

Memorandum of Understanding

Agreement to Provide Dispatch Service Coverage

Between

County of Siskiyou

and

City of Mt. Shasta

July 1, 2016 – *through* – June 30, 2019

Final

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MEMORANDUM OF UNDERSTANDING

FOR LAW ENFORCEMENT DISPATCH SERVICES TO THE CITY OF MT. SHASTA

BY THE SISKIYOU COUNTY SHERIFF'S OFFICE

THIS MEMORANDUM OF UNDERSTANDING, (hereafter MOU) is made by and between the County of Siskiyou, Office of the Sheriff, a political subdivision of the State of California (hereafter called COUNTY) and the City of Mt. Shasta an incorporated city having its principal place of business at 305 N. Mt. Shasta Blvd, Mt. Shasta, CA 96067 (hereafter called CITY). Wherein COUNTY agrees to provide and CITY agrees to accept the services specified herein.

The CITY has requested COUNTY, through the Office of the Sheriff, to provide law enforcement dispatching as specified in "Exhibit A" and pursuant to this MOU;

The COUNTY, through the Office of the Sheriff, has expressed willingness to provide law enforcement dispatch assistance for a specified amount contained in and as authorized by California Government Code sections 6500 et seq. and 51300 et seq,

In consideration of the mutual covenants and conditions contained herein, the parties agree this day of _____, 2016 as follows:

1. **DESIGNATED REPRESENTATIVES.** The below listed persons have been designated as authorized representatives for this MOU:

COUNTY Undersheriff. John E. Villani - (530) 842-8152
Siskiyou County Sheriff's Office, 305 Butte Street, Yreka CA 96097

CITY: Mt. Shasta City Clerk, John Kennedy, Sr. - (530) 926-7510
Mt. Shasta City Hall, 305 N. Mt. Shasta Blvd., Mt. Shasta, CA 96067

2. **NOTICES.** Any notice or consent required or permitted to be given under this MOU shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: Sheriff Jon E. Lopey, 305 Butte St., Yreka CA 96097

To CITY: Geoffrey Harkness, City of Mt. Shasta,
305 N. Mt. Shasta Blvd., Mt. Shasta, CA 96067

or at such address or to such other person that the parties may designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.** COUNTY agrees to provide law enforcement dispatch services to CITY in accordance and/or as specified in "Exhibit A" attached hereto and incorporated herein by reference.

4. **TERM.**

A. **Basic Term.** The term of this MOU shall commence on July 1, 2016 and continue through June 30, 2019, unless terminated sooner pursuant to item #12 in this MOU, or extended as described in item 4(B).

B. **Extended Term.** The term of this MOU may be extended for successive periods of one (1) year if the legislative body of both parties determines to so extend the term and written notice of such renewal is given to the other party at least three (3) months prior to the expiration. Extended terms shall be referred to as First Extended, Second Extend Term, et cetera.

C. **Appropriations Limitations:** CITY and COUNTY each acknowledge that annual budgetary appropriations in future years for payment and services hereunder are subject to the approval of their respective legislative bodies.

5. **STANDARD OF PERFORMANCE.** COUNTY represents that it has the skills and expertise necessary to perform the law enforcement dispatch services required under this MOU and that all persons employed in the performance of such services for the CITY shall be COUNTY employees. Other than the compensation hereinabove provided for, CITY shall not be called upon to assume any liability for the direct payment of salaries, wages, or other compensation to any COUNTY personnel performing services hereunder for CITY.

6. **INDMENIFICATION AND INSURANCE.** CITY and COUNTY agree to defend, indemnify and save harmless the other party and to procure and maintain insurance in accordance with the provisions of "**Exhibit B,**" attached hereto and incorporated herein by reference.

7. **OWNERSHIP OF EQUIPMENT.** COUNTY shall be the owner of all items incidental to the performance of this MOU. No transfer of ownership of equipment either from COUNTY to the CITY nor from CITY to the COUNTY shall occur as a result of this MOU.

8. **INDEPENDENT CONTRACTOR.** It is expressly understood between the parties to this MOU that no employer/employee relationship is intended; the relationship of COUNTY to CITY is that of an independent contractor and CITY and COUNTY retain sole and independent liability for the actions of the employees of each.

9. **NON-DISCRIMINATION.** COUNTY hereby notifies CITY that COUNTY's policies prohibiting discrimination (2.1 et seq. Siskiyou County Personnel Policies) apply to this MOU and are incorporated herein by this reference with the same force and effect as if these policies were specifically set out herein and CITY agrees to comply with these same/referred policies.

10. **NON-EXCLUSIVE AGREEMENT.** CITY understand that this is not an exclusive agreement (MOU) and that COUNTY shall have the right to negotiate with and enter into MOU's, Contracts, Agreement, etc. with other Siskiyou County cities and/or other agencies to provide the same or similar services.

11. **ASSIGNMENT.** CITY shall not assign any of its rights nor transfer any of its obligations under this MOU without the prior written consent of COUNTY and any attempt to so assign or so transfer without consent shall be void and without legal effect and shall constitute grounds for termination.

12. TERMINATION.

A. By COUNTY: COUNTY may, by written notice to CITY, terminate this MOU in whole or in part at any time, whether for the COUNTY's convenience or because of the failure of CITY to fulfill the obligations as set forth herein.

1. For Convenience. COUNTY may terminate this MOU upon ninety (90) days written notice. Upon the date of termination, COUNTY shall cease work and notify CITY as to the status of its performance.

2. For Cause. Should CITY default in the performance of this MOU or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate this MOU by written notice which shall be effective upon receipt by CITY.

B. By CITY: CITY, may, by written notice to COUNTY, terminate this agreement in whole or in part at any time, whether for CITY's convenience or because of the failure of COUNTY to fulfill the obligations set forth herein.

1. For Convenience. CITY may terminate this MOU upon ninety (90) days written notice. COUNTY shall be entitled to payment for services rendered through the termination date, including any prorated amount of compensation due hereunder less payment, if any, previously made.

2. For Cause. Should COUNTY default in the performance of this MOU or materially breach any of its provisions, CITY may, at CITY'S sole option, terminate this MOU by written notice which shall be effective upon receipt by COUNTY.

Notwithstanding any other payment provision of this MOU, CITY shall pay COUNTY for services performed to the date of termination.

13. SECTION HEADINGS. The heading of several section, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction, or effect hereof.

14 SEVERABILITY. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this MOU shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

15. REMEDIES NOT EXCLUSIVE. No remedy herein conferred upon or reserved to the CITY or the COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

16. TIME IS OF THE ESSENCE. Time is of the essence in this MOU and each covenant and term is a condition herein.

17. NO WAIVER OF DEFAULT. No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or poser or shall be construed to be a waiver of any such default or an acquiescence therein; and every poser and remedy given by this MOU to COUNTY shall be exercised from time to time and as often as may deemed expedient in the sole discretion of COUNTY.

18. **ENTIRE AGREEMENT/MOU AND AMENDMENT.** In conjunction with the matters considered herein, this MOU contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This MOU may be altered, amended or modified only by an instrument in writing, executed by the parties to this MOU and by no other means. Each party waives its future claim, contest or assert that this MOU was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

19. **SUCCESSOR AND ASSIGNS.** All representatives, covenants and warranties set forth in this MOU, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

20. **COMPLIANCE WITH LAW.** CITY and COUNTY shall, at the sole cost and expense of each entity, comply with all County, State, and Federal ordinances, regulations and/or statutes now in force or which may hereafter be in force with regard to the MOU. The judgment of any court of competent jurisdiction, or the admission of CITY or COUNTY in any action or proceeding against either, whether either party thereto or not, that CITY or COUNTY has violated any such ordinance, regulation and/or statute, shall be conclusive of the fact as between CITY and COUNTY.

21. **CALIFORNIA LAW.** This MOU shall be governed by the laws of the State of California.

22. **EXECUTION OF COUNTERPARTS.** This MOU may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

23. **AUTHORITY.** All parties to this MOU warrant and represent that they have the power and authority to enter into this agreement in the names, titles and capacities herein state and on behalf of any entities, persons, or firms, represented or purported to be represented by such entity (ies), person(s), or firm(s) and that all formal requirements necessary or required by and state and/or federal law in order to enter into this MOU have been fully complied with. Furthermore, by entering into this MOU, CITY hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CITY is obligated, which breach would have a material effect hereon.

24. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered section of this MOU and the provisions contained in the Exhibits, the provision of the Exhibits shall prevail over those in the numbered sections. In the event of conflict between the provisions contained in the numbered sections of this MOU, "**Exhibit A**" and subsequent amendments, the most current MOU and/or Amendment shall prevail over the provisions, Exhibits, and/or prior Amendments.

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IN WITNESS WHEREOF, the parties hereto have executed this agreement the date first above written.

