REPORT / RECOMMENDATION

To: MAYOR AND COUNCIL

Agenda Item #: IV. C.

From: Dave Nelson, Chief of Police

Action ☒
Discussion ☐
Information ☐

Date: June 17, 2014

Subject: Cooperative Agreement for Emergency Communications Services

Action Requested:

Approve attached Master Cooperative Agreement with Hennepin County, City of Minneapolis, Allina Health Emergency Medical Services, Hennepin Healthcare System, and the Metropolitan Emergency Services Board for Planning and Coordinating Delivery of Emergency Communications Services and authorize Mayor and City Manager to sign agreement.

Information / Background:

This cooperative agreement is needed to define the rights and responsibilities of the Parties and the MESB with respect to the cooperative and coordinated procurement, construction, implementation, operation and maintenance of emergency communications services and to provide for the inclusion of other metropolitan PSAPs in the future. This agreement was developed and negotiated over the past year and recently finalized by all parties. Legal counsels for all parties have reviewed the proposed agreement.

Attachments:

- Emergency Communications Services Master Cooperative Agreement

MASTER COOPERATIVE AGREEMENT
FOR PLANNING AND COORDINATING
DELIVERY OF EMERGENCY COMMUNICATIONS SERVICES

THIS AGREEMENT is made and entered into by and between Allina Health System d/b/a Allina Health Emergency Medical Services, Hennepin County, City of Edina, City of Minneapolis, and Hennepin Healthcare System, Inc. d/b/a Hennepin County Medical Center (collectively, the "**Parties**"), which own and operate individual Public Safety Answering Points ("**PSAPs**"), and the Metropolitan Emergency Services Board ("**MESB**").

WITNESSETH:

WHEREAS, the MESB was established to facilitate the planning and coordinate the delivery of emergency communications services including E9-1-1 and emerging services such as next generation NG9-1-1; and

WHEREAS, the MESB has been investigating and evaluating suitable strategies to support regional public safety applications and their integration among metropolitan area PSAPs; and

WHEREAS, metropolitan area PSAPs will require equipment and/or significant software upgrades to their existing emergency communications services in the future; and

WHEREAS, the PSAPs which require emergency communications services equipment and/or significant software upgrades will benefit financially and/or operationally from a cooperative approach; and

WHEREAS, there are opportunities, through shared procurements, to contain aggregate costs, enhance PSAP interoperability, improve intra-PSAP and inter-PSAP backup processes, and offer best value; and

WHEREAS, the MESB has the expertise to serve as Contract Manager/Fiscal Agent, on behalf of the other Parties to this Agreement, who own and operate the PSAPs and engage in shared procurements; and

WHEREAS, the Parties and the MESB are all "governmental units" as that term is used in Minnesota Statutes § 471.59, subdivision 1 (which includes nonprofit hospitals licensed under §§ 144.50 to 144.56 as "governmental units"), and are authorized under that statute to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the Parties and the MESB agree as follows:

ARTICLE 1
PURPOSE

1.01 The purpose of this Agreement is to define the rights and obligations of the Parties and the MESB with respect to the cooperative and coordinated procurement, construction, implementation, operation, and maintenance of emergency communications services and to provide for the inclusion of other metropolitan PSAPs in the future.

ARTICLE 2
COOPERATION

2.01 The Parties and the MESB will cooperate and use reasonable efforts to ensure that the various provisions of this Agreement are fulfilled. The Parties and the MESB agree in good faith to undertake the resolution of disputes, if any, in an equitable and timely manner and in accordance with the provisions of this Agreement.

ARTICLE 3
DEFINITIONS

3.01 **"Ancillary Agreement"** means an attachment to this document that describes the Terms and Conditions by which two or more Parties facilitate procurements and manage the ongoing maintenance and/or licensing of those procurements.

3.02 **"Contract Manager/Fiscal Agent"** means an entity responsible for acting as agent for the Parties with respect to vendor contracts.

3.03 **"Emergency Communications Services Committee (Committee)"** means the governing body created under Article 8.

3.04 **"Group Procurement"** means two or more PSAPs are making a joint procurement of a Shared/Hosted emergency communications services system.

3.05 **"Individual Procurement"** means a PSAP is acting independently in making an emergency communications services procurement.

3.07 **"Master Cooperative Agreement"** means this document that establishes and confirms the governance relationship among the Parties and the MESB.

3.08 **"Metropolitan Emergency Services Board (MESB)"** means the organization that currently oversees and manages emergency communications services for the nine-county metropolitan area and the City of Minneapolis.

3.09 **"Ownership Percentage"** means the percentage of each Party's indivisible ownership of any Common Equipment as defined and described in the respective

Ancillary Agreement.

3.10 **"Public Safety Answering Point (PSAP)"** means a communications facility operated on a 24-hour basis which first receives 911 calls from persons in a 911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies. For purposes of this Agreement, "PSAP" means PSAP and/or Secondary PSAP (definition below).

3.11 **"Secondary Public Safety Answering Point"** means a communications facility that: (1) is operated on a 24-hour basis, in which a minimum of three public safety answering points (PSAPs) route calls for post-dispatch or pre-arrival instructions; (2) receives calls directly from medical facilities to reduce call volume at the PSAPs; and (3) is able to receive 911 calls routed to it from a PSAP when the PSAP is unable to receive or answer 911 calls.

3.12 **"System Owners Group (SOG)"** means the governing body created by an Ancillary Agreement.

3.13 **"Vendor"** means an equipment, software, license, and/or service provider for procurements identified by Ancillary Agreements.

ARTICLE 4
ANCILLARY AGREEMENTS TO THIS MASTER AGREEMENT

4.01 There may be Ancillary Agreements to this Master Agreement that represent group or individual procurements of emergency communications equipment, hardware, software, licenses, and/or other related services.

4.02 Each Ancillary Agreement will include the Parties making the procurement.

4.03 Each Ancillary Agreement will include additional Terms and Conditions as well as cost allocations between the parties and ongoing maintenance related to the equipment and/or services being procured.

ARTICLE 5
TERM

5.01 This Agreement shall take effect upon execution by the Parties, and its term shall be indefinite.

ARTICLE 6
ROLES AND RESPONSIBILITIES OF THE PARTIES

6.01 Each Party shall be responsible for its allocated share of costs of any common equipment or common services as set forth in the Ancillary Agreements and

respective agreements with the Vendors.

6.02 Each Party shall be responsible for its PSAP equipment and related software, licenses and services costs, as set forth in the Ancillary Agreements and respective agreements with Vendors.

6.03 Each Party shall solely own its PSAP equipment as described by the Ancillary Agreements. Each PSAP shall be responsible for its back-up and disaster recovery strategy, including cost of hardware, software and licenses.

ARTICLE 7
ROLES AND RESPONSIBILITIES OF MESB

7.01 The Parties may in any Ancillary Agreement designate the MESB as the Parties' Contract Manager/Fiscal Agent ("**Contract Manager**"), with the limited roles and responsibilities identified herein and in the Ancillary Agreement.

7.02 All contracts entered into solely by the Contract Manager pursuant to authorization granted in an Ancillary Agreement shall clearly stipulate that the MESB is not an owner of the delivery of emergency communications services equipment, software, or licenses, but is acting on behalf of the Parties pursuant to delegation of authority under this Agreement and any Ancillary Agreements.

7.03 When signing a contract in its capacity as the Contract Manager, the MESB signatory shall be the MESB Chairperson or a duly authorized designee.

7.04 The Contract Manager shall serve as the Fiscal Agent for the projects as defined and described by the Ancillary Agreements, and shall perform all duties consistent with those required of a Fiscal Agent, including, but not limited to: accounting for all funding, revenues, invoices, and payments, to the extent set forth in the Ancillary Agreements.

7.05 The Contract Manager shall act on behalf of the Parties in communicating with the Equipment Vendor and Maintenance Vendor regarding contracting issues, consistent with the direction of the System Owners Group ("SOG") as defined and described by the Ancillary Agreements.

7.06 The Contract Manager may be the sole signatory for any additional contracts per authorization by the SOG.

7.07 The Contract Manager shall, where applicable and directed by Ancillary Agreement, invoice the Parties for their Ownership Percentage share of authorized costs and shall pay Vendors as defined and described by said Ancillary Agreement.

7.08 The Contract Manager may expend funds on behalf of the Parties, at the direction of the Emergency Communication Services Committee, if the governing bodies of

the Parties appropriate funds for such purposes.

ARTICLE 8
GOVERNANCE- EMERGENCY COMMUNICATIONS SERVICES COMMITTEE

8.01 The Emergency Communications Services Committee, consisting of one representative designated by each Party's governing body, or that person's designee, shall meet quarterly, and at such other times as deemed necessary by the Chairperson to carry out the purposes of this Agreement.. Each Party may designate one or more alternates. Each Party shall provide to the Contract Manager a resolution or letter which identifies the representative and designees, by title or name, and authorizes their participation in the Committee. Designation of a representative and designee constitutes a grant of authorization to act in accordance with the provisions of this Agreement.

8.02 The Committee shall select a Chairperson and a Vice Chairperson with responsibilities as set forth in this Agreement and as further identified by the Committee.

8.03 Equal Voting shall be used on all matters.

8.04 The Committee shall meet quarterly, at a minimum, and will convene on an as needed basis as determined by the Chair and Vice-Chair.

8.05 The Committee shall comply with the Open Meeting Law.

8.06 Each representative shall be entitled to vote, including the Chairperson.

8.07 In the event of a tie, the Chairperson shall be entitled to exercise an additional vote.

8.08 The MESB shall be entitled to have a representative participate in meetings, but shall not be entitled to vote.

ARTICLE 9
PURCHASING

9.01 The Parties may make Project purchases jointly. Parties shall submit, after coordinating with each other, a Request for Proposals to qualified vendors. Negotiations with vendors shall be done jointly and selection of a qualified vendor shall be made jointly. All joint purchases shall be made in accordance with the policies and procedures of the Parties; the Uniform Municipal Contracting Law, Minnesota Statutes § 471.345; and other applicable Minnesota laws, ordinances, and requirements. Each Party may be a signatory to any Project purchase agreement or contract.

9.02 If one of the Parties wishes to make an individual purchase of a System enhancement, the Party shall inform the SOG, as identified herein, of the desired enhancement and request an analysis by the SOG of the impact, if any, of the desired enhancement on the respective system. The Party shall not purchase or install the enhancement until any adverse impact on the respective system software, as identified by the SOG, has been addressed as part of the purchase and installation of the enhancement.

ARTICLE 10
ADDITIONAL PARTIES

10.01 Additional PSAP owners may become Parties to this Agreement upon approval of a majority vote of the Emergency Communications Services Committee.

10.02 If additional PSAP owners become Parties, any financial expectations and/or commitments will be defined in the respective Ancillary Agreement.

ARTICLE 11
WITHDRAWAL AND TERMINATION

11.01 No Party may withdraw during the first five years following execution of this Agreement unless any provision of this Agreement violates any applicable federal or state statute, rule, regulation, or administrative or judicial decision, in which case, withdrawal by a Party shall be permitted.

11.02 Following the first five years, Parties may terminate participation in this Agreement by providing a thirty (30) day notice, in writing to the MESB.

ARTICLE 12
INDEPENDENT CONTRACTOR

12.01 Each Party and the MESB is, and shall remain, an independent contractor with respect to all services performed under this Agreement. Each Party and the MESB shall select the means, method, and manner of performing their respective services herein. Nothing is intended or should be construed in any manner as creating or establishing the relationship of a partnership between the parties hereto or as constituting any party as the agent, representative, or employee of the other for any purpose or in any manner whatsoever. Each Party and the MESB represents that it has or will secure at its own expense all personnel required in performing their respective services under this Agreement. Any and all personnel of any Party or other persons engaged in the performance of any work or services under this Agreement shall not be considered an employee of any other Party or the MESB. Any and all claims that may or might arise under the Unemployment Insurance Act, the Workers' Compensation Act of the State of Minnesota, or any other applicable Federal or State law, rule, or regulation on behalf of said personnel, arising out of employment or alleged employment, including, without limitation, claims of discrimination against any Party or the MESB, its officers, agents, contractors, or employees shall in no way be the responsibility of any other

Party or the MESB.

