

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF DENTON, TEXAS, AND DENTON
INDEPENDENT SCHOOL DISTRICT FOR THE USE OF THE CITY OF DENTON'S P25 RADIO
SYSTEM.**

THIS AGREEMENT is made and entered into by and between the City of Denton, a Texas home rule municipal corporation (hereinafter "City") and Denton Independent School District (hereinafter "DISD"), a duly organized political subdivision of the State of Texas engaged in providing services to the citizens of Denton, Texas, each acting by, through, and under the authority of their respective governing bodies and officials. DISD and the City are referred to individually as "Party" and are collectively referred to herein as "Parties". This Agreement is for the purpose of:

1. Providing for the Joint use of:
 - a. 5 Talkgroups (channels) for use (COD)
 - b. Radio access to all COD radio sites (COD)

WHEREAS, DISD and the City are mutually interested in an adequate communications plan which best serve the citizens of Denton.

WHEREAS, the Parties have agreed that this Agreement would serve a public benefit and be beneficial to carry out the performance of governmental functions for the promotion and protection of the health and welfare of citizens within the Denton community, and full cooperation between the City and DISD is necessary to achieve the best service with the least possible expenditure of public funds: and

NOW THEREFORE, the Parties, for mutual consideration stated herein, agree and understand, as follows:

All matters and recitations stated in the preamble to this Agreement are true and correct and are hereby incorporated by reference into the provisions of this Agreement for all purposes.

In consideration for the joint use of facilities, DISD and City agree as follows:

Grant of License

1. The City hereby grants DISD specific permission to operate City's owned or leased field radio equipment or equipment attached and/or interfaced to the City of Denton's Trunked Voice Radio Systems (the "Radio System") infrastructure in accordance with the specific details and requirements for use as set for in "Exhibit A, Terms of Use," which is attached hereto, incorporated herein, and made a part of this Agreement for all purposes. Failure to comply with these specific details and requirements may result in the immediate withdrawal of the specified permissions.

Term

2. The Agreement shall become effective upon the signing of the Agreement by the City Manager of the City of Denton (the "Effective Date") and shall continue in full force and effect unless terminated in accordance with the provisions set forth herein and in Exhibit A.

Costs

3. DISD to reimburse City for each radio or console they have registered on the Radio System. DISD shall remit payment to the City in the amount and manner set forth in Exhibit A.
4. DISD is not purchasing any equipment, support, or maintenance of their equipment with the City and will seek their own vendor for this purpose.
5. DISD to reimburse the City for any unanticipated costs associated with their usage on the Radio System.

Equipment

6. The City will provide the radio tower site equipment and other infrastructure equipment necessary to make the Radio System operational. *Note: Denton County maintains the core equipment needed for radio site and dispatch console connectivity*
7. The City shall maintain an annual preventative maintenance schedule on all infrastructure equipment during the time of this agreement.

Warranties

8. The Radio System, including all portions thereof and all equipment provided by either Party for use, are provided "As Is". Neither Party makes any representations, warranties, or guarantees, express or implied, including, without limitation, the warranty of merchantability and the warranty of fitness for a particular purpose, relating to the radio system or to either Party's use thereof.

Each party agrees to be responsible for any damages caused by the party's direct use of the other Party's equipment, less depreciation. However, this responsibility shall not extend to damages caused in whole or in part by ordinary wear.

Consideration

9. DISD and City enter into this agreement on consideration of the mutual promises and duties set forth herein, and upon the right to jointly use the City Radio System

owned by the City. By execution of this agreement, the parties stipulate to the adequacy of consideration therefor.

Liability and Immunity

10. This Agreement is not intended to extend the liability of the parties beyond that provided by law. Neither City nor DISD waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against the claims arising by third parties. The parties to this Agreement agree that the exchanges and permitted uses described in this Agreement constitute payments in amounts that fairly compensate the other party for the services and functions performed under this Agreement.

In the performance of their respective duties hereunder, the Parties hereto and their respective employees and agents, are at all times acting and performing as independent contractors of each other. No Party will have the authority to act for or bind another Party in any respect or to incur or assume any obligation or liability, or responsibility on behalf of or in the name of another Party hereto. DISD agrees and understands that DISD, its employees, servants, agents, and representatives shall at no time represent themselves to be employees, servants, agents, and/or representatives of the City. The City agrees and understands that the City, its employees, servants, agents, and representatives shall at no time represent themselves to be employees, servants, agents, or representatives of DISD.

DISD shall be responsible for the acts, negligence, and/or omissions of all DISD, its employees, agents, subcontractors, and/or contract laborers and for all other persons doing work under a contract or agreement with the DISD.

The City shall be responsible for the acts, negligence, and/or omissions of all City employees, agents, subcontractors, and/or contract laborers and for all other persons doing work under a contract or agreement with the City.

Term and Termination

11. The initial terms of this Agreement is from the date of execution until December 31, 2029. Thereafter, the agreement shall automatically renew for successive one-year periods, unless terminated by delivering written notice of non-renewal at least sixty (60) days prior to the end of that term. Notice shall be effective upon actual receipt (or upon posting of certified mail), if directed to the attention of the following individuals:

City Manager
City of Denton
215 E McKinney
Denton, Texas 76209

Superintendent
Denton ISD
1307 N Locust
Denton, Texas 76201

With Copies to:

Director
City of Denton
Technology Services
601 E. Hickory St
Denton, Texas 76205

Severability

12. If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless doing so would undermine the purposes of the Agreement.

Governing Law

13. This Agreement is entered into subject to the City Charter and Ordinances of the City of Denton as they may be amended from time to time and is subject to and is to be construed, governed, and enforce under all applicable State of Texas and Federal law. DISD enters into this Agreement subject to its policy and applicable laws of the State of Texas and the United States. Situs of this Agreement is agreed to be Denton County, Texas, for all purposes including performance and execution.

EXECUTED in Duplicate originals and dated below.

CITY OF DENTON, TEXAS
Sara Hensley, City Manager

BY: _____

DATE: _____

DENTON INDEPENDENT SCHOOL DISTRICT
Dr. Susannah Holbert O'Bara, Superintendent

BY: _____

DATE: _____

Barbara Burns, Board President

BY: _____

DATE: _____

ATEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

DATE: _____

APPROVED AS TO LEAGAL FORM:
CITY ATTORNEY

BY: _____

DATE: _____

EXHIBIT A

CATEGORY 1, TERMS OF USE

The following definitions shall have the meanings set forth below and apply to this Agreement and the Terms of Use set forth herein:

DEFINITIONS

“Console System” shall mean all hardware and software associated with any dispatch console or set of consoles operated by the DISD that are connected to the Denton County Master Switch.

“Infrastructure Support Fee” shall mean the annual fee charged by City of Denton to offset costs incurred by the City of Denton in the operation and maintenance of the Radio System.

“Master Switch” shall mean the primary processing and network infrastructure to which all Console Systems and Site Repeater Systems must connect to operate on the Radio System. The Master Switch is currently located at the Denton County Jail facility.

“Over The Air Rekeying” (“OTAR”) shall mean the management and support of Subscriber Radio encryption keys via over-the-air, radio channel transmission.

“OTAR Administration Fee” shall mean the annual fee charged by CFW to offset costs incurred by the CFW in the management and support of Subscriber Radio encryption keys administered through the Radio System’s OTAR functions.

“Over the Air Programming” (“OTAP”) shall mean the method of implementing programming changes to Subscriber Radios using the over-the-air data capabilities of the Radio System.

“Private Call” shall mean a feature that reserves channel resources specifically for conversations between two Subscriber Radios.

“Site Repeater System” shall mean the base stations, shelter, tower and all site-specific hardware and software infrastructure associated with the provision of a radio site connected to Denton County’s Master Switch.

“Subscriber Radio” shall mean a radio that has a unique identification number and is programmed to operate on the Radio System. The term shall include, but not be limited to, control stations (desk top radios), mobile radios, and portable radios.

“Talk Group” shall mean a specific group of Subscriber Radios allowed to communicate privately within that group over shared infrastructure resources.

TERMS OF USE

1. The installation and maintenance of the Radio System infrastructure equipment is the responsibility of City of Denton unless otherwise stated in this Agreement.

2. The City of Denton is the holder of the FCC (Federal Communications Commission) license(s) that the Radio System uses for its operation. This Agreement shall not be construed or interpreted to grant, convey, or otherwise provide DISD with any rights whatsoever to the City of Denton FCC license(s) or to the Radio Frequency spectrum used by the Radio System.

3. The City of Denton makes no guarantee, either express or implied, as to radio signal strength or a specific level of radio coverage in a particular location. The DISD is responsible for conducting appropriate and applicable in-building and geographical coverage testing to determine the expected radio coverage level for DISD’s equipment.

4. DISD will be responsible for the acquisition, programming, and maintenance of all equipment DISD will be utilizing in connection with the Radio System infrastructure, including, but not limited to, Subscriber Radios, consoles, and special equipment.

5. In order to ensure hardware and software compatibility with the Radio System infrastructure, all Subscriber Radios and consoles intended for use by DISD on the Radio System shall be compliant with Project 25 standards established by the Telecommunications Industry Association. The use of unauthorized radios on the Radio System may result in suspended operation of the radios and/or termination of the Agreement.

6. DISD agrees to exclusively utilize antennas specifically approved by the radio manufacturer for use with the specific models of DISD's radios. The use of short, broad spectrum, or "stubby," antennas is not recommended. DISD shall be solely liable for coverage gaps in the event DISD utilizes short broad spectrum or stubby antennas or other antennas not approved by the manufacturer for use with the specific models of DISD's radios.

7. No antenna gain greater than 3dB will be allowed for mobiles and consolettes.

8. DISD shall use due diligence in the maintenance and configuration of its Subscriber Radio equipment to ensure that no DISD radio or console causes a degradation to the Radio System operation. The City of Denton shall have the right to remove from operation any field radio unit or equipment owned or leased by DISD that is operating on, attached and/or interfaced to the City of Denton's infrastructure, if the City of Denton determines in its sole reasonable discretion that such equipment is causing interference or harm to the Radio System in any way. The City of Denton reserves the right to request that DISD operated field radio units or equipment operating on, attached and/or interfaced to the infrastructure be tested for proper operation and/or repaired by an authorized radio repair facility approved by the City of Denton. The cost of such testing or repair will be the sole responsibility of DISD. Furthermore, the City of Denton shall have the right to deactivate, without prior notification to or consent of DISD, any field radio or other DISD equipment suspected of causing interference, intentionally or unintentionally, to any other radios on the Radio System or to the Radio System's overall operation.

9. DISD's radios may be used for voice radio communications over the Radio System infrastructure in accordance with the terms and conditions of this Agreement for as long as this Agreement remains in effect.

10. The City of Denton will be responsible for managing infrastructure loading and demand. The City of Denton reserves the right, without notice to incumbent users, to enter into a similar agreement with other entities or to deny the addition of new Subscriber Radio equipment to any user of the Radio System. The City of Denton shall have sole discretion in determining whether to allow additional users or radios based on City of Denton's determination of whether such addition to the Radio System can be made without adversely impacting the Radio System.

11. DISD is prohibited from utilizing telephone interconnect on the Radio System. This prohibition shall include, but is not limited to, connecting to either the PSTN (Public Switched Telephone Network) or DISD's internal phone system(s) through a console patch into the Radio System or to any Subscriber Radio on the Radio System.

12. Due to the radio infrastructure resource allocations required by "Private Call," DISD is not permitted to utilize "Private Call" on the Radio System.

13. DISD's utilization of data communications on the Radio System will be limited to the Radio System's OTAP functions. Performance of data communications over the Radio System is not guaranteed. For programming changes involving more than ten Subscriber Radios, DISD agrees to coordinate with the City of Denton prior to executing changes to minimize impact on other users and on the Radio System.

14. The use of OTAR in association with Subscriber Radio encryption is prohibited without prior approval of the City of Denton. Administration of encryption keys will be performed exclusively by City of Denton. DISD may utilize and administer other encryption methods as required.

15. The City of Denton will assign the DISD Talk Group IDs unique to DISD operation. All Talk Group names shall include a prefix unique to the DISD's agency. No other agency will be authorized to use DISD Talk Groups without the express written permission of DISD, and a copy of such permission must be on file with the City of Denton before such use may occur. The City of Denton reserves the right to require certain Talk Group ID's to be programmed in DISD radios. Additionally, the City of Denton shall have the right to limit the number of Talk Group ID's to be used by DISD and to disable Talk Groups ID's as it deems appropriate.

16. The County of Denton has established a coordinated Interoperable Communications Plan to apply to the City of Denton and the users of its Radio System. DISD agrees to participate in the Plan and include the Plan's interoperable Talk Groups in the programming of its Subscriber Radios and Console Systems.

17. Roaming to other systems or the use of DISD's Talk Groups on other trunked systems that are interconnected to the Radio System is prohibited without prior approval by the City of Denton. Roaming to other trunked systems will be limited to the Radio System's interoperable Talk Groups, although this capability may be terminated by the City of Denton if its use is determined to result in performance degradation to either the Radio System or the interconnected trunked system.

18. DISD may utilize a Network Management Console (NMC) to manage its own environment. DISD is responsible for acquiring and maintaining, at DISD's sole cost, all components required to connect the NMC to the Radio System. The DISD's NMC must be partitioned in a manner to limit access to DISD's own environment only and to prevent DISD from viewing, accessing, or making any changes to equipment that is not owned or leased by DISD. DISD must ensure the NMC is located in a secure area. USB ports on the NMC must be deactivated except during maintenance

activity. All security patches related to operating systems and other associated software must be maintained at current manufacturer-tested levels. No other software applications may be utilized by the NMC.

19. The City of Denton generally maintains aliases for units operating on the Radio System. If the USER has acquired the capability to modify its aliases, it may administer and maintain its own subscriber unit aliases. From that point, DISD will be responsible for administering and maintaining its own subscriber unit aliases, and the City of Denton will no longer administer and maintain DISD's subscriber unit aliases.

