PROJECT FUNDING AGREEMENT BETWEEN

PSAP NAME AND

THE STATE OF ARIZONA 9-1-1 PROGRAM OFFICE

*OGFR-19-911-ENTER NUMBER*

This Agreement (“Agreement”) is between the *PSAP Name*, (“PSAP”), participating within the *NAME OF 911 SYSTEM* and the State of Arizona, acting through the Arizona Department of Administration, Office of Grants and Federal Resources, 9-1-1 Program Office (the “State”) (sometimes, individually, a “Party,” or collectively, “Parties”).

AUTHORIZATION

1. A.R.S. § 41-704 authorizes the Office of Grants and Federal Resources, 9-1-1 Program Office to administer and disburse funds for “necessary or appropriate equipment or service for implementing and operating emergency telecommunication services through political subdivisions of this state.”

BACKGROUND

1. The State of Arizona strongly encourages Public Safety Answering Points (“PSAPs”) to deploy Text-to-9-1-1 services in order to ensure that members of the public who are limited in their ability to use voice communications are able to communicate with PSAPs. Technological advances have made it possible to send and receive text messages to 9-1-1. There are now three ways that a PSAP can send and receive text messages: (1) an ESInet/IP Network Service Interface; (2) a web service; or (3) text to TTY. In 2014, the Federal Communications Commission implemented regulations requiring telephone companies to deliver text messages to PSAPs that request to receive them.

Regulations issued to implement the Americans with Disabilities Act require that a public entity “shall take appropriate steps to ensure that communication with . . . members of the public . . . with disabilities are as effective as communications with others.” 28 C.F.R. § 35.160(a). Accordingly, public entities must “furnish appropriate auxiliary aids and services where necessary to afford individuals with a disability . . . an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.” 28 C.F.R. § 35.160(b)(1). While Arizona PSAPs have historically met these requirements by providing TTY accessibility, new and emerging technologies and networks have expanded a PSAP’s ability to communicate with people who are deaf and hard of hearing, or who otherwise are limited in their ability to use voice communications.

PURPOSE OF THE AGREEMENT

1. The purpose of this Agreement is to provide for payment of costs associated with Text-to-9-1-1 services. The Arizona 9-1-1 Program Office has established the Text-to-9-1-1 Services Fund to support Arizona’s PSAPs’ implementation of Text-to-9-1-1 services. To be eligible to receive funds from the Text-to-9-1-1 Services Fund for an approved Text-to-9-1-1 solution that has been deployed, a PSAP must submit a request for funding for the recurring charges. The Arizona 9-1-1 Program interprets eligible costs to include the continued support of Text-to-9-1-1 services. Previously expended funds for the Text-to-9-1-1 solution do not qualify for funding.

TERM, EFFECTIVE DATE, AND TERMINATION

1. Term and Effective Date: This Agreement will be effective upon execution by both Parties and shall remain effective through the service term of the Text-to-911 service agreement. Pre-Agreement obligations will be allowed pursuant to Paragraph 6 below, Responsibilities of the PSAP.
2. Termination:
   1. In the event of a material breach of any provision of this Agreement, the non-breaching Party shall give written notice to the breaching Party specifically setting forth the nature of the breach. Upon being served with such notice, the breaching Party shall have ten (10) days in which to cure said breach. If said breach has not been cured within the ten (10) days, then the non-breaching Party may terminate this Agreement.
   2. The Parties each represent that, as of the date of execution of this Agreement, they are not aware of any facts or circumstances which would give rise to a cancellation right in favor of any party pursuant to A.R.S. § 38-511.

OBLIGATIONS OF THE PARTIES

1. Responsibilities of the PSAP:
   1. Text-to-9-1-1 Services: The PSAP agrees that it has implemented an approved Text-to-9-1-1 solution. If funding from the Text-to-9-1-1 Services Fund is provided, a failure to complete the service term, will require the PSAP to reimburse the Text-to-9-1-1 Services Fund for the remaining term of the service.
   2. Policy, Processes, and Agreements: The PSAP warrants that it has consulted with its 9-1-1 System Administrator and other affected PSAPs to establish policies, procedures, and/or agreements for the support of Text-to-9-1-1 emergency calls.
   3. Public Education and Outreach: Educating the public regarding the capabilities and responsibilities of 9-1-1 is essential, especially when new services become available for their use. The PSAP warrants that it or its 9-1-1 system has informed and educated the public about the services, how they work, and what to do during an emergency, including that it has complied with Arizona Administrative Code R2-1-403.19, which requires the 9-1-1 planning committee chairperson or designee to implement a plan for a program of public information regarding 9-1-1 service at least 30 days before 9-1-1 service begins.

Each PSAP or 9-1-1 region is encouraged to use the NENA messaging, “Call if you can, text if you can’t,” in its public education efforts. Public education resources can be found at (<https://www.fcc.gov/consumers/guides/text-911-quick-facts-faqs> and <http://www.nena.org/?page=textresources>.

* 1. Expenditure reporting: The 9-1-1 System Administrator, on behalf of the PSAP, must submit an expenditure report (including invoices for supporting documentation) through *eCivis* within fourteen (14) days of invoice receipt.
     1. *eCivis* is the Sub-recipient Management tool, utilized by the Arizona Department of Administration, Office of Grants and Federal Resources, Arizona 9-1-1 Program Office for post award monitoring.
  2. [Insert additional responsibilities as determined]

1. Responsibilities of the State:
   1. Payment
      1. This Agreement is for the recurring charges for up to five (5) years, beginning with the Start of Service Date as determined by the Agreement. The following costs for the service (plus any applicable taxes) will be paid by the State of Arizona with the Text-to-9-1-1 Services funds.
      2. Non-Authorized Funding: Funding is **NOT** approved at this time for the following:
         1. Additional cost for changes needed as a result of regulatory mandates;
         2. Termination charges;
         3. Additional positions needed after initial allocation as identified in this Agreement;
         4. Additional costs as a result of adding new features/functionality;
         5. Late payment fees due to untimely submittal of invoices to the Arizona 9-1-1 Program Office;
         6. Replacement needs due to customer reasons;
         7. Any costs associated with a PSAP move or remodel; or
         8. Items in the Agreement identified as “optional” and/or with additional costs.
      3. Funding Applicability: The funds provided for the five-year recurring costs is a one-time funding opportunity. The PSAP should not consider this Agreement as evidence of on-going financial support beyond the payment received as a result of the Agreement. Additional on-going funding beyond this Agreement will need to be sought through the Arizona 9-1-1 Program budget process.
      4. Non-Availability of Funds: The obligations under this Agreement are conditioned upon the availability of funds. If funds are not available to execute this Agreement, either party may terminate this Agreement. No liability shall accrue to the Parties.
      5. Funding through the Text-to-9-1-1 Services Fund does not constitute future funding eligibility through the Arizona 9-1-1 Program Office.
   2. [Insert additional responsibilities as determined]

MISCELLANEOUS TERMS

1. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
   1. Any contractor or subcontractor who is contracted by a party to perform work related to this Agreement shall warrant its compliance with all federal immigration laws and regulations that relate to its employees and its compliance with A.R.S. § 23-214(A);
   2. That any breach of the warranty in paragraph 8.a shall be deemed a material breach of this Agreement that is subject to penalties up to and including termination of this Agreement;
   3. The Parties retain the legal right to inspect the employment records of any employee of any contractor or subcontractor who performs work related to this Agreement to ensure that the contractor or subcontractor is complying with the warranty in paragraph 8.a and that the contractor agrees to make all employment records of said employee available during normal working hours to facilitate such an inspection; and
   4. Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
2. The Parties shall comply with the provisions of State Executive Order 2009-9, Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act, as amended.
3. This Agreement does not imply authority to perform any tasks or accept any responsibility not expressly stated in this Agreement.
4. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement. This Agreement shall not relieve the Parties of any obligation or responsibility imposed on it by law.
5. This Agreement contains the entire agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous agreements, understandings, and inducements, whether express or implied, oral or written.
6. Any change, modification, or extension of this Agreement must be submitted through the Sub-recipient Management Tool (SRM), eCivis, and approved by both of the Parties.
7. This Agreement has been arrived at by negotiation and shall not be construed for or against any Party.
8. The Parties agree that all the conditions set forth herein are material to this Agreement and a breach of any condition is a breach of this Agreement.
9. The failure of either Party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Agreement to be performed by the other Party or to take any action permitted by this Agreement shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either Party of sums less than may be due and owing at any time shall not be construed as an accord and satisfaction.
10. The substantive laws of Arizona (without reference to any choice of law principles) shall govern the interpretation, validity, performance and enforcement of this Agreement. The Parties further agree to cooperate in all ways reasonable and necessary to comply with the applicable statutes, including amending this Agreement as needed in the future and making any refunds or payments that might be required to bring the Parties into full compliance with applicable law.
11. Nothing in this Agreement is intended to create any third-party beneficiary rights; and the State and the PSAP expressly state that this Agreement does not create any third-party rights of enforcement.
12. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original hereof.
13. If the last day of any time stated herein shall fall on a Saturday, Sunday, or legal holiday in the State of Arizona, then the duration of such time shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday, or legal holiday.
14. Time is of the essence in this Agreement.
15. Except as expressly provided herein, no Party may delegate or assign its rights or responsibilities under this Agreement without prior written approval of the other Party and any purported assignment or delegation in violation of this provision shall be void.
16. Pursuant to A.RS.§ 35-214 and 35-215, the PSAP shall retain all records relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the PSAP shall produce the original of any or all such records at the offices of the Arizona Department of Administration.
17. The Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.RS. § 12-1518, except as may be required by other applicable statutes.
18. AII notices required or permitted under this Agreement shall be given in writing and addressed as follows:

Notice to State shall be addressed as follows:

Sandra Dyre

9-1-1 Project Manager

Arizona 9-1-1 Program Office

Arizona Department of Administration

100 North 15th Avenue, Suite 305

Phoenix, Arizona 85007

Notice to PSAP shall be addressed as follows:

*Name*

*Address*

End of Agreement - Signature Page Follows

SIGNATURE PAGE

## IN WITNESS WHEREOF, the parties hereto agree to execute this Agreement the XX day of xxxxxx, 20\_\_.

Arizona Department of Administration PSAP NAME

State of Arizona

Name Name

Title Title

Signature Signature

Date Date