



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC Discussion and possible action to enter into a five year interlocal agreement with the City of Laredo which will allow UISD access to the City of Laredo 800 MHz Trunked Voice Radio System in order for UISD to be able communicate among various public safety entities (fire, law enforcement, medical emergency

SUBMITTED BY: Juan J. Cruz **OF:** School Attorney

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: September 15, 2014

RECOMMENDATION:

It is recommended that the United ISD Board of Trustees Discuss and take possible action to enter into a five year interlocal agreement with the City of Laredo which will allow UISD access to the City of Laredo 800 MHz Trunked Voice Radio System in order for UISD to be able communicate among various public safety entities (fire, law enforcement, medical emergency).”

RATIONALE:

BUDGETARY INFORMATION:

BOARD POLICY REFERENCE AND COMPLIANCE:

**INTERLOCAL COOPERATION AGREEMENT
FOR USE OF THE CITY OF LAREDO
PUBLIC SAFETY RADIO SYSTEM**

WHEREAS, the City of Laredo (“City”), a Texas home-rule and municipal corporation, and the United Independent School District (“UISD”), a political subdivision of the State of Texas, are duly authorized by Chapter 791 of the Government Code to enter into this intergovernmental agreement (“Agreement”), and;

WHEREAS, the City owns a trunked radio system that is licensed by the Federal Communications Commission (the “FCC”) which permits radio communications and transmissions via subscriber units, and

WHEREAS, UISD desires to obtain access to the City’s communication system in order to communicate among various public safety units; and

WHEREAS, City and UISD are committed to delivery of the highest possible level of fire, law enforcement, medical emergency and related services; and

WHEREAS, City and UISD believe that interoperability – the ability for public safety agencies and communications centers to seamlessly communicate with each other – is a critical component of state-of-the-art public safety radio communications; and

WHEREAS, it is to the mutual benefit of the parties that UISD be granted access for interoperable use of the City’s Radio System pursuant to the terms of this Agreement.

NOW, THEREFORE, the parties, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

I. DEFINITIONS

For purposes of this agreement, the following definitions apply:

a. Interoperable Radio Communications: means radio communication between the external subscriber and City of Laredo departments and their personnel during joint operations or public safety critical incident responses;

b. Interoperable Use: means that access to the City’s radio system that has been granted to UISD for public safety purposes pursuant to the terms of this Agreement;

c. Public Safety: means the provision of law enforcement, emergency medical services, fire suppression and prevention, and emergency management by government entities;

d. Priority Access: is an assigned level of system access that determines the choice of access to the Radio System between two or more subscriber units seeking use simultaneously;

e. Primary Dispatch System: a communications system upon which the user, its agents, employees or assigns rely primarily when it desires or attempts the engagement of radio communications or radio transmissions of energy among its subscriber units;

f. Subscriber Radio System: refers to the City's 800 MHz Trunked Voice Radio System equipment

g. Subscriber Unit: any mobile, stationary, or portable voice radio communications unit **communicating** among other radio communication units at certain air wave frequencies;

h. System Code Identification Number: is an identification number that allows Subscriber Units access to the Radio System to enable communication among other Subscriber Units at certain airwave frequencies, providing a Primary Dispatch System for a User's Subscriber Unit.

II. Term & Renewal

The term of this Agreement shall commence on the last date of execution hereof ("Effective Date") and shall continue through September 30, 2015 ("Initial Term"). Thereafter, beginning on October 1, 2015, this Agreement shall automatically renew on an annual basis ("Renewal terms") for up to four additional one (1) year terms unless terminated earlier pursuant to the provisions of Section VI.

III. Obligation of City

In consideration of the fees to be paid and the covenants and agreements to be performed by UISD, the City agrees during the term of this Agreement to do the following:

a. City shall grant UISD non-exclusive access to use the City of Laredo's 800 MHz Trunked Voice Radio System equipment.

b. City staff from the Radio Communication Services Division shall initially conduct the necessary programming to enable the UISD Subscriber Units for use on the Radio System. Upon written request by UISD, the City's Communication Personnel Technicians shall also perform any future programming in the event additional subscriber units require activation. The parties understand that due to the critical necessity of safeguarding the "system key," tight control over programming must be exercised by the City to ensure the integrity of the Radio System. The parties agree that the "Emergency ID" functionality of the Radio System will not be programmed into UISD subscriber units.

IV. Obligations of UISD

In consideration of the revocable license to use the City 800 MHz Trunked Voice Radio System equipment, UISD shall comply with the following obligations:

- a.** UISD shall pay City fees in accordance with the provisions of Section V of this Agreement.
- b.** UISD shall abide by all applicable federal and state law as well as any regulations of the City of Laredo when using the radio system. UISD must provide a written request to the City of Laredo System Manager to activate Subscriber Units on the Radio System. Such request must include the model and serial number of the Subscriber Unit, the name of the user, and identifying Talk Groups required in the Subscriber Unit.
- c.** UISD shall furnish its own Subscriber Units, which must be compatible with the APCO P-25 Digital system and for maintenance of the Subscriber Units. UISD is responsible for all software and hardware required to program these Subscriber Units should it choose a different manufacturer than the one used by the City.
- d.** UISD shall not use the Laredo Police Department Operations Talk Group as their primary radio communication platform for internal radio communication within its own agency.
- e.** UISD shall identify itself when initiating conversations on the Radio System by giving its agency name (or acronym) approved by the City Radio Communications Manager, followed by their unit number. Example: "XYZ PD, this is ____ unit 101."
- f.** When operating subscriber units on the Radio System, UISD shall ensure that its personnel abide by all applicable Federal Communications Commission (FCC) rules and regulations, the city's Standard Operating Procedures, the protocols set forth by individual talk-group owners, and any decisions and directives of City. UISD understands and agrees that any violation of this term shall be grounds for immediate disconnection of its radio equipment from the Radio System and immediate termination of this Agreement. In such case, UISD shall reimburse City upon receipt of demand, as holder of the FCC license, for any costs, fines or penalties assessed against as a result of a violation by UISD of any FCC rule or regulation.
- g.** UISD shall obtain approval of radio equipment from the City Radio Communications Manager prior to use of the Radio System. (Any "P25 Phase One" approved brands/models of equipment will be allowed). All costs to acquire or maintain subscriber units or other equipment, train personnel or to connect to the Radio System shall be borne and paid by the UISD.
- h.** UISD shall be solely responsible to apply for and obtain any permit, authorization or other permission from any international, federal, provincial or local government, board, tribunal, commission, agency or other authority exercising jurisdiction over UISD or relating to UISD's operations and usage of the Radio System.
- i.** With regards to agency personnel who will be operating approved radio equipment on the Radio System, UISD shall undergo any required training and submit to the City Radio Communications Manager certification that such training has been received. It is understood that only employees of UISD are authorized to utilize the Radio System under this agreement.
- j.** UISD shall obtain written prior approval from the City Manager when seeking to increase the number of radios units to be used under the same terms as those herein contained.

k. UISD shall pay for any and all required repairs and maintenance on its own equipment.

V. Fees

a. Initial Fee. UISD shall pay City a onetime initial fee that is due upon execution of this instrument in the total amount of \$ 66,903.00 for use of 87 subscriber units calculated at a rate of \$769.00 per subscriber unit.

b. Annual Fees. In addition to the initial fee above, UISD shall pay City an operational annual fee of \$265.00 per subscriber unit. UISD covenants and agrees that each succeeding year thereafter, for as long as this Agreement is in effect, the amount of the operational annual fee per subscriber unit shall increase by 5% from the previous year. UISD further agrees and understands that the annual fees payable by it shall be absolutely net to the City and without limiting the generality of the foregoing, acknowledges its liability to pay any applicable taxes or other rates and charges for which UISD is not exempt, if any, levied or imposed on or with respect to UISD's use of said radio system.

c. Total Fees for Annual Service. Based on the fees set out above, the City will calculate the annual fee due based upon the total number of subscriber units and submit the first invoice to UISD upon execution of this instrument. Thereafter, the City shall submit subsequent invoices to UISD on or before October 1 of each year. Nothing in this Agreement shall be read to prevent UISD from increasing the number of radios units used on comparable terms as agreed here, so long as prior written approval has been given by the City Manager.

d. Upgrade Fees. UISD agrees to reimburse the City for the performance of any upgrades deemed necessary by City in order to ensure the integrity and functionality of the Radio System. UISD shall pay the prorated cost based on the number of subscriber units activated at time of upgrade.

e. Payment Due Dates. UISD agrees to pay the City the annual fees specified above within thirty (30) days of invoice.

VI. Termination

a. Termination of this Agreement may occur by either party at any time without cause by giving sixty (60) days advance written notice to the other. In the event of a termination, UISD shall pay all fees incurred through the effective date of termination.

b. Notwithstanding any provision of this Agreement to the contrary, the City retains the right to discontinue use of Radio System at any time and without notice to UISD and assuming no obligation to the UISD. If the City permanently discontinues the operation of Radio System, this Agreement shall terminate on the date of discontinuance without further notice, and no fees paid will be reimbursed by the City to UISD.

VII. Release and Hold Harmless

To the extent allowed by law, each party does hereby agree to waive all claims against, release, and hold harmless the other party and its respective officials, officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorney's fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this Agreement. In the event that a claim is filed, each party is responsible for its proportionate share of liability, if any.