20. USB ports on DISD's Console Systems must be deactivated except during maintenance activity. All security patches related to operating systems and other associated software must be maintained at current manufacturer-tested levels. If required, all connectivity between the Console Systems and the Radio System is the responsibility of DISD, including software, hardware and carrier services. Associated costs will be incurred by DISD. Unless otherwise approved by the City of Denton, connectivity will be achieved through local terrestrial circuit facilities. The use of other connectivity methods, including but not limited to microwave or fiber, must be approved by the City of Denton. DISD may incur additional costs from the City of Denton for other connectivity methods.

21. The City of Denton shall execute with Motorola Solutions a System Upgrade Agreement for the Console Systems and Site Repeater Systems that would be affected by the software upgrades, including those owned (or leased) and operated by DISD. Unless DISD is notified otherwise by City of Denton, the software for the Radio System, all Site Repeater Systems and all Console Systems will be upgraded to the current level every two years. DISD will provide all reasonable coordination necessary for the upgrade of its Console Systems. DISD acknowledges that reductions in functionality may occur during the upgrade process.

APPLICABLE FEES; TERMINATION; REFUNDS

22. DISD shall pay the City of Denton an annual Infrastructure Support Fee in the amount of **\$8.00** per month, per Subscriber Radio or console. This fee is payable in advance on an annual basis for all active radio IDs issued to DISD at the time of the annual billing. Invoicing will occur on a pro-rata basis when new Radio IDs are issued, and thereafter, at the beginning of each City of Denton fiscal year. There will be no refunds or credits for radios removed from service during the fiscal year.

23. If DISD subscribes to OTAR services, DISD shall pay the City of Denton an annual OTAR Administration Fee in the amount of **\$1.00** per month, per Subscriber Radio. This fee is payable in advance on an annual basis for all active radio IDs issued to USER at the time of the annual billing.

Invoicing will occur on a pro-rata basis when new Radio IDs are issued, and thereafter, at the beginning of each City of Denton fiscal year.

24. DISD shall pay the City of Denton an annual System Upgrade Agreement Fee equal to the amount invoiced to the City of Denton by Motorola Solutions, Inc., or its successors, for the upgrade of DISD's Console Systems and any other component subject to upgrade as a result of the upgrade of the Radio System.

25. The City of Denton shall have the right to increase any applicable fees under this Agreement each fiscal year to offset any increased costs incurred by the City of Denton in the operation or maintenance of the Radio System. Any increase in applicable fees will be effective at the beginning of the next City of Denton fiscal year. The City of Denton shall provide DISD with 60 days' written notice of any intended fee increase, provided, however, that this notice period may be less than 60 days if Motorola Solutions provides City of Denton with less than 60 days' notice of an increase in the System Upgrade Agreement Fee and such reduced notice period shall not impact DISD's obligation to pay the increased fee.

26. Either DISD or City of Denton may terminate this Agreement for any reason, with or without cause, upon ninety (90) days written notice to the other party. If DISD terminates, there will be no refunds or credits for any fee. If City of Denton terminates, City of Denton will issue a refund to DISD of all fees, except for the System Upgrade Agreement Fee, which is non-refundable, pro-rated to the end of the current fiscal year. The City of Denton, in its sole discretion, shall have the right to deny DISD access to the radio infrastructure and/or the right to terminate the Agreement immediately if DISD fails to make full payment of invoiced system fees within thirty (30) days of the date payment is due. The City of Denton further reserves the right to terminate this Agreement immediately, or deny access to DISD, upon notice of DISD misuse of the Radio System. Notwithstanding the foregoing, the City of Denton, in its sole discretion, reserves the right to immediately deny access to DISD if such action is required to prevent the spread of a security breach or threatened security breach or due to an emergency, operational issue, or other critical incident between the Master Switch and DISD's environment. The City of Denton will use best efforts to restore access to DISD as soon as possible once the security breach, emergency, operational issue, or critical incident is resolved.

COMPLIANCE WITH LAWS

27. DISD shall comply with all current and future Federal, State, and Local laws, Ordinances, and Mandates, including Federal Communications Commission rules and regulations regarding proper use of radio communications equipment. DISD will also comply with the guidelines, or procedures set out in this Agreement. Furthermore, DISD is responsible for enforcing such compliance by its employees, directors, officers, agents, authorized representatives,

subcontractors, and consultants for DISD Subscriber Radio equipment. Furthermore, DISD will be responsible for payment of any fines and penalties levied against the City of Denton (as the license holder) as a result of improper or unlawful use of Subscriber Radio equipment owned or leased by DISD.

28. In order to comply with Federal, State, and Local Laws and/ or Mandates, the City of Denton, as the license holder, may need to act on behalf of DISD regarding possible modifications, reconfiguration, or exchange of Subscriber Radio equipment in order to meet these obligations. For as long as this Agreement is in force, DISD will allow the City of Denton to facilitate such activities on DISD's behalf as necessary.

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