

STATE OF TEXAS §
 §
COUNTY OF ECTOR §

INTERLOCAL AGREEMENT

This Interlocal Agreement (hereinafter Agreement) is made and entered into between the respective parties hereto for the purpose of providing access to the City of Odessa’s radio and public safety system to benefit both the City and Ector County Independent School District by enhancing the ability of the entities to work in a cooperative manner to respond to, investigate, and take action to enforce laws and protect the citizens of Odessa.

RECITALS

WHEREAS, Chapter 791 of the Texas Government Code of the State of Texas and Section 65.31 of the Texas Education Code authorizes this Agreement between the City of Odessa and the Ector County Independent School District (ECISD); and

WHEREAS, ECISD (Agency) is independently authorized to perform the functions or services contemplated by the Agreement, and

WHEREAS, providing Agency access to the City of Odessa’s (hereinafter City) radio and public safety system will benefit both the City and Agency by providing better coordination and communication; and

WHEREAS, providing Agency access to the system will also enhance the ability of the party to work in a cooperative manner to respond to, investigate and take action to enforce laws and protect the citizens of Odessa; and

WHEREAS, the ability to communicate between first responding agencies and said interoperability is now considered a cornerstone of successful critical incident management and is required by NIMS procedures and homeland security requirements to facilitate unified command, control and communications; and

WHEREAS, the Agreement is approved by the governing body of the participating Agency; and

WHEREAS, the Agreement states the purpose, terms, rights, and duties of the contracting parties; and

WHEREAS, the consideration is an amount that fairly compensates the performing party for the services performed;

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual premises, covenants, obligations and benefits in this Agreement, including the above recitals, the Agency hereby agrees as follows:

I. SPECIAL PROVISIONS

1.1 **Services:** City authorizes, for public safety/ health purposes only, the parties to interface its police department radios with the 800 MHz radio system and the Motorola PremierOne public safety software system of the City of Odessa. This service does not include use of City of Odessa dispatchers for routine dispatching. Dispatching and call taking services will be handled by separate agreement.

1.2 **Connections:** The number of radios, mobile data terminal connections or other data based connections authorized under this Agreement is limited as provided for in Exhibit "A"; and may not be changed except by the written consent of City. Any programming of individual radios or computers is the responsibility of the respective party.

1.3 **Consideration:** ECISD shall be responsible for compensating the City on an annual basis for a total of six years per Exhibit 'B'. After the six year period, the City will evaluate the system for replacement, maintenance or upgrades required and evaluate this agreement for any modifications that may need to be made, as a result. The final connection fee will be determined by the amount of connections each agency has requested in Exhibit "B" each year at the anniversary of the program initiation date.

Each party will be billed annually for each radio and data based connection to the City's Motorola radio system and Premier One public safety software systems.

Individual agency requests for support and consultation outside of normal care of the back end server systems will be billed according to the following schedule immediately after service is performed:

City of Odessa IT Support	\$60.00/ per hour
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1.4 **Funds:** Funds generated will be placed into the City information technology service fund account for the purpose of system support and maintenance of the public safety radio and CAD/RMS systems.

1.5 **Compliance:** The Agency requesting to interface to the City's public safety system network shall maintain compliance with all applicable City, State and Federal regulations, including but not limited to CJIS.

The City's CJIS Local Agency Security Officer (LASO) shall perform periodic security reviews of ECISD's internal and external connections into the public safety network in order to assure compliance with the City's annual CJIS audit or provide a proof of successful compliance from the Texas Department of Public Safety.

1.7 **Equipment:** The respective parties shall each be responsible for all software, network communication and user equipment necessary to gain access to the City's public safety network. Any additional investments of software and equipment or replacements of same that the City of Odessa must add to increase or improve the capacity or capabilities of the radio and CAD/RMS system or to maintain CJIS compliance will be shared by the parties based on either a percentage of what their total number of connections represent or on a per connection basis.

1.8 **Access Approval:** Each party interested in using the City of Odessa Public Safety or radio system should file a written request to the City of Odessa, which will detail how the agency plans to use the system along with a listing of equipment that will be used to connect to the system. The City of Odessa IT department will provide further information regarding connection and security requirements necessary to gain access.

1.9 **Term:** The initial term of this Agreement shall commence on the date of execution by each party, and shall continue from year to year until terminated as herein provided.

1.10 **Termination:** This Agreement may be terminated by a party, with or without cause, at any time by providing thirty (30) days prior written notice to the other party. Any radios or data connections being used in a manner deemed inappropriate by the City may be immediately denied further access to the City's public safety system network.

II. GENERAL PROVISIONS

2.1 **Venue:** The obligations of the parties to this Agreement are performable in Ector County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Ector County, Texas.

2.2 **Legal Construction:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this agreement.

2.3 **Assignment:** This Agreement cannot be assigned without the prior written consent of the City.

2.4 **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

2.5 **Captions:** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

2.6 **Non-Discriminatory Policy:** Parties agree that as to all of the programs and activities arising out of this Agreement, they shall comply fully with all Civil Rights Acts and specifically will not discriminate against any person on the basis of race, color, national origin, sex or by reason of being disabled.

2.7 **Entire Agreement:** This Agreement embodies the complete Agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties.

2.8 **Force Majeure:** The parties shall not be required to perform any term, condition or covenant in this agreement if such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods and any other cause not reasonably within the control of such party except as herein provided and which by the exercise of due diligence such party is unable, wholly or in part, to prevent or overcome.

