

RESOLUTION NO. RS2020-615

A resolution approving an intergovernmental agreement between the Metropolitan Government of Nashville and Davidson County, the Electric Power Board of the Metropolitan Government of Nashville and Davidson County, and the United States Department of Justice, Division of Alcohol, Tobacco and Firearms, for the interoperability of the digital/analog 800 MHZ radio communication system.

WHEREAS, Metropolitan Government of Nashville and Davidson County (“Metro”), the Electric Power Board of the Metropolitan Government of Nashville and Davidson County (“NES”), collectively (“System Operators”), have constructed a fully integrated, digital/analog 800 MHZ radio communication system, hereinafter the (“System”); and,

WHEREAS, the System is used for public safety purposes to enhance dispatching services and improve response; and,

WHEREAS, the United States Department of Justice, Division of Alcohol, Tobacco and Firearms (“ATF”) is a public agency, as defined by Tennessee Code Annotated Section 12-9-103, and has a duty to promote public safety; and,

WHEREAS, ATF has requested to be granted interoperability with the system; and,

WHEREAS, access to the System would enhance ATF’s ability to discharge its public safety duties and would also benefit Metro’s efforts to provide public safety.

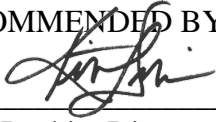
NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1: That the Intergovernmental Agreement, attached hereto and incorporated herein, between the Metropolitan Government of Nashville and Davidson County, the Electric Power Board of the Metropolitan Government of Nashville and Davidson County and the United States Department of Justice, Division of Alcohol, Tobacco and Firearms for the interoperability of the digital/analog 800 MHZ radio communication system., is hereby approved, and the Metropolitan Mayor is authorized to execute the same.

Section 2: Amendments to this legislation shall be passed by Resolution.

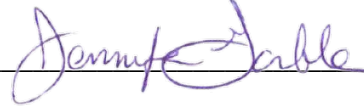
Section 3: That this resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:



Keith Durbin, Director
Information Technology Services

INTRODUCED BY:



Member(s) of Council

APPROVED AS TO THE
AVAILABILITY OF FUNDS:



Kevin Crumbo

APPROVED AS TO FORM AND
LEGALITY:



Assistant Metropolitan Attorney

INTERGOVERNMENTAL AGREEMENT

This Agreement is entered into this _____ day of _____, 2020, by, between, and among The Metropolitan Government of Nashville and Davidson County, a metropolitan government organized and existing under the laws and constitution of the State of Tennessee (hereinafter called "Metro"), the Electric Power Board of The Metropolitan Government of Nashville and Davidson County (hereinafter called "NES"), and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (hereinafter called "ATF").

WITNESSETH:

WHEREAS, Metro and NES (collectively referred to as the "System Owners") have constructed a fully integrated, digital/analog 800 MHz radio communications system (hereinafter, the "System"); and

WHEREAS, Metro now maintains the System; and

WHEREAS, NES contributes funds to maintain the System; and

WHEREAS, the System Owners have established the MRAM Committee (the "Committee") as the body charged with operational responsibility for the System; and

WHEREAS, the System is used for public safety purposes to enhance dispatching services and improve response; and

WHEREAS, the ATF is a public agency, as that term is defined in Tennessee Code Annotated (T.C.A.), section 12-9-103; and

WHEREAS, ATF has a duty to promote and provide public safety; and

WHEREAS, ATF has requested to be granted interoperability with the System; and

WHEREAS, the MRAM Committee has approved ATF's request; and

WHEREAS, access to the System would enhance ATF's ability to discharge its public safety duties and would also benefit Metro's efforts to provide public safety; and

WHEREAS, NES has no objection to use of the System for the stated purposes; and

WHEREAS, T.C.A., section 12-9-101, *et seq.*, grants to public agencies in Tennessee the authority to enter into intergovernmental agreements to achieve common objectives subject to the approval of their respective governing bodies by resolution or as otherwise provided by law.

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

1. Term of Agreement. This Agreement shall take effect upon approval of the Council of The Metropolitan Government of Nashville and Davidson County and shall extend through May 1, 2030, unless terminated earlier as provided herein.

2. Compensation. The System Owners will forego any user fee or charge of any kind except as provided herein because MRAM has established a policy of not charging any fee for interoperability access.

(a) ATF will be responsible for the purchase of any new subscriber units for its own use;

(b) ATF will be responsible for the programming and maintenance of subscriber units for its own use.

3. Termination. The parties hereto may terminate this Agreement prior to the date stated in Section 1 by providing the other parties with ninety (90) days' written notice of termination.

4. Services Provided. The System Owners hereby agree to allow access to the System as provided in Attachment A to this Agreement. The definitions applicable to this Agreement are provided in Attachment B. For purposes of this Agreement, "interoperability" shall have the meaning stated in paragraph 76 of FCC Order No. 98-191, specifically, "An essential communications link within public safety wireless communications systems which permits units from two or more entities to interact with one another and to exchange information according to a prescribed method in order to achieve predictable results."

