

**MEMORANDUM OF AGREEMENT RE
NEXT GENERATION RADIO SYSTEM JOINT GOVERNANCE
AND FINANCING**

This Memorandum of Agreement re Next Generation Radio System ("NGEN") Joint Governance and Financing (the "NGEN Financing Agreement") is entered into this 12th day of May, 2009 by and between the County of Monterey ("County"), City of Carmel-by-the-Sea, City of Del Rey Oaks, City of Gonzales, City of Greenfield, City of King, City of Marina, City of Monterey, City of Pacific Grove, City of Salinas, City of Sand City, City of Seaside, and the City of Soledad (collectively referred to as "the Cities"), and the California State University Monterey Bay, Monterey Peninsula Airport District, Big Sur Volunteer Fire Brigade, Carmel Valley Fire Protection District, Greenfield Fire Protection District, North County Fire Protection District, Salinas Rural Fire Protection District and Spreckels Volunteer Fire Company, and (the "non-County entities".) The County, Cities, and the non-County agencies are hereinafter referred to collectively as the "Parties."

RECITALS

Whereas, the parties to this Agreement are local government entities in Monterey County, State or District entities in Monterey County and the County of Monterey; and

Whereas, the parties, by separate agreements, currently participate in, or are represented on, the Emergency Communications Users Advisory Council ("ECUAC"), as governed by the "Agreement for 911 Emergency Communications Dispatch Services, attached hereto as Exhibit B; and

Whereas, the Federal Communications Commission ("FCC") has promulgated regulations and a decision (47 CFR section 90.201; 47 CFR section 90.203 and *In Re Implementation of sections 309(j) and 337 of the Communications Act of 1934, as amended* (2004) WT Docket No. 99-87 (Decision of the FCC) which require equipment changes to the systems used by the Parties; and

Whereas, the purpose of this Financing Agreement is to provide joint oversight regarding the procurement and operation of the "Next Generation Radio System" or "NGEN"; and

Whereas, the Parties are mandated to comply with these regulatory changes and also desire to improve interoperability and otherwise enhance the system via the procurement and use of new equipment under the terms of this Agreement; and

Whereas, the parties wish to work cooperatively to specify and procure the best and most appropriate NGEN system which meets the public safety needs of the Parties and the residents of the County of Monterey; and

Whereas, the participating agencies intend to design and implement this NGEN system under the terms outlined in this Agreement; and

Whereas, the estimated cost of the shared equipment for the NGEN project ranges from \$7.8 million dollars to \$12 million dollars, which costs are to be financed and paid in accordance with this Agreement; and

Whereas, individual parties will absorb the cost of the field equipment to be used exclusively by their individual agency; and

Whereas, the parties find that it is to their mutual benefit and advantage to work together and share in the acquisition of NGEN shared infrastructure and equipment, bearing those cost on a proportionate basis.

NOW, THEREFORE, in mutual consideration of the terms and conditions provided below, the Parties agree as follows:

TERMS

1. Governance The parties agree the Emergency Communications Users Advisory Council ("ECUAC") shall provide oversight regarding the operations under this Agreement and the existing Agreement(s) for 9-1-1 Emergency Dispatch Services, which are incorporated by this reference and attached as Exhibit B. Said governance shall continue unless or until a new entity is created by separate Agreement among the parties and specifies a new or different governance.
2. Shared Infrastructure, Engineering and Project Management
 - A. Monterey County will acquire the shared infrastructure, equipment, engineering, and project management for the NGEN system which will be procured per the terms of this Agreement. The shared infrastructure will be maintained by Monterey County in accordance with approved policies and maintenance agreements implemented between the ECUAC and Monterey County. Upon system acceptance, the shared infrastructure will be stewarded by Monterey County until such time as a Joint Powers Authority is created to operate the Emergency Communications function.
 - B. The City of Salinas contribution toward shared infrastructure costs shall be governed by the MOU attached as Exhibit C. Ownership of shared infrastructure purchased through the 2007 COPS Technology Grant shall also be governed by Exhibit C.
 - C. By executing this Agreement, each Party agrees that a committee (the "NGEN RFP Review and Selection Committee") selected by the ECUAC or appointed by its represented Agency Groups (such as Chief Law Enforcement Officers and Fire Chiefs Associations) to represent all Parties, shall recommend approval for procurement of a Design-Build vendor. Such recommendation

shall be based upon an extensive review of proposals submitted in response to a formal Request For Proposal (RFP) issued by the County, as well as investigations into the various aspects of the proposals, answers to questions posed by the Selection Committee and vendor references. The NGEN RFP Review and Selection Committee will make a final contract award recommendation to the ECUAC, who shall notify the Emergency Communications Policy Advisory Council ("ECPAC") members (as identified in Exhibit B, Section 7.A.), of the recommended vendor and forward its recommendation to the Board of Supervisors on behalf of all Parties. In the event that the Selection Committee cannot reach consensus on a recommendation, but forwards the top two equally qualified vendor proposals to the ECUAC to make the final choice, the ECUAC shall require a two-thirds majority vote to break the tie, notify ECPAC and forward its recommendation to the Board of Supervisors.

- D. It is the intention of the parties that the combined total of costs for shared infrastructure, soft costs (such as project management and Selection Team expenses), and mobile data infrastructure, not exceed the upper limit of \$12 million estimated for this project.
- E. Should the cost of the shared infrastructure exceed that estimated in the Recitals above, the parties shall meet and confer regarding whether or how to proceed with this Agreement. The ECUAC shall develop policies regarding its oversight responsibilities under this Agreement, including circumstances under which a "super majority" of two-thirds (2/3) of the voting members present at a scheduled meeting would be required to authorize, or recommend for approval to the Board of Supervisors, new or enhanced financial agreements. Said policies shall be approved by the Emergency Communications Policy Advisory Council ("ECPAC").
- F. In addition to the voice and data infrastructure, NGEN member agencies intend to procure radio subscriber equipment (portable and mobile radios and accessories) and leverage optional volume pricing.

3. Agency Voice Equipment

- A. Each party to this Agreement shall utilize at its own expense subscriber equipment such as mobile and portable radios, which is compatible to and will interface into the NGEN voice communication system and be used by its own personnel.

4. Mobile Data Communications System (MDCS) and Agency Equipment

- A. The RFP process will assume that agencies currently participating in the existing MDCS will continue to do so. Agencies wishing to opt out of participating in the Mobile Data Communications System of the shared

infrastructure of the NGEN project must do so in writing to the ECUAC prior to the award of a contract by the Board of Supervisors. ECUAC will provide direction regarding opt out timing and process. Actual terms of financing will be calculated by Monterey County when vendor selection is final and system costs are known.

- B. Each party to this agreement electing to use the MDCS shall pay its proportionate share, as defined in Exhibit A, as updated, if applicable, for the MDCS shared infrastructure.
- C. Each party to this Agreement may acquire at its own expense field equipment such as computers, mobile and portable radios, which is compatible to and will interface into the NGEN system and be used by its own personnel for receipt of data files.
- D. An Addendum or Amendment to this Agreement shall be signed by all Parties sharing in the cost of MDCS shared infrastructure, prior to contract approval by the Board of Supervisors.

5. Financing

A. Debt Financing

- (1) On behalf of all participating agencies, Monterey County will secure lease financing from the best available source, based on the County's stand-alone credit rating, in an amount sufficient to cover the construction of the NGEN infrastructure (see paragraph B below), less the pro-rata share of those participants opting out of the shared financing. Participants in the shared financing may elect to pre-pay lease obligations, but may incur penalties prescribed by the terms of the financing source. Participants shall have an opportunity to review the lease terms prior to their being finalized.
- (2) Project soft costs, such as for employment of a Project Manager, expenses of the RFP Review and Selection Team, and related administration and oversight costs will most likely not be financed but will be billed in the first two years of the project (FY 2009-10 and 10-11), with debt service on shared infrastructure (pursuant to the design build contract) beginning in FY 2011-12 for a period of fifteen years as described in EXHIBIT A.

B. Participant Financing Options

- (1). SELF-FUNDING. Agencies choosing to not participate in the joint financing must make that election at the time of signing this Agreement. Once the financing is structured, self-funding agencies will no longer be able to elect

to join the financing and must provide funding through alternative sources. Those self-funding agencies will be required to deposit, on or before the bond financing date, their pro-rata share of the anticipated infrastructure costs, as specified in Exhibit A, to be expended during the next twelve months, and at the beginning of each subsequent twelve month period and continuing through completion of infrastructure construction. These funds will be held in trust with the County Treasurer. Accumulation of interest in the deposit account and the Financing Proceeds Fund established pursuant to the financing will accrue to the benefit of the project as a whole.

Example: For all examples, the joining agency (City A) will use 10% of the ratios and of the \$12,000,000 of total infrastructure costs, \$5,000,000 will be spent in year one, \$4,000,000 in year two, and \$3,000,000 in the final year of construction. City A must contribute \$1,200,000 toward the project. City A must deposit \$500,000 with the County Treasurer on or before the closing date of the bond offering ("bond date"). Assuming estimated construction costs total \$4,000,000 in year two, City A would be required to deposit \$400,000 before the first anniversary of the bond date, with the final \$300,000 being deposited at the beginning of year three of construction.

(2). **PRE-PAYMENT BY AGENCY.** By depositing funds equivalent to that agency's next fiscal year's debt, with the County 30 days or more prior to the Bond Date, an Agency may elect to pre-fund debt service annually, in order to avoid the deduction from property taxes on deposit with the County Treasurer. Should any pre-paying agency fail to pay its requisite debt service 30 calendar days or more before the bond date, the County will withhold that Agency's annual debt service requirement from the next property taxes collected. Interest earned on those deposits will accrue to the benefit of the project, not the individual agency.

(3). **STANDARD TAX DEDUCTION PAYMENT.** Execution of this agreement authorizes the County to collect semi-annual debt service payments from property taxes. If an agency does not pre-pay its annual self-funding or debt service requirement as provided in paragraph 2 above, the County shall withhold the semi-annual debt service payments from property taxes collected through execution of this NGEN Financing Agreement or a subsequent JPA. In December and April, after property taxes are collected, but before distribution to the various agencies, the County will deduct the agency's next debt service payment before distribution. Agencies will be given debt amortization schedules outlining the exact principal and interest amounts throughout the term of the bond. No fees will be charged by the County for administrative services relating thereto.

(4). **PAYMENT BY NON-PROPERTY TAX COUNTY AGENCIES**

The following agencies do not receive property taxes from which its funding obligations can be withheld: CSUMB, Spreckles Volunteer Fire Company, Big Sur Volunteer Fire Brigade, and Monterey Peninsula Airport District.

These Agencies may elect to participate in the pooled financing or self-fund their share of core infrastructure cost. In either case, each Agency shall pre-fund its debt service annually, on or before the bond date.

Delinquency: If a non-property tax Agency does not pay its annual funding payment as set forth above, on or before the due date, the amount unpaid shall be deemed delinquent. A delinquency fee in the amount of five percent (5%) of the delinquent amount shall be added to the amount owed and charged to the Agency. The delinquency fee shall be applied to the amount owed (including any previously added delinquency fee) every (30) days until such time as the bill is paid in full.

6. New participants

- A. Agencies not party to this Agreement on the date of its first execution may join the NGEN project and system, subject to the approval of the ECUAC and on such terms as set by the ECUAC.
- B. Agencies joining this Agreement subsequent to its initial formation may not participate in the joint financing (paragraph 4 A) unless initial participation in the financing was 100% of all signatory agencies at the time of first execution of this agreement. Where applicable, new amortization schedules will be calculated for all financing participants based on the addition of a new agency which will participate in financing.
- C. Provided there is 100% participation in the financing structure, an agency joining this NGEN Financing Agreement will be required to pay its pro-rata share of capital and core infrastructure costs, as determined by the ECUAC and currently set forth in Exhibit A, as may be updated periodically. Those agencies will be required to reimburse the parties participating in the NGEN Financing Agreement for its pro-rata share of already expended costs, its' attributable principal costs from date of joining to the next payment date, and the following twelve months estimated expenditures, with those funds being used to rebate costs to original participants. It is the intent of the Parties that a new participant's buy-in fees during the initial construction period will be used to proportionally lower existing Parties next annual debt payment. After completion of system build, buy-in fees shall be used to pay down existing Parties' annual maintenance fees. In addition, subsequent participants will be required to pay all costs assessed by the ECUAC.
- E. If all original Parties to this Agreement choose to participate in the financing, making the Project 100% financed a new Agency may choose to join the financing pool. Upon the addition of a new participant who so chooses, the County Debt manager shall, using the original formula, re-allocate the Core infrastructure costs to include the new participant in existing financing. Upon

such re-allocation, the debt of all other participants shall be proportionately adjusted, consistent with Exhibit A.

7. Ownership of Equipment

- A. Except as provided below in Section 7.B, at the end of the debt service period, the County will, on behalf of all participating agencies, own the Core equipment and infrastructure. If a successor governing body is created by a new agreement among the Parties, Monterey County shall pass title to same at no cost to the Parties except necessary and actual out of pocket costs related to the transfer, subject to review by ECUAC.
- B. Ownership of shared infrastructure equipment purchased with Salinas 2007 COPS Technology Grant is subject to the conditions set forth in the City of Salinas MOU, attached hereto as Exhibit C.

8. Duties to be Performed by the County of Monterey As Administrator

The County shall exercise all powers and conduct all other duties and obligations permitted or required to be performed by local agencies under this Agreement for the operation, administration and maintenance of the NGEN System.

Annually, Monterey County shall cause to be performed a special district audit and a State Controller's report. The fees and costs associated with these documents shall be shared by the parties in the proportion represented in Exhibit A.

9. Dispute Resolution

If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties by the following procedure. Each party to this agreement shall nominate one proposed mediator by name. If a majority of parties nominate the same mediator, that mediator shall be used. If no majority is determined by the nominations, the mediator shall be selected by lot from among nominations provided by each party.

All costs and fees required by the mediator shall be split equally by the parties; otherwise each party shall bear its own costs of mediation. ECUAC shall develop policies regarding the procedures to be used for mediation.

10. Amendments/Withdrawals

This Agreement may be amended at any time by signatures of three-fourths of the parties. Should a signatory agency wish to withdraw from this agreement, said agency shall give not fewer than 24 months' written notice to all parties hereto. Said

withdrawing agency shall be required to pay in full any residuals amounts due from it under this agreement.

11. Indemnification

Each party hereto shall indemnify, defend, and hold harmless the others, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by said indemnifying party, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the indemnifying agency. Each shall reimburse the other for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the indemnifier is obligated to indemnify, defend and hold the other harmless under this Agreement.

12. Interpretation of Agreement

Nothing in this Agreement shall be construed to hold any Party liable to any other Party, or any person not a party hereto, for the design, construction, installation, inspection, operation, maintenance and/or repair of any of the NGEN system or equipment. This Agreement is designed to implement the financing of shared equipment and is not an agreement as defined in Government Code Section 895.

13. Severability

If any section, subsection, sentence, clause or phrase of this Agreement is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the portions of this Chapter not held to be unconstitutional or invalid.

14. Participation

Participation of all Agencies noted is expected but, in the event that an agency elects not to participate, the agreement will remain valid for those agencies which execute the agreement.

15. Signatures

This Agreement may be signed in counterparts with the signature pages attached to form a complete document.

County Signature Page:

IN WITNESS WHEREOF, the COUNTY and each of the Agencies have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

COUNTY OF MONTEREY:	
By: <u>Virgil Schwab</u> CHAIR OF THE BOARD OF SUPERVISORS DIRECTOR OF INFORMATION TECHNOLOGY	
Date: 12 MAY 09	
APPROVED AS TO CONTENT:	
By: <u>Virgil Schwab</u> VIRGIL SCHWAB, Director of Information Technology	
Date: 12 MAY 09	
APPROVED AS TO FORM:	
<u>Ellen M Jahn</u> Ellen M. Jahn, Deputy County Counsel	
Date: 5-7-09	
APPROVED AS TO FISCAL PROVISIONS:	
By: <u>[Signature]</u> Auditor-Controller	
Date: 5-11-09	
APPROVED AS TO LIABILITY PROVISIONS:	
By: _____ Risk Management	
Date: _____	
Notices shall be sent to:	With a Copy that shall not constitute notice:
Mike Derr Contracts Purchasing Officer 168 W. Alisal Salinas, CA 93901 (831)755-4992 (831)755-4969 derrm@co.monterey.ca.us	Virgil Schwab Director of Information Technology 1590 Moffett Salinas, CA 93905 (831)759-6923 (831)759-6910 schwabv@co.monterey.ca.us

Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the City of Carmel-by-the-Sea have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial <i>Rij</i>	

CITY OF CARMEL-BY-THE-SEA:

By: Richard Gullen
Printed Name: Richard Gullen
Title: City Administrator
Date: 4/23/09

APPROVED AS TO FORM:

By: Donald M. Freeman
Printed Name: DONALD M. FREEMAN
Title: City Attorney
Date: 4/28/09

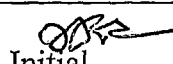
NOTICES

Notices for City of Carmel-by-the-Sea shall be sent to

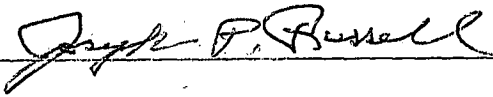
Name: GEORGE E. RAWSON
Title: DIRECTOR OF PUBLIC SAFETY
Address: PO Box 600
City, State, Zip: CARMEL, CA 93921
Phone: (831) 624-6403
Fax: (831) 624-4296
e-mail: GRAWSON@CI.CARMEL.CA.US

Signature page – Participating Agencies:

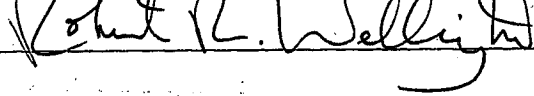
IN WITNESS WHEREOF, the COUNTY and the City of Del Rey Oaks have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	 Initial	

CITY OF DEL REY OAKS:

By: 
Printed Name: JOSEPH P. RUSSELL
Title: MAYOR
Date: MARCH 24, 2009

APPROVED AS TO FORM:

By: 
Printed Name: ROBERT WELLINGTON
Title: City Attorney
Date: MARCH 24, 2009

NOTICES


Notices for City of Del Rey Oaks shall be sent to

Name: KIM CARVALHO
Title: DEPUTY CITY CLERK
Address: 650 CANYON DEL REY RD
City, State, Zip: DEL REY OAKS, CA 93940
Phone: 831-394-8511
Fax: 831-394-6421
e-mail: DRO@REDSHIFT.COM

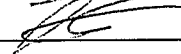
Attachment 2

Signature page – Participating Agencies:

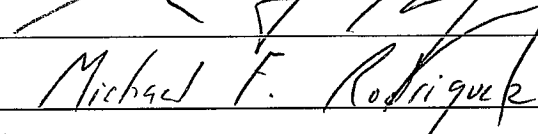
IN WITNESS WHEREOF, the COUNTY and the City of Gonzales have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial	

CITY OF GONZALES:

By: 
Printed Name: René L. Mendez
Title: City Manager
Date: 6-15-09

APPROVED AS TO FORM:

By: 
Printed Name: Michael F. Rodriguez
Title: City Attorney
Date: June 15-09

NOTICES

Notices for City of Gonzales shall be sent to

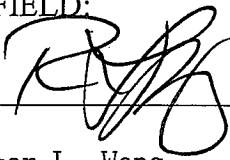
Name: Harold Wolgamott
Title: Emergency Services Director
Address: PO Box 1047
City, State, Zip: Gonzales CA 93924
Phone: (831) 675-5000
Fax: (831) 675-2644
e-mail: hwolgamott@ci.gonzales.ca.us

Signature page – Participating Agencies:

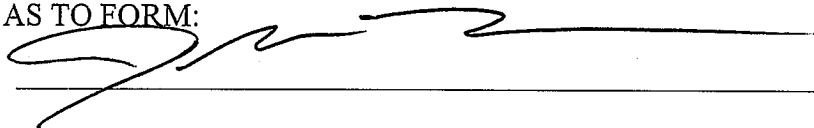
IN WITNESS WHEREOF, the COUNTY and the City of Greenfield have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial	RW

CITY OF GREENFIELD:

By: 
Printed Name: Roger L. Wong
Title: City Manager
Date: 4/2/09

APPROVED AS TO FORM:

By: 
Printed Name: John Bakker
Title: City Attorney
Date: 4/3/09

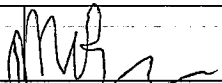
NOTICES

Notices for City of Greenfield shall be sent to


Name: Roger L. Wong
Title: City Manager
Address: P.O. Box 127 / 45 El Camino Real
City, State, Zip: Greenfield, CA 93927
Phone: (831) 674 - 5591
Fax: (831) 674- 3149
e-mail: rwong@ci.greenfield.ca.us

Signature page – Participating Agencies:

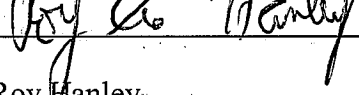
IN WITNESS WHEREOF, the COUNTY and the City of King have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure	
Opt Into Core Financing	Initial 

CITY OF KING:

By: 
Printed Name: Michael Powers
Title: City Manager
Date: March 11, 2009

APPROVED AS TO FORM:

By: 
Printed Name: Roy Hanley
Title: Attorney
Date: March 10, 2009

NOTICES

Notices for City of King shall be sent to

Name: Michael Powers
Title: City Manager
Address: 212 S. Vanderhurst Ave.
City, State, Zip: King City, CA. 93930
Phone: 831-386-5925
Fax: 831-386-5935
e-mail: mpowers@kingcity.com

Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the City of Marina have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial <i>(w)</i>	

CITY OF MARINA:

By: *Anthony Altfeld*
Printed Name: ANTHONY ALTFELD
Title: CITY MANAGER
Date: 04.03.09

APPROVED AS TO FORM:

By: *Robert R. Wellington*
Printed Name: Robert R. Wellington
Title: City Attorney
Date: March 31, 2009

NOTICES

Notices for City of Marina shall be sent to

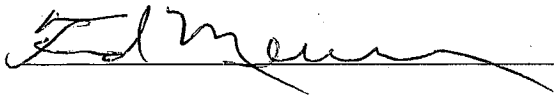
Name: Anthony Altfeld
Title: City manager
Address: 211 Hillcrest Ave
City, State, Zip: Marina, CA 93933
Phone: 831-884-1278
Fax: 831-384-9148
e-mail: aaltfeld@ci.marina.ca.us

Signature page – Participating Agencies:

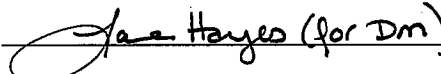
IN WITNESS WHEREOF, the COUNTY and the City of Monterey have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	✓ES	Initial <u>FM</u>

CITY OF MONTEREY:

By: 
 Printed Name: Fred Meurer
 Title: City Manager
 Date: _____

APPROVED AS TO FORM:

By: 
 Printed Name: Deborah Mall
 Title: City Attorney
 Date: 3/25/09

NOTICES

Notices for City of Monterey shall be sent to

Name: Fred Meurer
 Title: City Manager
 Address: City Hall
 City, State, Zip: Monterey, CA 93940
 Phone: 831.646.3760
 Fax: 831.646.3793
 e-mail: meurer@ci.monterey.ca.us

Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the City of Pacific Grove have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial	<i>Clw</i>

CITY OF PACIFIC GROVE:

By: *Charlene L. Wiseman*
Printed Name: Charlene L. Wiseman
Title: Interim City Manager
Date: 4-20-09

APPROVED AS TO FORM:

By: *David C. Laredo*
Printed Name: David C. Laredo
Title: City Attorney
Date: _____

NOTICES

Notices for City of Pacific Grove shall be sent to

Name: James L. Becklenberg
Title: Director of Management & Budget
Address: 300 Forest Avenue
City, State, Zip: Pacific Grove, CA 93950
Phone: 831-648-3170
Fax: 831-375-9863
e-mail: jbecklenberg@ci.pg.ca.us


Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the City of Salinas have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial <i>OK</i>	<i>3/24/09</i>

CITY OF SALINAS:

By:
Printed
Name:


DENNIS DONOHUE

Title:

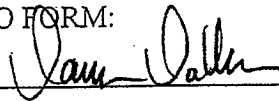
MAYOR

Date:

3/24/09

APPROVED AS TO FORM:

By:
Printed
Name:


VANESSA VALCARRA

Title:

City Attorney

Date:

3/24/09

NOTICES

Notices for City of Salinas shall be sent to

Name:

Louis Fetherolf

Title:

Police Chief

Address:

200 Lincoln Ave., Salinas, CA 93901

City, State,

Zip:

Phone:

Fax:

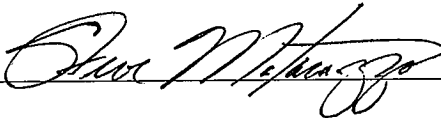
e-mail:

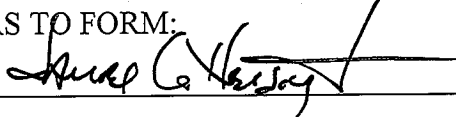
Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the City of Sand City have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial	<i>SM</i>

CITY OF SAND CITY:

By: 
Printed Name: Steve Matarazzo
Title: City Administrator
Date: April 21, 2009


APPROVED AS TO FORM:
By: 
Printed Name: James Heisinger
Title: City Attorney
Date: April 21, 2009

NOTICES


Notices for City of Sand City shall be sent to
Name: Steve Matarazzo
Title: City Administrator
Address: # 1 Sylvan Park
City, State, Zip: Sand City, CA. 93955
Phone: 831-394-3054
Fax: 831-394-2472
e-mail: steve@sandcity.org

Signature page – Participating Agencies:

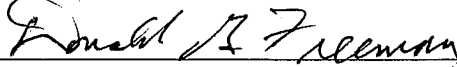
IN WITNESS WHEREOF, the COUNTY and the City of Seaside have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial 	

CITY OF SEASIDE:

By: 
Printed Name: Ray Corpuz
Title: City Manager
Date: June 15, 2009

APPROVED AS TO FORM:

By: 
Printed Name: Donald G. Freeman
Title: City Attorney
Date: June 16, 2009

NOTICES

Notices for City of Seaside shall be sent to

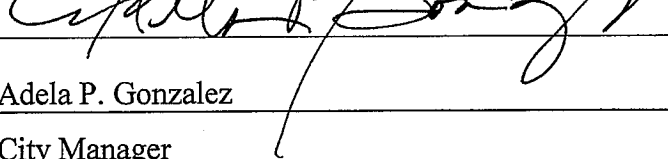
Name: Ray Copruz and Jill Anderson
Title: City Manager Assistant City Manager
Address: 440 Harcourt Avenue
City, State, Zip: Seaside, CA 93955
Phone: (831) 899-6701 (831) 899-6704
Fax: (831) 899-6227 (831) 899-6201
e-mail: Rcorpuz@ci.seaside.ca.us Janderson@ci.seaside.ca.us

Signature page – Participating Agencies:

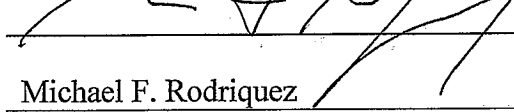
IN WITNESS WHEREOF, the COUNTY and the City of Soledad have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial	ag

CITY OF SOLEDAD:

By: 
Printed Name: Adela P. Gonzalez
Title: City Manager
Date: March 23, 2009

APPROVED AS TO FORM:

By: 
Printed Name: Michael F. Rodriguez
Title: City Attorney
Date: March 31, 2009

NOTICES

Notices for City of Soledad shall be sent to


Name: Adela P. Gonzalez
Title: City Manager
Address: 248 Main Street
City, State, Zip: Soledad, Ca. 93960
Phone: 831.223.5016
Fax: 831.223.5091
e-mail: adelag@cityofsoledad.com

Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the California State University Monterey Bay have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure	
Opt Into Core Financing	Initial <u>FHT</u> <u>3/5/09</u>

CALIFORNIA STATE UNIVERSITY MONTEREY BAY:

By: 
Printed Name: FRED HARDEE
Title: POLICE CHIEF
Date: 3/5/09

APPROVED AS TO FORM:

By: N/A
Printed Name: _____
Title: Attorney
Date: _____

NOTICES

Notices for California State University Monterey Bay shall be sent to

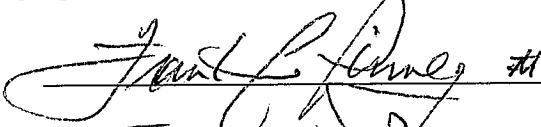
Name: FRED HARDEE
Title: POLICE CHIEF
Address: 100 CAMPUS CENTER #82F
City, State, Zip: SEASIDE, CA. 93955
Phone: 831. 582. 3360
Fax: 831. 582. 3384
e-mail: Fred_Hardee@csumb.edu

Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the Big Sur Volunteer Fire Brigade have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial	

BIG SUR VOLUNTEER FIRE BRIGADE:

By: 
Printed Name: FRANK L. DINNEY II
Title: CHIEF
Date: 4/22/09

APPROVED AS TO FORM:

By: N/A
Printed Name: _____
Title: Attorney
Date: _____

NOTICES

Notices for Big Sur Volunteer Fire Brigade shall be sent to

Name: _____
Title: MARTHA KARSTENS
Address: CHIEF
P.O. BOX 520
City, State, Zip: BIG SUR CA 93920
Phone: 831-667-2113
Fax: 831-667-0299
e-mail: BIGSURFIRE@CS.COM

Signature page - Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the Greenfield Fire Protection District have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial	<i>BM</i>

GREENFIELD FIRE PROTECTION DISTRICT:

By: *[Signature]*
 Printed Name: ROY MORRIS
 Title: DIRECTOR
 Date: 15 FEB 2009

APPROVED AS TO FORM:

By: _____
 Printed Name: _____
 Title: Attorney
 Date: _____

NOTICES

Notices for Greenfield Fire Protection District shall be sent to

Name: ROY MORRIS
 Title: DIRECTOR
 Address: P.O. Box 3110
 City, State, Zip: GREENFIELD, CA. 93927
 Phone: 674-5484
 Fax: 674-5895
 e-mail: _____

Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the North County Fire Protection District have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure	
Opt Into Core Financing	Initial <u>CWO</u>

NORTH COUNTY FIRE PROTECTION DISTRICT:

