

STATE OF TENNESSEE
COUNTY OF BRADLEY

2001 COMMUNICATIONS AGREEMENT

Parties

This 2001 Communications Agreement (“the Agreement”) is between and among Bradley County (“the County”), a political subdivision of the State of Tennessee, and the Cities of Cleveland and Charleston (“the Cities”), chartered municipalities of the State of Tennessee.

Law

The Parties enter into the Agreement based upon their statutory and corporate powers, including, but not limited to, the provisions of the Intergovernmental Agreement Act (T.C.A. 5-1-113), the Interlocal Cooperation Act (T.C.A. 12-9-101), and the Emergency Communications District Act, specifically at T.C.A. 7-86-105 (b)(6).

Purposes

1. The Parties enter into the Agreement for, among other things, the purposes and premises set forth in the 1995 Communications Agreement (“the 1995 Agreement”), which is attached hereto and incorporated herein by reference thereto, under which contract there was created a Communications Center Committee (“the CCC”) that was given exclusive authority to manage the Communications Center (“the Center”). The CCC has operated the Center in a most successful manner and has been complemented and aided immensely by the Board of Directors (“the Board”) of the Bradley County Emergency Communications District (“the District”).

2. The Parties seek to build upon the success of the CCC and the Board, and the Parties desire to complete the final step towards unification of the total resources available for emergency communications, by merging the CCC into a reconstituted Board, and investing the new Board with all authority now possessed by the CCC, such that there emerges a single entity that continues the saving of lives, protection of property, and swift apprehension of criminals for all the citizens of Bradley County, whether they reside inside or outside of the Cities.

NOW, THEREFORE, BASED UPON THESE PREMISES, AND UNDER THE AUTHORITY OF THE LAW CITED, THE PARTIES AGREE AS FOLLOWS:

Section 1. Creation of New Board

There is hereby created a new Board for the District, to be composed of eight (8) ex-officio members and three (3) appointees, as follows:

A. Ex-Officio Members

- the County Executive
- the Cleveland Mayor
- the Charleston Police Chief
- the County Sheriff
- the Cleveland Police Chief
- the Cleveland Fire Chief
- the Director of Emergency Medical Services
- the Director of the Emergency Management Agency

B. Appointed Members

Three (3) persons shall be appointed by the County Executive, subject to confirmation by the Bradley County Commission and the Cleveland City Council. The members shall serve initial terms of two (2), three (3), and four (4) years. Thereafter, all terms shall be four (4) years.

Section 1.

C. Designees

Any ex-officio member of the new Board may designate in writing (or by direct contact with the Chairman of the new Board) any person to serve on the new Board in the absence of the ex-officio principal. The written designation must be signed by the ex-officio member and entered into the official records of the Board. Such a designee shall have the same rights and authority as possessed by the ex-officio member.

Section 2. Investment of Authority

The new Board shall be invested with all authority possessed by the District under existing law and all authority provided pursuant to the terms of the 1995 Agreement, all provisions of which that are not in conflict herewith shall remain in effect and be made a part of this Agreement.

Section 3. Continuity of Operations

The existing policies of the CCC and the District shall remain in full force and effect until such time as the new Board changes the policies.

Section 4. Transition

The current members of the Board that are authorized to sign financial instruments and have been bonded for that purpose shall be authorized to continue to exercise that authority, subject to appropriate authorization for expenditures and investment from the new Board, until such time as members of the New Board are designated and bonded as may be required by law. All District and CCC assets shall become property of the District.

Section 5. Effective Date

The New Board shall become effective July 1, 2001, and the current Board shall cease to exist as of that date.

Section 6. Amendments

This Agreement may only be amended in writing and approved by all Parties.

SIGNED THIS 19th DAY OF JUNE, 2001:

FOR BRADLEY COUNTY: D. Gary Davis COUNTY EXECUTIVE

ATTEST: Michael R. Willis

FOR THE CITY OF CLEVELAND: Tom Sperber

ATTEST: Luc Zins

FOR THE CITY OF CHARLESTON: Ralph Johnson (Mayor)

ATTEST: Rebecca J. Turner

STATE OF TENNESSEE
COUNTY OF BRADLEY

COMMUNICATIONS AGREEMENT

PARTIES

This Intergovernmental Cooperation Agreement for Emergency Communications ["the Agreement"] is entered into between and among the County of Bradley ["the County"], a political subdivision of the State of Tennessee, the Cities of Cleveland and Charleston ["the Cities"], political subdivisions and chartered municipalities of the State of Tennessee, and the Bradley County Emergency Communications District ["the District"], a municipality and public corporation created and established in accordance with the provisions of the Emergency Communications District Law ["the Law"], Tennessee Code Annotated, Section 7-86-101, *et sequitur*, the jurisdiction of which District includes all of the County.

