



## MEMORANDUM

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January 20, 2011

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator *Eric*  
Dave Rahinsky, Assistant Chief of Police

SUBJECT: Intergovernmental Agreement between the Metropolitan Government of Nashville and Davidson County and the City of Franklin

### **Purpose**

The purpose of this memorandum is to provide information to the Board of Mayor and Aldermen (BOMA) to consider an interlocal agreement between the City of Franklin, Tennessee and the Metropolitan Government of Nashville and Davidson County for the transfer of funds granted to the Metro Nashville Police Department by the State of Tennessee pursuant to grant GG1133845, in regard to the investigation of child exploitation by Internet Crimes Against Children task forces.

### **Background**

An intergovernmental agreement is to be entered into by and between The Metropolitan Government of Nashville and Davidson County, by and through the Metropolitan Nashville Police Department and the City of Franklin, Tennessee, by and through the Franklin Police Department to establish terms for the distribution of certain funds granted by the State of Tennessee to the Metropolitan Government.

The funds, in the amount of Twenty-Five Thousand Dollars (\$25,000), are to be accessed via reimbursement requests to MNPD, along with copies of invoices for eligible expenditures. Requests for reimbursement shall be sent by the City of Franklin, Franklin Police Department to MNPD on a monthly basis until the maximum amount of \$25,000 has been exhausted. Metro will reimburse Recipient for eligible expenditures.

The term of this Agreement shall be for a period of twelve (12) months, commencing on July 1, 2010 ending on June 30, 2011

### **Financial Impact**

The City of Franklin, by way of the Franklin Police Department, will make purchases of equipment and other resources (software, site licenses, computer hardware, training related expenses and the like) specifically tailored for use by the Franklin Police Department ICAC investigators. These purchases are not to exceed twenty five thousand dollars (\$25,000). These eligible expenditures will be reimbursed by the monies allotted by MNPD, upon their receipt of the monthly reimbursement request(s).

### **Recommendation**

Approval of the proposed interlocal agreement with the Metropolitan Government of Nashville and Davidson County is recommended.

**RESOLUTION NO. 2011-07**

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, BY AND THROUGH THE METROPOLITAN NASHVILLE POLICE DEPARTMENT, AND THE CITY OF FRANKLIN, TENNESSEE, FOR THE DISTRIBUTION OF STATE GRANT FUNDS TO ASSIST WITH INVESTIGATIONS OF INTERNET CRIMES AGAINST CHILDREN.**

**WHEREAS**, pursuant to State of Tennessee Grant GG1133845, accepted by the metropolitan Council as RS2010-1410 on October 5, 2010, The Metropolitan Government has agreed to distribute a portion of grant funds to surrounding Middle Tennessee Internet Crimes Against Children (ICAC) agencies; and,

**WHEREAS**, these funds are to be used for equipment, training, and travel related to ICAC investigations; and,

**WHEREAS**, the Franklin Police Department qualifies to receive a portion of the state ICAC grant funds; and,

**WHEREAS**, the Intergovernmental Agreement (Contract No. 2011-0007), attached hereto and incorporated herein, establishes terms for the distribution of ICAC funds to the City of Franklin; and,

**WHEREAS**, it is in the interest of the citizens of The Metropolitan Government of Nashville and Davidson County that is resolution be adopted.

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:**

Section 1. That the Intergovernmental Agreement by and between the metropolitan government of Nashville and Davidson County, acting by and through the Metropolitan Police Department, and the City of Franklin, Tennessee, for the distribution of state grant funds to assist with investigations of internet crimes against children, is hereby approved.

Section 2. That this resolution shall become effective from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

\_\_\_\_\_  
Richard M. Riebeling, Director  
Metropolitan Department of Finance

APPROVED AS TO THE FORM OF  
LEGALITY AND COMPOSITION:

\_\_\_\_\_  
Metropolitan Attorney

APPROVED BY:

\_\_\_\_\_  
Dr. Ken Moore, Mayor  
City of Franklin

ATTEST:

\_\_\_\_\_  
Eric Stuckey, City Administrator  
City of Franklin

APPROVED AS TO THE FORM OF  
LEGALITY AND COMPOSITION:

\_\_\_\_\_  
Shauna Billingsley, City Attorney  
City of Franklin

INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE METROPOLITAN GOVERNMENT  
OF NASHVILLE AND DAVIDSON COUNTY, ACTING BY AND THROUGH  
THE METROPOLITAN NASHVILLE POLICE DEPARTMENT  
AND  
THE CITY OF FRANKLIN, ACTING BY AND THROUGH  
THE FRANKLIN POLICE DEPARTMENT

COF#2011-07

This intergovernmental agreement by and between The Metropolitan Government of Nashville and Davidson County (hereinafter "Metro"), by and through the Metropolitan Nashville Police Department (hereinafter "MNPD") and the City of Franklin, Tennessee, by and through the Franklin Police Department (hereinafter "Recipient") is to establish terms for the distribution of certain funds granted by the State of Tennessee to the Metropolitan Government pursuant to Grant GG1133845, as further defined in the "SCOPE OF PROGRAM."

