

AGREEMENT

This Agreement is made and entered into at Eureka, California, on October ____, 2018, by and between the City of Eureka, a California charter city (City) and the Humboldt County Association of Governments, (HCAOG) a California Joint Powers Agency, acting in its capacity as the Service Authority for Freeway Emergencies.

RECITALS

Whereas, HCAOG desires to enhance traffic control on Highway 101 in the "Safety Corridor" between Eureka and Arcata, and

Whereas, the City Police Department is willing to provide said services;

Now, THEREFORE, in consideration of this Agreement, and the mutual promises, covenants and stipulations contained herein, the parties hereto agree as follows:

1. Term.

The initial term of this Agreement is for one year, from November 1, 2018 through October 31, 2019.

2. Extension.

The parties may, by mutual written agreement, extend this Agreement for additional one-year periods on such terms as they may mutually agree.

3. Scope of Work.

- a) City will provide police officer(s) with vehicle(s) and will coordinate all traffic control.
- b) The traffic control services to be performed by City police officer(s) under this Agreement, including the standards of performance, employee discipline, and control thereof, will be the sole responsibility of City.
- c) The hours of services performed by City under this Agreement are those mutually agreed upon by the representatives listed below, or their designees. It is contemplated that the services provided will concentrate on those times and locations when traffic is heavy, for example, rush hours. Any changes to the proposed plan such as additional hours, dates, and sites for traffic control may be requested by HCAOG on an "as needed" basis and must be mutually agreed upon by the parties.

4. Representatives.

The project representatives during the term of this Agreement will be:

Organization:	EPD	HCAOG SAFE
Attention:	Sgt. Gary Whitmer	Marcella Clem, Executive Director
Address:	604 C Street Eureka, CA 95501	611 "I" Street, Suite B, Eureka, CA 95501
Section/Unit:	Administrative Sergeant	
Telephone Number:	(707) 407-5663	(707) 444-8208
Fax Number:	(707) 441-4334	(707) 444-8319

All inquires concerning the terms or operation of this Agreement shall be directed to these representatives only.

5. Maximum Annual Payments.

Payments made under this Agreement are not to exceed \$200,000.00 annually. During the term of this Agreement, the parties will each provide the other with written quarterly reports detailing the activities undertaken by City and the payments made by HCAOG.

6. Billing of Time.

a) It is understood by HCAOG that billing of City police officer(s) time is from portal to portal, that is City office of assignment of the officer(s) to the service location and return to the City office of assignment except as specified in paragraph b.

b) If the City officer(s) reports to the assigned location and work less than four (4) hours, HCAOG agrees to pay the City for every assigned City officer(s) a minimum of four (4) hours overtime.

Exception: This does not apply to those cases when the hours worked are part of an extended shift.

c) Cancellation of Services.

i. HCAOG will not be charged for service cancellations made more than 24 hours prior to the scheduled assignment.

ii. If service cancellation is made within 24 hours prior to the scheduled assignment and the assigned City officer(s) cannot be notified of such service cancellation prior to reporting to the officer's regular shift, a minimum of four (4) hours overtime will be charged for each officer who could not be notified.

iii. HCAOG agrees that if service cancellation is made within 24 hours prior to the scheduled assignment and City officer(s) is notified of such service cancellation, HCAOG will only be charged a short notice service cancellation fee of \$50.00 per assigned City officer(s).

iv. All service cancellation notices to City must be made during normal City business hours of 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding state holidays.

v. City agrees to make reasonable efforts to notify the assigned City officer(s) of the service cancellation.

7. Invoicing and Payment.

a) City must provide HCAOG with an itemized invoice which details all City costs for traffic control services under this Agreement.

Monthly itemized invoices will be submitted in duplicate to:

HCAOG
611 I Street, Suite B
Eureka, CA 95501

HCAOG agrees to pay City within thirty (30) days after the date of the invoice.

b) Invoicing under this Agreement includes hourly usages and mileage for the patrolling service on the Highway 101 "Safety Corridor" between the Cities of Eureka and Arcata. The hourly usages will be calculated based upon the overtime rate of pay for the individual officer assigned to patrol the "Safety Corridor" under this Agreement. In addition, the City will be reimbursed for mileage at a rate of \$0.76 per mile for department vehicles used.

c) It is understood by both parties that rate increases in salary and benefits are governed by collective bargaining agreements and/or statute and that no advance written notification is necessary prior to implementing the increased rates. In the event that a City officer or sergeant is granted a rate increase, HCAOG agrees to pay that increased overtime rate.

8. Approval.

This Agreement is of no force or effect until signed by both parties and approved by the City Council of the City of Eureka. Performance may not commence until such approval has been obtained. This Agreement may be executed in counterparts each containing original signatures.
9. Amendment.

No amendment or variation of the terms of this Agreement is valid until made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on either of the parties.
10. Assignment.

This Agreement is not assignable by either party, either in whole or in part.
11. Disputes.

HCAOG and the City will continue with the responsibilities under this Agreement during any dispute. Any dispute concerning a question of fact arising under the terms of this Agreement that is not resolved within a reasonable period of time (ten days) by the parties normally responsible for the administration of this Agreement must be brought to the attention of the designated representative of each organization for joint resolution.
12. Termination for Cause.

Either party may terminate this Agreement should the other party fail to perform the requirements of this Agreement at the time and in the manner herein provided.
13. Independent Contractor.

The parties intend that in performing services herein specified, they each shall act as an independent contractor and shall have control of the work and the manner in which it is performed. They shall be free to contract for similar services to be performed for others while they are under this Agreement. Neither party is to be considered an agent or employee of the other, and is not entitled to participate in any pension plans, workers' compensation insurance or similar benefits that is provided for its employees.
14. Timeliness.

Time is of the essence in this Agreement.
15. Compensation.

The consideration to be paid the City, as provided herein, will be in compensation for all of the City expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
16. Governing Law.

This contract is governed by and must be interpreted in accordance with the laws of the State of California.
17. Unenforceable Provision.

In the event that any provision of this Agreement is unenforceable or held to be invalid or illegal, then the parties agree that all other provisions of this Agreement have full force and effect and will not be affected thereby.
18. Emergency.

In the event of an emergency, this Agreement may be cancelled by either party without prior notice.

19. Unforeseen Events.

Unforeseen events may require City officer(s) to expend hours in excess of the original estimate. Any costs in excess of the original estimated amount will be processed by appropriate amendment to the Agreement, to reflect the actual cost incurred.

20. Audit.

The parties hereto are subject to the examination and audit of the City for a period of three (3) years after final payment under this contract. In addition, HCAOG and City may be subject to the examination and audit by representatives of either party. Any examination and audit will be confined to those matters connected with the performance of this Agreement including, but not limited to the costs of administering the Agreement. HCAOG and City agree to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Both parties agree to maintain such records for possible audit for a minimum of three (3) years after final payment.

21. Indemnification.

- a) HCAOG, to the extent permitted by law, will defend, indemnify and hold harmless City, as well as City's appointees, officers, employees, and agents, from and against any and all liability, loss, claims for "injury" (as defined by Gov. Code § 810.8), or expense, including reasonable attorney's fees, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, claims, or expense are caused by or result from the negligent or intentional acts or omissions of HCAOG, or HCAOG's appointees, officers, employees, or agents.
- b) City, to the extent permitted by law, will defend, indemnify and hold harmless HCAOG, as well as HCAOG's appointees, officers, and employees, from and against any and all liability, loss, claims for "injury" (as defined by Gov. Code § 810.8), or expense, including reasonable attorney's fees, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, claims, or expenses are caused by or result from the negligent or intentional acts or omission of City, or City's appointees, officers, employees, or agents.

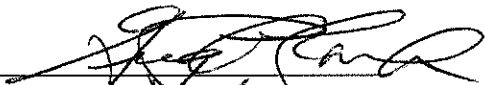
22. Authority to Execute.

HCAOG agrees to provide City with a resolution, motion, order, or ordinance of the governing body, which authorizes execution of this Agreement, and indicates the individual who is authorized to sign this Agreement on behalf of HCAOG.

City of Eureka

by: _____

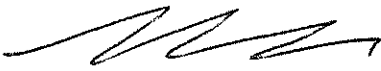
dated: _____


10/25/18

Humboldt County Association of Governments

by: _____

dated: _____


10/25/18