5. Duties of ATF.

(a) ATF shall use its access to the System solely for the purpose of providing public safety within its jurisdictional limits. Further, ATF shall not use the rights granted under this Agreement in any manner that disrupts or adversely affects in any way the System Owners' operation of the System.

(b) ATF and its employees, agents and representatives shall comply with any lawful directive of the System Owners' officers, employees, agents and representatives regarding the access to and use of the System.

(c) ATF shall permit the System Owners and/or their authorized agents and representatives to inspect the equipment used to provide access to the System at any location where such equipment may be used.

6. 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 ATF, NES 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.

7. Contingent Fees. ATF hereby represents that it 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 Agreement, 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.

8. 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 by or 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.

9. Assignment – Consent Required. This Agreement may not be assigned by any of the parties without the prior written consent of the other parties hereto. In the event of such assignment, no party shall be discharged or released from any of its obligations or duties contained herein. NOTICE OF ASSIGNMENT MUST BE SENT TO THE ATTENTION OF METRO'S CHIEF ACCOUNTANT, DIVISION OF ACCOUNTS, DEPARTMENT OF FINANCE, 700 SECOND AVENUE SOUTH, NASHVILLE, TN 37210, and to the Office of the General Counsel, Nashville Electric Service, 1214 Church Street, Nashville, TN 37246.

10. 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.

11. Force Majeure. No party shall have any liability to any other party 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.

12. 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.

13. Venue. Venue for any litigation arising out of this Agreement shall be in the courts of Davidson County.

14. 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 Agreement.

15. Modification of Agreement. This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.

16. 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 themselves 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.

17. Waiver. No waiver of any provision of this Agreement shall 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.

18. Liability. In no event shall ATF 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 NES or Metro. Likewise, neither NES nor Metro shall bear 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 or operation of the System on the part of ATF, it being the express intention of the parties hereto that neither should bear liability for injury or loss caused by the other party.

19. Operation of the System. It is the contemplation of the parties that the System Owners shall be solely responsible for the procurement, design and operation of the System.

20. Maintenance of Records. The books, records, and documents of ATF, as they relate to any work done or money received under this Agreement, shall be maintained for a period of three (3) years from the date of the final payment, and shall be subject to audit at any reasonable time by the System Owners, their internal auditor(s), or private audit firms under contract with and representing the System Owners or their duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

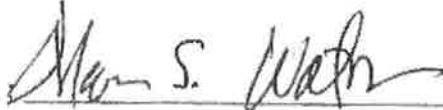
21. Binding Effect. This Agreement shall not be binding upon the parties until it is approved by the Metropolitan County Council and the Electric Power Board and signed by all parties hereto.

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**

**BUREAU OF ALCOHOL, TOBACCO,
FIREARMS, AND EXPLOSIVES**

By: _____
John Cooper, Mayor

By: 

Marcus S. Watson
Special Agent in Charge
Nashville Field Division

Approved as to Availability of Funds:

**ELECTRIC POWER BOARD OF THE
METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY**

By: 

Director of Finance

By: 

President & CEO

Approved as to Form and Legality:

Approved as to Form and Legality:

By: *Tara M. Ladd*

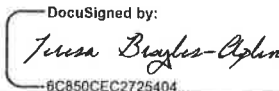
Assistant Metropolitan Attorney

By: 

Vice President & General Counsel

Filed by the Metropolitan Clerk:

Attest:



Secretary

Date: _____

Attachment A – Terms Of Access – A.T.F.

The System Owners hereby agree to allow A.T.F. access to the System as provided in this agreement and in accordance with the following conditions:

a) A.T.F. agrees to and will ensure strict compliance with all parts of the 800MHz Radio System Standard Operating Procedures Manual, as developed and maintained by MRAM.

b) A.T.F. is encouraged to send representatives to attend the regularly scheduled meetings of MRAM and all related sub-committees; however, as set forth in Mayor's Executive Order No. 29, A.T.F. will have no voting privileges on those committees.

c) A.T.F. shall use its access to the System solely for the purpose of providing public safety and emergency services within its jurisdictional limits. Further, A.T.F. shall not use the rights granted under this Agreement in any manner that disrupts or adversely affects in any way the System Owners' operation of the System.

d) A.T.F. shall immediately notify MRC of any lost, misplaced, or stolen radio unit that is authorized to access the System under this agreement.

e) A.T.F. shall immediately notify MRC of any unauthorized or inappropriate use of a radio unit that is authorized to access the System under this agreement.

f) A.T.F. shall maintain a complete and concise log of all persons who have possession and control of a radio unit that is authorized to access the System and provide MRC an updated copy of this record each calendar month.

g) A.T.F. shall make every effort to maintain secure custody and control of any radio unit authorized to access the System under this agreement and ensure that only authorized persons have access to those radio units.

h) MRC, or a vendor authorized by MRC will perform all programming, repairs, modifications, or alterations to any radio unit in A.T.F.' control that relate to operations on the System. In the event of failure to comply with this condition, A.T.F. shall be responsible for all costs related to remedying problems resulting from said noncompliance.