VIII. Immunity

In the execution of this Agreement none of the parties waive, nor shall be deemed hereby to have waived, its governmental or sovereign immunity or any legal or equitable defense to any form of liability. The parties by entering into this Agreement do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

IX. Warranty

IT IS EXPRESSLY UNDERSTOOD THAT THE CITY NEITHER WARRANTS NOR ASSUMES ANY RESPONSIBILITY FOR INSTALLATION OR USE OF EQUIPMENT OR FOR THE RELIABILITY OR ADEQUACY OF SERVICES PROVIDED HEREUNDER. FURTHER, BY REQUESTING THAT THE CITY PROVIDE THESE SERVICES, THE USER ASSUMES THE TOTAL RISK OF ANY LOSS ASSOCIATED WITH THE INSTALLATION OF THE RADIO EQUIPMENT; ANY LOSS RESULTING FROM THE USE OF THE RADIO EQUIPMENT SO INSTALLED; AND ANY LOSS RESULTING FROM THE USE OF THE RADIO EQUIPMENT TO WHICH OTHER RADIO SERVICES HAVE BEEN PROVIDED BY THE CITY.

X. Confidential Information

Each Party agrees to hold in confidence to the extent permissible by law, and not communicate, transmit, publish, disseminate or otherwise disclose any of the information received as a result of having entered into this Agreement. This notwithstanding, nothing in this paragraph shall prohibit disclosure of such confidential information (a) by each party to its respective employees or agents as may be reasonably necessary in the operation of its business; (b) in connection with any legal or governmental proceeding; or (c) to any judicial, governmental or regulatory body as required to be disclosed pursuant to any statute or regulation. If any third person or entity requests or seeks to compel the parties to disclose or produce any information received under this Agreement, UISD agrees to file a timely request for an opinion of the Attorney General so as to withhold the information under Chapter 552, *Texas Government Code* the Texas Public Information Act. In addition, UISD agrees to use its best efforts to notify the City within two (2) business days of its receipt of such a request, but in no case later than is reasonably necessary, to provide the City with an adequate opportunity to consent to or seek to prevent such disclosure through protective order or other appropriate remedy. This obligation supersedes any conflicting provisions of this agreement.

XI. Assignment

UISD agrees to retain control and to give full attention to the fulfillment of this Agreement. UISD therefore cannot assign or sublet any part or feature of the rights granted in this Agreement, either directly or indirectly, without the prior written consent of the City. In the City's sole discretion, any unauthorized assignment will result in immediate termination, forfeiture of any prepaid annual fees and subject UISD to any other legal avenue, including criminal and civil actions.

XII. Remedies

The UISD's rights and remedies set forth in this Agreement shall be its exclusive remedies, regardless of the cause of action, for the breach of this Agreement.

XIII. Authority to Execute

The person executing this agreement on behalf of UISD warrants and represents that he or she has been duly authorized and empowered to execute and enter into this agreement on behalf of the Interoperability User, that all action necessary to approve this agreement has taken, and that this agreement is a binding obligation of the Interoperability User.

XIV. Notices

All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or by overnight courier to the following address:

If to CITY: City of Laredo
Attn: IST Director
1102 Bob Bullock Loop
Laredo, Texas 78043

If to UISD: United Independent School District
Attn:
201 Lindenwood
Laredo, Texas 78045

XV. Entire Agreement

This Agreement constitutes the entire understanding of the parties related to the subject matter hereof, and there shall be no modification or waiver hereof except in writing, signed by a duly authorized representative of each of the parties. The terms of this Agreement shall prevail notwithstanding any variance with the terms and conditions of any invoice, purchase order or any other such documentation subsequently submitted by either party hereunder. The agreement is made under and shall be governed by the laws of the State of Texas, and is performable in Webb County, Texas.

XVI. Severability

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement. However, upon the occurrence of such event, either party may terminate this Agreement by giving the other party thirty (30) days written notice. If any provision of this Agreement is held invalid or unenforceable, such provision shall be deemed deleted from this Agreement and shall be replaced by a mutually agreeable valid and enforceable provision which achieves the same objectives as the severed provision was intended to achieve, and the remaining provisions of this Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Interlocal Agreement in accordance with law.

Approved by City Council through Resolution No _____ on _____, 2014.

FOR CITY OF LAREDO:

Carlos R. Villarreal
CITY MANAGER

ATTEST:

Gustavo Guevara
CITY SECRETARY

APPROVED AS TO FORM:

Raul Casso
City Attorney

Kristina K. Laurel Hale
First Assistant City Attorney

FOR UNITED INDEPENDENT SCHOOL DISTRICT:

Roberto J. Santos
Superintendent of Schools

APPROVED AS TO FORM:

Juan J. Cruz
Attorney for UISD

STATE OF TEXAS §

COUNTY OF WEBB §

Before me the undersigned, a Notary Public in and for the State of Texas, on this _____ day of _____, 2014, personally appeared _____ to me known to be the identical person who subscribed the name of the United Independent School District to the foregoing License as its identical person and he acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed of such corporation, for the uses and purposes herein set forth.

Given under my hand and seal of office on the day and year last above written.

Notary Public