

Prepared by:
William T. Ridley
Attorney at Law
157 Lantana Rd.
Crossville, TN 38555

**AGREEMENT BETWEEN CUMBERLAND COUNTY AND THE CITY OF
CROSSVILLE FOR A CONSOLIDATED COMMUNICATIONS SYSTEM FOR PUBLIC
SAFETY AND GOVERNMENTAL SERVICES**

This Interlocal Agreement (“Agreement”) is entered by and between the City of Crossville, (“Crossville”) and Cumberland County, (“Cumberland County”), both entities being located in Cumberland County, Tennessee (collectively, the “Parties”). The Parties execute this Agreement hereinafter provided, pursuant to the Tennessee Interlocal Cooperation Act, defined in T.C.A. § 12-9-102:

WHEREAS, Cumberland County and Crossville are political subdivisions within the State of Tennessee, and each is engaged in the provision of governmental services for the benefit of its citizens; and

WHEREAS, the Interlocal Cooperation Act, T.C.A. § 12-9-102, as amended provides authority for local governments of the State of Tennessee to enter into Interlocal agreements with each other for the purpose of performing governmental functions and services as set forth in the Act; and

WHEREAS, Cumberland County and Crossville have investigated and determined that it would be advantageous and beneficial to the citizens within their respective jurisdictions to operate a single consolidated communications system; and

WHEREAS, in order to provide dependable, mission-critical communications services (voice radio and data service) for use by each of the Parties and their respective users, Cumberland County and Crossville desire to enter into this Agreement to provide a consolidated communications system for public safety and governmental services; and

WHEREAS, use of this consolidated communications system will provide for system coverage for the city and county to ensure safe, effective and efficient communications, and benefit the greatest number of citizens both now and in the future; and

WHEREAS, this Agreement will provide the framework for administering the consolidated communications system and the distribution between Crossville and Cumberland County of the costs associated with the maintenance of the consolidated communications system.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the sufficiency of which are hereby acknowledged, and upon and subject to the terms and conditions hereinafter set forth, the Parties agree as follows:

I. DEFINITIONS

In addition to the definitions stated in the preamble and recitals hereof, the following words and phrases as used in this Agreement, unless the context clearly shows otherwise, shall have the following meanings:

“Communications System” means a wide area, multi-agency digital trunked radio system compliant with P- 25 interoperability standards to be used jointly by Crossville, Cumberland County, primarily for providing public safety dispatch and communications for fire, emergency medical and police services and such other governmental services as may be agreed from time to time by the Parties.

“Effective Date” means the last date signed by an authorized representative of the Parties.

“Infrastructure” means radio tower sites, FCC- licensed radio frequencies and Infrastructure Equipment.

“Infrastructure Equipment” means communications repeaters, transmitters, channel banks, combiners, routers, repeaters, or similar equipment connected to the Communications System.

“Subscriber Units” means mobile radios, portable radios or any similar devices used for communicating over the Communications System.

“User” means any entity with which Cumberland County has entered into a contract for the provision of communication services through the Communications System. For the purposes of this agreement Crossville shall be considered a user and Cumberland County shall be considered an owner.

II. TERM

2.1 This Agreement shall commence on the Effective Date and continue for ten (10) years after the execution of this Agreement (the "Initial Term"), unless terminated earlier as provided herein.

2.2 After the end of the Initial Term, this Agreement shall automatically renew for another ten (10) year period, unless terminated earlier as provided herein.

III.
USERS AND INFRASTRUCTURE

3.1 Cumberland County is the owner of the infrastructure and as such has all the responsibility of an owner. Crossville is a user of the system and as a user agrees to be responsible for certain obligations as outlined below in this agreement.

(a) Each User is responsible for all software and hardware required to program its Subscriber Units should they choose a different manufacturer from that chosen by Cumberland County.

IV.
OBLIGATIONS OF THE PARTIES

4.1 Infrastructure and Infrastructure Equipment

(a) Cumberland County owns the current infrastructure which operates the Communications System sites within the limits of Cumberland County, which it deems necessary for the operation of the Communications System.

(b) Crossville agrees to include sufficient channel capacity to allow for interoperational talk-groups for system users.

(c) Crossville shall be allowed to add certain equipment to the existing infrastructure necessary to allow Crossville to have full and working use of the radio communications system, at the expense of the City of Crossville.

(d) AMK Services LLC. provides yearly maintenance to the communication system. Cumberland County and Crossville shall equally share in the cost of such services. In the event that the County and the City decide to retain a different company to provide the yearly maintenance services, the cost of such service will be split equally by the City and County.

(e) Cumberland County as the owner of the infrastructure will be responsible for applying for and maintaining an FCC license.

V.
ADMINISTRATION OF THE COMMUNICATIONS SYSTEM

The administration and operation of the Communications System shall be supported by the Central Communications Committee.

VI.
OWNERSHIP INTERESTS OF THE PARTIES

7.1 Each Party shall retain individual ownership of its respective hardware and software purchased prior to or as part of this Agreement.

7.2 All Infrastructure and Infrastructure Equipment owned by each party will continue to be separately owned by such party.

VII.

FINANCING AND INFRASTRUCTURE COST SHARING

It is the sole responsibility of each Infrastructure Owner "County" or User "City" incurring costs to make payment to vendors providing equipment for and services to the Communications System on behalf of that Infrastructure Owner or User. In no event shall any Infrastructure Owner or User be held liable for debts incurred by any other Infrastructure Owner or User as a result of expenditures made in connection with the Communications System.

VIII. APPROPRIATION OF FUNDS

The Parties herein recognize that the continuation of any contract after the close of any given year, shall be subject to each Party' s governing body approval. In the event that any of the Parties governing bodies do not approve the appropriation of funds for this Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated and the Parties shall have no further obligations hereunder.

IX. TERMINATION

This Agreement may be terminated upon one year's written notice from the Party seeking termination to the other Party. The Party terminating this Agreement shall reimburse the non-terminating Party for reconfiguring of the system, if required, such as Infrastructure connectivity.

X. DISPUTE RESOLUTION

In the event of a dispute regarding any aspect of this Agreement, the dispute shall be sent first to non-binding mediation for resolution and the parties shall agree on who shall act as mediator.

XI. GOVERNMENTAL FUNCTION

The Parties have determined by their execution of this Agreement that this Agreement and the obligations of the Parties contained herein are in discharge of a governmental function, and participation in this Agreement by one Party shall not be construed as creating any kind of agency relationship, partnership, or Communications enterprise between the Parties.

XII. RELEASE AND HOLD HARMLESS

TO THE EXTENT PERMITTED BY LAW, EACH PARTY AGREES TO WAIVE ALL CLAIMS AGAINST, TO RELEASE, AND TO HOLD HARMLESS THE OTHER PARTY AND ITS RESPECTIVE OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, IN

BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS, LOSSES, DAMAGES, ATTORNEYS FEES, INCLUDING ALL EXPENSES OF LITIGATION OR SETTLEMENT, OR CAUSES OF ACTION WHICH MAY ARISE BY REASON OR INJURY TO OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGE TO, OR LOSS OF USE OF ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. IN THE EVENT THAT A CLAIM IS FILED, EACH PARTY SHALL BE RESPONSIBLE FOR ITS PROPORTIONATE SHARE OF LIABILITY.

**XIII.
IMMUNITY**

In the execution of this Agreement, neither of the Parties waive, nor shall be deemed hereby to have waived any immunity or any legal or equitable defense otherwise available against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement does not create any rights in parties who are not signatories to this Agreement.

**XIV.
ENTIRE AGREEMENT**

This Agreement represents the entire and integrated agreement between Cumberland County and Crossville and supersedes all prior negotiations, representations and/or agreements, either written or oral between Cumberland County and Crossville. This Agreement may be amended only by written instrument signed by Cumberland County and Crossville.

**XV.
NOTICES**

Unless notified otherwise in writing, all notices are required to be given to either Party in writing and delivered in person or send via certified mail to the other Party at the following respective addresses:

Cumberland County Mayor:

Office of the County Mayor
2 N. Main Street
Crossville, Tennessee 38555

Crossville City Manager:

Office of the City Manager
392 North Main Street
Crossville, Tennessee 38555

**XVI.
AUTHORITY TO SIGN**

The undersigned officers and/or agents of the Parties hereto are the properly authorized officials or representatives and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

**XVII.
SEVERABILITY**

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement.

**XVIII.
VENUE**

This Agreement and any of its terms or provisions, as well as the rights and duties of the Parties hereto, shall be governed by the laws of the State of Tennessee. The Parties agree that this Agreement shall be enforceable in Cumberland County, Tennessee, and if legal and necessary, exclusive venue shall lie in Cumberland County, Tennessee.

**XIX.
INTERPRETATION OF AGREEMENT**

Although this Agreement is drafted by the City of Crossville by and through their attorney William T. Ridley, this is a negotiated document. Should any part of this Agreement be in dispute, the Parties agree that the Agreement shall not be constructed more favorably for either of the Parties.

**XX.
REMEDIES**

No right or remedy granted herein or reserved to the Parties is exclusive of any right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the Parties. It is further agreed that one or more instances of forbearance by either Party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

XXI.
SUCCESSORS AND ASSIGNS

The Parties each bind themselves, their respective successors, executors, administrators, and assigns to the other Party to this contract. Neither Party will assign, sublet, subcontract or transfer any interest in this Agreement without the prior written consent of the other Party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of all Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective upon execution and dating by each Party. This Agreement shall be effective from the last date signed and marked on this Agreement by a participating Party.

**APPROVED BY THE CITY COUNCIL OF THE CITY OF CROSSVILLE,
TENNESSEE:**

BY:

_____ DATE: _____
James Mayberry, CITY MAYOR

STATE OF TENNESSEE)
COUNTY OF CUMBERLAND)

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared **Mayor James Mayberry**, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be **Mayor James Mayberry**, and that he as such officer, being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of himself.

WITNESS my hand and seal of office this the _____ day of _____, 2016.

Notary Public
My commission expires: _____

PREPARED BY AND APPROVED AS TO FORM:

William T. Ridley, CITY ATTORNEY

**APPROVED BY THE CUMBERLAND COUNTY COMMISSIONERS OF
CUMBERLAND COUNTY, TENNESSEE:**

BY:

_____ DATE: _____
Kenneth Carey, COUNTY MAYOR

STATE OF TENNESSEE)
COUNTY OF CUMBERLAND)

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared **Mayor Kenneth Carey**, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be **Mayor Kenneth Carey**, and that he as such officer, being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of himself.

WITNESS my hand and seal of office this the _____ day of _____, 2016.

Notary Public
My commission expires: _____

APPROVED AS TO FORM:

Randall Boston, COUNTY ATTORNEY