



## **Staff Report**

**Subject:** Renewal of Emergency Communications Commission Radio Equipment User Agreement.

**Department/Program:** Ballwin Police Department

**Recommendation:** Enter into a 5 year agreement with the Emergency Communications Commission for the use of our Dispatch Equipment.

**Explanation:**

We are asking the Board of Aldermen to consider directing the Ballwin City Attorney to draft an ordinance authorizing the Mayor to execute a five (5) agreement with the Saint Louis County Emergency Communications Commission (E.C.C.) for the radio equipment in our Dispatch Center. In 2015, the Board of Alderman approved an ordinance authorizing the Mayor to enter into the original five (5) year agreement with the E.C.C. for this equipment. The current agreement will expire on December 31, 2019. The agreement covers the consoles and portable radios in our Dispatch Center. The equipment is provided through an emergency communications sales tax passed by Saint Louis County voters in 2009. I have attached a copy of the proposed Agreement.

**Submitted by:** Interim Chief John Bergfeld

**Date:** November 5, 2019

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**CITY OF BALLWIN**

14811 Manchester Road, Ballwin, MO 63011

BILL NO. 3872

ORDINANCE NO. \_\_\_\_\_

INTRODUCED BY

ALDERMEN TERBROCK, FINLEY, STALLMANN, SCHWENT, FLEMING, LEAHY, KERLAGON, BOLAND

**AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF BALLWIN, MISSOURI, ON BEHALF OF THE CITY, TO EXECUTE AN AGREEMENT WITH THE EMERGENCY COMMUNICATIONS COMMISSION FOR DISPATCH EQUIPMENT.**

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The Mayor of the City of Ballwin, Missouri, is hereby authorized to execute the Agreement attached hereto with the Emergency Communications Commission for Dispatch Equipment.

Section 2. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict repealed.

Section 3. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2015. \_\_\_\_\_  
*TIM POGUE, MAYOR*

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2015. \_\_\_\_\_  
*TIM POGUE, MAYOR*

ATTEST: \_\_\_\_\_  
*ROBERT KUNTZ, CITY ADMINISTRATOR*

# Saint Louis COUNTY

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## EMERGENCY COMMUNICATIONS COMMISSION

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10/29/2019

SLATER Radio System User Agencies  
REF: Radio System User Agreement Renewal- URGENT  
Dispatch Equipment - PSAP

Dear Dispatch Agency,

Please review the attached User Agreement Renewal for **Dispatch Equipment**, sign and return two (2) originals to me at the address below. Additionally, the agreement will require an ordinance or resolution from your jurisdiction authorizing the agreement, which needs to accompany the returned signed originals. Once received we will return an original back to you with County signatures. The ECC currently has the original user agreement your agency filed and it expires midnight December 31<sup>st</sup>, 2019.

The term of the new agreement is 5 years (End of 2024), at which point we will send out another renewal.

Since the agreement requires an ordinance or resolution be passed, please give this matter immediate attention.

We will be sending this notice out via multiple pathways, so you may receive it more than once, and possibly to different people within your organization or municipality. Please reference your current agreement for information on how it should route through your agency.

If you need anything further please let me know.

Sincerely,



Mike Clouse  
Director  
Emergency Communications Commission  
1150 Hanna Rd.  
Ballwin, MO 63021

314-615-7114 Office

**USER AGREEMENT FOR DISPATCH EQUIPMENT  
INTEROPERABLE RADIO SYSTEM**

THIS AGREEMENT, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between ST. LOUIS COUNTY, MISSOURI, ("County") on behalf of the St. Louis County Emergency Communications Commission, hereinafter referred to as "ECC"; and \_\_\_\_\_, hereinafter referred to as "Agency";

Location of Dispatch Center: \_\_\_\_\_

WITNESSETH:

WHEREAS, ECC developed a county-wide emergency communications radio system with Motorola Solutions, Inc. ("Motorola") whereby Motorola continues to maintain the county-wide emergency communications radio system and associated commercial items, commercial computer software, radios and other equipment, subsystems and services ("the System");

WHEREAS, ECC the is the sole owner and operator of a county-wide emergency communications radio system providing communication links that permit participating governmental entities to communicate within the geographical boundaries of St. Louis County and beyond;

