

CAPITAL AREA COUNCIL OF GOVERNMENTS
INTERLOCAL CONTRACT FOR ENHANCED
9-1-1 DATABASE PROGRAM

Sec. 1. Parties and Purpose

1.1. The Capital Area Council of Governments (“CAPCOG”) is a regional planning commission and political subdivision of the State of Texas organized and operating under the Texas Regional Planning Act of 1965, as amended, chapter 391 of the Local Government Code. CAPCOG has developed a *Strategic Plan* to establish and maintain 9-1-1 emergency telephone service in State Planning Region 12, and the Texas Commission on State Emergency Communications has approved its *Plan*.

1.2. The City of Austin ("City") is a Texas home-rule municipality that has agreed to participate in implementing the *Strategic Plan* as authorized by chapter 771 of the Health and Safety Code.

1.3. This contract is entered into between CAPCOG and City under chapter 791 of the Government Code so that City can participate with CAPCOG in implementing the enhanced 9-1-1 emergency telephone system in the Region.

Sec. 2. Goods and Services

2.1. The City agrees to coordinate implementation of the Geographic Information System (GIS) on a countywide basis in accordance with the standards adopted for CAPCOG's GIS Program. Specifically, the City agrees to:

(1) Coordinate 9-1-1 GIS activities within the City to develop and enhance the 9-1-1 GIS coverages required by MappedALI and the *CAPCOG MappedALI GIS Database Requirements*, Attachment C, or by *Texas 9-1-1 Geodatabase Design Specifications*, Attachment D, to this contract. The coordinator must develop, compile, and maintain current, seamless citywide coverages for street centerlines, address points, ESNs, city limits, and common places in both the incorporated and unincorporated areas of the county.

(2) Provide to CAPCOG GIS mapping files described in Sec. 2.1(1) with (i) 100% complete attribution for all map graphics following the *CAPCOG MappedALI GIS Database Requirements*, Attachment C, or the *Texas 9-1-1 Geodatabase Design Specifications*, Attachment D, to this contract; (ii) street centerline graphics spatially accurate to within + or – 10 feet of CAPCOG-provided aerial photography of the road beds, drawn or pointing in the correct direction for the corresponding address range, and “snapped” to county boundary intersection points provided by CAPCOG; (iii) addressed structure center point graphics spatially accurate to within + or – 25 feet of CAPCOG-provided aerial photography of the structures; (iv) ESN graphics spatially accurate to within + or – 50 feet of their true location; (v) city-limit line graphics spatially accurate to within + or – 50 feet of their true location; and (vi) common place point graphics spatially

accurate to within + or – 50 feet of their location as located on the CAPCOG provided aerial photography.

(3) Enter into contracts for joint data development and information sharing among the county, cities, central appraisal district, and other public entities and private interests located within the City so as to enhance the effectiveness of emergency service delivery related to 9-1-1 GIS coverages. If the City is unable to acquire any required MappedALI GIS data, as described in Sec.2.1(1), from one of the entities listed above, then City must develop it independently.

(4) Track county commissioners court and city council meetings that relate to development and improvement of GIS implementation for emergency services delivery. If an issue arises where either the county commissioners court or city council takes a course of action that would interfere with or be inconsistent with the data development and maintenance procedures followed by the City, the City must notify CAPCOG in writing within two (2) business days in order to facilitate the development of an appropriate response.

(5) Resolve conflicts and problems related to the 9-1-1 GIS data maintained by City. If any issue regarding the GIS data arises which the City cannot resolve on its own, the City must contact CAPCOG within two (2) business days in order to determine the best course of action to resolve the issue.

(6) Submit at least monthly to CAPCOG's 9-1-1 GIS Department a copy of updated GIS mapping files for street centerlines, address points, ESNs, city-limit boundaries, and common places. All files submitted to CAPCOG must be in ESRI shapefile format, must lie within the 2002 TNRIS Stratmap county line extent provided by CAPCOG, and must be in the projection 'State Plane – Texas Central' 'NAD83,' working units of 'Feet.' CAPCOG agrees to push the updated mapping files to the PSAPs within 48 hours of their receipt.

(7) Submit to CAPCOG's 9-1-1 GIS Department weekly the updated GIS mapping files described in Sec. 2.1(1) if CAPCOG requests weekly updates because of the number of changes. If CAPCOG so requests, it agrees to push the updates to the Public Service Answering Points ("PSAP") within forty eight (48) hours of their receipt.

(8) Certify as accurate, to the best of the City's knowledge, and provide to CAPCOG's Emergency Services Department addressing and Master Street Address Guide ("MSAG") updates and changes according to schedules developed by CAPCOG and furnished to the City.

(9) At a minimum, back up weekly on removable media all critical 9-1-1 GIS mapping files, coverages, and related data (street centerlines, address points, ESNs, city limits and common places files) and store the removable media in a secure place.

(10) Protect the confidentiality of addressing databases and of information furnished by telecommunications providers, and notify CAPCOG's Emergency Services Department in writing within two business days of the receipt of a request for addressing database or information made under the Texas Public Information Act.

(11) Include metadata, in the authorized CAPCOG format, for all distributed data. All data and derivative products such as maps must include the standard CAPCOG data disclaimer.

(12) Resolve any discrepancies between GIS layer databases and the MSAG database, as determined necessary by CAPCOG through its regular validation testing, in a timely fashion. Upon correction of any identified errors, resubmit the revised GIS data layers to CAPCOG in a timely fashion.

(13) Resolve any discrepancies between GIS layer databases and the information displayed at the PSAP as reported by a call taker, in a timely fashion. Upon correction of any identified errors, resubmit the revised GIS data layers to CAPCOG in a timely fashion.

Sec. 3. Cooperative Purchasing

3.1. The City may request CAPCOG to purchase on the City's behalf, but no more often than quarterly, the 9-1-1 equipment CAPCOG has authorized the City to purchase. City agrees to request the purchase in accordance with CAPCOG's *9-1-1 Policies and Procedures Manual*.

3.2. If CAPCOG purchases 9-1-1 equipment for City, the City agrees that CAPCOG may deduct the cost of the 9-1-1 equipment purchased from the contract price otherwise payable to the City under Sec. 5.

Sec. 4. Effective Date and Term of Contract

4.1. This contract takes effect on September 1, 2007 and it ends, unless terminated early under Sec. 11, on August 31, 2008.

Sec. 5. Contract Price and Payment Terms

5.1. (a) CAPCOG agrees to compensate the City in the total amount of not to exceed \$390,899 for its performance of this contract. The total contract price is allocated among specified categories in the CAPCOG Quarterly Database Maintenance Project Financial Report, Attachment A to this contract. The City agrees to spend no more than the amount allocated to each category for the goods and services described in that category.

(b) Subject to the requirements of this Section 5 and the suspension and early termination provisions of Sec. 11, CAPCOG agrees to make the payments described in Sec. 5.1(a) solely from funds obligated for that purpose. The City's monetary obligations under this contract are payable solely from current revenues appropriated to pay these obligations.

5.2. The City agrees to request reimbursement, but not more often than quarterly, for all allowable costs paid or incurred under this contract by completing the CAPCOG Quarterly Database Maintenance Project Financial Report, Attachment A to this contract, and submitting it to CAPCOG together with the completed CAPCOG Quarterly Database Report, Attachment B to this contract, for the last month of the quarter. "Allowable costs" are defined in "Cost Principles for

State and Local Governments and Other Affected Entities," chapter II of the *Uniform Grant Management Standards* (Governor's Office of Budget and Planning).

5.3. CAPCOG agrees to pay the City the reimbursement requested within thirty (30) calendar days after receiving the correct and complete CAPCOG Quarterly Database Maintenance Project Financial Report and the CAPCOG Quarterly Database Report.

5.4. The City agrees to pay CAPCOG a one-time amount of not to exceed \$70,000 for 9-1-1 server replacement consisting of both hardware and engineering services. Equipment and services are for the replacement of servers to support 9-1-1 at the Combined Transportation, Emergency & Communications Center (CTECC). After CAPCOG receives this payment, support and maintenance of the 9-1-1 equipment will be funded by CAPCOG. CAPCOG agrees to invoice the City within thirty (30) days of the effective date of this contract. The City agrees to provide payment within thirty (30) days of receipt of invoice from CAPCOG.

5.5. If the City made expenditures under this contract in violation of applicable law or policy, City agrees to repay the reimbursement for those expenditures to CAPCOG within sixty (60) calendar days from the date CAPCOG notifies the City of the repayment amount due and the reason repayment is required. If the City does not repay the reimbursement when required, CAPCOG may refuse to purchase 9-1-1 equipment on the City's behalf and may withhold all or part of the unpaid reimbursement from the City's future entitlement to reimbursement under this or future interlocal contracts between the parties for implementation of the enhanced 9-1-1 database program.

5.6. (a) Before the sixty (60) day repayment period expires, the City may appeal in writing to CAPCOG its determination that the City repay the reimbursement, explaining why it believes the determination is wrong, or the City may request CAPCOG in writing to extend the sixty (60) day repayment period, proposing an alternative period and justifying its need, or it may both appeal and propose an extension. CAPCOG agrees to submit the appeal or proposal or both to the Texas Commission on State Emergency Communications with its recommendation and to furnish the City with a copy of its recommendation. The Commission's decision on the City's appeal or proposal or both is final.

(b) The appeal authorized by Sec. 5.5(a) is the only mechanism for challenging CAPCOG's determination under Sec. 5.4 that the City repay the reimbursement. The early termination provisions of Sec. 11 and dispute resolution process of Sec. 12 are not available to challenge CAPCOG's determination.

Sec. 6. Performance Reports

6.1. The City agrees to report quarterly to CAPCOG on its performance of this contract using the CAPCOG Quarterly Database Report, Attachment B to this contract.

6.2. The first Report is due December 15, 2007, the second March 15, 2008, the third June 15, 2008, and the last Report is due September 15, 2008.

Sec. 7. Compliance with Applicable Law and Policy

7.1. The City agrees to comply with all applicable law and policy in carrying out this contract. Applicable law and policy include but are not limited to the State Administration of Emergency Communications Act, chapter 771, Texas Health and Safety Code; rules implementing the Act contained in title I, part 12, Texas Administrative Code; the current *Uniform Grant Management Standards* (Governor's Office of Budget and Planning); Texas Commission on State Emergency Communications, *9-1-1 PROGRAMS Policies and Procedures* and *Program Policy Statements*; and CAPCOG's *9-1-1 Policies and Procedures Manual* and *ENS Policies & Procedures*.

Sec. 8. Independent Contractor, Assignment and Subcontracting

8.1. The City is not an employee or agent of CAPCOG, but furnishes goods and services under this contract solely as an independent contractor.

8.2. The City may not assign its rights or subcontract its duties under this contract without the prior written consent of CAPCOG. An attempted assignment or subcontract in violation of this Sec. is void.

8.3. If CAPCOG consents to subcontracting, each subcontract is subject to all of the terms and conditions of this contract, and the City agrees to furnish a copy of this contract to each of its subcontractors.

Sec. 9. Records and Monitoring

9.1. The City agrees to maintain financial records (including procurement records if applicable), statistical, and ANI/ALI records adequate to document its performance, costs, and receipts under this contract. The City agrees to maintain these records at the City's offices.

9.2. Subject to the additional requirement of Sec. 9.3, the City agrees to preserve the records for three state fiscal years after receiving its final payment under this contract.

9.3. If an audit of or information in the records is disputed or the subject of litigation, the City agrees to preserve the records until the dispute or litigation is finally concluded, regardless of the ending or early termination of this contract.

9.4. CAPCOG is entitled to inspect and copy, during normal business hours at the City's offices where they are maintained, the records maintained under this contract for as long as they are preserved. CAPCOG is also entitled to visit the City's offices, talk to its personnel, and audit its records, all during normal business hours, to assist in monitoring its performance under this contract.

9.5. CAPCOG at least once each year will visit the City's offices and monitor its performance of this contract to ensure compliance with applicable law and policy described in Sec. 7. CAPCOG will provide the City a written monitoring report within thirty (30) calendar days of

the visit. The report will describe any compliance issues and schedule a follow-up visit if necessary.

9.6. CAPCOG agrees to notify the City at least twenty four (24) hours in advance of any intended visit under this Sec. 9. Upon receipt of CAPCOG's notice, the City agrees to notify the appropriate department(s) specified in the notice of CAPCOG's intended visit.

9.7. The Texas Commission on State Emergency Communications and the Texas State Auditor have the same inspection, copying, and visitation rights as CAPCOG.

Sec. 10. Nondiscrimination and Equal Opportunity

10.1. The City shall not exclude anyone from participating under this contract, deny anyone benefits under this contract, or otherwise unlawfully discriminate against anyone in carrying out this contract because of race, color, religion, sex, age, disability, handicap, veteran status, or national origin.

10.2. If the City procures goods or services with funds made available under this contract, the City agrees to comply with CAPCOG's affirmative action procurement policy, which is set out in CAPCOG's *9-1-1 Policies and Procedures Manual*.

Sec. 11. Suspension and Early Termination of Contract

11.1. The City acknowledges that CAPCOG's sole source of funding for this contract is a legislative appropriation distributed under contract between CAPCOG and the Texas Commission on State Emergency Communications. If the Commission does not make timely payments to CAPCOG under its contract, CAPCOG may suspend payment to the City under this contract by giving the City notice of the suspension. The suspension is effective five (5) business days after the City's receipt of the notice. Upon suspension of payment, the City's obligations under this contract are also suspended until CAPCOG resumes payment. If the suspension continues for a cumulative total of thirty (30) or more calendar days, or if the Commission terminates its contract with CAPCOG, CAPCOG or the City may terminate this contract by giving the other notice of termination, and this contract terminates five (5) business days after the receipt of notice.

11.2. Except as provided in Arts. 5.4 and 5.5, if CAPCOG or the City breaches a material provision of this contract, the other may notify the breaching party describing the breach and demanding corrective action. The breaching party has five (5) business days from its receipt of the notice to correct the breach, or to begin and continue with reasonable diligence and in good faith to correct the breach. If the breach cannot be corrected within a reasonable time, despite the breaching party's reasonable diligence and good faith effort to do so, the parties may agree to terminate the contract or either party may invoke the dispute resolution process of Sec. 12.

11.3. If CAPCOG suspends payment to the City under Sec. 11.1, or if this contract is terminated under Sec. 11.1 or 11.2, CAPCOG and the City are each entitled to compensation for

goods and services each provided the other before receiving notice of the suspension or termination. However, neither CAPCOG nor the City is liable to the other for costs it paid or incurred under this contract after or in anticipation of its receipt of notice of suspension or termination.

11.4. Termination for breach under Sec. 11.2 does not waive either party's claim for damages resulting from the breach, and both CAPCOG and the City among other remedies may withhold from compensation owed the other an amount necessary to satisfy its claim against the other.

11.5. The ending of this contract under Sec. 3 or its early termination under this Sec. 11 does not affect the City's duty:

(1) to repay CAPCOG for expenditures made in violation of applicable law or policy in accordance with Arts. 5.4 and 5.5;

(2) to preserve its records and permit inspection, copying, and auditing of its records and visitation of its premises and personnel under Sec. 9.

Sec. 12. Dispute Resolution

12.1. The parties desire to resolve disputes arising under this contract without litigation. Accordingly, if a dispute arises, the parties agree to attempt in good faith to resolve the dispute between themselves. To this end, the parties agree not to sue one another, except to enforce compliance with this Sec. 12, toll the statute of limitations, or seek an injunction until they have exhausted the procedures set out in this Sec. 12.

12.2. At the written request of either party, each party shall appoint one nonlawyer representative to negotiate informally and in good faith to resolve any dispute arising under this contract. The representatives appointed shall determine the location, format, frequency, and duration of the negotiations.

12.3. If the representatives cannot resolve the dispute within thirty (30) calendar days after the first negotiation meeting, the parties agree to refer the dispute to the Dispute Resolution Center of Austin for mediation in accordance with the Center's mediation procedures by a single mediator assigned by the Center. Each party agrees to pay half the cost of the Center's mediation services.

12.4. The parties agree to continue performing their duties under this contract, which are unaffected by the dispute, during the negotiation and mediation process.

12.5. If mediation does not resolve the parties' dispute, the parties may pursue their legal and equitable remedies.

Sec. 13. Notice to Parties

13.1. Notice to be effective under this contract must be in writing and received by the party against whom it is to operate. Notice is received by a party: (1) when it is delivered to the party personally; (2) on the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address specified in Sec. 13.2 and signed for on behalf of the party; or (3) three (3) business days after its deposit in the United States mail, with first-class postage affixed, addressed to the party's address specified in Sec. 13.2.

13.2. CAPCOG's address is 2512 IH-35, South, Suite 220, Austin, TX 78704, Attention: Executive Director. City's address is P.O. Box 1088, Austin, Texas 78767-8828, Attention: Chief Information Officer, Computer Technology Management.

13.3. A party may change its address by providing notice of the change in accordance with Sec. 13.1.

Sec. 14. Miscellaneous

14.1. Each individual signing this contract on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

14.2. This contract states the entire agreement of the parties, and an amendment to it is not effective unless in writing and signed by all parties.

14.3. The following Attachments are part of this contract:

- A. Addressing Maintenance Project Financial Report
- B. CAPCOG Quarterly Addressing Report
- C. *CAPCOG MappedALI GIS Database Requirements*
- D. *Texas 9-1-1 Geodatabase Design Specifications*

14.4. This contract is binding on and inures to the benefit of the parties' successors in interest.

14.5. This contract is executed in duplicate originals.

CITY OF AUSTIN, TEXAS

CAPITAL AREA COUNCIL OF GOVERNMENTS

By _____

By _____

Name _____

Betty Voights
Executive Director

Title _____

Date _____

Date _____