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15 *Attorneys for Plaintiffs*

16 **IN THE UNITED STATE DISTRICT COURT**
17 **FOR THE DISTRICT OF ARIZONA**

18 National Association of the Deaf; Norbert
Enos; Terri Guy; and Julian Singleton,

19 Plaintiffs,

20 v.

21 State of Arizona, et al.,

22 Defendants.
23

No. CV16-00384-PHX-JJT

**CASE RESOLUTION
STIPULATION**

24 Plaintiffs and Defendant Maricopa Association of Governments (“MAG”)
25 (collectively, “the Parties”) stipulate to the following terms to resolve this action
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1 (“Litigation”) to be incorporated into a judicial order upon approval of these terms by the
2 Court:

3 **I. INTRODUCTION AND PROCEDURAL PROVISIONS.**

4 1. Plaintiff National Association of the Deaf (“NAD”) is a national non-profit
5 civil rights organization of, by, and for individuals who are deaf and hard of hearing,
6 including 82,224 deaf and hard of hearing individuals that live in Arizona.

7 2. Plaintiffs Norbert Enos and Julian Singleton are residents of Surprise,
8 Arizona and have been deaf since birth. Plaintiff Terri Guy is a resident of Tempe,
9 Arizona and has been hard of hearing since birth. Plaintiffs Enos, Singleton, and Guy have
10 a disability as defined by the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.
11 (“ADA”) and Section 504 of the Rehabilitation Act, 29 U.S.C. § 701, et seq. (“Section
12 504”).

13 3. MAG is a public entity and recipient of federal financial assistance and is a
14 covered entity under Title II of the ADA and Section 504.

15 4. MAG administers the Maricopa Region 911 system (“Maricopa Region”)
16 and oversees Maricopa County’s integrated network of 26 Public Safety Answering Points
17 (“PSAPs”).

18 5. The State of Arizona, Maricopa County, the City of Phoenix (“Phoenix”), the
19 City of Tempe (“Tempe”), the City of Surprise (“Surprise”) and Liz Graeber are also
20 named defendants in this Litigation. Simultaneous with the submittal of this Stipulation,
21 Plaintiffs will submit a form of Order, attached as Exhibit “A,” hereto providing for the
22 dismissal of Maricopa County, Phoenix, Tempe, Surprise, and Liz Graeber with prejudice.
23 This Stipulation does not resolve or settle the Plaintiffs’ alleged claims against the State of
24 Arizona, as set forth in the Amended Complaint (ECF 36].

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1 6. The intent of this Stipulation is to ensure that MAG, without admitting
2 liability, takes the agreed upon steps set forth below to implement the web-based method
3 of exchanging and sending Short Messaging Service text messages with the public in
4 Maricopa County. Accepting these text messages is intended to provide effective
5 emergency telecommunication services (“911 services”), commonly known as Text-to-911
6 Service (as defined below), to individuals who are deaf or hard of hearing.

7 **II.DEFINITIONS.**

8 7. **Arizona Commission for the Deaf and Hard of Hearing (“ACDHH”):**
9 ACDHH is a state agency that serves any citizen in Arizona, including individuals who are
10 Deaf, Hard of Hearing, or Speech Challenged, interpreters and the hearing community.
11 ACDHH’s purpose is “to ensure, in partnership with the public and private sector,
12 accessibility for the deaf and hard of hearing to improve their quality of life.”

13 8. **National Emergency Number Association (“NENA”):** A not-for-profit
14 corporation that is a networking source and promotes research, planning, and training.
15 NENA seeks to educate, set standards and provide certification programs and technical
16 assistance for implementing and managing 911 systems, including Text-to-911 Services, as
17 defined in the NENA Master Glossary.

18 9. **NENA Master Glossary:** A guide for readers of NENA publications,
19 providing consistent definitions for all terms, and acronyms associated with the 911
20 industry and identified within NENA Standards documents.

21 10. **NENA Standard:** A NENA Standard, as defined by the NENA Master
22 Glossary, is intended to describe methods, processes, and specifications that, if
23 implemented as specified, should result in successful operation of the 911 emergency calls
24 and allow for seamless 911 emergency calls and incident processing within a jurisdiction
25 using multiple vendors and between jurisdictions that use different vendors.

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1 11. **Public Safety Answering Point (“PSAP”)**: An entity responsible for
2 receiving 911 calls and processing those calls according to a specific operational policy, as
3 defined by the NENA Master Glossary, including any and all of the following:

- 4 a. **Primary PSAP**: A PSAP to which 911 calls are routed directly from
5 the 911 Control Office.
- 6 b. **Secondary PSAP**: A PSAP to which 911 calls are transferred from a
7 Primary PSAP.
- 8 c. **Alternate PSAP**: A PSAP designated to receive calls when the
9 primary PSAP is unable to do so.
- 10 d. **Consolidated PSAP**: A facility where multiple PSAPs choose to
11 operate as a single 911 entity.

12 12. **Short Messaging Service (“SMS”)**: A service typically provided by mobile
13 carriers that send short (160 characters or fewer) messages to an endpoint that is often fast
14 but not in “real time”, as defined by the NENA Master Glossary.

15 13. **Stipulation’s Effective Date**: The date that the Court signs the Order
16 approving the Stipulation.

17 14. **Text-to-911 Service**: A service available 24 hours a day, seven days a week
18 through which a PSAP is capable of receiving and replying to text messages that will allow
19 deaf, hard of hearing, and speech-challenged citizens to effectively and directly
20 communicate with PSAPs. For purposes of this Stipulation, a qualifying Text-to-911
21 Service includes either the ESInet/i3 Internet Service Interface option or the Web Service
22 option, but does not include the TTY option.

23 15. **MAG Text-to-911 Plan**: MAG’s plan to establish Text-to-911 Services for
24 all PSAPs in the Maricopa Region (“MAG Text-to-911 Plan”).

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1 16. **Telecommunicator:** Person employed by a PSAP who is qualified to answer
2 incoming emergency telephone calls and/or to provide the appropriate emergency response
3 either directly or through communication with the appropriate PSAP, as defined by the
4 NENA Master Glossary.

5 **III. SUBSTANTIVE PROVISIONS**

6 **A. Implementation of the MAG Text-to-911 Plan for the Maricopa Region.**

7 17. MAG has taken or will take the following steps to implement the
8 Text-to-911 Plan to provide Text-to-911 Services in the Maricopa Region by the dates set
9 forth below:

- 10 a. August 29, 2017: Purchase of Software. MAG purchased the
11 ComTech Inc., software package as described in the attached Exhibit
12 “B.”
- 13 b. October 1, 2017: Phoenix Police Department 911 System Upgrade
14 Completed. The City of Phoenix completed installation of equipment
15 needed to replace outdated equipment at the Phoenix Police
16 Department Communication Bureau that will enable Phoenix to
17 participate in the MAG Text-to-911 Plan.
- 18 c. October 31, 2017: FCC Readiness and Certification Form Submittal.
19 MAG submitted an FCC Readiness and Certification Form in the
20 form attached as Exhibit “C.”
- 21 d. October 31, 2017: PSAP Operational Policies for Text-to-911 Service
22 Developed. MAG completed policies for the technical and
23 operational guidance concerning implementation of Text-to-911
24 Service, including details as to internet connections and equipment,
25 service coordination, and ongoing operational and cultural training
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requirements for PSAP staff, maintenance, and data retention policies. These policies were presented to PSAP managers on November 9, 2017.

- e. November 30, 2017: Network Hardware and Software Preparation. MAG installed software for the Maricopa Region’s 911 network infrastructure to permit implementation of the selected web-based software solution.

- f. December 15, 2017: Completed Development of Training Program. MAG completed development of written materials to train all Maricopa Region PSAP personnel in the operation of the Text-to-911 software and the coordination and integration of text and traditional 911 services. The training materials include the standards in NENA’s Interim Text-to-911 Information and Training Materials for Telecommunicators, attached as Exhibit “D” hereto, and other relevant NENA Standards documents, except where modified in MAG’s discretion to address the chosen solution and local needs. Training materials also include information about the disabilities of deafness and hearing loss, American Sign Language and other sign languages, deaf culture and effective communication skills for telecommunications.

- g. December 15, 2017: Install Software Application. MAG began installation of the Text-to-911 software package on each of the Maricopa Region’s four hundred and four 911-workstations, located in the field across the 26 primary and secondary PSAPs. Installation was complete by January 15, 2018.

- 1 h. March 1, 2018: PSAP Training. MAG will coordinate with the
2 Maricopa Region’s 26 primary and secondary PSAPs to implement
3 training protocols designed to train each of the PSAP
4 Telecommunicators on the implementation and delivery of Text-to-
5 911 Services.
- 6 i. March 31, 2018: Testing. MAG will conduct testing of the Text-to-
7 911 system. Testing will include software and network validation,
8 carrier communication validation, and service validation over a
9 variety of end-user hardware/software platforms and geographic
10 locations. Plaintiffs may, at their discretion, provide MAG with
11 designated volunteers who are deaf, hard of hearing, or have speech
12 disabilities to assist in MAG’s testing process.
- 13 j. April 2, 2018: “Go Live.” Once the prerequisite steps have been
14 completed as outlined above, all PSAPs in the Maricopa Region will
15 begin providing Text-to-911 Services.
- 16 k. April 2, 2018-June 1, 2017: Maricopa Region Public Relations
17 Campaign. MAG will coordinate with the Maricopa Region’s
18 primary and secondary PSAPs and/or designated communication
19 representatives to implement a public awareness campaign about
20 Text-to-911 Services (“Text-to-911 Campaign”) to include the
21 following:
- 22 (1) Press Conference: MAG, the Arizona Center for
23 Disability Law (“ACDL”) and NAD will jointly conduct a
24 press conference as a kick-off of the Text-to-911 public
25 relations campaign. The press conference may feature elected
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1 officials and members of affected communities in the Maricopa
2 Region, representatives of the deaf and hard of hearing
3 community, including Plaintiffs if they choose to participate,
4 and Plaintiffs' counsel. Representatives from ACDL, NAD,
5 and Stein and Vargas shall have the opportunity to make a
6 statement on behalf of their respective organizations. The press
7 conference will address MAG's implementation of the MAG
8 Text-to-911 Plan. The press conference will be videotaped by
9 MAG and carried on MAG's Facebook Live feed with
10 captions. MAG shall consult with ACDL and NAD in
11 planning the publicity campaign. MAG shall provide
12 American Sign Language interpreters during the press
13 conference, and will coordinate with ACDL and NAD in
14 selecting qualified legal interpreters. A Joint Media Advisory
15 will be issued to invite local media outlets to attend. The Press
16 Conference shall: (a) be positive in tone and cooperative in
17 presentation; (b) be used to educate the general public and the
18 deaf and hard of hearing community of the Text-to-911
19 services that are being made available in the Maricopa Region;
20 (c) if the Litigation is discussed or the subject of an inquiry
21 during the Press Conference, comments will focus on the fact
22 that the matter has been resolved amicably without any
23 admission of liability by MAG; and (d) include no negative
24 statements regarding the State of Arizona or any other named
25 defendant.
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- (2) Joint Press Release: A joint press release issued by MAG, ACDL, Stein and Vargas, and NAD (“Press Release”), will be disseminated electronically prior to the press conference to media, and handed out during the press conference. The Press Release will deliver key message points and be provided to Public Information Officers at MAG’s member agencies to assist in distribution.
- (3) Press Kit: A press kit will be distributed to all attendees during the press conference. The press kit will include the Press Release with contact information; “how to” instructions; a list of Frequently Asked Questions (FAQ’s); and information on the MAG Text-to-911 Plan, including coverage area.
- (4) Social Media and Web: MAG will use its Facebook page and/or website to post materials and content throughout the Text-to-911 Campaign. The ACDL, Stein and Vargas, and NAD may also post the Joint Press Release and other materials related to the Case Resolution Stipulation on their websites and social media.
- (5) MAG Disability Outreach: MAG will utilize its Disability Group Contact List, attached as Exhibit “E,” for outreach to the disability community.
- (6) NENA Messaging: MAG will use, and encourage its member agencies to use, NENA’s “9-1-1: Call if You Can, Text if You Can’t” slogan.

1 18. Within 5 days of the date of each date listed in Paragraph 17, to the extent
2 such item has not been completed upon execution of this document, MAG will notify
3 Plaintiffs' counsel in writing whether the implementation step has been completed and
4 provide copies of documentation showing that it has been completed. The dates provided
5 in the schedule above are based on MAG's good faith efforts to estimate the time required
6 for each task. The Parties acknowledge that unforeseeable issues may arise that may cause
7 a delay, including issues in the deployment of hardware and software resources and
8 coordinating service with the participating wireless carriers. Should an unforeseen issue
9 arise that will affect meeting the implementation deadlines in Paragraph 17, MAG shall
10 notify Plaintiffs in writing. The Parties agree to meet and confer about amending the
11 Stipulation within 20 days of notification. If the Parties are unable to reach agreement, the
12 parties may file a motion with the Court regarding amendment to or enforcement of the
13 Stipulation.

14 19. In the event that a new PSAP is established in the Maricopa Region, MAG
15 shall take all steps to ensure that the new PSAP has Text-to-911 Services as described
16 above as soon as reasonably practicable.

17 20. Nothing in this Stipulation prevents any PSAP from upgrading their Text-to-
18 911 services to MSM text services.

19 **IV. MONITORING AND ENFORCEMENT**

20 21. Once every six (6) months for a period of eighteen months (18) months,
21 beginning six (6) months after the proposed "Go Live" date specified in Paragraph 17(j) of
22 this Stipulation, MAG will submit to the NAD and the ACDL a report compiled from the
23 Maricopa Region's 26 PSAPs that includes: (1) the operational status of the Text-to-911
24 system within each of the Maricopa Region's PSAPs; (2) a description of any system
25 functionality or access issues that have arisen involving the ability of MAG's member
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1 agencies to provide Text-to-911 Services during the reporting period, and any corrective
2 actions, if necessary, taken by MAG or its member agencies; (3) a list of verified
3 complaints received (including each complaint's date, nature, and resolution) by MAG or
4 provided to MAG by its member agencies regarding MAG's Text-to-911 Service
5 accessibility; and (4) statistics regarding the use of Text-to-911 Services, including the
6 number of text messages received and the average response time to those text messages by
7 the PSAP.

