

**BUTLER COUNTY 800 MEGAHERTZ RADIO SYSTEM
MAINTENANCE AGREEMENT FOR RADIOS AND CONSOLES**

Contracting Party: _____

Policy Period: Calendar Year _____

This Maintenance Agreement is approved and entered into by and between the Board of Butler County Commissioners (“Board”) and the “Contracting Party” identified above.

WHEREAS, the Board has entered into a Participation Agreement with the Contracting Party and has provided the Contracting Party with 800 Megahertz Radio System-capable portable and mobile radio equipment and in some, but not all cases, Consoles for use on the System (hereafter the “Exhibit A Equipment” or “Covered Equipment”); and

WHEREAS, under the terms of the Participation Agreement, the Contracting Party is obligated to maintain and repair its Exhibit A Equipment at its expense; and

WHEREAS, the Board, in cooperation with the Sheriff’s Office Communications Division staff, operators of the Butler Regional Interoperable Communications System (hereafter “BRICS”), is offering to provide maintenance and repair service for Covered Equipment and the Contracting Party wishes to contract with the Board for it to provide such service; and

NOW THEREFORE THE BOARD AND THE CONTRACTING PARTY HEREBY CONTRACT AND AGREE TO THE FOLLOWING MAINTENANCE AND SERVICE AGREEMENT:

1. BOARD’S AGREEMENT TO MAINTAIN AND REPAIR COVERED EQUIPMENT

For and in consideration of the payment of the amount identified in Exhibit B per unit of Covered Equipment to be included and subject to the terms, conditions, and limitations provided in this Agreement the Board hereby agrees to maintain and repair the Covered Equipment described in the Covered Equipment List attached hereto and made a part hereof at no additional cost to the Contracting Party. Unless Covered Equipment sought to be repaired or maintained is presented to BRICS staff at the Butler County 800 Megahertz Radio System Master Site on Princeton Road in Hamilton, Ohio, BRICS reserves the right to collect a service call charge.

Covered Equipment presented for maintenance or repair is subject to diagnostic testing. If upon diagnostic testing by BRICS the unit turns out to be beyond maintenance or repair, this Agreement shall not impose a duty on the Board to maintain, repair or replace the defective unit.

This Agreement is not an insurance contract so it cannot assure maintenance or repair will be possible in the event of damage to a unit or a casualty loss type of incident. BRICS shall have the right to exclude Covered Equipment from repair or maintenance under this Agreement where situations or circumstances have occurred which, due to their variety, cannot be addressed in this

Agreement, unfairly ask the County and BRICS to repair a unit which is not longer serviceable.

The Board and the Contracting Party also acknowledge and agree that Covered Equipment will not last forever and will, at some point, reach a condition where it can no longer be economically repaired or maintained or supported by the spare parts market.

2. TEMPORARY REPLACEMENTS DURING SERVICE, NO DUTY TO REPLACE AN IRREPARABLE UNIT

While BRICS will, at no additional cost, use its best efforts to provide a Contracting Party with a programmed temporary substitute radio of the same or similar kind to the radio which is being serviced or maintained, it makes no promise or warranty that a substitute radio can be provided. Naturally, Covered Equipment which is judged by BRICS to be incapable of repair or which is not eligible for repair for any other reason identified in this Agreement does not entitle a Contracting Party to a temporary substitute radio from BRICS, even if one is available.

Should a Contracting Party be provided a temporary substitute radio by BRICS and then fail to return it at the time of redelivery of the Contracting Party's Covered Equipment, as security for the return of its temporary substitute radio, BRICS may withhold return of an equivalent number of the Contracting Party's pieces of Covered Equipment and shall thereafter refuse to provide a temporary substitute radio for the Contracting Party for any subsequently presented Covered Equipment until such time as the temporary substitute radio is safely returned. BRICS also reserves the right to disable any temporary substitute radio which is not returned when it should be.

Temporary substitute radios provided by BRICS shall not be treated as if they were included in the Contracting Party's Covered Equipment List (meaning the temporary substitute radio is not itself covered by this Agreement in the event of casualty or damage to it while it is in the Contracting Party's possession and a Contracting Party can be asked to pay the cost of repair of a temporary substitute radio damaged while entrusted to a Contracting Party), so it is to each Contracting Party's advantage to see that temporary substitute radios are promptly returned and properly cared for. BRICS reserves the right to refuse to provide additional temporary substitute radios if such a radio is damaged while in the temporary possession of a Contracting Party and the repair of that unit is not paid for by the Contracting Party.