A. SCOPE OF PROGRAM:

- A.1. Pursuant to State of Tennessee Grant GG1133845, Metro will distribute funds to surrounding Middle Tennessee Internet Crimes Against Children (I.C.A.C.) agencies for the following:
- Equipment that will be used primarily for I.C.A.C. investigations;
  - Training to assist the agency in I.C.A.C. investigations; and
  - Travel associated with I.C.A.C. training.

B. TERM OF AGREEMENT:

- B.1. Term of Agreement. The term of this Agreement shall be for a period of twelve (12) months, commencing on July 1, 2010 and ending on June 30, 2011.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of Metro under this Agreement exceed Twenty-Five Thousand Dollars (\$25,000). This amount shall constitute the maximum amount to be provided to the Recipient by Metro pursuant to this Agreement.
- C.3. Payment Methodology. The Recipient will send a reimbursement request to MNPD, along with copies of invoices for eligible expenditures. Requests for reimbursement shall be sent by Recipient to MNPD on a monthly basis until the maximum amount of \$25,000 has been exhausted. Metro will reimburse Recipient for eligible expenditures.
- C.5. Payment of Invoice. The payment of any funds by Metro shall not prejudice Metro's right to object to any matter in relation thereto. Such payment by Metro shall neither be construed as an approval of any of the costs included therein.
- C.6. Unallowable Costs. The Recipient's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by Metro, on the basis of audits or monitoring conducted in accordance with the terms of this Agreement, to constitute unallowable costs.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. Metro is not bound by this Agreement until it is approved by the appropriate Metro representatives as indicated on the signature page of this Agreement.

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- D.2. Modification and Amendment. This Agreement may be modified only by a written amendment that has been approved in accordance with all Metro procedures and by appropriate legislation of the Metropolitan Council.
- D.3. Termination for Cause. Should the Recipient fail to properly perform its obligations under this Agreement or if the Recipient violates any terms of this Agreement, Metro shall have the right to immediately terminate the Agreement and the Recipient shall return to Metro any and all monies for services or programs under the Agreement expended for purposes contrary to the terms of the Agreement. Such termination shall not relieve the Recipient of any liability to Metro for damages sustained by virtue of any breach by the Recipient.
- D.4. Subcontracting. The Recipient shall not assign this Agreement without obtaining the prior written approval of Metro.
- D.5. Conflicts of Interest. The Recipient warrants that no part of the funds shall be paid directly or indirectly to an employee or official of Metro or the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Recipient in connection with any work contemplated or performed relative to this Agreement.
- D.6. Nondiscrimination. The Recipient hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement or in the employment practices of the Recipient on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification which is in violation of applicable laws. The Recipient shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.7. Public Accountability. If the Grantee is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Grantee shall display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:
- NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.
- D.8. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee shall include the statement, "This Administration, Office of Criminal Justice Programs." Any such notices by the Grantee shall be approved by the State.
- D.9. Records. The Recipient shall maintain documentation for all charges against Metro under this Agreement. The books, records, and documents of the Recipient, insofar as they relate to money received under this Agreement, shall be maintained for a period of three (3) full years from the date of the final payment or until the Recipient engages a licensed independent public accountant to perform an audit of its activities. The books, records, and documents of the Recipient insofar as they relate to money received under this Agreement shall be subject to audit at any reasonable time and upon reasonable notice by Metro or its duly appointed representatives.
- D.10. Monitoring. The Recipient's activities conducted and records maintained pursuant to this Agreement shall be subject to monitoring and evaluation by the Metropolitan Nashville Police Department. The Recipient shall make all audit, accounting, or financial records, notes, and other

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documents pertinent to this Agreement available for review by the Metropolitan Nashville Police Department, upon request, during normal working hours.

- D.11. Electronic Payment. Metro requires as a condition of this Agreement that the Recipient shall complete and sign Metro's form authorizing electronic payments to the Recipient (Exhibit C). The Recipient will have thirty (30) days to complete, sign, and return Exhibit C. Thereafter, all payments to the Recipient, under this or any other contract the Recipient has with Metro, must be made electronically.
- D.12. Strict Performance. Failure by Metro to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by a written amendment by the appropriate parties as indicated on the signature page of this Agreement.
- D.13. Insurance. The Recipient agrees to carry adequate public liability and other appropriate forms of insurance, and to pay all applicable taxes incident to this Agreement.
- D.14. Metro Liability. Metro shall have no liability except as specifically provided in this Agreement. Metro shall not be liable for any claims related to equipment, services, or travel purchased by Recipient with funds obtained pursuant to this Agreement.
- D.15. Independent Contractor. Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the Recipient and Metro or to create the relationship of principal and agent between or among the Recipient and Metro. The Recipient shall not hold itself out in a manner contrary to the terms of this paragraph. Metro shall not become liable for any representation, act, or omission of any other party contrary to the terms of this paragraph.
- D.16. Indemnification and Hold Harmless.
- (a) Metro will not indemnify, defend or hold harmless in any fashion the Recipient from any claims, regardless of any language in any attachment or other document that the Recipient may provide. The Metropolitan Government and Recipient are political subdivisions of the State of Tennessee.
  - (c) Recipient shall pay Metro any expenses incurred as a result of Recipient's failure to fulfill any obligation in a professional and timely manner under this Agreement.
  - (d) Recipient's duties under this section shall survive the termination or expiration of the Agreement.
- D.17. Force Majeure. The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.18. State, Local and Federal Compliance. The Recipient agrees to comply with all applicable federal, state and local laws and regulations in the performance of this Agreement.
- D.19. Governing Law and Venue. The validity, construction and effect of this Agreement and any and all extensions and/or modifications thereof shall be governed by and construed in accordance with the laws of the State of Tennessee. The venue for legal action concerning this Agreement shall be in the courts of Davidson County, Tennessee.
- D.20. Completeness. This Agreement is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Agreement supersedes any and all prior understandings,

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representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

- D.21. Headings. Section headings are for reference purposes only and shall not be construed as part of this Agreement.
- D. 22. Assignment—Consent Required. The provisions of this agreement shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Recipient under this contract, neither this contract nor any of the rights and obligations of Recipient hereunder shall be assigned or transferred in whole or in part without the prior written consent of Metro. Any such assignment or transfer shall not release Recipient from its obligations hereunder. Notice of assignment of any rights to money due to Recipient under this Contract must be sent to the attention of the Metropolitan Nashville Police Department.
- D.23. Gratuities and Kickbacks. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparations of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from participation in Metropolitan Government contracts.
- D.24. Communications and Contacts. All instructions, notices, consents, demands, or other communications from the Recipient required or contemplated by this Agreement shall be in writing and shall be made by facsimile transmission, or by first class mail, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

Metro:

Metropolitan Nashville Police Department  
200 James Robertson Parkway  
Nashville, TN 37219-6399  
Telephone # (615) 862-7560  
Fax # (615) 880-2842

Recipient:

Franklin Police Department  
Attn: Sgt. Eric Anderson, ICAC Task Force Office  
900 Columbia Avenue  
Franklin, TN 37064  
(615) 794-2513 (Telephone)  
(615) 591-5604 (Facsimile)

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D.25. Lobbying. The Recipient certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Recipient shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all subcontractors of federally appropriated funds shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Effective Date. This Agreement shall not be binding upon the parties until it has been signed first by the Recipient and then by the authorized representatives of the Metropolitan Government and has been filed in the office of the Metropolitan Clerk. When it has been so signed and filed, this contract shall be effective as of the date first written above.

**THE METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY:**

METROPOLITAN NASHVILLE POLICE DEPARTMENT:

\_\_\_\_\_  
Chief Steve Anderson

APPROVED AS TO AVAILABILITY OF FUNDS:

\_\_\_\_\_  
Director of Finance

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Metropolitan Attorney

APPROVED AS TO RISK AND INSURANCE:

\_\_\_\_\_  
Director of Insurance

ATTEST:

\_\_\_\_\_  
Metropolitan Clerk

**CITY OF FRANKLIN:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to and subscribed to before me, a Notary Public, on this day \_\_\_\_\_ of \_\_\_\_\_, 2011.

NOTARY PUBLIC:

\_\_\_\_\_  
My commission expires on \_\_\_\_\_

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