CITY OF MT. SHASTA

By: 

~~Geoffrey Harkness~~ Jeffrey Collings
MAYOR – City of Mt. Shasta

7/19/2016

Date

COUNTY OF SISKIYOU

By: 

Grace Bennett, Chair
Board of Supervisor

ATTEST:

COLLEEN SETZER
Clerk, Board of Supervisors

By: 

Deputy

ACCOUNTING:

Fund	Organization	Account	Activity Code (if applicable)
1002	202010	551400	N/A FY 16/17 \$10,000.00
1002	202010	551400	N/A FY 17/18 \$10,000.00
1002	202010	551400	N/A FY 18/19 \$10,000.00

Encumbrance number (if applicable)

This MOU shall not to exceed the amount of: **Thirty Thousand Dollars (\$30,000.00).**

EXHIBIT A

SERVICES AND COMPENSATION

Services to be performed by the Siskiyou County Sheriff's Department

Dispatch services, including E-911 call receipt, routine business line receipt, radio dispatch and tracking of City of Mt. Shasta, and minimal statistics compilation:

DAILY: 10:00 pm to 6:00 am

Compensation to be paid by the City of Mt. Shasta:

The Annual Rate is established as an amount not to exceed **Ten Thousand Dollars (\$10,000.00)** per year beginning July 1, 2016 and continuing until June 30, 2019.

A. Overtime/Additional Services. There are no provisions for overtime payments or billings in this MOU.

1. Natural Disasters – Federal/State Relief: If in the event of a natural disaster, and such event qualifies for federal or state relief under emergency declaration provisions, COUNTY will apply for compensation for services associated with the event. Should CITY file for relief on behalf of COUNTY, CITY agrees to compensate COUNTY for the cost of additional services per this MOU.

B. Billing Rate / Maximum: Invoices for services provided pursuant to this MOU will be billed quarterly based on actual costs, at the Indirect Cost Rate Proposal (ICRP) rate, not to exceed **Thousand Dollars (\$10,000.00)** annually.

The COUNTY will use an Indirect Cost Rate Proposal (ICRP) rate that includes direct and indirect costs. The ICRP is developed using OMB (the United States Office of Management and Budgets) guidelines. The rate is calculated annually in September by the COUNTY Auditor-Controller in conjunction with the Siskiyou County Sheriff. This is the rate that will be used each fiscal year.

C. Cost Tracking & Invoicing. Costs related to providing dispatch services pursuant to this agreement will be tracked by the COUNTY and invoiced quarterly.

The COUNTY will use an Indirect Cost Rate Proposal (ICRP) rate that includes direct and indirect costs. The ICRP is developed using OMB (the United States Office of Management and Budgets) guidelines. The rate is calculated annually in September by the COUNTY Auditor-Controller in conjunction with the Siskiyou County Sheriff. This is the rate that will be used each fiscal year.

- D. Payment Process. COUNTY will send quarterly invoices to CITY for full payment within 30 days after CITY'S receipt of said invoice. CITY'S payment shall be made by check. A check shall be made payable to the order of, Siskiyou County Sheriff's Office and mailed to the 305 Butte St. Yreka CA 96097, attention: Tomi Jackson, unless otherwise directed in writing by COUNTY.

If such payment is not delivered to the COUNTY office within thirty (30) days of the respective due date, COUNTY is entitled to recover interest thereon at the rate of 1.5%, monthly, commencing thirty (30) days after the due date of the invoice and continue, monthly, until such time as the payment is delivered to the COUNTY described on said invoice.

- E. Material Changes to Service Level. In the event that the PARTIES desire to modify then-existing type or level of staffing provided under the terms of this MOU, in addition to other procedures set forth in this agreement, the requesting party will make a written request to the OTHER PARTY by February 1st of each year for changes to be applied to the succeeding fiscal year. The PARTY'S request shall detail the specific type and level of staffing the PARTY desires, with the OTHER PARTY acknowledging that the costs of such services may impact the total, negotiated amount for the relevant fiscal year. The RECIPIENT PARTY shall review said annual request within (30) days of receipt thereof and acknowledge acceptance or rejection by letter to the OTHER PARTY'S Designate Representative.