WHEREAS, ECC intends to provide dispatch equipment to Agency to permit Agency to use the System as a Public Safety Answering Point (PSAP) or Secondary PSAP, subject to the rules, regulations, policies and standards established by the ECC;

WHEREAS, numerous St. Louis County agencies, including Law Enforcement, Fire Departments, Local Governments and Outside Users within St. Louis County who are current authorized Agencies of the System;

WHEREAS, it is desirable to have a unified countywide interoperable radio system to promote communication between all governmental entities and further the goal of protecting and providing public safety services to the people of St. Louis County;

WHEREAS, ECC intends to enhance its ability to communicate for both routine and emergency operations and to permit Agency to use the System, subject to the rules, regulations, policies and standards established by the ECC;

WHEREAS, the Agency is a law enforcement, fire or local government agency who provides assistance in emergency situations to St. Louis County residents and visitors;

WHEREAS, the Agency therefore affects and furthers the goal of protecting the health, safety, and welfare of the people of St. Louis County;

WHEREAS, Agency is authorized to enter into this Agreement by Ordinance No. \_\_\_\_\_, and County is authorized to enter into this Agreement by Ordinance No. **26,293**.

NOW, THEREFORE, the parties agree as follows:

1. **Definitions.** The following definitions apply to these terms, as used in this Agreement:

Dispatch Equipment - video-display radio control consoles; backup radio consolettes; instant-replay position recorders; modular UPS systems; and associated backroom electronics, cabling, wiring and related equipment and accessories, but excluding work station furniture.

Infrastructure –all fixed electronic and civil components that make up the System. This includes owned or leased radio towers, monopoles, and rooftop installations; RF transmitters, microwave components, combiners, antenna systems, controllers, comparators, routers, GPS time standards, and other network hardware; environmental equipment shelters and HVAC subsystems; UPS and emergency power generator systems; and countywide recording systems but excluding Subscriber Radios, Dispatch Equipment, fiber optic cables or other transmission lines leased or owned by Agency.

Primary Agency – a hospital, law enforcement, fire service, or other public safety agency that has been granted permission to use the System.

Encryption – the conversion of data into a form called cipher text that cannot be understood by unauthorized entities.

Site – Agency-owned site or sites where the Dispatch Equipment and ancillary Infrastructure will be installed, as identified above.

Subscriber Radios or Radios –mobile (vehicle-mounted) and portable (handheld) radios; desktop control stations and desksets; digital vehicular repeater systems; RF modems used for mobile data; and associated accessories (batteries, battery chargers, shoulder microphones, holsters, etc.).

System – the county-wide emergency communications radio system and associated commercial items, commercial computer software, equipment, subsystems and services.

Motorola Contract – the contract dated December 15, 2011 between ECC and Motorola for the P-25 800 MHZ Digital Trunked Radio/Microwave System Project (RFP No. 2010-07-RH). As amended.

2. **Use of the System.** ECC hereby grants Agency permission to use the System, subject to the following:

- a. Agency shall comply with the rules, regulations, policies and standards established by the ECC (except in the event of conflict with the terms and conditions of this Agreement, which shall control).
- b. Agency shall comply with all laws, rules and regulations relating to use of the System, including but not limited to FCC regulations. Agency shall comply with any and all mandates issued by the FCC and authorized regulatory agencies. If, subsequent to this Agreement, technical or other

changes are mandated by a regulatory agency, Agency must timely comply with the mandate(s). The ECC will not be responsible for bringing Agency into compliance with a mandate, nor responsible for any costs, damages or losses incurred due to the regulatory mandate(s). Should the ECC decide to comply with the mandate(s) in a time period shorter than required by the regulatory agency, Agency agrees to comply within the shorter time period so long as the ECC provides Agency at least one (1) year prior notice.

- c. Agency shall comply within one (1) year of receipt of notice from the ECC with any voluntary upgrades or changes to the System by the ECC, including change in vendor. The ECC shall have the sole discretion to upgrade or change the System. The ECC will not be responsible for any expenditure, losses, or other claims caused by or attributed to such voluntary upgrades or changes to the System.
- d. Agency is prohibited from selling, assigning or transferring any right of use to the System, in whole or in part, to any other person or entity.

3. **Title and Ownership of Infrastructure, Dispatch Equipment and Work Station Furniture.**

- a. ECC furnished and installed the Dispatch Equipment specified in **Exhibit A** which is appended hereto and made a part of this Agreement. Agency agrees to comply with all provisions of this Agreement. The Infrastructure and the Dispatch Equipment is owned by the ECC and shall not be a fixture of the Site. Upon termination of this Agreement, ECC shall be permitted, at ECC's option, to remove the Infrastructure and the Dispatch Equipment provided that such removal does not materially damage Agency's property and ECC agrees to return the Agency's property back to its original condition. Agency will not permit any third party to use the Infrastructure or the Dispatch Equipment for any purpose. Agency shall not transfer, sell, give or otherwise dispose of any of the Infrastructure or the Dispatch Equipment without the written consent of the ECC.
- b. Agency shall not transfer, sell, give or otherwise dispose of any of the work station furniture purchased by the ECC without the prior written consent of the ECC.
- c. During the term of this Agreement, ECC may upgrade and/or purchase additional Infrastructure and/or Dispatch Equipment. ECC and Agency agree that the provisions of this Agreement will apply to all such additional installations. ECC shall, upon each additional installation, provide Agency with an updated **Exhibit A**, which the parties agree may be added to this Agreement as an amendment signed by both parties.
- d. Agency understands and agrees that it will be primarily responsible for funding and procuring additional Dispatch Equipment (including supporting infrastructure equipment) in the event of growth of its individual programs. Agency agrees it generally must fund any cost differences for additional features or substitutions that it requests.

4. **Access.** Agency shall provide ECC will reasonable access to each Site as necessary for ECC to review, install, test, program, inspect, maintain or repair any Infrastructure and any Dispatch Equipment (see Section 5).

5. **Ongoing Visits.** ECC will need access to the Site from time to time for inventorying, inspecting, constructing, installing, operating and maintaining the Infrastructure and the Dispatch Equipment. ECC staff are employees of the St Louis County Police Department and, as such, have passed background investigations as required by CJIS regulations. Except in emergency situations, ECC will obtain approval from Agency (not to be unreasonably withheld or delayed) before entering the Site. At ECC's request, a representative designated by Agency, will accompany ECC's employees or agents into any part of the Site for the purpose of installing, repairing, maintaining, upgrading, and/or removing the Infrastructure and/or the Dispatch Equipment.

6. **Programming, Data Conversion, Fleetmapping & Interoperability Template Design.** The ECC will be responsible for programming the Dispatch Equipment. Costs for conversion of GPS data and/or interface to CAD or other computer management systems will be the responsibility of individual user agencies, including Agency if applicable. The ECC will be responsible for initial and ongoing fleetmapping and interoperability template design and codeplug provision for user agencies including Agency. This will include design of specific talkgroups to meet the routine needs of individual agency operations including Agency.

7. **Dispatch Equipment Inventory Control.** Agency inspected each of the items of Dispatch Equipment upon receipt to make sure it is in good working order and free from defects and malfunctions, signing an Inventory Control Form, which is attached to this Agreement as **Exhibit A**. Upon request, Agency will provide a written inventory of each of the items to the Director of the ECC.

8. **Property and Casualty Insurance.** ECC agrees to maintain such property and casualty insurance as it deems appropriate on the Infrastructure and the Dispatch Equipment owned by the ECC. Although the ECC will pay for maintenance coverage (See Section 13) for malfunctions due to manufacturing defects, all costs attributed to the loss, breakage, misuse, or destruction of any Dispatch Equipment caused by the Agency will be the responsibility of the Agency.

9. **Dispatch Equipment**

- a. Operation, Maintenance & Support – The ECC will be responsible for the technical performance, preventative maintenance, modifications/additions, hardware/software upgrades, routine corrective repairs, and emergency restoration of the Dispatch Equipment and associated components. The ECC will oversee and manage contractors authorized to maintain and support the Dispatch Equipment and Infrastructure. The ECC shall comply with all FCC and regulatory laws, rules and regulations relating to use of the System. When reasonably practical, ECC will provide Agency with

one (1) year notice of nay voluntary upgrades or early compliance with mandates to the System effecting Agency.

- b. Physical Security –Agency will ensure that reasonable physical security measures are taken to protect the Dispatch Equipment and any Infrastructure that is located on the Site.
- c. Critical System Data – The ECC will ensure that all System data, custom configurations, and interoperability & fleetmapping templates are regularly backed up and secured in an off-site protected location, in accordance with St. Louis County standards and best practices.
- d. Backup Network Testing – The ECC will schedule, coordinate, and conduct tests of backup systems, including countywide, all-agency FailSoft drills pursuant to Motorola practices.
- e. Radio Licenses – The ECC shall be the named licensee, and will be responsible to acquire and maintain all licenses required by the Federal Communications Commission (FCC) for the operation of the System. The ECC will investigate and remediate any complaints of interference or substandard performance of the System. The ECC will comply with all applicable laws including but not limited to FCC regulations.
- f. System Funding – The ECC shall, on an annual basis, submit a budget request to County Council for sufficient funds to handle the insurance and ongoing maintenance and upgrade costs for the Dispatch Equipment, including contingency funding to address unforeseen emergency requirements.
- g. System Inventory – The ECC shall be responsible to maintain and update an inventory of the Infrastructure in accordance with the fixed assets policies of St. Louis County.

10. **Dispatch Equipment Warranty and Maintenance.** To the extent that ECC has sufficient funds available, the ECC will fund the annual maintenance costs for the Dispatch Equipment for the post-warranty period through December 31, 2026, subject to the exclusions, limitations, conditions and disclaimers stated in the Motorola Contract. In the event that ECC does not have the funds necessary to cover maintenance costs, ECC's obligation to pay for maintenance costs shall be terminated without financial penalty to ECC. ECC shall notify Agency in writing of its inability to provide continued appropriations to pay for maintenance costs. At such time, Agency and ECC will meet to discuss funding options to cover the maintenance costs. Agency agrees to take proper care of each of the items of Dispatch Equipment as recommended by the manufacturer and standard operating procedures. Billable repairs caused by accident and/or misuse will be the responsibility of the Agency. Agency shall keep the Site in as good condition and repair as presently exists. Agency is responsible for all utilities required by its use of the Infrastructure and the Dispatch Equipment. Agency shall not

modify dispatch equipment nor install additional software or applications to any equipment/service provided or owned by the ECC.

11. **Loss or Theft.** Agency agrees to notify ECC immediately (or as soon as reasonably possible) upon discovery of the loss or theft of any of the Dispatch Equipment or the associated components.

12. **Training.** Agency agrees to provide and maintain training to personnel in the proper and safe use of the Dispatch Equipment.

13. **Emergency Response/Mutual Aid.** ECC agrees and understands that the Agency is free to use the Dispatch Equipment for all of their operations.

14. **Notices.** Any notice, request, complaint, demand or other communication required by this Agreement to be given to or filed with ECC or Agency, shall be in writing and shall be given or filed in the manner and at the addresses specified below.

County:

Director of Emergency Communications Commission  
St. Louis County Police Department  
1150 Hanna Rd.  
Ballwin, Missouri 63021  
Fax: 314-615-9580

With a copy to:

County Counselor  
St. Louis County Government Center  
41 S. Central Ave.  
Clayton, MO 63105  
Fax: 314-615-3732

AGENCY:

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

Fax: \_\_\_\_\_

With a copy to:

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

Fax: \_\_\_\_\_

or at such different address as the parties may give by written notice mailed, faxed or delivered personally to the addresses of the other party listed above. Any mailed notices will be effective three days after deposit in the United States Mail, properly addressed with postage prepaid.

15. **Liability Protection.** Agency and ECC acknowledge that service disruptions will occur from time to time and agree to hold each other harmless for all such disruptions. ECC assumes no responsibility with respect to the use or storage of the Dispatch Equipment, and Agency and ECC assume no responsibility for any accidents or claims arising out of use of the Dispatch Equipment or the System. Notwithstanding the foregoing, it is not the intent through this Agreement of any Party to in any way affect, waive, or modify the doctrines of sovereign immunity, official immunity or other similar protections that would otherwise be available to any Party to assert against third party claims that may arise or be brought.

16. **Term.** The initial term of this Agreement shall be from the date set forth above and through December 31, 2024 unless sooner terminated pursuant to Section 20 or Section 21. ECC and Agency agree to negotiate a successor agreement in good faith in accordance with their intent that Agency shall be able to continue to use the System at no cost (except as otherwise provided herein) to achieve the common goal of enhanced communications.

17. **Default and Termination for Cause.** Any material violation of this Agreement is a default. In the event of a default, each party shall give the other party written notice of the alleged default, and each party will be afforded a reasonable opportunity to cure the default or present their disagreement for resolution to a mediator in accordance with the dispute resolution process set forth in section 17A. Failure to cure a default or participate in the dispute resolution process will result in a termination of this Agreement, but no such termination shall take effect until 90 days after the governing body of Agency or ECC finds and determines, by resolution or ordinance, that the Agreement should be terminated for cause. If Agency or ECC finds and determines by resolution or ordinance that the default has been cured during such 90 day period, and that reasonable assurance has been provided against further default, then this Agreement shall remain in effect.

17A. **Dispute Resolution Process.** Prior to mediation, the parties will first attempt to settle their disputes by a meeting between representative(s) designated by the Emergency Commissions Commission and representatives designated by the Agency. If, after such meeting, the parties are unable to resolve a conflict involving an alleged default, then they shall present their disagreements to a mutually agreeable mediator for mediation. If the parties are unable to agree on a mediator within thirty (30) calendar days after one party requests mediation, then the parties agree to utilize a mediator chosen by United States Arbitration and Mediation (USA&M) as best to handle a contractual dispute among government entities. Each party shall bear its own costs for mediation and the parties shall share the cost of the mediator. The mediation process must be followed to its conclusion prior to any party seeking relief from any court, except in an emergency.

18. **Funding Out.** If the governing body of a party should not appropriate or otherwise make available funds sufficient to fulfill the party's obligations under this Agreement, such party may unilaterally terminate this Agreement, without financial penalty, upon ninety (90) days written notice to the other party.

19. **Amendments.** This Agreement may be amended only by written agreement of ECC and Agency.

20. **Venue.** In the event that any actions or proceedings are initiated with respect to this Agreement, the parties agree that the venue thereof shall be St. Louis County, Missouri, and that this Agreement shall be governed by the laws of the State of Missouri.

21. **Fairness.** Agency understands that it does not operate in an identical manner to each and every other agency that will be using the System and, therefore, agrees that it may be treated differently in some respects by ECC. On the other hand, ECC understands that Agency expects to be treated fairly relative to other agencies including St. Louis County agencies and, therefore, agrees to treat Agency in an equitable manner as compared to such other agencies, taking into account differences in demonstrated need and all other relevant factors.

Executed by the County the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Executed by the Agency the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK. SIGNATURE PAGES FOLLOW.

ST. LOUIS COUNTY

\_\_\_\_\_  
County Executive

Attested:

\_\_\_\_\_  
Administrative Director

\_\_\_\_\_  
Chairman, Emergency Communications Commission

Approved as to legal form:

\_\_\_\_\_  
County Counselor

Approved:

\_\_\_\_\_  
Risk and Insurance Manager

Approved:

\_\_\_\_\_  
Accounting Officer

AGENCY OF

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Approved as to legal form:

\_\_\_\_\_  
Agency Attorney

STATE OF MISSOURI            )  
  ) SS.  
COUNTY OF ST. LOUIS        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, a Notary Public in and for said state, personally appeared \_\_\_\_\_ [name], \_\_\_\_\_ [title] of \_\_\_\_\_ [agency], known to me to be the person who executed the foregoing agreement in behalf of said Agency and acknowledged to me that he or she is authorized to executed this Agreement for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

\_\_\_\_\_  
Notary Public

My commission expires:

**EXHIBIT A – DISPATCH EQUIPMENT**

| SEE EXHIBIT AS SEPARATE ATTACHMENT

# EXHIBIT A : DISPATCH ELECTRONICS

## Dispatching Agencies

### CITY OF BALLWIN, MISSOURI - POLICE DEPARTMENT

QTY	<b>RADIO DISPATCHER CONSOLES</b>
3	MCC 7500 RADIO DISPATCH CONSOLE AND ACCESSORIES
3	APX 4000 PORTABLE RADIO AND CHARGER
QTY	<b>ASSOCIATED BACKROOM ELECTRONICS / NETWORKING EQUIPMENT</b>
1	MCC 7500 RADIO CONSOLE NETWORKING SUPPORT RACK AND ASSOCIATED ELECTRONIC DEVICES
3	BACKUP CONSOLETTA RADIOS/ACCY'S AND REMOTE DESKSETS
1	UNINTERUPTIBLE POWER SUPPLY-CABINET MOUNTED

This Exhibit can be ammended at a later date and any ammendment will be presented for separate signature.