

CONTRACT FOR SERVICES

THIS AGREEMENT, effective the 1st day of July, 2018, is entered into by and between the **EMERGENCY COMMUNICATIONS DISTRICT FOR NASHVILLE-DAVIDSON COUNTY**, a municipality organized and existing under the laws of the State of Tennessee (hereinafter called "ECD"), and the **METROPOLITAN GOVERNMENT OF NASHVILLE and DAVIDSON COUNTY**, a municipality organized and existing under the laws and constitution of the State of Tennessee (hereinafter called "Metro").

WITNESSETH

WHEREAS, ECD has purchased and made available the emergency communications equipment necessary for Enhanced-911 calling; and

WHEREAS, the Metropolitan Government and ECD have previously contracted for certain services to be provided by the Metropolitan Government to operate the equipment provided by ECD; and

WHEREAS, the parties desire for said contracts to be continued;

WHEREAS, ECD has occasion to procure goods and services to carry out its statutory duties and ECD has no staff dedicated to procuring such goods and services; and

WHEREAS, Metro has an established Purchasing Division and is willing to offer the services of purchasing to ECD; and

WHEREAS, Tennessee Code Annotated 7-86-106 grants ECD the powers of a municipality under Tennessee law; and

WHEREAS, Tennessee Code Annotated 12-9-101 et seq., grants Tennessee municipalities authority to enter into interlocal agreements to achieve common objectives subject to the approval of their respective governing bodies as provided by law;

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties agree as follows:

1. Term of Agreement. This agreement shall begin July 1, 2018, and shall terminate on June 30, 2019. Either party may terminate this agreement at an earlier date by providing the other party with thirty (30) days written notice.

2. Services Provided. Metro hereby agrees to provide the following services in accordance with the terms and conditions set forth in this agreement:

A. By and through the Emergency Communications Center, Metro agrees to operate the Enhanced-911 emergency communications systems and services provided by ECD.

B. By and through the Department of Public Works, Metro agrees to

1. review, correct, and update the AT&T "Master Street Address Guide" ("MSAG"), a printout of which has been provided to the Department, in accordance with Metro's Official Street and Alley Map; and,

2. notify AT&T of

- a. all new streets, and their assigned house and building numbers, in the Metro area;
- b. all changes to existing streets, street names, and assigned house and building numbers, in the Metro area;
- c. all errors in the MSAG that come to the attention of the Department through its normal course of operation; and,
- d. all changes to existing streets and assigned house and building numbers, and new streets and assigned house and building numbers, in other municipalities within Davidson County that the Department receives notice of.

Notices to AT&T shall be sent within a reasonable time after the information becomes known by the Department. The Department shall designate one employee to act as a liaison between it, AT&T, and other municipalities within Davidson County with regard to MSAG information. All changes to the MSAG should be based on information verified by the Department, and Metro assumes no responsibility or liability for changes to the MSAG that are based on information not verified by the Department.

Non-Published Subscriber Information: Metro understands and agrees that the Department of Public Works shall be provided with non-published subscriber information for purposes of reviewing, correcting, and updating the MSAG. Metro recognizes that its access to the non-published subscriber information is a privilege and that such access does not create any property rights in said information for Metro. Metro agrees and considers that the non-published subscriber information is "confidential" information

to the extent permitted by law, and access to non-published subscriber information will be limited to those authorized Metro employees with a "need to know" status and those actually engaged in the provision of emergency assistance services. Metro understands and agrees that the non-published subscriber information shall not be disseminated by its agents, departments, employees or assigns beyond the scope contemplated by this agreement and the provision of the emergency assistance services. All non-published subscriber information provided hereunder shall be clearly identified as confidential, by the provider, and such information and any copies thereof shall be returned to the provider of the information upon the provider's request or disposed of accordingly at the request of the provider. Metro agrees to assume full responsibility for any and all claims or actions at law arising from its negligence, but not including willful negligence or criminal behavior, to the extent that Metro is obligated pursuant to the Tennessee Government Tort Liability Act, T.C.A. Sect. 29-20-101, et seq.

C. By and through the Department of General Services - Office of Fleet Management, Metro agrees to

1. Provide five Class 1 vehicles for use by the ECC Department. Metro shall retain ownership of all vehicles and equipment assigned to the ECC Department.

2. Furnish qualified vehicle technicians to perform vehicle maintenance and repairs.

3. Provide shop service hours from 6:30 am to 11:00 pm five days per week except weekends and holidays.

4. Provide roadside assistance 24 hours per day, seven (7) days per week and 365 days per year.

5. Provide access to Metro fuel sites and fuel card commercial locations for 24 hour service.

6. Train ECC employees in the use of Metro fuel sites, fuel cards, and procedures to request vehicle maintenance and repairs.

7. Include the vehicles and equipment assigned to the ECC Department in the annual OFM vehicle and equipment replacement program that is funded through Metro's 4% Fund.

3. Training. Metro shall arrange for and utilize qualified personnel and training material to instruct, train, and to otherwise assist in the establishment of any necessary training programs for Metro employees who will operate the emergency communications equipment and services. Accordingly, ECD shall reimburse Metro for all direct, indirect, and incidental costs incurred by Metro in obtaining training and materials, including overtime wage costs resulting from training.

4. ECC Backup Facility. Metro shall arrange for a facility to serve as a backup center to the primary Emergency Communications Center. Accordingly, ECD shall reimburse Metro for any rental costs associated with such facility.

5. Telephone Services at Backup Center. Metro shall arrange for the telephone services needed to operate a backup Emergency Communications Center. Accordingly, ECD shall reimburse Metro for these telephone costs.