i) A.T.F. shall permit the System Owners and/or their authorized agents and representatives to inspect the equipment used to provide access to the System at any location where such equipment may be used. MRC may conduct random checks of any A.T.F. radio unit that is authorized to access the System.

j) A.T.F. is solely responsible for any and all network and equipment connectivity between the A.T.F. facilities and the Metro System, and all related costs to install and maintain the same.

k) A.T.F. is solely responsible for the purchase, installation, and maintenance of all radio equipment located within any of their facilities and shall ensure compatibility of the same with Metro's System.

l) A.T.F. understands that Metro's radio system coverage varies by location, and that Metro is not responsible for correcting any areas with inadequate signal coverage within the A.T.F. facilities or jurisdiction.

m) A.T.F. understands that failure to abide by any or all of these terms and conditions set forth in this Agreement shall result in the immediate suspension or revocation of access to the System.

Attachment B – Definitions – A.T.F.

The following definitions are provided to aid with understanding of the terms and language used throughout this agreement, and denote to the way in which those terms are used within the context of the agreement.

Control Station – A fixed radio unit normally found at a desk or common work area indoors or directly connected to a console or other fixed transmitting location.

Console – A fixed radio operator position with multiple radio resources and features that can access any subset of talkgroups and/or conventional channels.

Consolette – A mobile radio mounted into a case and converted for desk-top use

Eligible Agency – A local unit of government, emergency medical service provider, or special purpose government agency.

Encryption – The intentional scrambling or coding of a radio signal to prevent unauthorized reception of secure communications, which requires all transmitting and receiving radios to contain the same code or ‘key’ with which to communicate with each other.

Infrastructure – All of the fixed electrical and mechanical equipment, towers and building structures, transmitters, controllers, antennas, microwave and ancillary equipment that comprise the operational backbone of the radio system.

Interconnect – Also telephone interconnect, a radio option which provides mobile and portable radios the capability to connect to and place calls on an outside telephone network.

Interoperability – The capability to communicate with units from other systems, other frequency bands, and other agencies as required with existing equipment.

Logging – the act of recording radio conversations for replay as required.

Metro – Metropolitan Government of Nashville and Davidson County.

Mobile Radio – A vehicular mounted radio with an external power source and antenna.

Microwave – A point-to-point, directed radio energy beam on which multiple radio signals or data streams are delivered between remote locations.

P25 – a suite of standards for digital radio communications for use by federal, state/province and local public safety agencies in North America to enable them to communicate with other agencies and mutual aid response teams in emergencies.

Portable Radio – A lightweight, completely self contained radio unit usually worn on the user’s belt or other similar fashion

Public Safety – An agency, department, or individual directly involved with the health, safety, and/or security of the public including, but not limited to police, fire, emergency management, and medical personnel and responders

Public Service - An agency, department, or individual involved with providing non-emergency type services to the public including, but not limited to utilities, transportation, education, and other governmental services not critical to public safety.

Radio User – The person or unit to which a radio is assigned and aliased.

Repeater – a type of radio station in which subsequently retransmits any signal received on a different frequency.

Subscriber – an individual radio of any type assigned and aliased on the system.

Simulcast – A type of trunking radio communications in which voice/data to be transmitted is sent to multiple sites and is transmitted simultaneously to provide wide area coverage.

Site – The physical location of an antenna tower, equipment shelter and radio system infrastructure equipment which is electronically linked via microwave radio to the master and other satellite sites.

System – The 800MHz Radio Communications Systems owned by the Metropolitan Government of Nashville and Davidson County and Nashville Electric Service.

System Access – The ability to utilize the radio system for radio communication is divided in two categories: limited and full participation. Limited participation is normally defined as utilizing the system only for the purposes of interoperability with Metro agencies, and/or for purposes of mutual aid.

System Owners – Metro Nashville Government and Nashville Electric Service.

Technical Committee – A sub-committee of MRAM that reviews and makes recommendations on all issues of a technical nature that affect operations of the radio system that come before MRAM.

Trunked/Trunking – The automatic and dynamic sharing of a number of communications channels between large numbers of radio users.

Talkgroup – A unique trunked radio system resource normally representing or dedicated to a specific user agency or function, on which radio communications are conducted, similar in operation to a conventional radio channel. Talkgroups can contain an unlimited number of radio units.

Zone – An area in the radio template containing positions for 16 individual talkgroups or conventional radio channels which is normally labeled by an acronym that closely represents the owner agency.

Acronyms and Abbreviations

The following is provided to aid with understanding of the acronyms and abbreviations used throughout this manual, and denote to the way in which those terms are used within the context of this manual.

ECC – Emergency Communications Center

EMS – Emergency Medical Service

FCC – Federal Communications Commission

ID – IDentification number

IP – Internet Protocol

MFD – Metro Fire Department

MHz - Megahertz

MNPD - Metro Nashville Police Department

MRAM – Metro Emergency Radio Management Committee

MRC – Metro Radio Communications

NES – Nashville Electric Service

RF – Radio Frequency

RSS – Radio Service Software

SOP – Standard Operating Procedures