

PS 5.4000d

CONTRACT
FOR
800 MHZ, SIMULCAST AND TRUNKING RADIO SERVICE

This is an Agreement entered into by Benton County Emergency Management, a division of Benton County Emergency Services, hereinafter referred to as BCES, a Joint Interlocal Government Agency formed under the laws of the State of Washington through an Interlocal Agreement as provided for in RCW 38.52 and RCW 39.34. This agreement is entered into between the BCES Executive Board and City of Kennewick, hereinafter referred to as User, under the authority found in RCW 38.52.070 (2) and RCW 39.34.030 (1).

1. STATEMENT OF PURPOSE

BCES is willing to provide access to its 800 MHZ radio system on the conditions set forth in this Contract.

2. SCOPE OF SERVICES

- (A) Access: BCES shall provide the User access to the BCES 800 MHZ radio system for the use of the User's portable, mobile and control station radio units. All radios and control stations that will be used on the system will be pre-approved and programmed by designated agents of BCES prior to being granted system access by the 800 MHZ System Manager, hereafter referred to as the System Manager. All radios that will operate on the system will be subject to the terms and conditions of this Agreement.

The System Manager will approve the programming of all radios on the trunked system. Upon initial and future radio template programming and reprogramming of mobile radios, the User must provide the necessary hardware to program and test the template. This includes single/dual control head(s), portables, and desktop ancillary equipment.

Talk Group Usage and Aliases: Requests for Talk group name/alias changes must be approved by the System Manager. BCES is not responsible for User provided patches or operational control of User talk groups on the 800 MHZ system. All user patches must have prior approval of the System Manager and the BCES Director prior to installation and any system degradation may

result in the patch being removed. Patches that are funded and/or maintained by individual Users on the system are subject to the control of those Users. These patches are typically patches to existing VHF conventional radio systems. In the event of a patch failure that may be caused by the User's faulty base station or a leased telephone line, the 800 MHZ System Manager reserves the right to disable the patch until it is fully operational. BCES is not responsible for patches or talk groups that are dropped from the 800 MHZ system. These patches are funded by individual Users on the system. Talk groups will be assigned only after a valid contract has been signed with the User. CSEPP will initially provide patches for two Law and two Fire talk groups to four existing VHF frequencies.

- (B) BCES Requirements: BCES shall maintain and repair its 800 MHZ radio system consistent with standards for this type of system. BCES, within its powers, will make the required efforts to ensure timely repairs are effected. BCES shall provide all authorized radio agents the initial programming and subsequent programming information required to maintain identification number/unit affiliation.
- (C) Training: The System Manager will provide one (1) "Train the Trainer" class for User-selected personnel. Additional classes may be provided depending upon instructor availability. The System Manager will provide a list of all scheduled classes at various User locations. Where practical and room is available, the User agrees to allow personnel from other organizations to attend classes held at the User's location. The System Manager will be informed by the hosting User of the number of attendees.
- (D) Reports to User: Upon request, the System Manager will provide the User agency a quarterly report of:
- Total system access time for each radio;
 - Busy outs for each radio;
 - Emergency calls placed by each radio;
 - Other information that is needed by each User can be negotiated with the System Manager.

Detailed revenue, expense and balance sheet reports will be prepared as a part of the regular budget reporting system for BCES. BCES has established a separate fund specifically for 800 MHZ. A copy of the approved report will then be provided to each User upon request.

- (E) User Requirements: Programming requires radio template(s) for each model of Motorola Smartnet Radios. Bi-directional Amplifiers (BDA): All BDA's must be approved by the System Manager before installation, after installation, and during operation by the System Manager. In the event that radio frequency interference should result from this installation, the User shall be responsible for immediately ceasing operation, disconnecting and eliminating the interference to the satisfaction of the System Manager before resuming operation. The System Manager may order corrective measures to be taken immediately and interference eliminated within five (5) days from written receipt of notice. In the event operation of equipment or of actions by the User that renders BCES's equipment unusable, the User, upon notification by the System Manager, shall immediately cease such operations or actions. The User will be responsible and assume the cost of the corrective measures needed to eliminate the interference or modify it to the satisfaction of the System Manager.

Talk group security relates to portable, mobile radio units and control stations programmed with the BCES System Talk groups. Assigned talk groups may not be loaned, issued or assigned to any radios, on a permanent or temporary basis, to any outside organizations. The temporary loan of talk groups will require a written request from the User for which the talk group is assigned and must also be approved by the System Manager. The System Manager will provide written programming authorization to the authorized programming service center selected by the User. Radio programming security will necessitate that no radio service software (RSS) modifications will be made to the portable, mobile radio units and control stations or communication consoles without the written approval of the System Manager. These modifications include the system ID number, radio number, control channels, connect tones, call alert parameters, secure parameters, emergency options, radio-wide options, trunking- wide options, preferred site tables, conventional channels, or any present or future options in future RSS software releases. The User will be responsible and will assume the cost of the corrective measures needed to eliminate system problems due to any unauthorized radio software modifications. Radio software is considered confidential information. System Key information, talk group decimal/hexadecimal ID's and template information provided to the User for the template design process is considered confidential information. If the User makes a disclosure to unauthorized users of programming or template information, BCES may terminate this Agreement upon giving ten (10) days written notice of its intent to terminate. The User will be responsible for the costs associated with reprogramming and restoring the entire system's confidentiality to its original operating state prior

to the unauthorized release of information by the User or found to be the fault of the User. The User will be provided the initial parameters of the system and the User's radios. Notification of changes will be provided in writing on a periodic basis.

- (F) System Manager: Changes can be made at any time by the System Manager. The System Manager will try to coordinate with the User's selected point of contact prior to the change. This cannot always be guaranteed; some changes will need to be made immediately to correct problems in the system. The User should notify the System Manager immediately of any problems that are experienced as a result of changes to the system programming.

The System Manager reserves the right to disable access to any special features of the system that in the System Manager's opinion are interfering with normal operations or causing excessive busy outs of the system. The System Manager also reserves the right to control all parameters of the system to include limiting the connect and hold and hang times of any or all radios on the system in order to increase the efficiency of the system for all Users.

3. MIGRATION PLANS OF USER (POLICY, AMENDMENTS)

- (A) All Users will submit a migration plan to 800 MHZ, in accordance with current Federal Communications Commissions (FCC) requirements, to the System Manager for approval prior to acceptance of this contract by BCES Executive Board or designee. All user plans will be used to maintain 800 MHZ system licenses. User's migration plans will include:

- Projected date that the User expects to operate on 800 MHZ exclusively. Fielding plan for radios with planned installation dates and number of radios.
- Current VHF frequencies with license numbers that will be returned to the FCC when fully 800 MHZ fielded.
- Budget information will be provided to show how much will be requested in the User's budget for each budget period within the entire period of the plan that is submitted.
- Budget contingency statements will be included in all plans to show that the User plans are contingent upon receiving requested funding.
- Other information may be required.

4. SYSTEM EXPANSION MODIFICATION POLICY

The expansion or modification of the system to include new sites and/or additional repeaters at existing sites will require approval by the BCES Executive Board or designee.

5. COMPENSATION

As compensation for annual radio system use to be provided by BCES, the User shall pay BCES the compensation set out in the attached Fee Schedule, Attachment A. This compensation shall be used for cost of operations, maintenance and/or replacement of the various components of the 800 MHZ radio system infrastructure (these fees do not include programming, installation, maintenance or replacement of field equipment, such as mobile or portable radios or control stations). Those specific radios funded and that are used to support the Federal, State, and Local plans of the Chemical Stockpile Emergency Preparedness Program (CSEPP), are exempt from the annual fees of this contract. This fee exemption will remain in effect until the CSEPP funding ceases or is insufficient to cover current operating expenses. Should the User request a cancellation in service, all radios with the BCES template programming must be reprogrammed and erased of all talk groups and Smartnet System parameters at the User's expense. Any fees for services to amend license to add a User control or fixed station to the FCC system license must be paid for by the User. This includes any engineering services or FCC license fees that might be necessary. All fees for programming are separate from this contract and are the responsibility of the User. The User will pay BCES for services provided as follows: System Access Fees, as established in the attached Fee Schedule, for access to BCES's 800 MHZ radio system per year for each portable radio unit, mobile radio unit, and control station for which BCES provides access. This fee will be assessed for each radio that is programmed for access, whether actually used by the User on the system or not.

Template programming costs will be charged by the authorized programming service facility selected by the User. Established or future contracts with these facilities can be used to obtain reduced programming services. A list of authorized programming service facilities will be provided by the System Manager. BCES reserves the right to increase or decrease access fees set forth in this Contract at any time necessary. These adjustments will be made solely to cover the ongoing costs associated with the 800 MHZ radio network's operations, maintenance, or replacement costs/reserves. Before changing the fees, BCES shall give the User at least six months notice of BCES intention to change the charges.

Access charges shall be prorated on a monthly basis to the end of the quarter and quarterly thereafter.

6. BILLING AND PAYMENT PROCEDURE

Billing will take place quarterly at the end of each quarter. Quarterly billings will reflect radios added to the system during that time, prorated from the month of activation. 4th quarter billings take place on December 15.

If payment is not received forty-five (45) days after invoice date, a late fee of 1 1/2% per month will be added. Unless specifically exempted in writing by the BCES Executive Board or designee, users in default after ninety (90) days will be denied access to the system. Failure to pay will result in the termination of this Agreement.

Upon signed receipt of programmed portable and mobile radio units and control stations (desk top radios), access charges will begin.

Invoice should be sent to:

The City of Kennewick
Finance Department
P O Box 6108
210 W 6th Street
Kennewick WA 99336

7. LIMITATIONS OF SERVICE:

Although the reliability and coverage expected of the system are anticipated to be adequate to Users needs, no guarantee of 100% reliability or coverage is given by BCES. Each User is responsible for ensuring that the system will provide coverage that will satisfy its own particular needs. BCES will not be responsible for any outages or coverage problems. BCES will assume no liabilities for the lack of service. BCES is not responsible for limitations caused by selected radio features, e.g. SCAN or a non-standard template design. The User is hereby made aware that the use of the SCAN feature could cause the non-receipt of information on other channels than the currently selected SCAN channel. The User will use the Motorola "scan" feature at it's own risk and should be fully aware of its limitations.

8. EFFECTIVE AND TERMINATION DATES

This Agreement shall be in effect as of the date of its execution and shall continue in force until terminated as set forth in the following paragraph:

User agencies may terminate this agreement upon giving written notice of termination to the System Manager not less than one year prior to the date of cancellation which shall be set forth in the notice. BCES reserves the right to terminate for cause with less than one year notice as listed in previous paragraphs.

9. INDEMNIFICATION

Subject to any Washington constitutional limitations, each party to the Agreement will defend, save harmless, and indemnify the other from any liability to any third party arising solely out of the negligent acts of its officers, employees, or agents in the performance of this Agreement.

10. INSURANCE REQUIREMENTS

(A) General Requirements: User shall, at it's own expense, obtain and keep in force insurance as follows while this contract is in effect.

(B) Specific Requirements:

a. Compensation Coverage: User will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The BCES Executive Board, City of Richland or Employees will not be held responsible in any way for claims filed by the User or it's employees for services performed under the terms of this contract.

b. Commercial General Liability Coverage: The User shall at all times during the term of this contract, carry and maintain general public liability insurance or other acceptable coverage including contractual liability against claims for bodily injury, personal injury, death or property damage occurring or arising out of services provided under this contract. This insurance or other acceptable coverage shall cover such claims as may be caused by any act, omission, or negligence of the User or its officers, agents, representatives, assigns, or servants. The limits of liability insurance shall not be less than \$1,000,000.

(C) Additional Insured: The State of Washington, Benton County Emergency Services Executive

Board, Employees and all authorized contract users shall be specifically named as an additional insured on all policies. All policies shall be primary over any other valid and collectable insurance. A forty-five (45) calendar-day written notice shall be given to BCES prior to termination or any material change to the policy(ies) or other coverage as it relates to this contract, provided that thirty (30) calendar-day written notice shall be given for surplus line insurance cancellation for non-payment of premiums. Such notice shall not be less than ten (10) calendar days prior to that date.

- (D) Insurance Carrier Rating: The insurance required or other acceptable coverage above shall be issued by an insurance company or other entity authorized to do business in the State of Washington. Insurance is to be placed with a carrier that has a Best's rating of A-7 or better. Any exception to the above requirement must be approved by the BCES Executive Board or designee by submitting a copy of the contract or other evidence of coverage before contract commencement.
- (E) Excess Coverage: The limits of all insurance required to be provided by the User shall be no less than the minimum amounts specified; however, coverage in the amount of these minimum limits shall not be construed to relieve the User from liability in excess of such limits.

11. SEVERABILITY

In the event any term or condition of this contract or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this contract which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this contract are declared severable.

12. DISPUTE RESOLUTION CLAUSE

Even though the parties herein have made an attempt to develop an operating agreement that fully meets the future operating needs of the 800 MHz radio system, they recognize that there may be areas which arise in the future that have not been fully dealt with in this agreement. In light of this recognition, the parties agree that they will make a good faith effort to resolve any ambiguities or contract disputes that may arise out of the operation of this contract and that failing such good faith negotiation, they will seek to resolve their differences by mediation prior to pursuing litigation. Unresolved disputes between the System Manager and the User should be

addressed in writing to the BCES Director for resolution or for referral to the BCES Executive Board. Written disputes submitted directly to BCES will be referred to the BCES Director for technical review prior to any ruling from BCES Executive Board.

13. AMENDMENTS

This Agreement may be amended only by written agreement of both parties.

14. INTEGRATION

This Agreement contains the entire agreement between the parties and supersedes all prior written or oral discussions and agreements.

15. GOVERNING LAW

Washington law will govern the terms of this agreement. Venue for any dispute will be Benton County Superior Court.

Name of Agency/Entity

Signature

Signature of Legal Counsel

Name

Name of Legal Counsel

Title

Date

Date

Benton County Emergency Services Executive Board

Signature

Signature of Legal Counsel

Name

Name of Legal Counsel

Title

Date

Date

Benton County Emergency Services Executive Board
800 MHZ TRUNKED RADIO NETWORK

FEE SCHEDULE

EFFECTIVE: January 1, 2001

BCES shall bill the User for \$96.00 (\$8.00/month, \$24.00/Quarter) annual 800 MHZ Access Fee (system use) for each radio under this Contract as follows:

DATE OF CONTRACT:

USER:

ADDRESS:

NAME OF POINT OF CONTACT:

TELEPHONE:

FAX:

FEES STARTING DATE: January 1, 2001

FEES ENDING DATE:

NUMBER OF MONTH(S):

COMPUTED AS:

<u>Equipment</u>	<u>Quantity x #Months</u>	<u>Total</u>
Portables		\$
Mobiles		\$
Control Stations		\$
Total # Radios		
		Grand Total \$

DEFINITIONS

800 MHZ TRUNKED RADIO SYSTEM means a network of radio sites with multiple repeaters at each site that provides a User with radio service on a first come or priority basis. Access is provided to the channels on a random or programmed basis, i.e. Channel 1 could be assigned on a particular transmission by a User and Channel 3 be assigned on another transmission that takes place 10 minutes later. This trunking feature allows for maximum efficiency in the use of channels, in that, all talk groups will have access to all available voice channels.

REPEATER means a radio transmitter (Base Station) that is part of the System which is capable of receiving transmissions from subscriber units and retransmitting the signal over a wide area to other subscriber units and repeaters.

TALK GROUP means a software controlled identification system that allows a trunked radio system to provide repeater access to groups of subscriber units. A talk group is essentially equal to a single channel in a conventional radio system.

TEMPLATE PROGRAMMING means the programming of all individual radios with ID numbers, features access codes, and operating parameters for a particular talk group. Each talk group will have a baseline programming template that will assist in the duplication of that information in all other radios in that talk group. Individual IDs and a few specific features will vary from radio to radio.

NAME/ALIAS means the ID number of each radio and the associated common name of the radio unit; i.e. ID number 703011 might be associated with the alias "Sheriff," ID number 703011 might be associated with alias "BCSO Unit 1."

BI-DIRECTIONAL AMPLIFIERS (BDA) means an amplifier that rebroadcasts an 800 MHZ signal inside a building or a specific area to increase the coverage or signal levels.

RADIO SERVICE SOFTWARE (RSS) means the software used to program the individual radio units or repeater site controllers.

SYSTEM KEY is the computer programming information that allows for programming of radios into a specific trunked system. Each radio network has a different system key.

SCAN is the feature that allows a user to monitor the voice transmissions of many different talk groups. The groups that are scanned may be selected by the user. The radio will monitor all talk groups scanned and let the user listen to a broadcast on the first active talk group. The problems that must be noted are: 1) If the radio is monitoring one active channel, traffic on another channel will be missed; and 2) the radio will be programmed to transmit either on a primary channel or on the active channel. Users must be aware that they may be trying to answer a broadcast on a different talk group than it was received on.

Application Letter:

TO:

Benton County Emergency Services

FROM:

Dear Sirs/Madams:

Our agency would like to enter into a contract with Benton County Emergency Services (BCES) for 800 MHz Trunked Radio service. Attached are the required documents:

- a. Contract signed by our agency's authorized representative.
- b. Completed fee schedule prepared by the System Manager.
- c. Migration plan to 800 MHz signed by our agency's authorized representative.
- d. Installation plan with budget estimates.
- e. Activation plan agreed upon by the System Manager.
- f. Frequency turn-back schedule.

Our agency will purchase the radios in the quantities listed in the installation plan providing the funds are approved in our budget requests for those periods. This agency will request these funds in each of the periods involved.

This agency agrees to migrate in accordance with the attached 800 MHz plan and release the frequencies back to the Federal Communications Commission (FCC) that are listed in that plan.

Authorized Agency Representative

Activation Plan

TO:

Benton County Emergency Services

FROM:

Dear Sirs/Madams:

The following is the activation plan for the below radios of this agency:

Radio ID (for multiple ID's attach a separate sheet):

Alias (for multiple aliases attach a separate sheet):

Programming Date Requested:

Activation Date Requested:

Authorized Representative

800 MHZ System Manager Approval

TO:

Benton County Emergency Services

FROM:

Dear Sirs/Madams:

I have reviewed the attached contract, fee schedule, migration plan, and activation plans of

_____. These documents are complete and reflect a clear understanding of the duties and responsibilities of each party. I recommend that the BCES approve the contract with

_____.

I recommend that the below talk groups be assigned to _____. Copy of the programming template to be used to program these radios is attached.

Zone 1

Zone 2

Zone 3

All 800 MHZ radios will be programmed with the following 800MHZ Conventional NPSPAC frequencies.

Zone 4

Zone 5

ICALL

ST Ops-1

ITAC-1

ST Ops-2

ITAC-2

ST Ops-3

ITAC-3

ST Ops-4

ITAC-4

ST Ops-5

Valerie Eveland, 800 MHZ System Manager

Letter of Programming Approval to Motorola

TO:

Day Wireless
2608 W. Sylvester
Pasco, WA

FROM:

Benton County Emergency Services System Manager

Dear Sirs/Madams:

Programming of _____ 800 MHZ radios on the BCES system is authorized as listed below.

ALERT TONES

SELF TEST	ENABLED
LOW BATTERY	ENABLED
STANDBY CHIRP	ENABLED
OUT OF RANGE	ALERT & DISPLAY
ROTARY SWITCH (W/SCAN PROGRAMMING)	CHANNEL
SELECTABLE KEYPAD MUTE	ENABLED
HOME MODE	ENABLED
EMERGENCY BUTTON	ENABLED

BUTTON ROTARY CONFIGURATION

ORANGE BUTTON	EMERGENCY
16 POSITION ROTARY	CHANNEL/SUB SELECT
SIDE BUTTON 1	LIGHT
SIDE BUTTON 2	VOLUME SET TONE
SIDE BUTTON 3	NUISANCE DELETE

SWITCH CONFIGURATION

CONCENTRIC SWITCH A	NOT PROGRAMMED
CONCENTRIC SWITCH B	NOT PROGRAMMED
TOGGLE SWITCH A	SCAN
TOGGLE SWITCH B	NO SCAN
TOGGLE SWITCH C	SCAN LIST PROGRAMMING

Valerie Eveland
Benton County Emergency Services, System Manager