ARTICLE 13
INDEMNIFICATION

13.01 To the full extent permitted by law, actions by the Parties and the MESB pursuant to this Agreement are intended to be and shall be construed as a "cooperative activity" and it is the intent of the Parties that they shall be deemed a "single governmental unit" for the purposes of liability, all as set forth in Minnesota Statutes, Section 471.59, subd. 1a (a) and (b); provided further that for purposes of that statute, each Party to this Agreement expressly declines responsibility for the acts or omissions of the other Party.

13.02 The liability of each Party and the MESB are subject to the applicable statutory limits of liability and to all statutory and common law immunities and defenses.

ARTICLE 14
DATA PRIVACY

14.01 The Parties and the MESB agree to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and/or data including but not limited to information made non-public by such laws or regulations.

ARTICLE 15
MINNESOTA LAWS GOVERN AND SEVERABILITY

15.01 The laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations and performance obligations between the Parties herein.

ARTICLE 16
RECORDS - AVAILABILITY

16.01 The Parties and the MESB agree that each Party hereto, and the MESB, the State Auditor, or any of their duly authorized representatives at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, records, documents, and accounting procedures and practices of the Parties and the MESB that are relevant to this Agreement and to transactions relating to this Agreement. The Parties and the MESB shall maintain these materials and allow access during the period of this Agreement, as well as for a duration consistent with Minnesota State Statute after its termination or cancellation.

ARTICLE 17
MERGER AND MODIFICATION

17.01 It is understood and agreed that the entire agreement between the Parties and the MESB is contained herein and that this Agreement supersedes all oral agreements and negotiations among the Parties and the MESB relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement. Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the Parties hereto and the MESB.

ARTICLE 18
COUNTERPARTS

18.01 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall be deemed to constitute one and the same agreement.

ARTICLE 19
DISPUTE RESOLUTION

19.01 The Parties and the MESB will cooperate to resolve any disputes as provided in Article 2.01. Any disputes that cannot be resolved by the Emergency Communications Services Committee may be referred to the top administrative official for each Party or the MESB. Disputes that remain unresolved may be referred to mediation. The Parties and the MESB shall have the right to commence legal action, individually or jointly, against any other Party that fails to fulfill any financial obligations it commits to under this Agreement.

ARTICLE 20
SUCCESSORS AND ASSIGNS

20.01 The terms of this Agreement are binding on all successors and assigns. No Party to this Agreement shall be relieved of its financial liability under this Agreement following a merger, acquisition, or assignment, unless approved by a unanimous vote of all representatives in the Committee.

IN WITNESS WHEREOF, the Parties to this Agreement have hereunto have set their hands on the date written below:

(Signature pages to follow)

SIGNATURE PAGE TO COOPERATIVE AGREEMENT

ALLINA HEALTH SYSTEM d/b/a Allina Health Emergency Medical Services

By: _____

Susan Heichert, SVP CIO Date

SIGNATURE PAGE TO COOPERATIVE AGREEMENT

COUNTY OF HENNEPIN
STATE OF MINNESOTA

By: _____

Chair of its County Board Date

Attest: _____

Deputy/Clerk of its County Board Date

Approved as to form:

_____

Assistant County Attorney Date

SIGNATURE PAGE TO COOPERATIVE AGREEMENT

CITY OF EDINA

By: _____

James Hovland, Mayor Date

By: _____

Scott Neal, City Manager Date

SIGNATURE PAGE TO COOPERATIVE AGREEMENT

CITY OF MINNEAPOLIS

Department Responsible for Administering
and Monitoring Agreement

By: _____

Its Director of Department of Emergency Communications Date

_____

Finance Officer or Designee Date

Approved as to form:

_____ City Attorney

Date

SIGNATURE PAGE TO COOPERATIVE AGREEMENT

HENNEPIN HEALTHCARE SYSTEM, INC. d/b/a Hennepin County Medical Center

By: _____

Kathy Wilde Date

Chief Nursing Officer

Interim Vice President for Professional and Support Services

SIGNATURE PAGE TO COOPERATIVE AGREEMENT

METROPOLITAN EMERGENCY SERVICES BOARD

By: _____

Chair: Date: