

**AMENDMENT TO AGREEMENT FOR THE
PROVISION OF EMERGENCY DISPATCH SERVICES**

This agreement for the provision of emergency dispatch services (Agreement) is entered into on March ____, 2019 ("Effective Date") between the City of Ukiah ("Ukiah") and the City of Fort Bragg ("Fort Bragg") for the purpose of Ukiah providing Dispatch Services to the Fort Bragg Police Department in compliance with the Warren 9-1-1 Emergency Assistance Act (Gov. Code § 53100 et seq.) and other applicable laws. Ukiah and Fort Bragg are referred to in this Agreement as the Parties."

RECITALS:

WHEREAS, Ukiah maintains a Public Safety Answering Point (" PSAP") in its Police Department for dispatching emergency services within the City of Ukiah, including police, fire, emergency medical and after-hours emergency public works/ utility services.

WHEREAS, on July 1, 2009, the Fort Bragg Police Department contracted with Ukiah Police Department to dispatch its public safety officers in response to calls to the 9-1-1 emergency assistance phone number.

WHEREAS, the contract with Ukiah expires on June 30, 2019 and the parties seek to amend the Agreement to extend the term and provide for additional changes.

WHEREAS, the Warren 9-1-1 Emergency Assistance Act requires the Parties to establish and have in operation within their jurisdictions an emergency dispatch system utilizing the 9-1-1 phone number. Such systems may include more than one jurisdiction and may include territory of more than one public agency.

WHEREAS, Government Code Section 6502 authorizes the Parties to contract to jointly exercise any power common to the contracting parties.

In consideration of and reliance upon the above recitals and the terms and conditions as set forth below, the Parties agree as follows.

1. STATEMENT OF PURPOSE AND AUTHORITY

The purpose of this Agreement is to set forth the scope of emergency dispatch services ("Dispatch Services" or " Services") that Ukiah will provide Fort Bragg and the terms and conditions of providing those Services including the charges for Services. Pursuant to its authority under Government Code §§ 53109 and 6502, Fort Bragg hereby authorizes Ukiah to provide Dispatch Services for the Fort Bragg Police Department as more fully described in Exhibit "A", attached hereto and incorporated herein by this reference. Ukiah accepts the duties and obligations described herein, on the general terms and conditions hereinafter set forth in this Agreement.

2. PROVISION OF DISPATCH SERVICES

The Ukiah Police Department through its Dispatch Center will provide Dispatch Services to the Fort Bragg Police Department in accordance with this Agreement.

3. TERM AND TERMINATION

a. The term of this Agreement shall be from July 1, 2019, through June 30, 2024, provided, however, that Ukiah or Fort Bragg may terminate this Agreement for any reason by giving written notice to the other at least 366 days in advance of the effective date of such termination.

b. In the event this Agreement is terminated prior to June 30, 2024, Ukiah shall be paid on a prorated basis for only that portion of the contract term during which Ukiah provided services pursuant to this Agreement.

c. If either Party gives such notice and later retracts the notice prior to the termination date, the other Party may reject any such retraction, in which event the Agreement shall terminate on the date stated in the initial notice of termination.

d. This Agreement may be extended upon the written agreement of both Parties.

4. PAYMENT

For services performed in accordance with this Agreement, payment shall be made to Ukiah on a quarterly basis as provided below. Ukiah shall invoice Fort Bragg on a quarterly basis and all invoices shall be due and payable within thirty (30) days of receipt. The total annual amount of compensation due to Ukiah for providing Services under this Agreement shall be \$ 350,123.78 for FY 2019-20.

In subsequent years, the annual amount may be increased by an amount not to exceed 5.0% each year or an amount equal to the increase in compensation costs for three clerk dispatcher positions as experienced in the previous year, whichever is less. (Note: the total compensation cost for 3 clerk dispatchers in FY 2019/20 is set at \$325,123.78.) Ukiah shall notify Fort Bragg of any proposed increase in the annual payment by February 1st of each year.

