

RESOLUTION NO. 2011-50-R

BE IT RESOLVED by the City Council (herein called "the Council") of the CITY OF MADISON, ALABAMA, a municipal corporation (herein called "the City"), as follows:

Section 1. The Council hereby finds and declares as follows:

- (a) The Madison County Communications District (herein called "the E911 District") is a political subdivision of the State of Alabama that (i) was created by action of the Madison County Commission pursuant to applicable provisions of Chapter 98 of Title 11 of the Code of Alabama 1975, as amended, and (ii) is by law empowered (among other things) to provide emergency radio dispatch services to public safety agencies;
- (b) the E911 District owns and operates a Joint Communications Center (herein called "the Center") which is located in the City of Huntsville (herein called "Huntsville") and which provides emergency telephone answering service for all public and private safety agencies in Madison County (herein called "the County"), including the Fire and Police Departments of Huntsville, the Fire and Police Departments of the City, the Fire Department and the Sheriff's Department of the County, and Huntsville Emergency Medical Services, Inc. (herein called "HEMSI");
- (c) Huntsville currently operates the largest radio system in the County for the purpose of making emergency radio dispatches, and (i) that system is nearing obsolescence, and (ii) the City and other users will benefit from an upgrade or replacement of that system;
- (d) the E911 District has now proposed to undertake a project for the acquisition, construction, ownership and operation of a single, comprehensive, county-wide radio system (herein called "the County-Wide Radio System") in order to serve all of the public or private safety agencies referred to in the preceding paragraph (b) (all of which are herein together called "the Safety Agencies") and to provide interoperability among the Safety Agencies and Public Service Users that may from time to time contract with the E911 District for one or more classes of radio system use (subordinate, however, to the rights of the Safety Agencies in respect of the County-Wide Radio System);
- (e) the E911 District has further proposed to the Safety Agencies (including the City) that it and they enter into an appropriate long-term contract whereunder, among other things, each Safety Agency shall be entitled or obligated to utilize the Center to receive and dispatch both emergency and non-emergency dispatch calls throughout the term of such contract;
- (f) the E911 District has informed the City and the other Safety Agencies that the first phase of the aforesaid project should consist of (i) the assumption by the E911 District of the aforesaid radio system now operated by Huntsville, and (ii) the modification, improvement and expansion of that system, to be completed no later than January 1, 2013; and

- (g) in the judgment of the Council, it is advisable and in the best interests of the City and its residents and taxpayers, that the City proceed to participate, together with each of the other Safety Agencies, in the acquisition and construction of the County-Wide Radio System, and to that end, that the City enter into an appropriate contract of the sort proposed by the E911 District and including, among other things, the substantive provisions described in the preceding paragraph (e).

Section 2. In order to accomplish the acquisition and construction of the County-Wide Radio System by the E911 District, and in order to provide for the long-term operation of the County-Wide Radio System, the City is hereby authorized to enter into an appropriate contract (herein called "the Radio System Agreement") among the District, the City, the County, Huntsville and HEMSI, in substantially the form attached hereto and identified as the "9-1-1 Emergency Telephone and Radio Services Agreement among the Madison County Communication District; the City of Huntsville, Alabama; Madison County, Alabama; the City of Madison, Alabama; and Huntsville Emergency Medical Services, Inc.", and presented to the meeting of the Council at which this resolution is adopted (which such form is hereby adopted and approved in all respects as if the same were set out in full herein), with such changes as the Mayor of the City, with the advice of legal counsel for the City, approves and deems appropriate (such approval and appropriateness to be conclusively evidenced by his execution thereof). The Mayor of the City is hereby authorized and directed to execute and deliver the Radio System Agreement for and in the name and behalf of the City, and the City Clerk of the City is hereby authorized and directed to affix the corporate seal of the City to the Radio System Agreement and to attest the same, if and to the extent that the Radio System Agreement (in the form approved as aforesaid by the Mayor) so requires.

BE IT FURTHER RESOLVED that approval of the Radio System Agreement by the City Council is expressly conditioned upon approval of same by the Madison County Commission; the City Council of the City of Huntsville, Alabama; and the Board of Directors of Huntsville Emergency Medical Services, Inc.

ADOPTED this the 28th day of March, 2011.

**Tommy Overcash, President
City Council
City of Madison, Alabama**

ATTEST:

Melanie A. Williard, City Clerk-Treasurer

APPROVED this 28th day of March, 2011.

**Paul Finley, Mayor
City of Madison, Alabama**

SUBSTITUTE B

9-1-1 EMERGENCY TELEPHONE AND RADIO SERVICES AGREEMENT

This 9-1-1 Emergency Telephone and Radio Services Agreement (herein called "this Agreement") among The Madison County Communications District ("MCCD"), a political and legal subdivision of the State of Alabama created by action of the Madison County Commission pursuant to Chapter 98 of Title 11 of the Code of Alabama 1975, as amended, the City of Huntsville, a municipal corporation under the laws of the State of Alabama ("Huntsville"), Madison County, a political subdivision of the State of Alabama ("the County"), the City of Madison, a municipal corporation under the laws of the State of Alabama ("Madison"), and Huntsville Emergency Medical Services, Inc. ("HEMSI"), a private not-for-profit corporation providing ambulance and related emergency medical services in Madison County, Alabama,

WITNESSETH:

That in consideration of the respective representations and agreements herein contained, the parties hereto agree as follows:

PREAMBLE

The provision of emergency communications related to routine emergencies and catastrophic events is an essential governmental function. The Legislature of Alabama has authorized counties and municipalities to create communication districts as political and legal subdivisions of the state to render emergency telephone answering and dispatch service. MCCD was created by the Madison County Commission and has traditionally provided emergency telephone answering service by way of a Joint Communications Center serving both public and private safety agencies. MCCD also has the authority to provide emergency radio dispatch services to public safety agencies. The purpose of this Agreement is to provide for the procurement of radio infrastructure to be owned, managed, maintained, and operated by MCCD and governed by its Board of Commissioners to support public safety dispatch functions of public and private safety agencies operating in Madison County.

ARTICLE I

DEFINITIONS AND PHRASES

Section 1.1 **Definitions.** The following words and phrases, and others evidently intended as the equivalent thereof shall, in the absence of clear implication herein otherwise, be given the following interpretations herein:

"Ancillary Services" means any services that are provided by MCCD to a Primary User or a Public Service User which are not common to all such Users, for compensation prescribed by a separate agreement between MCCD and such User.

“Annual Budget” means a budget adopted by the Board of Commissioners for a Fiscal Year.

“APCO Project 25” (or “APCO P25”) means a standard for digital radio communications for use by Federal, state/province, and local public safety agencies in North America to enable them to communicate with other agencies and mutual aid response teams in an emergency.

“Board of Commissioners” means the Board of Commissioners of MCCD, which is appointed by the County Commission and authorized to govern the affairs of MCCD pursuant to the Enabling Act.

“CMRS Distribution” means the amount received annually by MCCD from the CMRS Board of the State of Alabama as its share of statewide wireless CMRS Service Charges, which are levied and collected statewide and distributed to emergency communications districts (such as MCCD) according to a statutory formula.

“CMRS Service Charge” has the meaning ascribed to it in the Enabling Act.

“Commercial Radio System Users” means parties who contract with MCCD to obtain limited rights to space or capacity on the towers or operating systems of the Countywide Radio System, all such rights to be subordinated, however, to those of all Primary Users and Public Service Users.

“County Commission” means the elected governing body of Madison County.

“Countywide Radio System” means a comprehensive infrastructure or system comprising emergency radio communications equipment and facilities necessary to transmit and receive public and private safety dispatch calls throughout the County, and complying with APCO P25 specifications. The term does not include subscriber units, which must be owned and maintained by the users. Those areas that are within the City of Huntsville and Madison City limits that are located in Limestone County are included in the service area of this Countywide Radio System.

“Emergency Telephone Service Charge” means the charge levied by MCCD for emergency telephone service provided to telephone subscribers who are provided two-way voice communication landline service and who can reach the MCCD emergency telephone answering service by dialing the number 9-1-1.

“Enabling Act” means Act No. 84-369 enacted at the 1984 Regular Session of the Legislature of Alabama, as amended, and Chapter 98 of Title 11 of the Code of Alabama 1975, as amended, and (b) all future acts of the Legislature of Alabama supplemental to or amendatory of either thereof.

“OEC” means the 9-1-1 Operations Executive Committee, which is an informal advisory committee charged with the responsibility to make non-binding operational policy recommendations to the Board of Commissioners, it being understood that all operational policies not directly related to management of agency functions and personnel are and shall be adopted by the Board of Commissioners and are and shall be binding on all Public and Private Safety Agencies.

“E911” has the meaning ascribed to it in the Enabling Act.

“Fiscal Year” means the period of twelve consecutive calendar months beginning on October 1 of a calendar year and ending on September 30 of the next succeeding calendar year.

“Joint Communications Center” (or “the Center”) means the communications center that is owned and operated by MCCD and located at 5827 Oakwood Road NW, Huntsville, Alabama 35806.

“Joint Communications Center Operations Policies” means the rules, regulations, and procedures adopted exclusively by the Board of Commissioners, and which all personnel of any Public or Private Safety Agency must observe while on the premises of the Joint Communications Center.

“Primary Users” means the public and private safety radio dispatch users, including the County, Huntsville, Madison, and HEMSIL.

“Private Safety Agency” has the meaning ascribed to it in the Enabling Act.

“Public Safety Agency” has the meaning ascribed to it in the Enabling Act.

“Public Service Users” means public agencies that contract with MCCD for one or more classes of radio system use, subordinate, however, to the rights of the Primary Users, and for consideration to be established from time to time by the Board of Commissioners, (e.g., City of Huntsville Animal Control, Inspection, Transportation, Parking, Engineering, Traffic Engineering, and Public Works).

“RAC” means the Radio Advisory Committee, which is an advisory committee composed of at least one representative selected by the executive of each Public or Private Safety Agency, and charged with the responsibility to make non-binding operational policy recommendations to the Board of Commissioners, with respect to the Countywide Radio System, it being understood that all operational policies not directly related to management of agency personnel are and shall be adopted by the Board of Commissioners and are and shall be binding on all Public or Private Safety Agencies. Each Primary User shall have one vote with respect to recommendations of the Committee.

“Radio System Phase One” means the purchase, installation, and performance testing of infrastructure equipment necessary to upgrade and improve the public safety radio

system currently owned and operated by Huntsville. A more detailed description of Phase One is included in Attachment "A."

"Radio System Phase Two" means the purchase and installation of infrastructure facilities and equipment necessary to replace the Phase One system, or to extend the Phase One system to APCO P25 Systems project compliance, and providing reliable emergency radio communications to Public and Private Safety Agencies with coverage rated at 95% or more coverage within the boundaries of the County and the respective portions of Huntsville and Madison that are situated in Limestone County. A more detailed description of Phase Two is included in Attachment "A."

"9-1-1 System" means the Joint Communications Center, the equipment and improvements located on property appertaining to the Joint Communications Center, and, when each of its components is completed and operational by MCCD, the Countywide Radio System.

ARTICLE II

FINDINGS

Section 2.1 **Regarding Existing Primary Users' Radio Systems.** The parties to this Agreement have ascertained and found conditions and circumstances with respect to existing facilities owned, operated, and utilized by the Public and Private Safety Agencies for radio communications to be as follows:

(a) **Huntsville** (Huntsville Police and Fire) owns an 800MHz two-site, twenty channel trunked system, which simulcasts from towers on Madkin Mountain (Redstone Arsenal) and Burritt (Roundtop) Mountain. Huntsville's system is nearing obsolescence and Huntsville will benefit from an upgrade or replacement of this system. Huntsville also maintains a back-up single-channel VHF repeater which is readily programmable for narrowband operation.

(b) **Madison County Fire** utilizes a main VHF repeater at the Monte Sano State Park site, and additional VHF sites at Ledges on Huntsville Mountain and Capshaw Mountain. The County's systems are all aging and will need to be "narrowbanded" by FCC mandate by January 1, 2013. Narrowbanding consists of reducing the channel bandwidth from 25KHz to 12.5KHz. Two of County Fire's repeaters are capable of being narrowbanded for a cost, and one is not. Additionally, narrowbanding reduces the useful coverage area of a repeater by 10-15%, leading to additional reliability concerns. (Note: Narrowbanding is a separate issue from achievement of the APCO P-25 standard)

(c) **Madison County Sheriff** depends on three VHF repeaters, all of which are in operable condition and can be narrowbanded at a price to meet the FCC 2013 requirement.

(d) **Madison Police** has a fairly new 800MHz conventional repeater for its primary communications and a VHF back-up repeater that is out of support and is not narrowbandable. Madison Police depends on Huntsville's 800MHz system for all its tactical communications, records, and support channels.

(e) **Madison Fire** uses a fairly new 800MHz repeater for its primary communications and depends on Huntsville's 800MHz system for all its secondary communications.

(f) **HEMSI** depends on 4 UHF repeaters, all of which are in reasonable working condition; however, one of such repeaters cannot be narrowbanded to meet the FCC 2013 requirement.

Section 2.2 Regarding Future Operation of Existing Systems. Continuing operations on any of the systems described in Section 2.1 hereof poses some degree of risk due to aging equipment and complete lack of interoperability with the systems of other agencies. Huntsville Fire and Police depend on the Huntsville system entirely, and Madison Fire and Police depend on the Huntsville system for all but their respective single primary dispatch channels. The UHF and VHF repeaters used by Madison County Fire and Sheriff Departments, Madison Fire, and HEMSI must be narrowbanded no later than January 1, 2013 (i.e., the deadline currently mandated by the Federal Communications Commission). Narrowbanding those systems will likely lead to significantly reduced coverage compared to their current operational areas.

Section 2.3 Regarding Development of Countywide Radio System. The most prudent, economical, and efficient approach to the provision of radio communication for all Public and Private Safety Agencies in Madison County is a comprehensive system that will serve all the parties to this Agreement and that will be owned, managed, and maintained by MCCD. Such a system will provide interoperability among all Primary Users as well as Public Service Users. A phased approach to remediate present risks in the short term and to create a APCO P-25 compliant system and achieve all federally mandated narrowbanding no later than January 1, 2013, is the most prudent approach, under present conditions and circumstances.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations by MCCD. MCCD makes the following representations as the basis for the undertakings on its part herein contained:

(a) MCCD is a political and legal subdivision of the State of Alabama, duly created by resolution of the County under the provisions of Act No. 84-369 of the 1984 Regular Session of the Legislature of Alabama, as amended (currently appearing as Chapter 98 of Title 11 of the Code of Alabama 1975, as amended);

(b) MCCD has not elected to form a nonprofit, public corporation, as provided by the Enabling Act;

(c) neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and

conditions hereof, conflict or will conflict with, or result or will result in a breach of, any of the terms conditions or provisions of any restriction or limitation now applicable to MCCD or any agreement, instrument or court or other governmental order to which MCCD is now a party or by which it is bound, or constitute or will constitute a default under any of the foregoing;

(d) under the provisions of the Enabling Act, MCCD has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder;

(e) the execution and delivery of this Agreement on its part have been duly authorized by all necessary action; and

(f) this Agreement, and each other contract, instrument, or document to be executed by or on behalf of MCCD pursuant hereto, are and will constitute the valid and binding obligations of MCCD, enforceable against it in accordance with their respective terms.

Section 3.2 Representations by Huntsville. Huntsville makes the following representations as the basis for the undertakings on its part herein contained:

(a) Huntsville is a municipal corporation duly incorporated under the laws of the State of Alabama and has the power to enter into, and to perform and observe the agreements and covenants on its part contained in, this Agreement;

(b) neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions hereof, conflict or will conflict with, or result or will result in a breach of, any of the terms, conditions or provisions of any corporate restriction or limitation applicable to Huntsville or any agreement, instrument or court or other governmental order to which Huntsville is now a party or by which it is bound, or constitute or will constitute a default under any of the foregoing;

(c) the execution and delivery of this Agreement on its part have been duly authorized by all necessary municipal action; and

(d) this Agreement, and each other contract, instrument, or document to be executed by or on behalf of Huntsville pursuant hereto, are and will constitute the valid and binding obligations of Huntsville, enforceable against it in accordance with their respective terms.

Section 3.3 Representations by the County. The County makes the following representations as the basis of the undertakings on its part herein contained:

(a) the County is a political subdivision of the state of Alabama duly created and recognized by the Constitution of Alabama of 1901, Article II, Section 38;

(b) neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions hereof, conflict or will conflict with, or result or will result in a breach of, any of the

terms conditions or provisions of any restriction or limitation now applicable to the County or any agreement, instrument or court or other governmental order to which the County is now a party or by which it is bound, or constitute or will constitute a default under any of the foregoing;

(c) under the provisions of the Enabling Act, the County has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder;

(d) the execution and delivery of this Agreement on its part have been duly authorized by all necessary action; and

(e) this Agreement, and each other contract, instrument, or document to be executed by or on behalf of the County pursuant hereto, are and will constitute the valid and binding obligations of the County, enforceable against it in accordance with their respective terms.

Section 3.4 Representations by Madison. Madison makes the following representations as the basis for the undertakings on its part herein contained:

(a) Madison is a municipal corporation duly incorporated under the laws of the State of Alabama and has power to enter into, and to perform and observe the agreements and covenants on its part contained in, this Agreement;

(b) neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions hereof, conflict or will conflict with, or result or will result in a breach of, any of the terms, conditions or provisions of any corporate restriction or limitation applicable to Madison or any agreement, instrument or court or other governmental order to which Madison is now a party or by which it is bound, or constitute or will constitute a default under any of the foregoing;

(c) the execution and delivery of this Agreement on its part have been duly authorized by all necessary municipal action; and

(d) this Agreement, and each other contract, instrument, or document to be executed by or on behalf of Madison pursuant hereto, are and will constitute the valid and binding obligations of Madison, enforceable against it in accordance with their respective terms.

Section 3.5 Representations by HEMSI. HEMSI makes the following representations as the basis for the undertakings on its part herein contained:

(a) HEMSI is a nonprofit corporation duly incorporated under the laws of the State of Alabama, is in good standing under the laws of said State and has power to enter into, and to perform and observe the agreements and covenants on its part contained in, this Agreement;

(b) neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and

conditions hereof, conflict or will conflict with, or result or will result in a breach of, any of the terms, conditions or provisions of any corporate restriction or limitation applicable to HEMSI or any agreement, instrument or court or other governmental order to which is now a party or by which it is bound, or constitute or will constitute a default under any of the foregoing;

(c) the execution and delivery of this Agreement on its part have been duly authorized by all necessary action.

(d) this Agreement, and each other contract, instrument, or document to be executed by or on behalf of HEMSI pursuant hereto, are and will constitute the valid and binding obligations of HEMSI, enforceable against it in accordance with their respective terms.

ARTICLE IV

DURATION OF TERM AND PARTICULAR COVENANTS OF THE PRIMARY USERS

Section 4.1 **Term of Agreement.** The primary term of this Agreement shall begin on March 1, 2011, and shall continue for twenty five (25) years..

Section 4.2 **Use of Center.** Each Primary User hereby agrees that it will, at all times during the term of the Agreement, utilize the Joint Communications Center to receive and dispatch its emergency and non-emergency dispatch calls. Provided however that beginning ten years from the date hereof, a Primary User may elect to opt out of the radio services portion of this agreement.

Section 4.3 **Compliance with Policies.** Each Primary User hereby agrees that it will, at all times during the primary term and any renewal term hereunder, observe and abide by, and will require its officers and employees to observe and abide by, the Joint Communications Center Operations Policies.

Section 4.4 **Appointment of Members to Committees.** Each Primary User shall appoint at least one member to the OEC and at least one member to the RAC.

ARTICLE V

OBLIGATIONS OF MCCD

Section 5.1 **Maintenance of Center.** MCCD will, so long as this Agreement remains in full force and effect, maintain the Joint Communications Center for use by each of the Primary Users to the same extent as the Center has historically been made available to such Primary User.

