

RESOLUTION NO. RS2020-616

A Resolution approving an interlocal agreement between the Emergency Communications District for Nashville and Davidson County (ECD) and The Metropolitan Government of Nashville and Davidson County (Metro) for partial funding of replacement 800MHZ Radio Equipment in use by public safety agencies.

WHEREAS, the Emergency Communications District for Nashville and Davidson County (“ECD”) was established pursuant to Tennessee law to secure for and provide to the public more efficient emergency service in the form of Enhanced 911 services; and,

WHEREAS, the Metropolitan Government (“Metro”) has contracted for services to replace ‘End of Life’ 800MHZ Radio Equipment in use by Metro’s public-safety agencies; and,

WHEREAS, the replacement 800MHZ Radio Equipment will significantly improve the scope and efficiency of the 911 services provided to the residents of Davidson County; and,

WHEREAS, ECD has the powers of a municipality under Tennessee law by virtue of Tennessee Code Annotated section 7-86-106 and has agreed to assist the Metropolitan Government in financing the replacement of the 800MHZ Radio Equipment; and,

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

WHEREAS, Metro has calculated the cost of the Radio Equipment will be over \$5,000,000 and will expend approximately \$1,000,000 per year; and,

WHEREAS, the Board of the Emergency Communications District has agreed to assist in the financing of the 800MHZ Radio Equipment by reimbursing Metro One Million Dollars (\$1,000,000) for five consecutive fiscal years beginning January 1, 2021 and reoccurring annually on January 1, 2021, January 1, 2022, January 1, 2023, January 1, 2024 and January 1, 2025, in an amount not to exceed Five Million Dollars (\$5,000,000).

WHEREAS, it is in the best interest of the Metropolitan Government that the Interlocal Agreement be approved.

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

Section 1. That the Interlocal Agreement, attached hereto and incorporated herein, by and between The Metropolitan Government of Nashville and Davidson County and the Emergency Communications District for Nashville and Davidson County (“ECD”), whereby ECD will assist the Metropolitan Government in financing replacement 800MHZ Radio Equipment by reimbursing

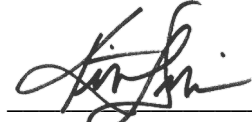
Metro One Million Dollars (\$1,000,000) annually, in an amount not to exceed Five Million Dollars (\$5,000,000), is hereby approved, and the Metropolitan Mayor is authorized to execute the same.

Section 2. That the Information Technology Services Department shall be appropriated \$1,000,000 per fiscal year for five (5) fiscal years beginning in fiscal year 2020 for a total appropriation of \$5,000,000.

Section 3. That the Emergency Communications District for Nashville and Davidson County will reimburse the Metropolitan Government One Million Dollars (\$1,000,000) for five consecutive fiscal years beginning January 1, 2021 and reoccurring annually on January 1, 2021, January 1, 2022, January 1, 2023, January 1, 2024 and January 1, 2025, in an amount not to exceed Five Million Dollars (\$5,000,000).

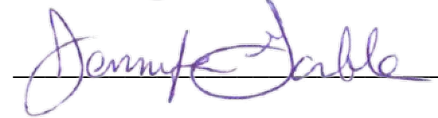
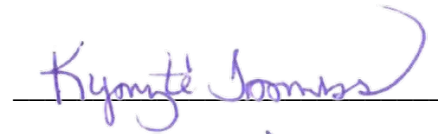
Section 4. That this resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:



Keith Durbin, Director
Information Technology Services

INTRODUCED BY:



APPROVED AS THE AVAILABILITY
OF FUND:



Kevin Crumbo, Director
Department of Finance

Council Member(s)

APPROVED AS TO FORM
AND LEGALITY:



Assistant Metropolitan Attorney

INTERLOCAL AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2020, 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 is engaged in securing for and providing to the public more efficient emergency service in the form of enhanced 911 services; and,

WHEREAS, Metro is engaged in a process to replace 'End of Life' 800 MHz Radio Equipment (hereinafter called 'Radio Equipment') and most of the improvements are for the purpose of enhancing 911 dispatch services; and,

WHEREAS, the Radio Equipment will significantly improve the scope and efficiency of the 911 services provided to the residents of Davidson County; and,

WHEREAS, Metro's Purchasing Agent has accepted a proposal for the Radio Equipment by following established purchasing rules and regulations; and,

WHEREAS, Metro needs some financial assistance to purchase the Radio Equipment that directly impacts the 911 dispatch services; and,

WHEREAS, Metro officials have calculated that the cost of the Radio Equipment will be over \$5,000,000; and,

WHEREAS, the ECD has agreed to fund the Radio Equipment with a \$5,000,000 payment over a five-year period, at \$1,000,000 per year; and,

WHEREAS, it is in the public interest and within the scope of the authority of the ECD to participate in the acquisition of the Radio Equipment by contributing funding for a portion of the equipment that supports public-safety agencies; and

WHEREAS, T.C.A. 7-86-106 grants ECD the powers of a municipality under Tennessee law; and,

WHEREAS, T.C.A. 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 by resolution or otherwise as provided by law; and,

WHEREAS, Metro and ECD have entered into contracts in past years with satisfactory results.

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

1. Term of Agreement. This Agreement shall begin on January 01, 2021 and shall continue through and until December 31, 2026. This Agreement shall not take effect until approval of the Metropolitan Council.

2. Compensation. The compensation required of the ECD shall not exceed Five Million Dollars, (\$5,000,000) during the term of this agreement. The ECD shall make annual payments of the amounts noted on the dates listed herein:

- January 1, 2021 \$1,000,000
- January 1, 2022 \$1,000,000
- January 1, 2023 \$1,000,000
- January 1, 2024 \$1,000,000
- January 1, 2025 \$1,000,000

However, nothing herein shall prohibit ECD and Metro from agreeing on another payment date or dates should they jointly determine it is in their mutual interest to do so.

3. Termination. Either party may terminate this Agreement prior to the date stated in Section I by providing the other party with ninety (90) days written notice of termination.

4. 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 Purchasing Agent, Metro agrees to use its purchasing procedures as set forth in Article 4 of the Code of Laws of the Metropolitan Government to award, draft, and administer a contract for purchase of the portions of the EOL Radio Equipment used for emergency dispatching.
- B. By and through the Metropolitan Department of Information Technology Services, Metro agrees to perform maintenance on the hardware and software portions of the replacement Radio Equipment.

5. 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 to who will operate the equipment.

6. Duties of Metro.

- A. Metro shall in good faith use it best efforts to operate the equipment
- B. Metro shall permit ECD or its authorized agent to inspect the equipment at any time during the term of this Agreement and at any location at which the System may be found. Same shall not be disruptive to and shall be made in consideration of the entire emergency communications system operated by Metro.

7. 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.

8. 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 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.

9. 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 an 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.

10. 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.

11. 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.

12. 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.

13. 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.

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 contract.

15. 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.

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 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.

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 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 or operation of the System 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.

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

20. Binding Effect. This Agreement shall not be binding upon the parties until it is approved by the Metropolitan 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:

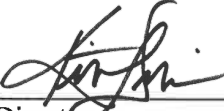
EMERGENCY COMMUNICATIONS DISTRICT OF NASHVILLE AND DAVIDSON COUNTY:

Cleo S. Duckworth

Director

[Signature]
ECD Attorney


METROPOLITAN DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES:



Director

METROPOLITAN MAYOR:

APPROVED AS TO AVAILABILITY OF FUNDS:



Finance Director

APPROVED AS TO FORM AND LEGALITY:

Tara M. Ladd

Metropolitan Attorney

METROPOLITAN CLERK:
