will provide, within the limitations of this Agreement, training to CITY's police personnel in the use of the SCPA's radio procedures and language as deemed necessary by the parties. This training shall cover the computer priority system, uniformity of dispositions, and radio language and discipline as set forth in Exhibit A, attached hereto and incorporated herein by this reference, for the term of this Agreement, from July 1, 2018, and June 30, 2019. COUNTY agrees, through its SCPA, to receive phone calls at the SCPA's communications center for

1 requests to dispatch CITY's police department personnel for the purpose of providing law enforcement
2 services. The SCPA shall dispatch CITY's police department personnel in response to such requests. The
3 dispatching services provided for under this Agreement do not include, and the SCPA will not be
4 responsible for providing, any dispatch services for requests for emergency medical services or fire
5 suppression services. Phone calls the SCPA receives requesting emergency medical services or
6 suppression services within CITY boundaries shall be transferred to the emergency medical services
7 dispatching center.

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

13 C. The performance of law enforcement dispatch services/9-1-1 answering responsibilities for
14 CITY by COUNTY's SCPA's Office including the standards of performance, the discipline of officers,
15 and all other matters incident to the performance of law enforcement services and the control of law
16 enforcement personnel, shall be the right and responsibility of COUNTY. In the case of dispute between
17 the Parties as to the extent, duties, or functions to be rendered under this Agreement, or the minimum
18 level or manner of such performance of such services, the determination made by the COUNTY,
19 through its SCPA, or her/his designee, shall be final and conclusive.

20 2. OBLIGATIONS OF THE CITY

21 A. CITY agrees to convert the radios in its police vehicles to such frequencies as required by the
22 SCPA's communications system. CITY shall also place radios in its police vehicles that have a primary and
23 secondary channeling ability, as determined by the SCPA, for the purpose of ensuring reasonable
24 communications backup.

25 B. CITY shall have its police personnel use such alpha-numerical identifier system as determined by
26 the SCPA and CITY assumes responsibility for keeping the SCPA's communication system secure as
27 required by law.

28 C. CITY agrees that its personnel shall comply with SCPA's radio procedures, and that it shall hold

1 its employees accountable for failing to comply with such radio procedures.

2 D. CITY shall timely pay COUNTY for services rendered under this Agreement. Payment for services
3 shall be made as provide by Section 5, "COMPENSATION/INVOICING," of this Agreement.

4 3. TERM

5 This Agreement shall become effective on the 1st day of July, 2018 and shall terminate on the 30th
6 day of June, 2019.

7 4. TERMINATION

8 A. Non-Allocation of Funds - The terms of this Agreement, and the services to be
9 provided hereunder, are contingent on the approval of funds by the appropriating government agency.
10 Should sufficient funds not be allocated, the services provided may be modified, or this Agreement
11 terminated, at any time by giving the CITY thirty (30) days advance written notice.

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

- 14 1) An illegal or improper use of funds;
- 15 2) A failure to comply with any term of this Agreement;
- 16 3) A substantially incorrect or incomplete report submitted to the COUNTY;
- 17 4) Improperly performed service.

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

21 5. COMPENSATION/INVOICING:

22 A. CITY shall pay monthly to COUNTY the compensation agreed for performing the
23 dispatching services under this Agreement, as set forth in Section 1.A, above, at the applicable rate and the
24 methodology for determining such compensation as delineated in Exhibit A, which is attached hereto and
25 incorporated herein by reference. There shall be no increase to the monthly compensation amount due to
26 COUNTY for services provided to CITY under this Agreement during FY 2018-19 (July 1, 2018 to June 30,
27 2019). The parties also recognize and agree that the monthly compensation due to COUNTY for services
28 rendered under this Agreement may be updated from time to time based upon changes to the "per resident

1 charge" and population estimate" figures in Exhibit A. County shall provide CITY with written notice of
2 changes to the monthly compensation due to County. Such notice shall be given in March of 2018 and
3 2019. Upon CITY's approval of the changes to the monthly compensation due to COUNTY, the new
4 monthly compensation amount shall be effective July 1st of the same year notice of the change was given
5 by COUNTY. CITY will compensate COUNTY for performing the dispatching services under this
6 Agreement, to be paid over twelve payments and COUNTY shall invoice CITY monthly for the previous
7 month's services.