6. Duties of Metro

A. Metro shall in good faith use its best efforts to operate the emergency communications equipment and services.

B. Metro shall make no changes in the design or incorporate any improvements or modifications into any of the equipment provided by ECD without the prior written permission of ECD. However, the provisions of this paragraph shall not apply to improvements or modifications made in an emergency repair situation.

C. Metro shall use the equipment of ECD in a reasonable manner for the use contemplated by the manufacturer of the equipment and shall comply with all federal, state, and local laws and ordinances relating thereto, and shall immediately report the malfunction, defect, and/or disrepair of any of the equipment to Motorola, and further assumes full responsibility to the extent authorized by law for any damage, destruction, disrepair, etc., resulting from the misuse or negligence of Metro, but not for normal wear and tear.

D. Metro shall permit ECD or its authorized agent to inspect, test, maintain, modify, and replace the equipment at any time during the term of this contract and at any location at which the equipment may be found. Same shall not be disruptive to and shall be made in consideration of, the entire emergency communications system operated by Metro (in addition to the equipment provided by ECD). ECD hereby agrees to reimburse Metro

for damage to Metro equipment by the negligence of ECD or its agents or employees.

7. By and through the Purchasing Division within its Department of Finance, Metro agrees to make procurement for ECD upon request by ECD of goods and services. These procurements shall include the functions of preparing and promulgation of any requests for proposals (RFP) or Invitation to Bid (ITB) as may be deemed appropriate by the Purchasing Agent and the award, drafting and administration of any resulting contract on behalf of ECD. In providing the services stated herein, the Purchasing Division shall comply with the provision of Article 4 of the Code of Laws of the Metropolitan Government ("Procurement Code") and any applicable regulations adopted thereunder.

ECD shall finance all procurements made on its behalf by Metro and shall own all goods, equipment and services procured by Metro. ECD shall fund incidental procurement costs such as printing, copying, mailing and other similar costs.

8. Compensation

A. ECD agrees to pay and shall pay directly to Metro the following sums:

1. Four Thousand Nine Hundred Dollars (\$4,900.00) for the services provided to ECD by the Department of Public Works from July 1, 2018 through and including June 30, 2019. Payment of this sum shall be due on a semi-annual basis in the amount of Two Thousand Four Hundred Fifty Dollars (\$2,450.00).

B. Reimbursement for training expenses as set forth in paragraph 3 shall be made by ECD upon the receipt of invoices from Metro.

C. Reimbursement for rental expenses as set forth in paragraph 4 shall be made by the ECD upon receipt of invoices from Metro.

D. Reimbursement for telephone expenses as set forth in paragraph 5 shall be made by the ECD upon receipt of invoices from Metro.

E. Reimbursement of fleet expenses as set forth in paragraph 2 C shall be made by the ECD upon receipt of invoices from Metro.

F. Reimbursement for uniforms, 800MHz radios, cell phones, pagers, printing services, office supplies, property protection, rental of copiers, computer equipment, computer software, office furniture, refuse disposal, pre-employment testing, internet services, postage, advertising, repair & maintenance services, and drug test fees which may be incurred by the Emergency Communications Center in delivery of 911 services.

9. Notice. All notices, requests, demands, and other communications under this agreement or in connection therewith shall be given to or be made upon the respective parties hereto as set forth on the page of this agreement bearing the signature of the duly authorized officers of ECD and Metro in execution of this agreement, or to such other address and to the attention of such other officer or persons as each of the parties hereto may specify by notice in writing to the other.

10. Contingent Fees. ECD hereby represents that ECD has not been retained or retained any persons to solicit or secure a Metropolitan Government contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under Metropolitan Government contracts.

11. Gratuities and Kickbacks. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefor. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical

standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under Metropolitan Government contracts.

12. Assignment--Consent Required. This agreement may not be assigned by either party without the prior written consent of the other party. In the event of such assignment, no party shall be discharged or released from any of its obligations or duties contained herein.

13. Entire Agreement. This agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

14. Force Majeure. No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

15. Governing Law. The validity, construction and effect of this agreement and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee.

16. Severability. Should any provision of this agreement be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.

17. Modification of Agreement. This agreement may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

18. Partnership/Joint Venture. Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

19. Waiver. No waiver of any provision of this contract shall have affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

20. Liability. In no event shall the ECD bear any liability for any loss, expense, attorneys' fees or claims for injury or damages arising out of any act or omission in the performance of this agreement on the part of the Metropolitan Government. Likewise, the Metropolitan Government shall bear no liability for any loss, expense, attorneys' fees or claims for injury or damages arising out of any act or omission in the performance of this agreement on the part of the ECD. It being the express intention of the parties hereto that neither should bear liability for injury or loss caused by the other party.

21. Effective Date. This agreement shall not be binding upon the parties until it is approved by the Metropolitan County Council and signed by all parties hereto.

IN WITNESS WHEREOF, the authorized representatives of the parties have affixed their signatures below with the intent to make this agreement effective as of the date first written above.

THE METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON
COUNTY:

EMERGENCY COMMUNICATIONS
DISTRICT OF NASHVILLE AND
DAVIDSON COUNTY:

DAVID BRILEY, Mayor

By Cleo Duckworth
Board Chair
Title

ATTEST:

APPROVED:

Metropolitan Clerk

[Signature]
Russell E. Freeman, Attorney

DEPARTMENT OF PUBLIC WORKS:

[Signature]
Director

DEPARTMENT OF GENERAL SERVICES:

Ray Willems
Director

APPROVED AS TO AVAILABILITY OF FUNDS:

John Knox O'Driscoll
Director
Metropolitan Department of Finance

APPROVED AS TO FORM AND LEGALITY:

Cynthia E. Gross
Metropolitan Attorney

EMERGENCY COMMUNICATIONS CENTER

Michael J. Doregan
Director