



Ottawa County

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**OTTAWA COUNTY AND SMART COMMUNICATIONS  
CONTRACT FOR TELECOMMUNICATIONS, TABLETS, AND ADDITIONAL  
SERVICES**

This AGREEMENT is made by and between the County of Ottawa, a municipality in the State of Michigan, (hereinafter, the "County") acting by and through its duly elected Board of Commissioners, (hereinafter the "Board"), and Smart Communications Holding, Inc. (hereinafter, "Contractor"), with a principal place of business at 10491 72<sup>nd</sup> Street, Seminole, Florida 33777.

IT IS HEREBY AGREED AS FOLLOWS:

1. **Scope of Work:** Contractor agrees to provide the "Services" which as detailed in Exhibit A. It shall be the responsibility of the Contractor to employ and assign to the project adequate personnel and equipment required to undertake and complete the work in a diligent, timely and orderly manner. Contractor will work with County and incumbent contractor for transition of services with agreed upon date.
2. **Compensation:** In consideration for the exclusive rights to perform the services described herein, the Contractor agrees to pay the County according to the terms set forth on Exhibit B.
3. **Contract Documents:** The following documents are the entire agreement between the Contractor and the County. The agreement includes the following documents listed below, which are incorporated herein by reference and are deemed to be part of this contract as if set forth in full:
  - a) This Contract (including attached exhibits)
  - b) All Provisions required by law to be inserted in this contract whether inserted or not.All prior or contemporaneous understandings, written or oral, are merged herein. This Agreement may only be modified by an express amendment of like kind, signed by each party. There are no other charges or fees assessed to citizen inmates other than those contained in the incorporated exhibits.
4. **Performance**
  - a) Contractor shall perform the work as required by and in accordance with the schedule of time requirements set forth in Exhibit A.

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b) Failure to complete services as required shall constitute breach of this Contract.

c) Contractor shall have twenty-one (21) calendar days from the date of receiving notice to cure a breach of this Contract (the "Cure Period"). Failure to cure a breach of this Contract within said Cure Period shall allow the County to, without further notice to the Contractor, declare this Contract terminated and proceed with the replacement of the Contractor and the County shall be entitled to all remedies available to it at law or in equity.

5. Terms of Contract: The contract shall commence when signed by both parties and unless terminated earlier in accordance with the terms of this Contract, this Contract period will be from the last date of the authorized signers through December 31, 2024 (the "Initial Term"), with options to renew for three (3) twenty-four (24) month terms, if in the best interest of both parties.

County's obligations are limited to payment for the goods and/or services described herein and despite any other provision to the contrary in any other agreement, signed or not, the County may terminate any term, a hold over or any renewal term at its will. This contract may be terminated prior to completion of the Services at the option of either party, upon delivery of written notice by the terminating party to the other party. If County elects to terminate the contract on an at will basis prior to the end of the Initial Term, however, County shall remit liquidated damages to Contractor in the amount of five thousand (\$5,000) per month remaining in the Initial Term had the termination had not occurred.

6. Expenses: Contractor shall be responsible for all the Contractor's expenses incurred while performing services under this Contract. This includes license fees, fuel and fleet maintenance, insurance premiums, telephone and all salary/payroll expenses, and other compensation paid to employees or contract personnel that the Contractor hires to complete the work under this Contract.
7. Employees: The Contractor and all Contractor' employees, while on County premises, shall carry proper identification. Examples of proper identification are State issued Driver's License or State issued Identification Card.

The Contractor shall employ only United States citizens, legal residents or legal resident aliens. Upon request of the County, the Contractor shall provide copies of, or access to, work/payroll records and necessary documents to verify status of employees.

The Contractor will be supplied with a phone number to contact in case of an emergency. Access to designated restricted areas is forbidden to Contractor's

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- employees. Restricted area will be designated by the authorized County representative.
8. Materials: Contractor will furnish all materials, equipment and supplies used to provide the services required by this Contract.
  9. Background Checks: (as required by the Facility) Contractor employees are subject to background checks to ensure, at a minimum, that no employee has a felony or domestic violence or other bar-able conviction(s). The background checks for Contractor employees will be conducted by the County prior to the commencement of any on-site work.
  10. Compliance with Laws, Ordinances, and Regulations and Procurement of Permits:
    - a) This Contract is governed by the laws of the State of Michigan.
    - b) The Contractor shall at all times comply with all local, state and federal laws, rules and regulations applicable to this Contract and the work to be done herewith.
    - c) The Contractor shall obtain, and pay thereof, all permits required by any agency or authority having jurisdiction over the work. The Contractor shall provide a copy of any permit to the County within 3 business days of the County's request.
  11. Exclusive Contract: This Contract, including exhibits attached hereto, a County Purchase Order, if applicable, is the entire Agreement between Contractor and the County for the services as detailed in Exhibit A.
  12. Modifying the Agreement: This Agreement may be modified only by a writing signed by both parties.
  13. Record Keeping: The Contractor shall keep all records related to this Contract for the term of the Contract and three (3) years thereafter.
  14. Dispute: In the event of any conflicts or discrepancies in the wording of any terms, provisions and conditions contained in this Agreement, describing Contractor's obligations and responsibilities hereunder, said conflicts and discrepancies shall be resolved by first applying the interpretation of this Agreement and its exhibits, attachments, and addendums, then the mutually agreed Contractor's planning documents that affirm the details of the Services to be provided. Any agreement or modification of this Agreement shall be written and signed by both parties and will supersede any previous written understandings.

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Should any disputes arise with respect to this Agreement, Contractor and County agree to act immediately to resolve any such disputes. The Contractor agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Agreement in the accomplishment of all non-disputed work; any additional costs incurred by the Contractor as a result of such failure to proceed shall be borne by the Contractor and the Contractor shall make no claim against County for such costs.

If a dispute between the parties arises out of or relates to this Agreement, or the breach thereof, then the parties agree to make a good faith effort to settle the issue through direct discussion between the parties prior to having recourse to any other form of dispute resolution. In an effort to resolve any conflicts that arise during the construction of this project or following the completion of a project, the Contractor and County agree that all disputes between them arising out of or relating to this Agreement shall first be submitted to non-binding mediation unless the parties mutually agree otherwise, prior to resolving those disputes in a judicial forum.

Pending resolution of such dispute or difference and without prejudice to their rights, the Parties shall continue to respect all their obligations and to perform all their duties under this Agreement.

15. Jurisdiction and Venue: The parties' consent to the exercise of general personal jurisdiction over it by the Ottawa Court Circuit Court. Any action on a controversy that arises under or in association with this Agreement shall be brought in the State of Michigan, which both parties agree is a reasonably convenient place for trial of the action. The parties both agree that their consent in accordance with this Section is not obtained by misrepresentation, duress, the abuse of economic power, or other unconscionable means.
16. Liability and Insurance: Contractor agrees to hold harmless the County from any and all liability arising out of or in any way related to Contractor's performance of services during the term of this Contract, including any liability resulting from intentional or reckless or negligent acts or the acts of the employees or agents of Contractor. If specific insurance is required, such insurance shall be set forth in the attached Exhibit A.
17. Relationship of Parties: The Contractor is an independent contractor and is not an agent or employee of the County for any purpose including , but not limited to, the ability to bind the County and all labor or employee related matters such as tax withholding/reporting, employee wages or benefits, or workers compensation. This Contract is not intended to create any joint venture or partnership of any

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kind. The provisions of this Agreement are for the benefit of the parties hereto, and not for the benefit of any other person or legal entity.

18. Subcontracts: Contractor may not assign or subcontract any rights or obligations under this agreement without the County's prior written approval.
19. Governmental Immunity: The County does not waive its governmental immunity by entering into this Agreement, and fully retains all immunities and defenses provided by law with respect to any action based upon or occurring as a result of this Agreement
20. Safety: The Contractor shall at all times observe and comply with all federal, state, local and County facility laws, ordinances, rules and regulations that may in any manner affect the safety and the conduct of the work. The Contractor shall hold the County harmless against any claim or liability arising from the violation of any such provisions.
21. Absence of Waiver: The failure of either party to insist on the performance of any of the terms and conditions of this Contract, or the waiver of any breach of such terms and conditions, shall not be construed as thereafter waiving such terms and conditions, which shall continue and remain in full force and effect as if such forbearance or waiver had occurred.
22. Notices: All notices and other communications for the parties may be served, mailed, or delivered at the following addresses:

If to the Contractor:           Smart Communications  
  Attn: Jon Logan  
  10491 72<sup>nd</sup> Street  
  Seminole, Florida 33777  
  Email: jon.logan@smartcommunications.us

If to Ottawa County: Ottawa County  
  Attn: Ottawa County Sheriff  
  12220 Fillmore St.  
  West Olive, Michigan 49460  
  Email: skempker@miottawa.org,  
  dchristensen@miottawa.org

23. Partial Invalidity: The partial invalidity of any portion of this Agreement shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had

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been executed by both parties subsequent to the expunction of the invalid provision.

24. **Attorney Review:** The parties represent that they have carefully read this Agreement and have had the opportunity to review it with an attorney. The parties affirmatively state that they understand the contents of this Agreement and sign it as their free act and deed.
25. **No Third-Party Benefit:** The provisions of this Agreement are for the benefit of the parties hereto, and not for the benefit of any other person or legal entity.
26. **Availability of Funds:** Each payment obligation of the County is conditioned upon the availability of government funds appropriated or allocated for the payment of this obligation. If funds are not allocated and available for continuance of the services performed herein, either party may terminate this Agreement at the end of the period for which funds are available. The County shall notify the Contractor at the earliest possible time of the services that will or may be affected by the shortage of funds
27. **Miscellaneous:**
  - a) **Force Majeure:** Either party shall be excused from performance under this Agreement for any period of time during which the party is prevented from performing its obligations hereunder as a result of any Act of God, war, civil disobedience, court order, labor dispute, or other cause beyond the party's reasonable control. Such non- performance shall not constitute grounds for default.
  - b) **Title and Headings:** Titles and headings to articles, sections or paragraphs in this Agreement are inserted for convenience of reference only and are not intended to affect the interpretation or construction of the Agreement.
  - c) **Modification:** Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by either party or its authorized representative.
  - d) **Anticipatory Breach:** If the Contractor, at any time before delivery of services, declares its intent not to perform in accordance with this Agreement, Ottawa County shall have an immediate cause of action for breach of this Agreement, and shall be entitled to all remedies available to it at law or in equity.
28. **Confidentiality and Non-Disclosure:**


The Parties acknowledge and agree that, while in the performance of services under this Agreement, they may come in contact with certain confidential information of the other Party or its employees (“Confidential Information”). Each

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Party therefore acknowledges and agrees that neither it nor its employees will, directly or indirectly, make known, divulge, publish, disseminate, distribute, disclose, sell, assign or otherwise make use of any Confidential Information or communicate any Confidential Information to any person, firm, business entity, or the media. All such Confidential Information will be safeguarded by each Party in a manner reasonably calculated to prevent accidental or negligent disclosure thereof.

In witness whereof, each party to this Contract has caused it to be executed on the date(s) indicated below.


**COUNTY OF OTTAWA**

By:  11.08.2021  
Steven Kempker, Date

By:  11/24/2021  
Roger A. Bergman, Chairperson Date  
Board of Commissioners

By:  11/23/2021  
Justin F. Roebuck, Date  
County Clerk/Register

**SMART COMMUNICATIONS**

By:  October 20, 2021  
Name: Jonathan Logan Date  
Title: CEO