

CONTRACT

THIS CONTRACT made and entered into this 2nd day of December 2013 by and between the County of Cuyahoga, Ohio (the "County") on behalf of the Department of Public Safety and Justice Services and Independence Communications, Inc., a Corporation with principle offices located at 5515 Old Brecksville Road Independence, Ohio 44131 (the "Provider").

WITNESSETH THAT:

WHEREAS the COUNTY and Provider have entered into a contract in order to for the County to receive maintenance on the Emergency Alert Systems for the period commencing January 1, 2014 through December 31, 2016.

NOW THEREFORE, the parties hereby agree as follows:

I MAINTENANCE

The PROVIDER shall provide regular maintenance and testing of the Emergency Alert System located at the Cuyahoga County Emergency Communications Center. Review of equipment and testing shall occur at minimum quarterly or on call if any noted problem.

II COMPENSATION –METHOD OF PAYMENT

The COUNTY shall pay the PROVIDER for the maintenance and any repair utilizing CECOMS general fund. Payment shall be made within thirty (30) days following the receipt of detailed, documented invoice from the PROVIDER. **Compensation shall not exceed Three Thousand Dollars and Zero Cents (\$3,000.00).**

The COUNTY may withhold payment if the PROVIDER is determined to be in non-compliance status with Federal, State and /or COUNTY requirements, regulations and conditions and written notification of this non-compliance is submitted to the PROVIDER.

III AVAILABILITY

Work performed may be scheduled and/or on an emergency need. The PROVIDER must be available twenty-four hours a day seven days a week for telephone support. The PROVIDER must respond with a service calls within eight hours should there be any issues that arise.

IV TERM

This Contract will enter into effect as of **January 1, 2014**, and unless sooner terminated for cause, will terminate on **December 31, 2016**, unless otherwise extended and approved

in writing by the COUNTY, or by payment by COUNTY of an invoice for maintenance fees.

V TERMINATION

This Contract shall terminate on the date stated in Section IV above. The COUNTY reserves the right to reduce or cancel this contract thirty (30) days after providing written notification if funding related to this contract is reduced.

This Contract may be terminated for failure by either party to meet the terms of this Contract. The party alleging breach will send the other party written notice setting forth the alleged breach(es) and stating the corrective actions(s) required. The written notice will include a reasonable time frame for implementing the corrective actions(s). The failure to implement the corrective action(s) may cause reimbursement or services to be delayed, and/or termination of this Contract.

VI MODIFICATIONS

By mutual written consent of the COUNTY and the PROVIDER, this contract may be modified whenever such modifications are deemed necessary. Any such modification to this Contract shall be reduced to writing and signed by both parties.

VII NOTICES

Any reports, notices, invoices or communications required in this Contract shall be sufficient if sent by the parties in the United States Mail, postage paid, to the addresses noted below:

COUNTY:

Brandy Carney
Cuyahoga County Det. of Public Safety and Justice
Services
310 W. Lakeside Ave., Suite 795-A
Cleveland, Ohio 44113
Telephone: (216) 443-5691

Agency:

Independence Communications, Inc.
5515 Old Brecksville Road
Independence, Ohio 44131

Or at such other address as may be designated by written notice.

VIII NON-DISCRIMINATION

The PROVIDER agrees to provide the program services without discrimination on account of race, sex, color, religion, national origin, age, occupation, physical or mental disability or veteran status, the extent required by law. The parties agree that discrimination and affirmation action clauses contained in Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the Secretary of the Labor in Title 41, Part 60 of the Code of Federal regulations, are incorporated herein the extent binding upon the PROVIDER.

IX COUNTY OF CUYAHOGA, OHIO HELD HARMLESS

The PROVIDER agrees to indemnify and hold harmless and defend Cuyahoga County elected officials, and all other persons or organizations cooperating in the conducts of the program, and their employees, agents, and officers (each of which persons and organizations is hereinafter call an "indemnity") from and against any and all claims, loss, damages, (including death) or damage to any person or property resulting from, or in any way connected with the performance or failure to perform obligations hereunder by the PROVIDER, and applies without limitation to injury or damage to third parties and Cuyahoga County and its respective property.

X COMPLIANCE WITH THE LAW

The PROVIDER agrees to provide the services (if any) in compliance with all applicable Federal, State and County laws, rules, regulations and ordinances.

XI ENTIRE CONTRACT

This contract constitutes the full and complete expression of the parties and supersedes any prior contemporaneous oral or written Contracts. This Contract shall not be amended, except by a written instrument signed by both parties.

XII ELECTRONIC CONTRACT

By entering into this Contract I agree on behalf of the contracting or submitting business entity, its officers, employees subcontractors, sub grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring County signatures may be executed by electronic means, and that the electronic signature affixed by the county to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. I also agree on behalf of the aforementioned entities and persons, to be bounded by the provisions of chapter 304 and

1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of Cuyahoga County.

XIII. INSURANCE REQUIREMENTS

The contractor shall procure, maintain and pay premiums for the insurance coverage and limits of liability indicated below with respect to products, services, work and/or operations performed in connection with the Master Perpetual License Agreement and Supplement Number 1.

1. Mandatory Insurance Requirements

The following three items (Worker's Compensation Insurance, Commercial General Liability Insurance, and Business Automobile Liability Insurance) are all mandatory requirements unless otherwise specified.

(a) **Worker's Compensation Insurance** as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

For Contractors with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including Employers' Liability coverage with limits of liability not less than:

\$1,000,000 each accident for bodily injury by accident;
\$1,000,000 each employee for bodily injury by disease;
\$1,000,000 policy limit for bodily injury by disease.

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

(b) **Commercial General Liability Insurance** with limits of liability not less than:

\$1,000,000 each occurrence bodily injury & property damage;
\$1,000,000 personal & advertising injury;
\$2,000,000 general aggregate;
\$2,000,000 products/completed operations aggregate.

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

(c) **Business Automobile Liability Insurance** covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident;

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

2. Insurance Coverage Terms and Conditions

(a) The insurance policies of the Contractor required for this contract shall each name the "County of Cuyahoga, Ohio and its employees" as an Additional Insured and shall contain the following provisions:

(i) Thirty (30) days prior notice of cancellation or material change;

(ii) A waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County.

(b) The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A- VII or above.

(c) These insurance provisions shall not affect or limit the liability of the Contractor stated elsewhere in this Contract or as provided by law.

(d) The Contractor shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.

(e) The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.

XIV. NO INDEMNIFICATION BY COUNTY

Provider acknowledges that as an Ohio political subdivision, the County is prohibited by law from agreeing to indemnify any person or entity, and agrees that no provision of this Contract or any other contract or agreement between Provider and the County may be interpreted to obligate the County to indemnify or defend Provider or any other party.

IN WITNESS WHEREOF, the COUNTY and the PROVIDER have executed and delivered this Contract as of the date first written above.

COUNTY OF CUYAHOGA, OHIO

Edward FitzGerald, County Executive

BY: Ed FitzGerald/apc
Edward FitzGerald, County Executive

Independence Communications, Inc.

BY: DMG
DONALD T. DiGeronimo
President