Section 5.2 **Equipment and Support Services.** MCCD will install, manage, maintain and operate all equipment and support services necessary to provide to the Primary

User Agencies the capability to receive and dispatch emergency and non-emergency dispatch calls. The Primary Users recognize and acknowledge that (a) completion of Radio System Phase One is expected to take no longer than nine (9) months, from and after the award of contracts with respect to such completion and continuing until successful operational use, and to provide a potential platform for Radio System Phase Two, and (b) that the current estimated total cost of Radio System Phase One is approximately \$4,000,000. The Primary Users further recognize and acknowledge that (1) contracts with respect to the completion of Radio System Phase Two are now expected to be procured in accordance with State Competitive Bid laws and awarded by MCCD no later than January 1, 2012, and (2) the Countywide Radio System is currently expected to become operational on or before January 1, 2013. It is recognized that all users have the right to continue to use their existing analog radios through January 1, 2015 in the event that all analog radios have not been replaced by January 1, 2013.

Section 5.3 Insurance Requirements. MCCD shall maintain adequate liability insurance to protect MCCD and hazard insurance at all times in amounts adequate to protect the MCCD and the Primary Users with respect to physical damage to any property owned by a primary user in the possession of MCCD.

Section 5.4 Audit Requirements. MCCD shall assure that an annual audit of their financial books and records is conducted by Certified Public Accountants.

ARTICLE VI

CONCERNING SOURCES OF FUNDS FOR OPERATION OF 9-1-1 SYSTEM, ETC.

Section 6.1 Sources of Funds for MCCD. Each party to this Agreement recognizes and acknowledges that MCCD is limited with respect to funds available or likely to become available to it, at any time during the term of this Agreement, for operation of the 9-1-1 System and the acquisition, installation, operation, management, and maintenance of the Countywide Radio System. Specifically, the parties hereto acknowledge that moneys currently available or expected to be available to MCCD for such purposes during any Fiscal Year are expected to consist of any or all of the following:

(a) the Emergency Telephone Service Charge currently levied by MCCD with respect to two-way voice communications landline service;

(b) an expected reasonable increase in service charges for landline E911 service;

(c) the CMRS Distribution;

(d) income from Primary Users based on separate agreements for Ancillary Services not common to other Primary Users;

(e) income from Public Service Users;

(f) income from Commercial Radio System Users; and

(g) miscellaneous income of MCCD.

Section 6.2 Possible Changes in Available Revenues. All the parties to this Agreement further recognize and acknowledge

(a) that the Emergency Telephone Service Charge, and any increases thereto, are levied by MCCD only pursuant to and in accordance with the provisions of the Enabling Act,

(b) that as of the effective date of this Agreement, discussions are proceeding among interested stake holders with respect to a proposal that the statutory power of emergency communications districts (including MCCD) to levy service charges be conferred instead on a statewide board similar to the present CMRS Board,

(c) that MCCD cannot predict the outcome of such discussions, and cannot guarantee to the Primary Users that it will have the resources available to operate, maintain, and update the system to a level acceptable to the primary users.

(d) that MCCD may also become subject to Federal and State unfunded mandates which may it may seek to pass on to the Primary Users.

(e) that although it is the goal of MCCD to operate the Countywide Radio System without the necessity for payments from the primary users each of the Primary Users will, at all times during the term of this Agreement and any extensions, negotiate in good faith with respect to payments determined by MCCD to be necessary in order to upgrade and maintain the system to a level acceptable to the Primary Users.

ARTICLE VII

CONTINUING COOPERATION REQUIRED

Section 7.1 By execution of this agreement, each of the parties acknowledge that achieving quality radio dispatch service for each of them will require a high degree of initial and continuing cooperation and support from each of them. Each party, with this agreement, pledges to take every step, within their corporate authority, necessary to achieve and maintain the common goal. In addition to the general pledge of initial and continuing cooperation, certain actions that cannot be definitively described for the purpose of this agreement must be undertaken by certain of the parties in order for MCCD to achieve the Phase I and Phase II goals herein described. An enumeration of presently recognized cooperative and support actions which must be addressed during Phase I and Phase II in order for the plan to achieve the desired result is attached as *Exhibit I* to this Agreement. The list is not exhaustive. All of the actions are subject to negotiated terms necessary to preserve the rights of the parties. By the execution of this Agreement, the parties agree to negotiate in good faith as required to achieve the common goal of a quality unified emergency radio dispatch system.

ARTICLE VIII

TERMINATION OF AGREEMENT

Section 8.1 **Termination** This Agreement shall be terminated at the end of the term unless extended in writing by mutual agreement of the all parties prior to the end of the term.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.1 **Notices.** All notices to be made hereunder shall be deemed sufficient and properly given or made if in writing and sent by United States Registered or Certified Mail, postage prepaid, and addressed as follows:

If to MCCD, at: CEO
Huntsville-Madison County 9-1-1 Center
5827 Oakwood Road NW
Huntsville, AL 35806-1529

If to Huntsville, at: c/o Mayor
308 Fountain Circle
P. O. Box 308
Huntsville, AL 35801,
(with copy to City Clerk at same address)

If to the County, at: c/o Chairman
Madison County Commission
Madison County Courthouse
100 Northside Square
Huntsville, AL 35801
(with copy to County Administrator at same address)

If to Madison, at: c/o Mayor
City of Madison
100 Hughes Road
Madison, AL 35758
(with copy to City Clerk at same address)

If to HEMSI, at: CEO
HEMSI
P. O. Box 7108
Huntsville, AL 35807
(with copy to _____ at same address)

Any notice hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed by any such party or on its behalf by a duly authorized officer or employee.

Section 9.2 **No Effect on Ownership of Properties by M CCD.** No provision or provisions of this Agreement shall be construed to transfer, grant, confer or otherwise create or provide to any Primary User (or to any person), any rights of ownership in or with respect to the 9-1-1 System or any facility, equipment or component thereof.

Section 9.3 **Severability.** In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 9.4 **Applicable Law.** This Agreement shall be governed by, interpreted in accordance with, and shall be subject to the Law of the State of Alabama. Jurisdiction and Venue for any disputes shall be in Madison County, Alabama.

IN WITNESS WHEREOF, M CCD, Huntsville, the County, Madison, and HEMSI have caused this Agreement to be executed in their respective names, by their duly authorized officers, in _____ () counterparts, each of which shall be deemed an original, and have caused this Agreement to be dated (for convenience) as of March 1, 2011, although actually executed on behalf of M CCD on _____, 2011, on behalf of Huntsville on _____, 2011, on behalf of the County on _____, 2011, on behalf of Madison on _____, 2011, and on behalf of HEMSI on _____, 20____, and actually effectuated and delivered on _____, 20____.

THE MADISON COUNTY COMMUNICATIONS DISTRICT

By _____
Its _____

CITY OF HUNTSVILLE

By _____
Mayor

[S E A L]

Attest:

City Clerk

MADISON COUNTY

By _____
Its _____

CITY OF MADISON

By _____
Mayor

[S E A L]

Attest:

City Clerk

HUNTSVILLE EMERGENCY MEDICAL SERVICES, INC.

By _____
Its _____

[S E A L]

Attest:

Its _____

EXHIBIT I

To 9-1-1 EMERGENCY TELEPHONE AND RADIO SERVICES AGREEMENT

The City of Huntsville must execute an appropriate agreement to permit MCCD access to the Burritt Mountain tower site for the purpose of modifying the existing SmartNet Motorola Equipment during Phase I, and thereafter to lease the tower site to MCCD during the term of the Agreement.

The City of Madison will lease or transfer ownership to MCCD, any property located within municipal boundaries owned by it and deemed by MCCD to be needed for erection and maintenance of a tower (Rainbow Mountain). Further, the City of Madison will assist MCCD to acquire any property not owned or controlled by it, deemed by it and MCCD to be necessary as a location for a tower, including easement and access rights thereto. The terms of any such assistance, including exercise of the City's power of eminent domain, are negotiable. It is understood that any lease agreement pertaining to the existing Rainbow Mountain tower will reserve to the City of Madison and its agencies the right to maintain existing equipment and service, and to receive priority for additional uses not inconsistent with operation of the Countywide Radio System.

The City of Huntsville will lease the existing Burritt Museum tower and tower site to MCCD for the term of this agreement. Further, the City of Huntsville will assist MCCD to acquire any property within corporate boundaries not owned or controlled by it, deemed by it and MCCD to be necessary as a location for a tower, including easement and access rights thereto. The terms of any such assistance, including exercise of the City's power of eminent domain, are negotiable.

The Madison County Commission will lease or transfer ownership to MCCD, any property located in Madison County and outside municipal boundaries owned or controlled by it, deemed by it and MCCD to be needed for erection and maintenance of a tower (Lewis Mountain and/or Keel Mountain). Further, the Madison County Commission will assist MCCD to acquire any property not owned or controlled by it, deemed by it and MCCD to be necessary as a location for a tower, including easement and access rights thereto. The terms of any such assistance, including exercise of the County's power of eminent domain, are negotiable.

The City of Huntsville, the City of Madison, the Madison County Commission, and HEMSI must transfer to MCCD any existing radio equipment owned by them which is useful and which could become part of the MCCD maintained system. Specifically, the City of Huntsville must lease to MCCD, for \$1.00 per year, the recently acquired Motorola microwave linking Burritt and Madkin Mountains. MCCD agrees to give to the Primary Users first priority for the use of any available space and available backhaul capability and network rack mounting space at each tower site in a secure weather proof building, on all new towers constructed in support of the 911 Emergency Telephone and Radio Service Agreement. All such use will be subject to rights reserved in any lease from the owner of the tower site. Further, any equipment owned by a Primary User at a tower site must be installed and maintained by the Primary User so as to create no conflict or interference with the mission of the tower and its equipment.

Each primary and public service user agrees that all subscriber units (radios) placed on the infrastructure system by user agencies must be listed on an MCCD approved subscriber list, be properly maintained by the Primary User, and their access to the system must be managed by MCCD subscriber access policies and inventory/channel management systems. All parties must assist MCCD in securing all needed permits required to build and operate towers, and to provide access and feedlines thereto.

User agencies must agree to allow MCCD to disconnect any legacy repeater equipment that is interconnected with the completed P-25 system on a date certain determined by MCCD, subject to the City of Huntsville or the City of Madison finalizing the total transition of their radios to the digital system up to January 1, 2015. That date will be determined based on the age and condition of each agency's equipment and the financial burden of replacement.

Each user agency contributes no more than \$10/radio/month toward infrastructure maintenance. This will be adjusted each year based on the total maintenance cost and will be prorated considering the number of radios on the system.

ATTACHMENT "A"

Descriptions of Phase One and Phase Two

Phase I of the system consists of:

Twenty Seven (27) MCC7500 Dispatch Consoles, a Motorola Project 25 master site and a Motorola Smart X Communications solution. This equipment includes new P25 compatible radio consoles at the 9-1-1 Center which will benefit all 9-1-1 agencies. An additional purchase of \$365K includes the SmartNet components upgrade, Quantar Software upgrades, and MTC3600 controllers at two city of Huntsville tower sites on Burritt and Madkin mountains. This will allow the existing city of Huntsville infrastructure to continue to operate during the transition, allowing existing analog radios to operate until a date certain when the existing SmartNet system will be turned off.

Phase II consists of:

A three site, 20 channel, simulcast trunked P25 system will be provided in Phase II with sites located at Burritt Mountain, Rainbow Mountain, and ideally Wade Mountain (other sites are being evaluated in the event that a Wade Mountain site is not practical). Additionally, one or more 6 channel multicast p25 sites are envisioned. One is to be located on Keel Mountain, and another, if necessary, will be located at the County water tank property on Lewis Mountain near New Market. New Buildings, towers, generators, UPS systems, and/or related facilities are required at the Rainbow, Keel, Lewis, and Wade (or substitute) sites. Included in phase II is upgrading to narrowband and/or replacing wideband VHF and UHF repeaters currently used by Madison, Madison County, and HEMSI public safety. These repeaters will be linked into the new P25 infrastructure to allow existing analog radios to operate until a date certain when the old systems will be turned off. Also, installation of a digital paging infrastructure is included in Phase II.