3. CONDITIONS AND LIMITATIONS ON DUTY TO MAINTAIN AND REPAIR

The Board's promise and duty to undertake and complete repairs or maintenance, and provide a temporary substitute unit to a Contracting Party is subject to the following conditions and limitations:

- (A) The Board shall have no duty to repair or maintain Covered Equipment which is irreparable in BRICS's opinion. A non-exclusive list of examples are Covered Equipment which: (i) has been submerged in water; dropped from sufficient height to damage the unit or its case or disable it; or (ii) has been subjected to extreme physical conditions, such as being

crushed by being run over, being left outdoors in extreme conditions, or being damaged by fire, or (iii) has been damaged by spilling of coffee or other food or drink.

(B) The Board shall have no duty to repair, maintain, or provide a temporary substitute unit for any lost or stolen Covered Equipment or for any unit or device which is not Covered Equipment under this Agreement. However, BRICS and a Contracting Party may agree to repair or maintain Non-Covered Equipment as further provided in Section 6 hereof.

(C) The Board shall have no duty to repair, maintain, or provide a temporary substitute unit for any Covered Equipment which the Board determines to have been intentionally, recklessly, or negligently abused or damaged, or which has been damaged in a botched repair effort by someone other than BRICS.

(D) The Board shall have no duty to repair, maintain, or provide a temporary substitute unit for Covered Equipment for which spare or replacement parts are no longer generally available.

(E) This Agreement does not cover replacement of batteries or battery chargers nor repair or replacement of other parts which attach to the radio unit (known hereafter as an "accessory"), including but not limited to remote speaker and public safety microphones, RF adapters and belt clips. However, malfunctioning antennas may be repaired or replaced so long as the cause of the malfunction is not physical damage to the antenna.

(F) The Board shall have no duty to repair, maintain, or provide a temporary substitute unit for any Covered Equipment which the Board determines to have been damaged by the improper use of an authorized accessory, or by the use of an unauthorized accessory. BRICS maintains and will furnish, upon request, a list of approved and authorized radio accessories that have been tested for compatibility with the Covered Equipment.

4. ADDING AND DELETING COVERED EQUIPMENT

A Contracting Party's Covered Equipment List may be modified during any year by providing an updated Covered Equipment List. There are three events which might necessitate a Modified Covered Equipment List. Covered Equipment may be added, replaced, or removed from service. Covered Equipment shall be considered "removed" from service if it ceases to be used and is not replaced by another similar unit (in which case no refund of premium shall be due for the balance of that policy period). Covered Equipment shall be considered "replaced" if a piece of Covered Equipment is removed from service (which means it is disabled from being able used on the radio system at the Master Site) and is replaced in service by a new or used (previously not listed) piece of similar equipment (in which case no new premium shall be due but the Covered Equipment List shall be modified to reflect the replacement). Covered Equipment shall be considered "Added" if it is placed in service (having not previously been in service) and no piece of Covered Equipment is removed or to be removed from service, (in which case a premium for the year shall be due). In the event a Contracting Party acquires and puts Covered Equipment without an existing warranty into service after the beginning of a policy period or in the event a unit's warranty expires during the course of a policy period, a Contracting Party can add that unit to its Covered Equipment List. In order to do so, the Contracting Party shall add the new Covered Equipment to its Covered Equipment List and pay the additional premium for the same. The annual premium will not be prorated for additional (non-replacement) Covered Equipment added after the 1st day of any Policy Period.

5. TERM OF THIS AGREEMENT

The term of this Agreement will be one calendar year commencing on January 1st and ending on December 31st. This Agreement may be renewed on the terms set forth here from year to year upon the tendering to BRICS of the appropriate charge for Covered Equipment.

6. MAINTENANCE AND REPAIR OF NON-COVERED EQUIPMENT

While the Board has here contracted only to repair or maintain "Covered Equipment" as it is defined in this Agreement, BRICS may be willing to maintain or repair "Non-Covered Equipment" on a case-by-case basis where agreement on the terms and conditions for such maintenance and repair activity, including the cost and any associated expense, are established between BRICS and the Contracting Party in advance of presentation of a unit of Non-Covered Equipment. BRICS shall have the right to establish a charge for diagnostic services for Non-Covered Equipment and to conduct a diagnostic examination of each unit of Non-Covered Equipment before establishing the Board's willingness and cost to attend to the unit of Non-Covered Equipment.

7. NON-COVERED MAINTENANCE AND REPAIR FOR COVERED EQUIPMENT AND OTHER SERVICES

While the Board has here contracted only to make covered repairs for "Covered Equipment" in accordance with the conditions and limitations found in Section 3 or elsewhere in this agreement, BRICS may be willing and able to make non-covered repairs or provide other services on a case-by-case basis, at a reasonable rate and with the convenience of the same local service offered for covered repairs.

Using the established part, accessory and labor rates in Exhibit B, BRICS may make non-covered repairs and offer other services on a case-by-case basis where agreement on the terms and conditions for such activity, including the cost and any associated expense, are established between BRICS and the Contracting Party at the time of the request.

Contracting Parties may benefit from discounted rates for parts and accessories through the BRICS office due to the economy of scale in bulk purchases.

8. MAINTENANCE OF CONSOLES

It has been discovered that Console service and maintenance are included in Motorola's bundled and proprietarily priced 800 Megahertz System Infrastructure Maintenance Agreement with the County. Thus, the County is being billed for Console Maintenance for Consoles which have been entrusted to political subdivisions under their Participation Agreement. Because political subdivisions are obligated to service and maintain their Consoles by their Participation Agreement, the price of Console service and maintenance is a mandatory cost recovery item under this Agreement and the cost to be recovered for Console maintenance will be a recoupment from each political subdivision of the cost for the number of Consoles it has received and is based on the what

Motorola has indicated to BRICS staff is the County's cost per Console. Notwithstanding the Motorola maintenance agreement, the BRICS staff will investigate and attempt to repair a Console reported as in need of maintenance or service before Motorola is called and a Console is potentially removed from its location. BRICS staff will respond to requests for console service and act as the intermediary between a Contracting Party and Motorola, so as to simplify the console support process.

Approved by
Board of Butler County Commissioners
in Resolution 10-09-0

BRICS Approval: _____
Matt Franke Date

EXHIBIT A
COVERED EQUIPMENT LIST

Contracting Party: _____

EXHIBIT B
SERVICE AND MAINTENANCE COST STRUCTURE

Calendar Year _____

Calendar Year Service and Maintenance Charge Per Unit

Portable Radio	\$25 / radio / year
Mobile and Control Station Radio ¹	\$50 / radio / year
Console ²	\$4545 / position / year

Labor Charge Per Hour

Technical Labor ³	\$80 / hour
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Parts and Accessories

Contracting Parties will be billed for parts and accessories at the same rate as they were purchased by BRICS. This will typically allow Contracting Parties to purchase these items at a reduced rate compared to typical market prices.

¹ The mobile radio maintenance charge reflects the added burden of an on-site service call by BRICS staff instead of bringing the unit to the BRICS office for maintenance or service, as well as the potential removal and re-installation of the mobile radio. This rate includes the travel time for a BRICS technician to reach the Contracting Party's facility and up to one hour of on-site evaluation and covered repairs. Covered repairs that extend beyond one hour on-site, due to complexity of installation or other factors, may incur a labor charge at the standard labor rate for the time exceeding one hour.

² The console maintenance charge has been provided as the individual console cost under Motorola's proprietary priced System Infrastructure Maintenance Agreement. The Contracting Party will pay this cost as a recoupment of the cost paid by the county for console maintenance but, in addition to the coverage provided by Motorola, the Contracting Party will receive local support from BRICS technicians. BRICS will act as the intermediary between the Contracting Party and Motorola as needed, to simplify a political subdivision's process for requesting service.

³ The technical labor rate will be used for all non-covered repairs and service. This also includes such functions as engraving, radio programming and template creation / modification. It will be billed at a minimum of, and in increments of, one quarter hour.