5. INDEMNIFICATION AND INSURANCE

a. Each Party shall be liable for the negligent or willfully wrongful acts or omissions of its respective officers and employees in their performance of this Agreement. Each Party shall defend, indemnify and hold harmless the other Party ("Indemnitee") and pay any settlement or judgment based on any claim against that Party ("Indemnitor") for which the Indemnitee is not alleged to be responsible or liable. The

foregoing obligations to defend, indemnify and hold harmless shall be limited to negligent or willfully wrongful acts or omissions of the Indemnitor's officers or employees in their performance of obligations under this Agreement which result in personal injury or property damage. As to a claim in which both Parties are alleged to be responsible or liable for losses or damages relating to the performance of obligations under this Agreement, each Party shall bear the cost of its own defense, but shall be entitled to indemnity in proportion to, and based on, an ultimate judgment, determination, resolution or allocation of proportionate liability or fault.

b. The Parties acknowledge that they are both members of the Redwood Empire Municipal Insurance Fund (REMIF) and are parties to the Memorandum of Coverage issued and amended annually by REMIF. As long as they both remain members of REMIF and are parties to the Memorandum of Coverage, they do not need to furnish evidence of any other insurance coverage. If either Party intends to withdraw from REMIF, it shall give the other Party notice of that intent, not less than sixty (60) days prior to the effective date of that withdrawal. If the party withdrawing from REMIF does not furnish the other party with evidence of insurance satisfactory to that party, that party may terminate this Agreement.

6. WORKERS' COMPENSATION

Each party shall be responsible for work-related injuries to its employees, while they are performing under this Agreement. Each party shall provide workers' compensation coverage for its employees as required by law and agree to waive subrogation as to each other. Each party shall indemnify the other for any liability of the other party arising from a party's failure to provide the workers' compensation coverage required by this agreement or state law.

7. DOCUMENTS

Upon request from Fort Bragg, Ukiah shall promptly make available to Fort Bragg in electronic or other form which Ukiah can reasonably produce from the software utilized by the dispatch center any data relating to the Dispatch Services provided under this Agreement, including, but not limited to, recording of calls to the dispatch center, recording of radio traffic between the dispatch center and Fort Bragg employees, and data files compiled by the CAD system.

8. REPORTS ON COSTS

Ukiah shall provide Fort Bragg with its approved annual budget for the dispatch center, audited financial statements relating to the operation of the dispatch center and an annual accounting of actual expenditures to provide Dispatch Services under this Agreement upon request by Fort Bragg.

9. GENERAL TERMS AND CONDITIONS

a. No relationship of employer and employee is created by this Agreement; it being understood and agreed that Ukiah is a contract service provider. Ukiah is not acting in the capacity of an employee of Fort Bragg and Fort Bragg shall not be liable for any acts or omissions by Ukiah nor for any obligations or liabilities incurred by Ukiah.

b. Ukiah shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection or employee benefits of any kind.

c. Ukiah shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or retirement pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold Fort Bragg harmless from any and all liability which Fort Bragg may incur because of Ukiah's failure to pay such amounts.

d. In carrying out the work contemplated herein, Ukiah shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work. Ukiah agrees that such officers, agents, and/ or employees shall not be treated or considered in any way as officers, agents and/ or employees of Fort Bragg.

e. Ukiah does, by this Agreement, agree to perform Dispatch Services at all times in strict accordance with all applicable federal, state and local laws, ordinances, regulations, titles, departmental procedures and currently approved methods and practices in the field of emergency dispatching and that the sole interest of Ukiah is to insure that said Services shall be performed and rendered in a competent, efficient, timely and satisfactory manner.

10. ENTIRE AGREEMENT

This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire Agreement between Fort Bragg and Ukiah relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter

thereof. The Agreement may not be supplemented, amended or modified except by a written document signed by both parties.

11. ASSURANCE OF PERFORMANCE

If at any time either party reasonably believes that the other party is not adequately performing its obligations under this Agreement or if Ukiah fails to complete the Dispatch Services as and when required by this Agreement, the party who believes the other party is in breach may request from the other party, after providing reasonable notice of the specific performance deficiencies, prompt written assurances of proper performance and a written plan acceptable to the party giving the notice, to correct the observed deficiencies in the other party's performance. The written assurances shall be provided within ten (10) calendar days of the receipt of the request and thereafter the party providing it shall fully perform in accordance with its written plan. The parties mutually acknowledge and agree that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.