COUNTY reserves the right and responsibility to maintain a minimum advisable level of service throughout the unincorporated and contract areas. Upon notice from COUNTY of acceptance or partial acceptance of said annual request, and the cost of providing the type or level of staffing therein agreed upon, the parties shall prepare and execute a written amendment to this MOU as to the terms and conditions set forth in said annual request and acceptance; all other terms set forth in this MOU shall continue in full force and effect. In the event COUNTY rejects all or any portion of said annual request, the then-existing type and level of staffing shall remain in full force and effect, as modified by the acceptable portion of said annual request, until such time that the parties reach agreement as to the rejected portion of said annual request.

- F. Re-computation of Dispatch Services. Except as otherwise specified hereafter, the total amount charged for Dispatch Services and Records shall be recomputed annually in September for the following fiscal year, with the fiscal year defined as July 1st through June 30th. The "Re-computation" calculation shall be determined by the COUNTY based on additional cost of providing Dispatch Services. Staff representatives of the COUNTY and CITY are advised to meet during the calculation process and prior to any formal presentation before their respective governing bodies. At the request of either party, cost increase will be formally addressed at any time within the term of this MOU.

Exhibit “B” – Special Indemnification & Insurance Provisions

The purpose of Exhibit B is to address liability & Insurance issues.

1. Indemnification

A. Indemnification by CITY: CITY shall indemnify, defend and hold COUNTY and COUNTY’S agents, officers, and employees, harmless from and against all claims, damages, losses, causes of action and expenses, including attorney’s fees, for any personal injury, bodily injury, loss of life or damage to property, violation of any federal, state or municipal, ordinance or constitutional provisions, including those circumstances where COUNTY enforces municipal ordinances that are deemed or declared unconstitutional or other cause which arises out, relates to or results from the “activities, or omissions, negligent or otherwise, under this MOU of CITY, and CITY’S officers, agents, and employees.

B. Indemnification by County. Except as is provided in Paragraph 1(A) above, COUNTY shall indemnify, defend and hold CITY, and CITY’S agents, officers and employees, harmless from and against all claims, damages, losses, causes of action and expenses, including attorney’s fees, for any personal injury, bodily injury, loss of life or damage to property, violation of an federal, state or municipal law, ordinance or constitutional provision, or other cause which arises under this MOU of COUNTY, and COUNTY’S officer, agents and employees.

C. No Agency. Except as otherwise specified herein, for the purpose of this section, CITY shall not be deemed to be COUNTY’S agent and COUNTY shall not be deemed to be CITY’S agent.

D. Notification. Each party shall give the other prompt notification when it first learns of an incident or occurrence covered, or likely to be covered under the terms of this section, as well as prompt notification if a claim is made or suit is brought against a party based on an incident or occurrence covered, or likely to be covered by the terms hereof.

E. Continuing Obligation. To the extent that COUNTY has agreed to indemnify, defend and hold harmless CITY, its officers, agents and employees under this MOU, said obligations shall continue to exist during the term of this MOU and subsequent to this MOU for those acts or omissions giving rise to liability which occurred during this MOU. To the extent that CITY has agreed to indemnify, defend and hold harmless COUNTY, its officers, agents and employees under this MOU, said obligations shall continue to exist during the term of this MOU and subsequent to this MOU for those acts or omissions giving rise to liability which occurred during this MOU.

F. Insurance. Either party may purchase commercial insurance to cover its exposure hereunder, in whole or in part.

2. Insurance

- A. Workers' Compensation. COUNTY warrants that it is permissibly self-insured for workers' compensation coverage and agrees that its employees providing services to CITY pursuant to this MOU will be covered by COUNTY'S self-insurance program for all injuries arising out of or occurring in the course and scope of their employment. COUNTY reserves the right at its sole discretion to purchase a workers' compensation policy at any time during the term of this MOU.
- B. Liability. COUNTY warrants that it is self-insured for liability and property damage claims up to its current self-insured retention and that it purchases excess liability insurance for claims in excess of that amount. CITY shall maintain insurance against claims for liability and property damage in an amount of not less than Two Million Dollars (\$2,000,000.00), combined single limit coverage. COUNTY shall be named as an additional insured on any liability policy of CITY. The parties shall maintain such insurance coverage in full force and effect during the term of this MOU.
- C. Proof of Insurance. Upon request by either party, the other party shall provide evidence of the above insurance coverage, listing the other party as an additional insured. Each such insurance coverage policy shall provide that such policy may not be cancelled or changed except changed at least thirty (30) days prior written notice to the other party. The foregoing insurance coverage shall not limit the indemnification obligations for the parties as set forth in the above listed indemnification, and the failure to maintain said coverage shall constitute a material breach of this MOU.