8 22. In the event MAG is alleged to have not substantially complied with the
9 terms of this Stipulation, except as provided in paragraph 18, Plaintiffs' counsel shall
10 provide a written statement describing the alleged non-compliance ("Notice of Substantial
11 Non-Compliance") to MAG. As used herein, "Substantial Compliance" refers to the
12 implementation of Text-to-911 services by MAG as provided in Paragraph 17. Nothing in
13 this Stipulation is intended to make MAG responsible for or a guarantor of the operation or
14 the performance of 911 services provided by any particular PSAP in the Maricopa Region,
15 and nothing in this Stipulation shall make any particular PSAP in the Maricopa Region
16 responsible for or a guarantor for MAG's or any other PSAP's obligations under this
17 Stipulation. Within sixty (60) days of receipt of the Notice of Substantial Non-Compliance,
18 MAG shall investigate the alleged non-compliance and either: (a) implement the necessary
19 measures to cure the non-compliance, or, if the remedial measure cannot be successfully
20 implemented during this time period, commence implementation of the cure and diligently
21 pursue it to completion; or (b) provide a written statement refuting the Notice of
22 Substantial Non-Compliance. In the event MAG issues a statement refuting the Notice of
23 Substantial Non-Compliance, within sixty (60) days of receipt of MAG's written response,
24 the Parties' counsels shall meet and confer in a good faith effort to resolve their dispute
25 informally (an "Informal Conference").
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1 23. If the dispute has not been resolved by the parties within sixty (60) days of
2 the Informal Conference, except as provided in Paragraph 18, either side may file a motion
3 in the District Court to enforce the Parties’ Stipulation against the party allegedly
4 responsible for the breach.

5 **V. RESERVATION OF JURISDICTION**

6 24. Subject to the dismissal of this action against Phoenix, Tempe, Surprise and
7 Maricopa County and individual defendant, Liz Graeber for eighteen (18) months from the
8 date that MAG’s Text-to-911 Services go live, the Parties consent to the reservation and
9 exercise of continued jurisdiction by the District Court over all disputes between Plaintiffs
10 and MAG arising out of this Stipulation and Order, including the amount of attorneys’
11 fees, costs, and litigation expenses to be awarded to the prevailing party in any dispute.

12 **VI. TERMINATION OF THE AGREEMENT**

13 25. To allow time for the affirmative measures as proposed in this Stipulation to
14 be fully implemented, the Parties shall not seek to terminate the Stipulation for a period of
15 eighteen (18) months from the date MAG’s Text-to-911 Services go live. At the
16 conclusion of this eighteen (18) month period, if no unresolved disputes are outstanding,
17 Plaintiffs shall provide MAG with a dismissal with prejudice in substantially the form
18 attached hereto as Exhibit “F.”

19 **VII. MISCELLANEOUS PROVISIONS**

20 26. This Stipulation constitutes the entire agreement among the Parties as to all
21 claims raised by Plaintiffs in this Litigation.

22 27. Each Party represents, warrants, and covenants that it has the full legal
23 authority necessary to enter into this Stipulation and to perform the duties and obligations
24 arising thereunder.

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1 28. The Stipulation is an integrated agreement and may not be altered or
2 modified, except by a writing signed by all Parties at the time of the modification or by the
3 Court's order for purposes of enforcing the action.

4 29. MAG, within thirty (30) days of the Court entering its order approving this
5 Stipulation, shall (1) pay Plaintiffs' counsel the amount of \$150,000 for Plaintiffs'
6 attorneys' fees as reasonably directed by Plaintiffs' counsel in a separate letter subject to
7 provision of IRS W9 forms and (2) pay the full costs of mediation. Outside of claims
8 arising out of the breach of this Stipulation, MAG shall not have any other payment or
9 monetary obligation to Plaintiffs arising out of this Litigation.

10 30. In the event that either Party moves to enforce any aspect of this Stipulation
11 and prevails, the prevailing party with respect to such dispute shall be awarded its
12 reasonable attorneys' fees and costs, including expert costs, to be determined by the Court.
13 In the event that either party moves for a declaration of its rights or responsibilities under
14 the Stipulation unrelated to an enforcement action, each Party will bear its own attorneys'
15 fees and costs.

16 DATED this 22nd day of February, 2018.

17 APPROVED:

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CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2018, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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