By: _____

Printed

Name: _____

Title: _____

Date: _____

Chris W. Orman *on behalf of the Board & Board chair*
CHRIS W. ORMAN
FIRE CHIEF
4/14/09

APPROVED AS TO FORM:

By: _____

Printed

Name: _____

Title: _____

Date: _____

Attorney

NOTICES

Notices for North County Fire Protection District shall be sent to

Name: _____

Title: _____

Address: _____

City, State,

Zip: _____

Phone: _____

Fax: _____

e-mail: _____

CHRIS W. ORMAN
FIRE CHIEF
11200 Speegle street
Castroville, Ca 95012
831-633-2578
831-633-2575
C5200@NCFPD.ORG

Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the Salinas Rural Fire Protection District have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure

Opt Into Core Financing

Initial *MSU*

SALINAS RURAL FIRE PROTECTION DISTRICT:

By:

[Signature]

Printed

Name:

Michael Urquides

Title:

Fire Chief

Date:

4/3/09

APPROVED AS TO FORM:

By:

N/A

Printed

Name:

Title:

Attorney

Date:

NOTICES

Notices for Salinas Rural Fire Protection District shall be sent to

Name:

Michael Urquides

Title:

Fire Chief

Address:

19900 Portola St

City, State,

Zip:

Salinas CA

Phone:

831-455-1828

Fax:

831-455-0646

e-mail:

MUrquides@SalinasRuralFire.com

Signature page – Participating Agencies:

IN WITNESS WHEREOF, the COUNTY and the Spreckels Volunteer Fire Company have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

Initial here to elect to participate in shared financing of core system infrastructure		
Opt Into Core Financing	Initial <i>ACF</i>	

SPRECKELS VOLUNTEER FIRE COMPANY:

By: *Rich Foster*
Printed Name: *Rich Foster*
Title: *Fire Chief*
Date: *3-19-09*

APPROVED AS TO FORM:

By: _____
Printed Name: _____
Title: *Attorney*
Date: _____

NOTICES

Notices for Spreckels Volunteer Fire Company shall be sent to

Name: *Rich Foster*
Title: *Fire Chief*
Address: *P.O. Box 7247*
City, State, Zip: *Spreckels, Ca 93962*
Phone: *831-223-5103*
Fax: *831-678-3295*
e-mail: *rfoster@cityofsoledad.com*

Estimated NGEN Infrastructure Costs by Agency per Fiscal Year

			FY 09 / 10	FY 10 / 11	FY 11 / 12 thru 2027
Infrastructure Total (Does Not include Subscriber Radios):			Soft Cost Expenses	Soft Cost Expenses	Infrastructure Financing Only
Agency	# Radios	Percentage	\$500,000.00	\$500,000.00	\$11,000,000.00
County of Monterey	1364	39.342%	\$196,711.85	\$196,711.85	\$441,588.10
City of Carmel by the Sea	71	2.048%	\$10,239.40	\$10,239.40	\$22,985.89
City of Del Rey Oaks	31	0.894%	\$4,470.72	\$4,470.72	\$10,036.09
City of Gonzales	63	1.817%	\$9,085.66	\$9,085.66	\$20,395.93
City of Greenfield	63	1.817%	\$9,085.66	\$9,085.66	\$20,395.93
City of King City	67	1.933%	\$9,662.53	\$9,662.53	\$21,690.91
City of Marina	123	3.548%	\$17,738.68	\$17,738.68	\$39,820.63
City of Monterey	341	9.836%	\$49,177.96	\$49,177.96	\$110,397.02
City of Pacific Grove	141	4.067%	\$20,334.58	\$20,334.58	\$45,648.04
City of Salinas	531	15.316%	\$76,579.18	\$76,579.18	\$171,908.56
City of Sand City	27	0.779%	\$3,893.86	\$3,893.86	\$8,741.11
City of Seaside	202	5.826%	\$29,131.81	\$29,131.81	\$65,396.48
City of Soledad	68	1.961%	\$9,806.75	\$9,806.75	\$22,014.66
CSU Monterey Bay	24	0.692%	\$3,461.21	\$3,461.21	\$7,769.88
Monterey Airport	31	0.894%	\$4,470.72	\$4,470.72	\$10,036.09
Big Sur Volunteer Fire	33	0.952%	\$4,759.16	\$4,759.16	\$10,683.58
Carmel Valley Fire	84	2.423%	\$12,114.22	\$12,114.22	\$27,194.57
Greenfield Fire Protection District	24	0.692%	\$3,461.21	\$3,461.21	\$7,769.88
North County Fire District	80	2.307%	\$11,537.35	\$11,537.35	\$25,899.60
Salinas Rural Fire	58	1.673%	\$8,364.58	\$8,364.58	\$18,777.21
Spreckels Volunteer Fire	12	0.346%	\$1,730.60	\$1,730.60	\$3,884.94
EMS	29	0.836%	\$4,182.29	\$4,182.29	\$9,388.60
	3467	100.000%	\$500,000.00	\$500,000.00	\$1,122,423.70

Cost allocations will change if different assumptions are used, as inventories are updated, and if different agencies elect to or not to participate.

The following assumptions were used in the allocation calculations:

- 1 Assumes that the number of radios will be the basis for any cost sharing formula
- 2 Assumes that the number of radios is accurate as of the time of the signing of the cost sharing agreement for the Functional Design Specification
- 3 Assumes that all agencies will participate.
- 4 Assumes pay as you go during first two years for soft costs
Assumes maximum finance rate of 6% and maximum amount financed of
- 5 \$11,000,000

Important Note: Radio counts, which are the basis of the cost sharing percentage for each Agency, will change during the course of this project and cost share will, therefore, also change. Total project costs are capped at \$1 million for soft costs and \$11 million for shared infrastructure, but each agency's annual share payment may vary as device counts change. Section 1 of the Agreement Terms specifies that the Emergency Communications Users Advisory Council (ECUAC) shall serve as the governing body for this project unless or until a new entity is created by separate agreement. Agreement Sections 2.A., 2.C., 2.E., 4.A., 6.A., 6.C., 7.A., and 9 contain references to duties and responsibilities of ECUAC as the governing body, providing oversight of the design, procurement and installation of the system and the ongoing operation and maintenance of the system after acceptance. ECUAC will likewise establish policies and procedures for how and when such changes will be computed and become effective.

**AGREEMENT
FOR 9-1-1 EMERGENCY COMMUNICATIONS DISPATCH SERVICES**

This Agreement is made and entered into as of the first day of July 2001, by and between the County of Monterey, a political subdivision of the State of California; hereinafter "County," and the Cities and Fire Districts listed below (hereinafter individually the "Agency" and collectively the "Agencies"):

City of Carmel-by-the-Sea
City of Del Rey Oaks
City of Gonzales
City of Greenfield
City of King
City of Marina
City of Monterey
City of Pacific Grove
City of Salinas
City of Sand
City of Seaside
City of Soledad
Carmel Valley Fire Protection District
North County Fire Protection District
Salinas Rural Fire Protection District

RECITALS

WHEREAS, the Parties desire to participate in a countywide public safety communications and emergency 9-1-1 dispatch system, hereinafter "System"; and

WHEREAS, the Agencies desire to contract with the County for all necessary 9-1-1 communications and dispatch services for police, fire, and other emergency services; and

WHEREAS, the County, through its Department of Emergency Communications, is willing and able to furnish such services on a mutually agreeable cost sharing plan; and

WHEREAS, the County has previously provided these services pursuant to a written agreement.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. COUNTY OBLIGATIONS

- A The County shall provide all answering services of the Emergency 9-1-1 telephone number.
- B The County shall provide all urgent, non-emergency answering of a secondary back-up telephone number for the dispatch of Agency police, fire, medical or other emergency service response units.

EXHIBIT B

- C The County shall provide complete dispatch of Agency police, fire, and emergency medical field units, including status reporting and associated activity reports.
- D The County shall provide urgent or emergency data inquiry responses to the Agency's field units.
- E The County shall provide after-hour dispatch of Agency's Public Works crews or units in accordance with operating procedures mutually agreed to by the Agency and County.
- F The County, as part of this cost sharing Agreement, shall provide and maintain all necessary consoles and associated radio dispatch equipment located in its communications center(s), including any radio equipment, which is common to all System users. All other mobile, base, and remote radio and data transmission equipment and terminals designed to serve an individual Agency exclusively shall be provided for and maintained at that Agency's expense.

2. TERM AND RENEWAL OF THE AGREEMENT

- A The initial term of this Agreement shall be for two years commencing July 1, 2001 and ending on June 30, 2003, unless sooner terminated as provided herein.
- B Following completion of the initial two-year term, this Agreement shall automatically be renewed for successive periods of one year, unless an agency notifies the County of its intention to withdraw. Such notice shall be in writing, mailed or delivered to the County no later than ninety (90) days prior to July 1 of the then current year and the withdrawal shall become effective two years from that date unless otherwise agreed to by the County, the Policy Advisory Council, and the withdrawing Agency.

3. SERVICE QUALITY AND CONDITIONS

- A The level of System service to be provided to all Agencies shall be equal to the standard level of service provided by similar consolidated communications centers to other public safety agencies and as established by the Users Advisory Council.
- B Measurable performance standards shall be established and reviewed annually by the Users Advisory Council. County shall provide regular reports on performance status/measures.
- C The County agrees to work closely with Agency departments to ensure appropriate levels of dispatch service. All procedures related to Agency dispatch operations will be developed on a collaborative basis with all Agencies and/or their representatives on the Users Advisory Council. The County will promptly investigate any complaints received from any Agency or citizen and a response will be made to the complaining party in a timely manner.

4. REMEDY FOR IRRESOLVABLE DISSATISFACTION IN SERVICES

- A It is the intent of all parties to work cooperatively in providing emergency dispatch services and to resolve disagreements regarding the System in an effective and timely manner. In the event of unresolved dissatisfaction, the Agencies through their advisory councils shall inform the County in writing, clearly stating the cause and allow the County an opportunity to effectively remedy the situation in a reasonable and timely manner.
- B In the event that a majority of the member Agencies determines that the System and the County's performance under this Agreement continue to be unsatisfactory and that the County has not effectively remedied the situation in a reasonable and timely manner, the Agencies may propose an alternative form of governance (such as a Joint Powers Agreement).
- C In the event that such alternative form of governance is proposed, the parties shall meet and confer in good faith to establish an alternative governance body for the provision of 9-1-1 Emergency Communications Dispatch Services. No party to this Agreement shall be excluded from participating in the succeeding governance body without the party's consent.
- D In the event that an alternative form of governance is proposed by a majority of parties to this Agreement and endorsed by the Policy Advisory Council, a new Agreement shall be prepared for approval by the County and each Agency's governing body. Such approval shall not be unreasonably withheld.
- E If an alternative form of governance is established and approved as provided above, the County shall be a full voting member of the successor entity. In furtherance of the public safety functions of the successor entity and the continuing financial obligations of the County, the County shall, as part of the County's contribution to the operation of the successor entity, permit the successor entity and its members to use the 9-1-1 dispatch center of the consolidated emergency services facility including its equipment, fixtures and furnishings for the period of time that the facility is used for 9-1-1 dispatch services.

If requested in advance by the successor entity, the County shall make available its emergency communications employees necessary to operate the 9-1-1 dispatch center. The members of the successor entity shall pay the County for their pro rata share of the County's personnel costs for salaries and benefits and any agreed upon operational costs for services and supplies.

5. PAYMENT PROVISIONS

- A In consideration of the foregoing, the Agency will pay the County on an annual basis an amount derived by the formula below based on the services provided in the prior fiscal year ("Billing Year"). The payment shall be due ("Due Date") 60 (sixty) days after the billing date. County shall bill the Agencies no later than December 1st of each year for the prior fiscal year.
- B The formula shall include the application of County of Monterey Proposition 172 funding, when and as authorized by the County of Monterey Board of Supervisors, to offset the total charges incurred by all cities and fire districts who are a party to this Agreement.

EXHIBIT B

Formula Definitions:

A	Total annual cost of dispatch service (Source: County of Monterey Auditor/Controller's end-of-the-year expenditure report for the Billing Year.)
B	Amount paid by the State of California, and/or other agencies not party to this Agreement, to the County of Monterey for emergency 9-1-1 operations.
C	Net cost subject to percentage distribution (Source: County of Monterey Auditor/Controller's end-of-the-year expenditure report for the Billing Year.)
D	Assessed valuation of real property of the Agency (Source: "Monterey County Tax Rates" for the Billing Year)
E	Total assessed valuation of real property in the County of Monterey less the assessed valuation of real property attributed to agencies not receiving direct dispatch services (Source: "Monterey County Tax Rates" for the Billing Year)
F	Resident population of Agency (Source: for county and cities, "State of California Department of Finance Data" for the Billing Year and for Fire Districts, "Inventory of Local Agencies" as provided by the Local Agency Formation Commission for the County of Monterey)
G	Total population of the County of Monterey, less the population of Agencies not receiving direct dispatch services. (Source: for county and cities, "State of California Department of Finance Data" for the Billing Year and for Fire Districts, "Inventory of Local Agencies" as provided by the Local Agency Formation Commission for the County of Monterey)
H	Workload total for Agency. (Source: Workload totals compiled by the County of Monterey Emergency Communications Department, following review of the Users Advisory Council.)
I	Workload total for all police, fire, special emergency, and other emergency response units during the Billing Year. (Source: Workload totals compiled by the County of Monterey Emergency Communications Department, following review of the Users Advisory Council.)
J	Agency net percentage (Derived by applying equal weight to Agency Percentage of Assessed Valuation, Resident Population and Dispatch Workload.) For Fire Districts and Fire only Agencies this net percentage is multiplied by 10%.
K	Agency Gross Bill
L	Agency's Prop 172 offset shall be computed by taking the Agency's original billing and dividing that by the total billing of all Agencies subject to Prop 172 reduction, which is a percentage of the total billing. That percentage is multiplied by the total gross Prop 172 amount to derive the individual Agency's percentage share of the Prop 172 funding.

Contract Cost Allocation Formula:

- (1) $A - B = C$
- (2)
$$\left[\frac{D}{E} + \frac{F}{G} + \frac{H}{I} \right] \text{ Divided by } 3 = J$$
- (3) $C \times J = K$
- (4) $K - L = \text{Charge to the Agency for the billing year.}$

EXHIBIT B

- C In addition to the foregoing formula, the Users Advisory Council may, with approval of the Policy Advisory Council and at its own discretion, augment the formula on a pro rata basis to include provisions of special funding to support needed projects to replace software, hardware, dispatch furniture, major building repair, etc.
- D The User Advisory Council may levy one-time fees for new member Agencies or to the City of Carmel-By-The-Sea when it adds police communication services to offset costs incurred in previous fiscal years. These fees include but are not limited to facility construction, major equipment purchases and software.
- E The User Advisory Council may choose to select other source documents to replace those defined in the Formula Definitions above if the new documents provide more accurate information.
- F The Workload component of the billing formula will be periodically evaluated by the Users Advisory Council and changes may be recommended and approved, as appropriate.
- G The Users Advisory Council shall review the Department of Emergency Communications annual budget request prior to County's budget hearings.
- H The County of Monterey Department of Emergency Communications will provide reports on future budgets, current year budget management and cost control, personnel (recruitment, hiring, retention), and special project status on an ongoing and annual basis as deemed necessary by the Users Advisory Council.
- I The County of Monterey Department of Emergency Communications shall bill each agency on an individual basis.
- J Delinquency. If an Agency does not pay its annual fees for service as set forth above on or before the Due Date, the amount unpaid shall be deemed delinquent. A delinquency fee in the amount of five percent (5 %) of the delinquent amount shall be added to the amount owed and charged to the Agency. If an Agency does not pay the delinquent amount and delinquency fee within ninety (90) calendar days from the Due Date, the County is authorized to withhold and offset from any lawful source whatsoever otherwise due to the Agency, including the regular apportionment of property tax revenue, an amount sufficient to satisfy the delinquent amount and delinquency fee.

6. FORMATION OF POLICY ADVISORY COUNCIL AND USERS ADVISORY COUNCIL

- A The County and the Agency agree to the formation of the Emergency Communications Policy Advisory Council and Emergency Communications Users Advisory Council to assist in formulation of policies and operational processes governing the joint emergency communications and dispatch services provided by the Monterey County Emergency Communications Department. It is understood that the Policy Advisory Council serves in an advisory capacity to the Monterey County Board of Supervisors and is subject to the conditions and requirements of the Brown Act. The Users Advisory Council serves in an advisory capacity to the Department of Emergency Communications and/or the County Administrative Officer and the Policy Advisory Council.

- B The intended purpose of the Policy Advisory Council and the Users Advisory Council is to provide the primary users of the System the means to participate in the generation of policy direction on appropriate matters pertaining to fiscal, operational, service level, equipment, and facilities matters relating to the System. It is agreed that the terms of reference for the Policy Advisory Council and the Users Advisory Council will be as follows:

7. POLICY ADVISORY COUNCIL

A **Purpose**

The purpose of the Policy Advisory Council is to establish an effective method of communication between the policy makers representing the System users and the County. Inherent in this approach is the understanding that the formal structure will enable the County to work with representatives of the user agencies to achieve clear policy direction and consistent coordination regarding emergency dispatch services.

B **Membership**

The Policy Advisory Council shall serve at the pleasure of his or her appointing authority and consist of seven members and two ex-officio members as follows:

1. Two members of the County of Monterey Board of Supervisors appointed by the Monterey County Board of Supervisors.
2. The mayor or city council member representing the City of Salinas.
3. One mayor or city council member representing South County cities (Gonzales, Soledad, Greenfield and the City of King) appointed by the Monterey County Mayor's Select Committee;
4. One mayor or city council member representing Southern Monterey Peninsula Area (Carmel-by-the-Sea, Monterey and Pacific Grove) appointed by the Monterey County Mayor's Select Committee;
5. One mayor or city council member representing Northern Monterey Peninsula Area (Seaside, Marina, Del Rey Oaks and City of Sand) appointed by the Monterey County Mayor's Select Committee.
6. One Fire District Director appointed by the participating Fire Districts' Boards of Directors.
7. Ex-officio members:
 - a) The Chair of the Users Advisory Council;
 - b) The County Administrative Officer.
8. Any member may designate an alternate or alternates to serve in his or her absence.

C **Duties**

The Policy Advisory Council will serve in an advisory capacity to the Board of Supervisors. The Council will:

1. Advise the Board on all matters pertaining to fiscal and operating policies that affect users.
2. Meet at least annually to receive reports from the County Administrative Officer and/or the Users Advisory Council on all policy matters pertaining to budget, personnel, equipment, or fiscal issues which could affect cost to participating user agencies. The Policy Advisory Council may review items presented by the County or initiated by user agencies.

8. USERS ADVISORY COUNCIL

A Purpose

The purpose of the Users Advisory Council is to establish an effective method of communication between the System users and the County. Inherent in this approach is the understanding that the formal structure will enable the County to work with representatives of the user agencies to achieve clear policy direction and consistent coordination regarding emergency dispatch services.

B Membership

The Users Advisory Council shall serve at the pleasure of his or her appointing authority and consist of twelve members and two ex-officio members as follows:

1. The City Manager of the City of Salinas.
2. The Monterey County Sheriff.
3. The City of Salinas Police Chief.
4. The Administrator/Director of the Monterey County Emergency Medical Services.
5. One city manager from South County cities (Gonzales, Soledad, Greenfield and the City of King) appointed by the City Managers Association.
6. One city manager from the Southern Monterey Peninsula Area (Carmel-by-the-Sea, Monterey and Pacific Grove) appointed by the City Managers Association.
7. One city manager from the Northern Monterey Peninsula Area (Seaside, Marina, Del Rey Oaks and City of Sand) appointed by the City Managers Association.
8. One fire chief from a City Fire Department appointed by the Monterey County Fire Chiefs Association.
9. One fire chief from a Fire District appointed by the Monterey County Fire Chiefs Association.
10. One fire chief at large from either a district or city appointed by the Monterey County Fire Chiefs Association.
11. One police chief from the Monterey Peninsula Area (Monterey, Seaside, Pacific Grove, Marina, Del Rey Oaks, and City of Sand) appointed by the

EXHIBIT B

Monterey County Chief Law Enforcement Officers Association. If the Carmel-by-the-Sea Police Department participates in the System, it will also be eligible for appointment to represent the Monterey Peninsula Area.

12. One police chief from the South County cities (Gonzales, Soledad, Greenfield, and the City of King) appointed by the Monterey County Chief Law Enforcement Officers Association.
13. Appointed as ex-officio members:
 - a) The County Administrative Officer;
 - b) The Emergency Communications Director.
14. Representation shall be distributed so that no more than two representatives may be designated from any one political entity.
15. Any member may designate an alternate or alternates to serve in his or her absence.
16. Other members may be added to the Users Advisory Council subject to the mutual consent of the County and the majority of the designated members of the council.

C Duties

The Users Advisory Council will serve in an advisory capacity to the County Administrative Officer, the Emergency Communications Director, Policy Advisory Council, and all public safety communications users within Monterey County. The Council will:

1. Advise the County on all matters pertaining to fiscal and operating policies, which affect users, including advisory input into the System's budgeting process.
2. Meet at least quarterly to receive reports from the County on all policy matters pertaining to budget, personnel, equipment, operations, or fiscal issues which could affect costs to participating user agencies. The Users Advisory Council may review items presented by the County or initiated by user agencies.
3. Appoint Ad Hoc Committee(s) of police, fire, emergency service, and/or technical or professional staff as necessary to advise the Users Advisory Council on technical matters or to deal with special issues. Such Ad Hoc Committee(s) may meet as appropriate to discuss issues and to offer recommendations to the Users Advisory Council for appropriate action.

9. INDEMNIFICATION

- A County hereby agrees to indemnify and save harmless each Agency, its officers, agents, employees, and authorized volunteers of and from any and all claims, demands, judgments or decrees made or rendered against the Agency, its officers, agents or employees by reason of any injury, death or damage suffered or sustained by any person or entity caused by, or alleged to have been caused

by the negligent act or omission or willful misconduct of County under this agreement.

- B Further, as to such acts or omissions, County, at its own cost, expense and risk, shall defend any and all suits, actions, or other legal proceedings that may be brought or instituted by third parties against the Agency, its officers, agents, employees or authorized volunteers or any such claim or demand, and shall pay and satisfy any judgment or decree that may be rendered against the Agency, its officers, agents or employees in any such suit, action, or other legal proceedings.
- C Each Agency hereby agrees to indemnify and save harmless County, its officers, agents, and employees of and from any and all claims, demands, judgments, or decrees made or rendered against County, its officers, agents, or employees by reason of any injury, death, or damage suffered or sustained by any person or entity caused by, or alleged to have been caused by the negligent act or omission or willful misconduct of the indemnifying Agency under this Agreement.
- D Further, as to such acts or omissions, the indemnifying Agency at its own cost, expense and risk, shall defend any and all suits, actions, or other legal proceedings that may be brought or instituted by third parties against County, its officers, agents or employees, or any such claim or demand, and shall pay and satisfy any judgment or decrees that may be rendered against County, its officers, agents, or employees in any such suit, action, or other legal proceedings.

10. INSURANCE

Without limiting the foregoing indemnification, all parties shall maintain in force at all times during the performance of this Agreement, a policy or policies of insurance as follows, and in the minimum limits of liability as stated herein:

- A Comprehensive general liability, including but not limited to premises, personal injuries, products, and completed operations for combined single limit of not less than \$1,000,000 per occurrence.
- B Comprehensive automobile liability, including but not limited to property damage, bodily injury, and personal injuries for combined single limit of not less than \$1,000,000 per occurrence.
- C Workers' Compensation covering statutory requirements of the State of California and Employer's Liability of not less than \$100,000 per occurrence.
- D In the event any party is lawfully self-insured in any or all of the aforementioned insurance areas, a letter certifying those areas of coverage, and in the minimum amounts as set forth in this Agreement, shall be furnished to the other party prior to execution of this Agreement.
- E Except with respect to Workers' Compensation insurance, each Agency maintaining commercial insurance or excess insurance shall provide an endorsement naming the County, its officers, agents, and employees as additional insureds and shall provide that such commercial insurance is primary to any other commercial insurance maintained by the County; and the County shall, under any commercial insurance or excess insurance it maintains, provide an endorsement naming each Agency, its officers, agents, and employees

as additional insureds and shall provide that such commercial insurance is primary to any other commercial insurance maintained by each Agency.

11. GENERAL PROVISIONS

- A Amendment. This Agreement may be amended or modified only by an instrument in writing signed by all the parties hereto.
- B Waiver. Any waiver of any terms and conditions hereof must be in writing and signed by the parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other terms or conditions in this Agreement.
- C Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the parties hereunder, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- D Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- E Heading. The section and paragraph headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- F Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- G Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- H Construction of Agreement. The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment hereto.
- I Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- J Authority. Any individual executing this Agreement on behalf of an entity represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such entity and bind the entity to the terms and conditions of the same.
- K Integration. This Agreement, including the exhibits hereto, shall represent the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the parties as of the effective date hereof.

EXHIBIT B

L Notices. Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail as follows:

COUNTY OF MONTEREY
Director of Emergency Communications
240 Church Street, Room 6N
Salinas, CA 93902
831.755.5110

EXHIBIT B

IN WITNESS WHEREOF, the COUNTY and each of the Agencies have caused this Agreement to be executed by their duly-authorized representative as of the day and year written above.

COUNTY OF MONTEREY: By: _____ LYNN DIEBOLD, Director of Emergency Communications
Date:
APPROVED AS TO FORM: By: _____ LEROY W. BLANKENSHIP, Assistant County Counsel
Date:
APPROVED AS TO FISCAL PROVISIONS: By: _____ Auditor-Controller
Date:
APPROVED AS TO INSURANCE PROVISIONS: By: _____ Risk and Insurance
Date:

EXHIBIT B

<p>CITY OF CARMEL-BY-THE-SEA</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>CITY OF PACIFIC GROVE</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>CITY OF DEL REY OAKS</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>CITY OF SALINAS</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>CITY OF GONZALES</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>CITY OF SAND</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>CITY OF GREENFIELD</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>CITY OF SEASIDE</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>CITY OF KING</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>CITY OF SOLEDAD</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>CITY OF MARINA</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>CARMEL VALLEY FIRE PROTECTION DISTRICT</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>

<p>CITY OF MONTEREY</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>NORTH COUNTY FIRE PROTECTION DISTRICT</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>SALINAS RURAL FIRE PROTECTION DISTRICT</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>

**AGREEMENT RE 2007 COPS TECHNOLOGY GRANT
BETWEEN MONTEREY COUNTY AND CITY OF SALINAS**

This Agreement is made and entered into this 16th day of December 2008, by and between the COUNTY OF MONTEREY, hereinafter referred to as "County," and the CITY OF SALINAS, hereinafter referred to as "CITY". The County and CITY are hereinafter referred to collectively as the "Parties".

RECITALS

WHEREAS, the County is acting as the lead agency in the acquisition and management of a new countywide interoperable Next Generation Radio System, hereinafter referred to as "NGEN"; and

WHEREAS, the CITY is the sole grantee in receipt of a federal Department of Justice, Office of Community Oriented Policing Services ("COPS") 2007 COPS Technology Grant ("COPS grant") acquired to meet federal interoperability guidelines through the CITY's participation in the regional NGEN project; and

WHEREAS, the CITY's COPS grant also includes funding for other specified items of shared infrastructure and/or equipment for other agencies within the current or NGEN communications systems; and

WHEREAS, the Parties are separately, along with other entities, entering into a Memorandum of Agreement re Next Generation Radio System Joint Governance and Financing ("NGEN Financing Agreement"); and

WHEREAS, the CITY and County agree that it is essential to the successful implementation of the regional NGEN project that they work cooperatively in the implementation of the COPS grant program for this purpose.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. The Emergency Communications Users Advisory Council ("ECUAC"), as defined in the Agreement for 911 Emergency Communications Dispatch Services, shall serve as the governing body for the acquisition, installation, operation and maintenance of the regional NGEN radio system, as well as those components of the shared infrastructure that are specified as part of the CITY's COPS grant application and award.
2. It is the intention of all Parties that any shared infrastructure funds in excess of those needed to acquire and install the items specified in the CITY's COPS grant application and award, or those items that may of necessity be substituted for those specified, shall be used for additional shared infrastructure for the regional NGEN Radio System. If,

however, any grant specified item exceeds the cost estimated and additional funds are needed, the decision to move funds allocated for shared infrastructure to a non-shared equipment purchase, shall be jointly made by the CITY and ECUAC.

4. Shared Infrastructure Items

- A. Shared infrastructure refers to those parts of the regional NGEN Radio System that are used by multiple agencies, and generally refers to all system equipment except individual agency subscriber radios (as defined in Section 5 below).
- B. The COPS grant provides funding for shared infrastructure items at \$1,846,125. The City of Salinas will provide \$615,375 in required matching funds. Funding for shared infrastructure items total \$2,461,500. This funding provided by COPS grant and matching funds will be applied to CITY's share of total NGEN infrastructure costs under the NGEN Financing Agreement in its entirety. CITY's share of these costs is estimated between \$1,388,742 and \$2,153,831. Any COPS grant funding in excess of CITY's final share of the total infrastructure costs will be used to pay down the overall cost of total shared infrastructure and will benefit all Parties to the NGEN Financing Agreement based on that Agreement's cost share formula.
- C. The COPS grant provides for the following shared infrastructure items to be used jointly by Salinas Police Department and other participating agencies: 4 sets of VHF Frequencies, 4 VHF Voting Receiver systems, 4 radio repeaters, 10 VHF Multi couplers, 4 Stand-by Generators, 4 Radio site Uninterruptible Power Supply, 4 Microwave systems, 5 Antenna structures, and 1 Generic Trunking switch controller. All hardware and infrastructure items specified in the COPS grant application and award are engineering estimates representative of items expected to be specified in a successful design-build proposal for the NGEN system, but may be substituted – with prior written COPS approval – for similar equipment pursuant to the actual NGEN system design-build contract.
- D. The NGEN project team assigned by CITY and County will collaborate, in concert with the project governing body, ECUAC, and its technical advisory (NGEN) committee, on the acquisition of shared infrastructure items. CITY shall have at least two representatives on the NGEN RFP Review and Selection Committee, and all COPS grant funded equipment identified for shared infrastructure shall be acquired through the County's competitive bid process for the NGEN Radio System design-build contract. Any sole source expenditure of grant funds and/or matching funds from any source shall be clearly identified, justified, approved by CITY and ECUAC, and CITY shall seek COPS approval for such expenditures as necessary.

- E. The NGEN team and ECUAC will collaborate on decisions regarding changes in the use of approved grant line items for shared infrastructure. ECUAC shall have final approval authority on changes in the use of grant funds designated for shared infrastructure, pursuant to and consistent with an approved NGEN design-build contract, and with approval of the COPS Office (as coordinated through the City) when necessary. CITY shall have final approval authority on changes in the use of funds designated for the purchase of CITY mobile and portable equipment, consistent and compatible with the shared infrastructure design specifications.
- F. Ownership of shared infrastructure assets purchased with the COPS grant will remain with CITY during the grant term. Transfer of ownership of these assets to either Monterey County or successor administrator of the NGEN system (such as a Joint Powers Authority or "JPA") is contingent upon written approval from the COPS Office. The transfer of ownership of these assets to Monterey County will be made at no charge to participating members except for necessary and actual out of pocket costs as approved by ECUAC. A succeeding transfer of assets by Monterey County to a successor administrator of the NGEN System will also be made at no charge, as specified in the NGEN Financing Agreement.
- G. Radio frequencies acquired as part of the NGEN system are not physical assets and are not 'owned' by any local agency, but remain under the control of the Federal Communications Commission, licensed to State and local agencies for use as per the specific license terms. The "4 sets of VHF Frequencies" specified in the COPS grant will be acquired by and licensed to County as part of the NGEN frequency pool and will be shown as "assigned" for use in the Salinas Police Department's move from the UHF to the VHF frequency band. If for any technical reason, such as intermod or interference issues, any of these frequencies become unsuitable or unusable for this purpose, other VHF frequencies available to the NGEN project will be substituted.

5. **Salinas Police Department Equipment**

The COPS grant provides funding for Salinas Police Department subscriber radios, grant services and travel and training at \$823,875. CITY will provide \$274,625 in matching funds as required by the COPS grant. Funding for these items total \$1,098,500. Subscriber radios are defined as mobile and portable field radios, spare radios/parts and desktop office radio equipment, solely used by an individual agency. CITY will purchase this equipment, retain ownership of this equipment and make all decisions concerning the use of COPS grant funds specified for this purpose, to be compatible with the NGEN shared infrastructure.

6. **Salinas Fire Department and Other Fire Agencies Radios**

- A. City is acting as the Lead Agency in the acquisition of grant approved equipment for Fire Agencies' mobile data communications. The COPS grant provides grant funding of \$319,125 for "*37 Mobile Data Radios for Fire/Police (Data 911 800MHz Radios complete with keyboard/screen plus radio modem and antenna)*". The 25% match for this equipment is \$106,375 for a funding total of \$425,500. At the time the grant application was written the proposal was to install 37 mobile data computers (MDCs) on the existing County 800MHz data network in fire vehicles of five participating Fire Agencies. Since the COPS grant award was made, the participating Fire Agencies conducted a proof-of-concept test of alternate mobile data equipment over a commercial broadband wireless network. The participating Fire Agencies have decided to request COPS Office approval to utilize grant funds identified for Fire MDCs to purchase equipment and software needed for this alternate system.
- B. County will bill the City for all Fire Agencies' share of Mobile Data System (MDS) software license and security equipment approved by ECUAC as part of the alternative mobile data solution. City will provide the 25% fund match for its share of the \$106,375 line item match. Other participating Fire Agencies will each pay their 25% share of the required \$106,375 line item match to the City, pursuant to a separate billing from the City to each other agency. The share will be based on the total number of mobile data computers each Fire Agency receives.
- C. At its May 2, 2008 meeting, the ECUAC approved a proposal from CITY and Fire Agencies to support the 'mobile data over commercial broadband network' plan, including the transfer of \$122,596 from COPS grant shared infrastructure, and up to \$41,000 from the 911 Reserve Fund to cover the increased one-time costs of this solution. The Reserve Fund is to be repaid over time by one-time "buy in" fees determined by the Mobile Data Communications System (MDCS) Committee and approved by ECUAC for the addition of other Agencies using the commercial broadband network. If actual equipment costs for the broadband mobile data equipment and installation are less than the approved COPS grant funding estimates, the excess or unspent funds will be transferred back into the shared infrastructure funding category.

7. **Administration**

- A. CITY, as grantee, administrator and fiscal agent is responsible for appropriate grant accounting and documentation.
- B. The NGEN Project Team, pursuant to approval by ECUAC and/or in execution and administration of the NGEN design-build contract, shall provide

documentation to CITY necessary for the expenditure of grant funds and/or pre-approval by COPS Office, and for final grant accounting.

- C. CITY's Finance Department will require confirmation of expenditures prior to actual disbursement of grant funds (to draw grant funds prior to expenditure). NGEN project team shall provide documentation acceptable to CITY and COPS Office regarding identification of items and unbundled costs to be paid for with grant funds that may be bundled in the NGEN design-build contract.
- D. Expenditure of grant funds will be made upon submittal of approved bid documents, purchase orders, invoices or other documentation as required.
- E. CITY must pre-approve disbursements of grant funds that may be required to be made to or by Monterey County or other Agencies. Such pre-approval shall be consistent with expenditures for items and costs specifically identified in the CITY's COPS grant application and award, and/or for necessary substitutions of shared infrastructure equipment pursuant to an executed NGEN design-build contract. For disbursements made by Monterey County or other Agencies, reimbursement will be made by CITY from grant funds upon submittal of appropriate bid documents, invoices or other documentation as required.

8. **Dispute Resolution**

- A. Either party to this Agreement may petition the ECUAC to assist in the resolution of any conflict that may arise in the execution of this Agreement, or between this Agreement and the NGEN Financing Agreement.
- B. If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by alternate striking of names from a list of mediators provided by JAMS or AAA. All costs and fees required by the mediator, including procurement of the list, shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 90 days, either party may pursue litigation to resolve the dispute.
- C. It is not the intent that any item in this Agreement shall supersede any clause in the separate NGEN Financing Agreement to be executed between all regional system participants. In the event of a conflict between the two Agreements, it is the intent of the Parties that the longer term NGEN Financing Agreement shall

prevail. It is not the intent of the Parties that this Agreement and the NGEN Financing Agreement overlap in any way, but simply that the shared infrastructure equipment, to be purchased with a combination of COPS grant and CITY funds, be coordinated as prudent and necessary with the County as Lead Agency in the NGEN Design-Build project.

9. Indemnification

- A. CITY shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by CITY and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. CITY shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which CITY is obligated to indemnify, defend and hold harmless the County under this Agreement.
- B. County shall indemnify, defend, and hold harmless CITY, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by County of Monterey and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by CITY. County shall reimburse the CITY for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the County is obligated to indemnify, defend and hold harmless CITY under this Agreement.

10. General Provisions

- A. Use of Name. The Parties agree that they will not use the name, logo, or seal of the other Party or its employees in any advertisement, press release, or publicity with reference to this Agreement or any product or service resulting from this Agreement without prior written approval of the other party.
- B. Amendment. This Agreement may be amended or modified only by an instrument in writing signed by all the parties hereto.
- C. Waiver. Any waiver of any terms and conditions hereof must be in writing and signed by the parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other terms or conditions in this Agreement.
- D. Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the parties hereunder, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.

- E. Assignment and Subcontracting. Neither City nor County shall assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the other party.
- F. No Third Party Rights. Nothing in this agreement is intended to make any person or entity that is not signatory to this Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.
- G. Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws, rules, and regulations in performing this Agreement.
- H. Cooperation. County and City shall cooperate in the event of any legal action or claim made by a third party that may result from activities related to the performance of this Agreement.
- I. Heading. The section and paragraph headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- J. Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- K. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California. The venue for such actions shall be the County of Monterey, California.
- L. Construction of Agreement. The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment hereto.
- M. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- N. Authority. Any individual executing this Agreement on behalf of an entity represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such entity and bind the entity to the terms and conditions of the same.
- O. Integration. This Agreement, including the exhibits, and appendices hereto, shall represent the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the parties as of the effective date hereof.
- P. Severability. If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable; the remaining provisions will nevertheless continue to be in full force and effect and shall not be affected, impaired, or invalidated in any way.
- Q. Notices. Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail as indicated below:

To County: Virgil Schwab
Director, Information Technology Department
1590 Moffett St.
Salinas, CA 93905

To City: Tom Kever, Finance Director
City of Salinas
200 Lincoln Ave.
Salinas, CA 93901

- R. Force Majeure. Neither County nor City shall be responsible for damages or for delays resulting from acts or consequences beyond its reasonable control including, without limitation; fire, lightening, explosion, power surge, or failure, water, acts of God, war, revolution, civil commotion, or acts of civil or military authorities or public enemies; any law, order, regulation, or ordinance, or requirement of any government or legal body or any representative of any such government or legal body; or labor unrest, including, without limitation; strikes, slowdowns, picketing, or boycotts; inability to secure materials and supplies, transportation facilities, fuel or energy shortages, or acts or omissions of others.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year written below.

COUNTY OF MONTEREY

CITY OF SALINAS

By: _____
Board of Supervisors

By: _____
Name and Title

Date: _____
Approved as to Content

By: _____
Director of Information Technology

Authorized Signature

Date: _____
Approved as to Form

Date: _____

By: _____
County Counsel

By: _____
Authorized Signature

Date: _____



IN SHORT

TOWARD CRIMINAL JUSTICE SOLUTIONS

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NCJ 217865

Understanding FCC Narrowbanding Requirements

Key Points

- Most current public safety radio systems use 25-kHz-wide channels.
- The Federal Communications Commission (FCC) has mandated that all non-Federal public safety licensees using 25-kHz radio systems migrate to narrowband 12.5-kHz channels by January 1, 2013.
- Agencies that do not meet the deadline face the loss of communication capabilities.
- Agencies need to start planning now to migrate to narrowband systems by assessing their current radio equipment and applying for new or modified licenses.

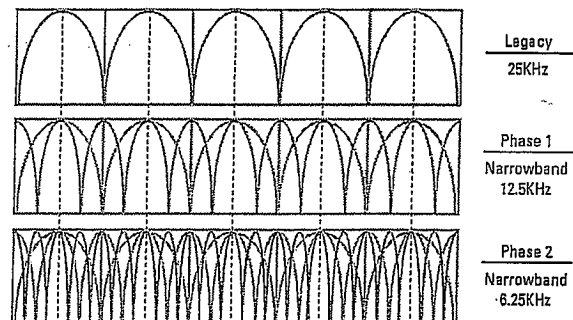
OVERVIEW

Private land mobile radio (LMR) systems—including municipal government and State and local public safety systems—use blocks of radio spectrum called channels.¹ Historically, LMR systems have used 25-kHz-wide channels. In December 2004, the Federal Communications Commission mandated that all private LMR users operating below 512 MHz move to 12.5-kHz narrowband voice channels and highly efficient data channel operations by January 1, 2013.² This migration complements a National Telecommunications and Information Administration mandate for more rapid Federal agency migration to 12.5-kHz narrowband operation by January 1, 2008. The earlier Federal deadline affects State and local FCC licensees that interface or share frequencies with Federal radio systems.³

Using narrowband channels will ensure that agencies take advantage of more efficient technology

and, by reducing channel width, will allow additional channels to exist within the same spectrum space, as illustrated in figure 1.

Figure 1. Narrowband channels allow additional channels to exist in the same spectrum.



DEADLINES

To phase in the migration deadline of January 1, 2013, the FCC has established interim deadlines. The first important deadline is January 1, 2011, after which:

- The FCC will not grant applications for new voice operations or applications to expand the authorized contour of existing stations that use 25 kHz channels. Only narrowband authorizations will be granted.
- The FCC will prohibit manufacture or importation of new equipment that operates on 25 kHz channels. This will reduce the availability of new equipment for legacy radio systems and will affect how agencies maintain and upgrade older systems.

PLANNING FOR THE MOVE TO NARROWBAND

Public safety agencies need to aggressively develop a strategy to meet narrowband deadlines to avoid cancellation of existing wideband FCC authorizations. Although the migration deadline may seem far off, the long lead time and interim deadlines make it necessary for agencies to plan well in advance.

Assess current equipment and start planning. To prepare for the migration, public safety agencies should start assessing their radio systems and planning for replacements or upgrades. They should inventory their current equipment to ascertain what can be converted to 12.5 kHz and what will need to be replaced before January 1, 2013. Most new equipment has the capability for both 25 kHz and 12.5 kHz operation because any VHF/UHF radio equipment accepted by the FCC after February 14, 1997, had to have 12.5 kHz capability. The 2.5 kHz narrowband equipment is available in both conventional analog FM and digital formats (such as Project 25), so narrowband conventional FM systems will be compliant. Local governments should develop contingency plans to accommodate system changes for both public safety and nonpublic safety systems.

Obtain new or modified licenses. To move to narrowband operations, agencies must apply for new frequencies or modify existing licenses. An agency that is licensed for a 25 kHz-wide channel is not guaranteed two 12.5 kHz channels. Licensees will have to justify to the FCC why they need additional channels. Consideration of applications for new narrowband licenses will follow the same process as a new license application. As agencies migrate to narrowband operation, however, the pool of available frequencies will increase.

FOR MORE INFORMATION

- NIJ's Communications Technologies (CommTech) Web site:
www.ojp.usdoj.gov/nij/topics/commtech
- Federal Communications Commission Web site:
www.fcc.gov
- Regional National Law Enforcement and Corrections Technology Centers:
www.justnet.org

NOTES

1. For more information about spectrum allocation and the licensing process, see NIJ InShort, *Radio Spectrum*, NCJ 214962, August 2006.
2. Per the FCC mandate, post-narrowbanding data channels must have an efficiency of 4.8kbps/second/6.62KHz. See FCC Order 05-9, WT Docket No. 96-86, January 7, 2005: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-9A1.pdf; and FCC Order 04-292, WT Docket No. 99-87 and RM-9932, December 23, 2004: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-292A1.pdf.
3. FCC narrowbanding rules for agencies operating with FCC licenses but using Federal spectrum are frequency specific and may follow a more aggressive schedule. Those agencies may operate on these frequencies only on a secondary (unprotected and noninterfering) basis. See FCC Report and Order 05-69, ET Docket No. 04-243, March 11, 2005: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-69A1.pdf.



This document is not intended to create, does not create, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal. Opinions or points of view expressed in this document represent a consensus of the authors and do not represent the official position or policies of the U.S. Department of Justice. The products and manufacturers discussed in this document are presented for informational purposes only and do not constitute product approval or endorsement by the U.S. Department of Justice.

NGEN Talking Points

The Next Generation Voice and Data Radio (NGEN) Project was initiated several years ago to address our aging public safety communications systems and FCC rules to improve our radio spectrum use by 2013.

The current project proposal (which is really a list of requirements that will be circulated in a Request for Proposals for a design/build project) is the product of several years of analysis and discussion involving agency stakeholders from throughout the county. The project is intended to deal with substantial inadequacies within the current infrastructure, a need to improve interoperability in the region, and a need to comply with federal "narrowbanding" mandates.

What is it?

- A regional voice and mobile data radio system to support the day to day and major emergency needs of our police, fire, public works, and other local government personnel

Why now?

- Federal mandates require that system changes must be made by January 2013. Implementation will take several years. While there is talk of extending this deadline, it is doubtful this will occur (and waiting to see would not allow enough time to complete, if the deadline is not extended). In addition, the mandates are such that, if our current system interferes with another system that has already been "narrowbanded," we are obligated to move forward in advance of the 2013 deadline.
- Current systems suffer from interference, limited capacity, and lack of interoperability
- Current systems are quite old and fragile, and in desperate need of renewal. There is almost no redundancy and or failover protection. The current technology is not sustainable as we move into the future. A prolonged delay in making a substantial investment could result in a challenging (and potentially expensive) response to system failure.
- The current system is heavily subsidized by the County and, as a matter of equity, this needs to be resolved. Absent system renewal, the cost to support the existing system has been increasing dramatically, and other participating agencies will be asked to carry their fair share of this burden.
- The City of Salinas was awarded a multi-million dollar COPS grant to upgrade their systems and to improve regional interoperability. Much of this grant is intended to offset regional costs that would otherwise be incurred. These grant funds will support NGEN deployment and the two projects need to be synchronized closely for each to be successful. In addition, an Assistance to Firefighters grant will have been awarded to help fund several of the repeaters in the new system.
- A variety of financing options have been explored and, at this time, the financiers require a commitment to the project so we can move forward. The County also needs an indication of commitment so the RFP can be released.

What do we get for our investment in communication systems?

- FCC Narrowband compliance
- New equipment; however, we are reusing as much equipment as possible to be cost-effective. Examples are some radios (particularly in the fire agencies), radio towers, microwave connections, and dispatch center equipment.
- Improved functionality such as User ID, encryption, unit location (GPS), and emergency buttons. This will improve firefighter and officer safety, as well as day-to-day operations. The radio system is a lifeline to the people in the field.
- More reliable communications with redundant power systems and reduced interference
- Increased system capacity to meet today's shortfalls and to better support our responders at major incidents. Channel sharing (that takes place in South County and Monterey Peninsula, for example) can be reduced.
- Increased coverage, including system roaming throughout the countywide footprint – most agencies will no longer need to select a specific radio tower.
- Improved interoperability between agencies and disciplines. In addition to the operational benefits, this interoperability component will be a prerequisite to any future grant funding.

Why not do the narrowbanding only? Why is it likely that digital will be part of the solution? Do other project options exist?

- Unfortunately, for reasons described in this section and the attached Appendix, a narrowband-only option is not feasible. If all of the challenges addressed by the narrowband-only option were suitably addressed, it would likely cost more than the NGEN solution.
- Although more analysis is required, a simple analysis indicates that a narrowbanding-only option might save about 10% of the project cost across all partnering agencies, but this would preclude our ability to take advantage of the new system functionality and features that would help improve public safety, officer/firefighter safety, interoperability, and system sustainability.
- A solution that only narrowbands our current systems does not address the problems of aging equipment, interference, limited capacity, and lack of interoperability. A narrowband-only option would require additional frequencies that we do not own, may be impossible to acquire, and may be quite expensive if indeed they become available. A trunked system allows maximum utilization of the finite number of frequencies available to us.
- Narrowbanding of existing channels is expected to change and in some cases reduce the coverage profile of each channel, potentially creating a lower level of service and user dissatisfaction. The additional system capacity created by the proposed NGEN system will be needed to compensate for this.

- Modern advances in communications have used digital rather than analog modulation for its ability to more efficiently carry data and therefore add capabilities such as encryption, message error correction, user identification, unit positioning, emergency buttons, and over-the-air programming, while also meeting requirements calling for the most efficient use of our available frequencies. All of these services have been requested by system users.
- A number of options remain open for NGEN as the procurement process continues. The RFP has been developed to allow for creative and cost-effective solutions to be proposed that meet the collective requirements of all users in the County. All user agencies were included in development of the RFP requirements. As a regional system, efforts have focused on meeting the greatest and common needs of stakeholders. At this point in the process, we are trying to balance the needs of those who have asked for "more" and those who have asked for "less."

What can we do to spend less money?

- The design/build RFP has been developed to solicit competitive bids from a number of companies that can satisfy our communications requirements. Thus, we will see our options after the proposals are received. Further cost reductions can be sought during the negotiation of service levels with the selected service provider.
- The current budget estimates were developed after several years of analysis and compilation of needs identified by system users. A good deal of value engineering has already taken place and a substantial number of expressed system desires will not be included in the RFP because of cost considerations. Spending less money translates to receiving less of the system functionality that has been requested by system users.
- Expenses can be financed to spread payments over a longer time period.
- County, on behalf of the partnership, is actively seeking grants to offset system costs. Four potential federal grant funding opportunities have been identified and will be applied for.

What happens if I don't join NGEN?

- You will support you own radio communications.
- The County will work with you to license frequency spectrum for your system.
- You will need to fund, design, deploy, and maintain a stand-alone narrowbanded radio system.
- You will need to arrange for 911 and dispatch services outside of the existing regional consortium.
- Your ability to be interoperable with your partners and mutual aid responders will be compromised.