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

23 C. COUNTY shall submit monthly invoices to CITY and CITY shall pay COUNTY
24 within thirty (30) calendar days of receipt of any such invoice. At the expiration or termination of this
25 Agreement, COUNTY may, in the discretion of SCPA or her/his designee, submit a final invoice for all
26 amounts then unpaid, including any remaining, unpaid portion of law enforcement dispatch services, and
27 CITY shall pay the full amount of this final invoice within thirty (30) days of receipt thereof. Any
28 payment made more than 30 days after receipt of an invoice may result in contract termination or

1 service reduction, in the sole discretion of the Fresno County SCPA, without any penalty or recourse
2 against COUNTY.

3 6. INDEPENDENT CONTRACTOR: In performance of the work, duties and obligations
4 assumed by COUNTY under this Agreement, it is mutually understood and agreed that COUNTY, including
5 any and all of the COUNTY'S officers, agents, and employees will at all times be acting and performing as
6 an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant,
7 employee, joint venturer, partner, or associate of the CITY. Furthermore, CITY shall have no right to control
8 or supervise or direct the manner or method by which COUNTY shall perform its work and function.
9 However, CITY shall retain the right to administer this Agreement so as to verify that COUNTY is
10 performing its obligations in accordance with the terms and conditions thereof.

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

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

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

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

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

COUNTY agrees to indemnify, save, hold harmless and, at CITY's request, defend the CITY, its officers, agents and employees from any and all costs and expenses, (including attorney's fees and costs), damages, liabilities, claims, and losses occurring or resulting to CITY in connection with the performance, or failure to perform by COUNTY, its officers, agent, or employees under this Agreement and from any and all costs and expenses (including attorney's 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, its officers, agents, or employees under this Agreement. .

10. INSURANCE

Without limiting the right of either party to obtain indemnification from the other party or any third parties, 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.

11. AUDITS AND INSPECTIONS:

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

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

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

3 COUNTY

4 Greg Gularte
5 Fresno County Sheriff Captain
6 2200 Fresno Street
7 P.O. Box 1788
8 Fresno, CA 93717
9 FAX No.: 559-488-3348

CITY OF KERMAN

 John Kunkel
 City Manager
 850 S. Madera Avenue
 Kerman, CA 93630
 PHONE No.: 559-846-9384
 FAX No.: 559-846-6199

8 Notices between COUNTY and CITY permitted under this Agreement shall be in writing and shall
9 be deemed duly served when personally delivered to one of the parties, or in lieu of such personal service,
10 when deposited in the United States Mail, postage prepaid, addressed to such party.

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

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

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

1
2 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year
3 first hereinabove written.
4

5 CITY OF KERMAN

6
7 (Authorized Signature)

8 John Kunkka
9 Print Name & Title

10 CITY MANAGER
11
12 850 S. Madera Avenue
13 Kerman, CA 93630

14 Mailing Address
15
16
17

COUNTY OF FRESNO

Nathan Magsig
Nathan Magsig, Chairman of the Board of
Supervisors of the County of Fresno

ATTEST:

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

18 By: Susan Bishop
19 Deputy

20 FOR ACCOUNTING USE ONLY:

21 ORG No.: 31113320
22 Account No.: 4975
23 Requisition No.: N/A
24
25
26
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 4 of the Agreement, as follows:

COUNTY agrees to perform contracted services for the CITY at the rate specified below per resident of the 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/INVOICE," of this Agreement. Under this Agreement the 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 2018-19 (July 1, 2018-June 30, 2019)(hereinafter the "2018-2019 Monthly Charge") are split due to Board's late approval of Master Schedule of Fees (MSF) on October 23, 2018 and reflect the new MSF rates effective December 1, 2018 for the following:

The methodology to calculate these amounts are as follows:

(July 1, 2018 – November 30, 2018)

Per resident charge = \$14.75 (100% of \$14.75 per resident)

Number of residents in CITY (as determined by State Department of Finance certified population estimate as of January 1, 2018) = 15,083

2018-2019 Monthly Charge = (\$14.75/resident x 15,083 residents)/12 months =

\$18,539.52/month

(December 1, 2018 – June 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, 2018) = 15,083

2018-2019 Monthly Charge = (\$14.79/resident x 15,083 residents)/12 months =

\$18,589.79/month