2.9 **Independent Contractor:** In performing services under this Agreement, the relationship between the parties is that of an independent contractor, and the parties by the execution of this Agreement do not change that independent status. No term or provision of this Agreement or act of a party in the performance of this Agreement shall be construed as making that party or its employees the agents, servants, or employees of the other party or make the project a joint-enterprise.

2.10 **Liability:** The liability of the parties, if any, shall be assumed by each party in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the parties under Texas law, or without waiving any defenses of the parties under Texas law.

City makes no representation or warranty with regard to the services or equipment provided. In no event shall City be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special, or consequential damages. This Agreement is subject to any prior contracts or agreements of the City and any applicable laws or regulations.

2.11 **Interlocal Agreement:** This Agreement shall satisfy any requirements for an Interlocal Agreement and shall rescind and supersede any prior agreements of the parties that are in conflict. Both parties find that the services and consideration provided hereunder are of equal value and constitutes a fair exchange of consideration.

EXECUTED this the _____ day of _____, 2014.

CITY OF ODESSA

By: _____
Richard Morton
City Manager

ATTEST:

Norma Aguilar-Grimaldo,
City Secretary

APPROVED AS TO FORM:

Larry Long, City Attorney

By: _____

ATTEST:

Ector County Independent School
District

INTERLOCAL COOPERATION AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT is made and entered into effective this _____ day of _____, 20____, by and between the CITY OF ODESSA (the “City” herein) and Ector County Independent School District (ECISD) (the “Entity” herein), political subdivisions of the State of Texas.

WITNESSETH:

WHEREAS, V.T.C.A., Government Code, Chapter 791, the Texas Interlocal Cooperation Act, provides that any one or more local governmental entities may contract with each other for the performance of governmental functions and for the joint use of facilities or services for police protection and for the promotion and protection of the health and welfare of the inhabitants of this State and the mutual benefit of the parties;

WHEREAS, the City, for purposes of performing functions of law enforcement through its police department, has an authorized access terminal providing access to the Texas Law Enforcement Telecommunications System (“TLETS”);

WHEREAS, TLETS provides potentially valuable law enforcement-related data from intrastate and interstate sources to assist law enforcement in the investigation of crime;

WHEREAS, TLETS is administered by the Texas Department of Public Safety, who in turn grants specific access to TLETS through specifically defined terminals, one of which is held by the City through its police department;

WHEREAS, the Entity desires to access TLETS through the current authorized Econnection of the City to assist the Entity in the investigation of crime;

WHEREAS, the Entity’s investigation of crime serves the purpose of providing police protection and promoting and protecting the health and welfare of local residents;

WHEREAS, the City, by its proximity, will benefit from improved criminal investigation by the nearby Entity; and

WHEREAS, the City desires to allow the Entity to access TLETS through the City’s authorized connection for criminal justice purposes by the Entity, with the Entity bearing any additional costs related to the Entity gaining access to TLETS through the City.

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

I.

Terms and Conditions

1. The City agrees to allow the Entity to access the City's authorized TLETS connection for criminal justice purposes.
2. The Entity agrees to bear any costs associated with the Entity gaining access to and using the City's TLETS connection.
3. The Entity agrees that the Entity's use of the City's TLETS connection and information obtained therefrom shall at all times comply with all applicable local, state, and federal regulations.

II.

Miscellaneous

1. The parties agree that in the event any provision of this Agreement is held by a court of competent jurisdiction to be in contradiction of any laws of the State or the United States, the parties will immediately rectify the offending portions of this Agreement. The remainder of the Agreement shall be in full force and effect.
2. The Entity will indemnify and hold harmless the City, its officers, agents, servants and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney's fees, arising out of a willful or negligent act or omission of the Entity, its officers, agents, servants and employees under this Agreement; provided, however, that this indemnity shall not apply to any claims, demands, damages, costs, expenses and attorneys' fees arising out of this Agreement based upon any willful or negligent act or omission of the City, its officer, agents, servants and employees.
3. Any financial obligations of the parties under this agreement shall be payable from current revenues available to the respective paying party.
4. This Agreement constitutes the entire agreement between the parties hereto, and supersedes all of their oral and written negotiations, agreements and understandings of every kind. The parties understand, agree and declare that no promise, warranty, statement or representation of any kind whatsoever, which is not expressly stated in this Agreement, has been made by any party hereto or its officers, employees or other agents to induce execution of this Agreement. This Agreement cannot be modified, or any of the terms hereof waived, except by an instrument in writing, referring specifically to this Agreement, executed by the parties.

5. The laws of the State of Texas shall govern the validity, enforcement and interpretation of this Agreement. The obligations of the parties are performable and venue for any legal action arising out of this Agreement shall lie in Ector County, Texas.
6. This Agreement shall be binding upon and inure to the benefit of the City and the Entity and their respective representatives, successors and assigns. Except as expressly provided herein, nothing in this Agreement is intended to confer on any person, other than the parties hereto and their respective heirs, personal representatives, successors and assigns, any rights or remedies under or by reason of this Agreement.
7. In addition to the acts recited in this Agreement to be performed by any party, the parties agree to perform, or cause to be performed, any and all such further acts as may be reasonably necessary to consummate the acts or transactions contemplated hereby.
8. The effective date of this Agreement shall be the date stated below.

Dated this _____ day of _____ 2014.

City Manager
City of Odessa, Texas

ATTEST:

Norma Grimaldo, City Secretary

Printed Name

Title
ECISD

Signature

ATTEST: