

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

SAP Number

N/A

Sheriff/Coroner/Public Administrator

Department Contract Representative	John Ades, Captain
Telephone Number	(909) 387-0640

Contractor	BNSF Railway Company (hereinafter called CONTRACTOR)
Contractor Representative	John Macias
Telephone Number	(817) 352-4113
Contract Term	07/01/2020 – 6/30/2023
Original Contract Amount	\$44,491 (07/01/2020 – 06/30/2021)
Amendment Amount	\$0
Total Contract Amount	\$44,491
Cost Center	4430001000

IT IS HEREBY AGREED AS FOLLOWS:

WITNESSETH

WHEREAS, the COUNTY provides dispatch services throughout the geographical boundaries of the County of San Bernardino; **AND**

WHEREAS, the CONTRACTOR desires to enter into an Agreement with the COUNTY for dispatch services within the territorial boundaries of the CONTRACTOR;

NOW, THEREFORE, the parties agree as follows:

A. SCOPE OF SERVICES

COUNTY, through the San Bernardino County Sheriff/Coroner/Public Administrator Department (hereinafter referred to as "SHERIFF"), shall provide emergency dispatching for the CONTRACTOR during the term of this Agreement. The emergency dispatch services to be provided by COUNTY to CONTRACTOR hereunder shall include:

- A.1** Dispatch services provided by SHERIFF for the CONTRACTOR as follows:
 - A.1.1** Operate and monitor radio and communications equipment in accordance with FCC Regulations.
 - A.1.2** Monitor the location and status of field units.
 - A.1.3** Assign back-up assistance as warranted for field personnel.
 - A.1.4** Receive radio calls and inquiries from personnel, input information, and archive records.

- A.1.5** Query and/or research computerized data banks for information requested.
- A.1.6** Operate the Computer Aided Dispatch (CAD) system, Central Name Index (CNI), California Law Enforcement Telecommunications System (CLETS), and National Crime Information Center (NCIC) system.
- A.1.7** Provide assistance and make phone calls at the request of field units for tows, notifications, etc.
- A.1.8** Track calls for statistical purposes.

A.2 Emergency dispatch services provided by SHERIFF for the CONTRACTOR on a twenty-four (24) hour per day basis. Any dispatching services provided outside of standard operations will be compensated at the overtime rate. CONTRACTOR shall provide a schedule for planned special operational events. Any training in radio operations and procedures for the CONTRACTOR personnel will be provided by the SHERIFF and compensated at the overtime rate. The training hours and frequency will be at the discretion of the SHERIFF.

A.3 Attendance by SHERIFF's representative(s) at meetings of the CONTRACTOR and such other meetings as necessary in carrying out services under this Agreement.

A.4 The services provided by the COUNTY hereunder shall include all equipment (including repairs thereto or depreciation thereon), supplies, communications, administration, labor, vacation and sick leave, any COUNTY retirement contributions, travel expenses, and all other services, obligations, or expenditures necessary or incidental to the performance of the duties to be performed by the SHERIFF under the terms of this Agreement. Notwithstanding the foregoing, in all instances where special supplies, stationary, notices, forms, and the like are to be issued in the name of the CONTRACTOR and approved by the SHERIFF, the same shall be supplied by the CONTRACTOR at its own cost and expense.

B. STANDARDS OF PERFORMANCE

B.1 The standards of performance, the methods of performance, the discipline and control of personnel, the determination of proper dispatching practices and procedures, and all other matters incidental to the manner of performance of services by SHERIFF hereunder shall be determined by the SHERIFF at his sole discretion. The responsibility of SHERIFF and of COUNTY to CONTRACTOR hereunder shall be to provide, as an independent contracting agency, effective dispatching at the level herein contracted for, and the CONTRACTOR shall not have the right to determine or direct the manner or means of the performance.

B.2 All persons directly or indirectly employed by COUNTY in the performance of the services and functions to be provided to the CONTRACTOR hereunder, shall be employees of the COUNTY, and no COUNTY employees shall be entitled to CONTRACTOR's pension, civil service, or other status or right.

B.3 CONTRACTOR shall have the right, at any time and from time to time, during the term of this Agreement to request a higher level of dispatching than that herein contracted for, and within a reasonable time after such requests, COUNTY shall provide such additional personnel as may be required to provide such additional dispatching services. Adjustment of contracted costs may be necessary.

B.4 To facilitate the performance of services hereunder by COUNTY; the CONTRACTOR, its officers, agents, and employees shall give their full cooperation and assistance within the scope of the duties and responsibilities of such officers, agents, and employees.

B.5 SHERIFF shall designate a representative to work directly with and provide liaison with the CONTRACTOR. The SHERIFF's representative shall make reports as may be appropriate as determined by the SHERIFF, with respect to dispatching services provided to CONTRACTOR.

C. TERM AND TERMINATION

The term of this Agreement shall be for a period of three years beginning July 1, 2020 and ending on June 30, 2023. Notwithstanding the foregoing, this Agreement may be terminated at any time with or without cause by CONTRACTOR or by SHERIFF upon written notice given to the other party at least ninety (90) days prior to the date specified for such termination. Any such termination date shall coincide with the end of a calendar month. In the event of such termination, each party shall fully pay and discharge all obligations in favor of the other accruing prior to the date of such termination, and each party shall be released from all obligations or performance which would otherwise accrue subsequent to the date of termination. Neither party shall incur any liability to the other by reason of termination.

D. FISCAL PROVISIONS

D.1 CONTRACTOR shall pay SHERIFF the sum of money per Schedule A attached hereto and incorporated herein by reference. SHERIFF shall invoice CONTRACTOR for the cost of services quarterly in arrears, plus overtime, if any. SHERIFF shall submit a quarterly invoice including any overtime generated during the previous quarter for hours of service outside of this Agreement, outlined in the Scope of Services provision. Payment shall be due within forty-five (45) days from the date of each invoice.

D.2 Schedule A reflects the rates in effect at the Execution of this Agreement. SHERIFF shall have the right to adjust the Agreement rates annually and any subsequent rate change(s) shall become effective on July 1 of the COUNTY fiscal year (July 1 through June 30). Such rate change(s) is affected by the service provided during the prior year and increased labor costs from Memorandum of Understanding changes. SHERIFF shall provide notice to CONTRACTOR of pending rate change(s) by providing CONTRACTOR with a revised Schedule A, which shall be signed by CONTRACTOR and returned to SHERIFF.

D.3 If a change in service level is requested or required during the fiscal year, SHERIFF shall provide a revised Schedule A, incorporating such changes, which shall be signed by CONTRACTOR and returned to SHERIFF. CONTRACTOR's subsequent invoice shall be adjusted in accordance with the rate change(s).

D.4 COUNTY reserves the right to reduce the level of dispatching services resulting from labor relations actions and CONTRACTOR's obligation to pay COUNTY shall be reduced for services not performed for that reason.

E. INDEMNIFICATION AND INSURANCE REQUIREMENTS

E.1 Indemnification

The CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers ("Indemnitees") from any and all direct claims, actions, losses, damages and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. The CONTRACTOR indemnification obligation does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

E.2 Insurance

Both CONTRACTOR and COUNTY are authorized self-insured entities for purposes of Professional Liability, General Liability, Automobile Liability, and Workers' Compensation. CONTRACTOR and COUNTY warrant that through their respective program of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.

E.3 Waiver of Subrogation Rights

CONTRACTOR shall require the carriers of required coverages to waive all rights of subrogation against the COUNTY, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the CONTRACTOR and CONTRACTOR’s employees or agents from waiving the right of subrogation prior to a loss or claim. The CONTRACTOR hereby waives all rights of subrogation against the COUNTY.

E.4 Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

F. NOTICES

All written notices provided for in this Agreement or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County Sheriff’s Department	BNSF Railway Company
Bureau of Administration, Contracts Unit	2500 Lou Menk Drive, GW1
San Bernardino, CA 92415-0061	Fort Worth, TX 76131-2828
Fax: (909) 387-3444	

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

G. AUTHORITY

The SHERIFF shall have the right to exercise the COUNTY’s authority under this Agreement including the right to give notice of termination on behalf of the COUNTY at his sole discretion.

H. AGREEMENT AUTHORIZATION

The CONTRACTOR warrants and represents that the individual signing this Agreement is a properly authorization representative of the CONTRACTOR and has the full power and authority to enter into this Agreement on the CONTRACTOR’s behalf.

I. ENTIRE AGREEMENT

This Agreement, consisting of five (5) pages and Schedule A, is attached hereto and incorporated by reference, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein.

I.1 If applicable, due to and for the duration of the COVID-19 pandemic, pursuant to the Uniform Electronic Transaction Act (Cal. Civ. Code §§ 1633.1 to 1633.17), and the San Bernardino County Board of Supervisors Resolution No. 2020-030, the parties hereto authorize the use of electronic, facsimile, and/or digital signatures in the execution of this Contract and any of its subsequent amendments. Such signatures shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Contract upon request.

[With the exception of signatures, this page is intentionally left blank].

COUNTY OF SAN BERNARDINO

►

Curt Hagman, Chairman, Board of Supervisors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

BNSF Railway Company

(Print or type name of corporation, company, contractor, etc.)

By ► _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address 2500 Lou Menk Drive, GW1
Fort Worth, TX 76131-2828

FOR COUNTY USE ONLY

Approved as to Legal Form

► _____
Richard D. Luczak, Deputy County Counsel

Date _____

Reviewed for Contract Compliance

► _____

Date _____

Reviewed/Approved by Department

► _____
John Ades, Captain

Date _____

SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT

SCHEDULE A

EMERGENCY DISPATCH SERVICES BNSF RAILWAY COMPANY FY 2020-21 *

ANNUAL SERVICE FEE

Salary and Benefits:

0.25 - Dispatcher (\$116,224 x 25%) \$29,056

County Indirect Cost: \$15,435

ANNUAL COST: \$44,491

QUARTERLY PAYMENT: \$11,122.75

OVERTIME

Overtime will be billed in arrears at a rate of \$51.93 per hour *

* The fees on this Schedule are for fiscal year 2020-21 only, are subject to Memorandum of Understanding changes approved by the County Board of Supervisors, and will be annually reviewed and adjusted accordingly.