REFERENCES

The County acts by and through the County Board of Commissioners ["the Commission"]. References to the County or the Commission shall be synonymous and given the same meaning. The Cities act by and through City Councils ["the Councils"]. References to the Cities and Councils shall be synonymous and given the same meaning. The District acts by and through the Board of Directors ["the Board"]. References to the District and Board shall be synonymous and given the same meaning.

LAW

The parties enter into the Agreement based upon the Law, their corporate and statutory powers, including, but not limited to, the provisions of the Intergovernmental Agreement Act, T.C.A. Section 5-1-113, *et sequitur*, and the Interlocal Cooperation Act, T.C.A. Section 12-9-101, *et sequitur*.

PREMISES

WHEREAS, the District was established for the purpose of providing a system of emergency telephone communications whereby a telephone user could dial the digits "9-1-1," whenever emergency assistance was required, and be electronically and immediately connected to a Public Safety Answering Point ["the PSAP"], or dispatching location, so that emergency services might be secured, the dispatch and delivery of which would be facilitated by computerized system enhancements ["E-911"], thereby saving lives, protecting property and leading to the swifter apprehension of criminals; and,

WHEREAS, the costs of developing the E-911 system, including the acquisition of equipment, will be completely paid by the District at a cost in excess of Five Hundred Thousand Dollars (\$500,000), and, additionally, all future equipment use charges and maintenance expenses will be paid by the District; and,

WHEREAS, the County and the City of Cleveland each now separately operate PSAPs, each maintaining duplicate full-time staffing, twenty-four (24) hours per day, seven (7) days per week; and,

WHEREAS, it is deemed in the best interest of all citizens of the County, including the Cities, and in the best interest of the parties, to implement a shared system of communications, including operation of E-911;

NOW, THEREFORE, BASED UPON THESE PREMISES, THE PARTIES AGREE AS FOLLOWS:

Section 1. Communications Center.

The parties agree to establish an Emergency Communications Center ["the Center"] and cease operating separate PSAPs, although nothing herein shall prevent or prohibit any party from maintaining separate non-emergency communications systems. If it is determined that non-emergency or administrative calls will be answered by the Center, it is hereby required that all calls must be answered promptly, courteously, accurately, and with a professional attitude. In addition, the management of the Center shall be charted with the responsibility for implementing a teleserve system to reduce unnecessary law enforcement field responses. All emergency 9-1-1 telephone calls presently directed to the separate PSAPs of the parties shall be directed to the Center. The Center shall be at such location as is provided herein, or as may be otherwise determined, from time to time, in accordance with the Law and this Agreement.

Section 2. Governance of Center.

A. The parties hereby establish a Communications Center Committee ["the CCC"] and vest the CCC with full responsibility, to the extent permitted by law and within the terms of the Agreement, for governance of the Center. The CCC will have full authority over all aspects of the Center.

B. The CCC shall be composed of nine (9) persons, as follows:

1. Six (6) persons to serve as ex-officio members, each of whom may designate, from time to time, a representative with voting power, as follows:

- a. Cleveland City Manager
- b. Cleveland Fire Chief
- c. Cleveland Police Chief
- d. Cleveland Utilities General Manager
- e. County Sheriff
- f. County Emergency Medical Service Director

2. One (1) person, appointed by the County Executive, and approved by the County Commission;

3. One (1) person appointed by the Charleston City Council.

Section 2, cont.

4. One (1) person, appointed jointly by the County Executive and the Cleveland City Mayor. This appointee cannot be a current or former Cleveland or Bradley County official or employee.

5. One (1) person as may be designated, from time to time, by the Board, which designee shall not have voting power, but shall otherwise be accorded the same rights and privileges as other members, including, but not limited to, reasonable advance notice of all meetings and copies of all CCC correspondence.

6. Appointees shall serve terms of four (4) years. Ex-officio members shall serve by virtue of the office held. All members of the CCC shall serve without compensation.

C. The CCC shall elect annually, beginning at the first meeting after it is established by this Agreement, one of its members to serve as Chair of the CCC for a one (1) year term. No person may serve as Chair for more than two (2) years in any five (5) years period.

Section 2, cont.

D. The CCC shall not be authorized to make any decision which adopts policies, including rules of procedure, approves the hiring of any personnel, expends any funds, or makes any financial commitments unless budget funds have been approved therefor, and without the approval of six (6) CCC members.

E. All meetings of the CCC shall be held in conformance with the Tennessee Open Meetings Act, T.C.A. § 8-44-101, *et sequitur*.

Section 3. Enterprise Fund.

The CCC shall operate the Center as an Enterprise Fund and shall annually provide for an independent audit by a certified public accountant of all financial transactions, which audit shall meet the standards for governmental accounting of agencies in this state. The annual audit and any accompanying management response shall be timely provided to the Board and all Participating Entities following receipt thereof.

Section 4. Center Operations.

The CCC will adequately staff the Center and conduct all operations with competently trained personnel twenty-four (24) hours per day, every day, consistent with requirements of law and applicable regulations, including tariff provisions of the Tennessee Public Service Commission, on the condition that the parties hereto, and any other Participating Entity, as defined herein, fulfill all obligations and requirements of the Agreement.

Section 5. Participating Entities.

A Participating Entity ["PE"] means a party to this Agreement, excluding the District.

Section 6. Term and Withdrawal.

The Agreement shall be for a term of four (4) years from and after the date hereof. This Agreement shall be automatically renewed for an additional term of four (4) years unless any party hereto shall give written notice to all other parties hereto, at least one hundred eighty (180) days prior to the end of the term that said party wants to withdraw from the Agreement. Additional extensions of the Agreement beyond the initial two (2) terms may be negotiated by the parties hereto according to such terms and conditions as may then be agreed by all parties. Withdrawal by Charleston shall not terminate the Agreement; however, withdrawal by the City or County shall terminate the Agreement as to all other parties.

Section 7. Termination and Liquidation of Assets.

In the event the Agreement is terminated for any reason, the CCC shall return all assets to the original contributing parties and liquidate all other assets. After payment of all outstanding debts or obligations, the CCC shall then distribute any remaining funds to the Participating Entities proportionate to their respective interests, as determined by the Funding Share; provided, however, the CCC may choose to return equipment and other properties to the PEs in lieu of liquidation, so long as the fair market values of such returned assets are proportionate to the respective Funding Share.

Section 8. Funding.

A. Budget Preparation.

The CCC shall annually prepare a proposed operating and capital budget, and submit a copy thereof to the Commission, the Councils and the Board on or before April 1 of each year, reflecting anticipated funding requirements for the succeeding fiscal year, commencing July 1 and ending June 30 of the following year. The Board may furnish any comments it deems appropriate regarding the proposed budget to the CCC and each participating entity.

B. Budget Adoption.

(1). The County and the Cities each agree to pay their respective Funding Shares, as defined herein, in advance quarterly installments, the first of which is payable on or before July 1.

(2). A budget shall be deemed to be approved when accepted by the County and the City of Cleveland.

(3). The County and the Cities each specifically agree to review and take action to approve or reject the proposed budget on or before July 1st of each year.

(a). If the County or City of Cleveland shall reject the proposed budget, then the CCC shall submit a revised budget to all parties.

Section 8, continued

(b). Each PE specifically agrees to review and take action to approve or reject the revised budget within thirty (30) days of receipt.

(c). The revision process may continue as outlined above until a budget is approved. The previously approved budget shall remain in effect until a new budget is approved, and the payment schedule shall continue, based on the last approved budget.

(4). The failure of any party to act upon a proposed budget before July 1st shall not be a cause for termination of the Agreement.

C. Funding Share.

(1). The term "Funding Share" shall mean the amount of money required to be paid by the County or the City of Cleveland or the City Charleston each year, as determined by the total amount of the approved budget and in accordance with the payment schedule above.

Section 8, cont.

(2). The Funding Share of the County shall be 49.5% of the total approved budget. The Funding Share of the City of Cleveland shall be 49.5% of the total approved budget. The Funding Share of the City of Charleston shall be 1.0% of the total approved budget.

(3). The District agrees to contribute to the CCC, in addition to other obligations hereunder, such amounts as set forth on the attached schedule of impact payments ["the Schedule"] which is incorporated herein by reference and is provided to offset the impact of operating the E-911 system. The Schedule for future fiscal years shall be determined by the Board and provided to all parties no less than 180 days before the beginning of each fiscal year.

(4). Any balance remaining in the Enterprise Fund at the end of a fiscal year shall be applied to fund the next fiscal year, thereby reducing the Funding Share of the PEs or set aside as a capital reserve line item.

D. Facilities and Equipment.

(1) Facilities

(a). The Center shall be located at the County Emergency Operations Center ["EOC"] in the Courthouse Annex or such other location as may be approved by the CCC.

Section 8, cont.

(b). The County will provide the CCC exclusive use of all current communications center facilities within the EOC, excepting such portions as are required to be maintained separately by previous agreement of the County with the governments of Tennessee or the United States. Said use shall be rent-free so long as Cleveland provides payroll and bookkeeping services without charge.

(c). So long as this Agreement remains in force, the County agrees to allow the CCC to have exclusive control and utilization of all equipment currently utilized for radio communications at no cost.

(2) Utilities and Maintenance

The CCC will be responsible for paying a share of utility expenses, based upon square footage of occupied space within the EOC, which amount shall be included within the budget. The District will maintain all E-911 PSAP equipment at its own expense, and pay all costs of the E-911 service.

Section 8, cont.

(3) Security

So long as the Center is located within the EOC, the CCC agrees to abide by and observe all security rules and regulations of the County. No person otherwise authorized to enter the Center shall have any right to enter into any other parts or areas of the EOC without express approval from authorized representatives of the County. The County agrees to allow access to the Center only in accordance with rules and regulations of the CCC relating thereto, except when otherwise required by the County for facility maintenance and security.

Section 9. Operation Date.

The CCC shall commence operation of the Center at such date as the facilities are deemed acceptable by the County and the City of Cleveland.

Section 10. Employee Benefits and Financial Support Services.

A. For the purpose of efficiently providing benefits to CCC employees, such as health insurance, pension and other benefits, all employees of the CCC shall be entitled to a level of benefits equivalent to those provided Cleveland employees.

Section 10, cont.

B. Cleveland agrees to provide payroll services for such persons as the CCC may authorize, from time to time, so long as the funds therefor are within the approved budget and available to the City, to the extent permitted by law. All such decisions shall be subject to the availability of funds as determined in the annual budget process.

C. Nothing herein shall entitle any person employed by the CCC to any level of insurance, pension or other fringe benefits.

Section 11. Liability and Indemnification.

A. The County and the Cities agree to defend, hold harmless and completely indemnify the CCC and each member thereof, including all employees of the CCC, and the District, the Board, and agents, if any ["the Protected Parties"], from and against any liability for any cause of action initiated as a result of CCC management of the Center, or District actions taken pursuant to this Agreement, and to fully and completely indemnify the Protected Parties from any judgment, loss or claim, including settlements thereof, and all related expenses, based upon any occurrence or omission during the term of the Agreement. The extent of each party's liability hereunder shall be equal to the Funding Share percentage.

Section II, cont.

B. The protection of this Section is intended to be comprehensive and without exception, limited only by the terms of the Agreement, and the Tennessee Governmental Tort Liability Act, codified as Tennessee Code Annotated, Section 29-20-101, *et sequitur*, as same may be amended from time to time ["the TGTIA"]; provided, however, that the limits of the TGTIA shall not effect or limit the indemnification promises set forth herein as to claims and causes of action based upon the Constitution and laws of the United States.

C. The CCC may obtain and maintain liability insurance in amounts and coverage equal to or greater than the limits of the TGTIA, subject to the availability and reasonableness of such insurance. Premiums related thereto may be included within the budget of the CCC and shall be subject to the Funding Share, without exception. In lieu of the CCC obtaining such insurance, the County or Cleveland may extend equivalent insurance coverage to the Protected Parties, and any additional premium cost thereof shall be reimbursed by the CCC and included as a budget item.

D. The protection afforded the Protected Parties is not intended and may not be construed as insurance, nor as any waiver of immunities and limitations of liability that may elsewhere exist.

Section 12. Non-Discrimination.

The CCC shall not illegally discriminate in any manner, and will observe all laws, specifically including those relating to employment, so that no person, otherwise qualified, is denied an opportunity to be considered for employment or service on the basis of race, national origin, creed, sex or disability condition.

Section 13. Severability.

If any court of competent jurisdiction should declare any part of the Agreement void, illegal or otherwise ineffective, such provisions shall be severed herefrom and the Agreement shall otherwise remain in effect according to its remaining terms and provisions, unless the severed portion is so material as to substantially alter the balance of interests expressed in the Agreement, in which event the Agreement shall fail and be of no effect, excepting the provisions hereof regarding Liability and Indemnification (Section 11) and Liquidation of Assets (Section 7), *supra*, which shall not be affected.

Section 14. Amendment.

The Agreement may not be altered, revised, modified or amended unless in writing and approved by all parties.

Section 15. Effective Date.

This Agreement shall be effective upon signing by all parties hereto.

SIGNED THIS 13th DAY OF January, 1995.

FOR THE CITY OF CLEVELAND:

[Signature]
MAYOR

FOR THE COUNTY:

[Signature]
COUNTY EXECUTIVE

ATTEST:

[Signature]

ATTEST:

[Signature]

FOR THE CITY OF CHARLESTON:

[Signature]
MAYOR

FOR THE DISTRICT:

[Signature]
CHAIRMAN

ATTEST:

[Signature]

ATTEST:

[Signature]