12. SURVIVAL

The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement shall survive termination or expiration of this Agreement.

13. SEVERABILITY

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

14. NOTICES

All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be deemed served for all purposes as follows:

Personal delivery: When personally delivered, notice is effective upon delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the Party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox.

Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express, Airborne, United Parcel Service) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Facsimile transmission: When sent by facsimile to the last facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by facsimile shall be deemed received on the next business day if it is received after 5: 00 p. m. (recipient's time) or on a non- business day.

Addresses for purpose of giving notice are as follows:

To UKIAH: CITY OF UKIAH
300 Seminary Avenue
Ukiah, CA 95482
Attn: CITY MANAGER

To FORT BRAGG: CITY OF FORT BRAGG
416 N. Franklin Street
Fort Bragg, CA 95437
Attn: CITY MANAGER

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

15. MISCELLANEOUS PROVISIONS.

a. Governing Law. The interpretation and enforcement of this Agreement shall be governed by California law and any action arising under or in connection with this Agreement must be filed in a Court of competent jurisdiction in Mendocino County.

b. Waiver. No waiver of a breach of any covenant, term, or condition of this Agreement shall be a waiver of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term or condition itself.

c. Authority to Execute. Each signatory to this Agreement represents and warrants that she was authorized to execute this Agreement on behalf of the agency for whom her signature appears and that she executed this Agreement in her authorized capacity on behalf of that agency.

d. Duplicate Originals. This Agreement may be executed in duplicate originals, each bearing the original signature of the Parties. When so signed, each such document shall be admissible in administrative or judicial proceedings as proof of the terms of the Agreement between the Parties.

IN WITNESS WHEREOF, the Parties Hereto have executed this Agreement as of March ___ 2019.

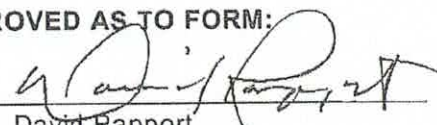
CITY OF UKIAH

By: _____
Sage Sangiacomo
City Manager

CITY OF FORT BRAGG

By: _____
Tabatha Miller
City Manager

APPROVED AS TO FORM:

By: 
David Rapport
City Attorney

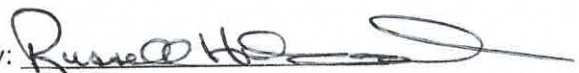
By: 
Russell Hildebrand
City Attorney

EXHIBIT A
SERVICES TO BE PROVIDED

1. DEFINITIONS:

A. "Dispatch Services" are those services routinely provided by a primary PSAP, including, but not limited to:

- Receipt, recording, dispatching and forwarding of E911 calls;
- Receipt, recording, dispatching and forwarding of TDD calls;
- Receipt, recording, dispatching and forwarding of non-emergency calls for service;
- Two-way radio communication with mobile, portable, and base station radios;
- Mobile Data Terminals (MDTs);
- Audio recording of radio transmissions conducted on primary use channels;
- Audio recording of E911 calls.

B. "E911" means the enhanced 9-1-1 emergency number system, which will provide an automatic display of the caller's telephone number, subscriber's name and subscriber's location to the dispatcher.

C. "Dispatcher," means a public safety dispatcher, as defined by California Code of Regulations, Title 11, Div. 2, Art. 1, Sec. 1001, subsection (w). "Dispatcher" shall also be synonymous with the Ukiah job classification for the position of "dispatcher".

D. "CAD," means a computer aided dispatch system: a combination of hardware and software, which allows for the input, tracking, recording and reporting of calls for service.

E. "Computer equipment," means computer hardware, software and peripherals.

F. "Calls," means a communication that conveys or requests information, assigns or directs action, or requests services. This includes communications between officers and dispatchers.

G. "May" is permissive.

H. "Should" is desirable.

I. "Shall" is mandatory.

2. EXTENT OF SERVICES:

Subject to Fort Bragg performing its obligations hereunder, Ukiah agrees to provide Dispatch Services to Fort Bragg subject to the following terms and conditions:

A. Radio traffic to and from Fort Bragg Police Department mobile units, portables and base stations will be conducted on the Fort Bragg Police Department radio frequency.

Fort Bragg will remain the licensee for this frequency. Fort Bragg grants Ukiah the right to use the frequency for the purpose of fulfilling this contract. While utilizing the frequency, Ukiah agrees to comply with all applicable rules and regulations of the Federal Communications Commission.

B. Emergency and non-emergency calls for service shall be dispatched according to the Ukiah Police Department CAD protocols, pre-arrival instructions and unit recommendations. Fort Bragg and Ukiah agree to meet not less than annually during the term of this agreement to discuss what CAD changes may be needed to reflect the inherent differences between calls in Fort Bragg and Ukiah jurisdictions.

C. Calls seeking other emergency services, including fire, emergency medical and ambulance services, shall be transferred to (707) 459-5336, provided however, that if the delay in transferring the call could result in immediate harm or risk of harm in a medical emergency, Ukiah Dispatch may provide some or all dispatch services for that medical emergency, as necessary, to avoid that harm or risk of harm.

D. Radio transmissions by Fort Bragg Police Department personnel to Ukiah Dispatch shall conform to the standards and practices used by Ukiah. This includes, but is not limited to the format for notifying Dispatch of officer initiated activity, the format for requesting automated systems inquiries, and the format for call dispositions.

E. When Ukiah and Fort Bragg calls are handled jointly by one or more dispatchers, the priority assigned to any call will be determined solely by the nature of the call and without regard to whether the call originated from the jurisdiction of Ukiah or Fort Bragg.

F. Fort Bragg is responsible for answering Fort Bragg Police Department business calls during normal business hours of Monday through Friday, 8:00 a. m. to 5:00 p. m. (holidays excluded). Ukiah agrees to accept business calls for the Fort Bragg Police Department only during non-business hours.

3. EQUIPMENT AND PERSONNEL:

A. Ukiah shall provide the personnel, equipment and materials in the dispatch center necessary to provide Dispatch Services to Fort Bragg in compliance with applicable laws regulating the E911 system, continuously twenty-four (24) hours per day, seven days per week, fifty-two (52) weeks per year. Fort Bragg shall provide personnel, equipment and materials required to utilize the Dispatch Services.

B. At its expense and as a condition of Ukiah performing services under this Agreement, Fort Bragg shall facilitate the connection of its radios, emergency phone lines and business phone lines to the Ukiah Dispatch Center so that calls in Fort Bragg to those lines and radio communications within Fort Bragg are received at the Ukiah Dispatch Center.

C. Ukiah shall ensure that its dispatch operations include the necessary equipment and personnel to maintain continuity of Services during periods of disruption of normal services and operations, such as from power failures or disaster incidents.

D. Ukiah shall recruit, select, hire and train the Public Safety Dispatchers called for in this Agreement. Once selected, these individuals shall be employees of Ukiah. Personnel rules and regulations governing employees of Fort Bragg shall not apply to Ukiah employees hired, retained or assigned to fulfill this Agreement.

E. Recruitment, selection, hiring, retention, assignment and training shall conform to the current standards, rules, policies and procedures of Ukiah, the regulations of the California Commission on Peace Officer Standards & Training, and the applicable laws of the state and federal government.

F. Ukiah shall be responsible for maintaining and/ or upgrading personnel, equipment and materials, including without limitation, computer equipment, radio equipment, and MDTs to perform the Dispatch Services in accordance with applicable laws and regulations and in conformance with generally accepted standards and practices for providing Dispatch Services.

4. SCHEDULING:

A. Dispatch scheduling shall be at the discretion of Ukiah. Fort Bragg agrees to keep Ukiah informed of all planned or reasonably foreseeable events that by their nature could require additional dispatch staffing.