

JAN 25 2021

**Approved**

**REQUEST FOR AGENDA PLACEMENT FORM**

Submission Deadline - Tuesday, 12:00 PM before Court Dates

**SUBMITTED BY:** \_\_\_\_\_ **TODAY'S DATE:** January 12, 2021

**DEPARTMENT:** County Judge's Office

**SIGNATURE OF DEPARTMENT HEAD:** \_\_\_\_\_

**REQUESTED AGENDA DATE:** January 25, 2021

**SPECIFIC AGENDA WORDING:** Consideration of Agreement for Intersystem Roaming with the City of Burleson, Texas

**PERSON(S) TO PRESENT ITEM:** Douglas O'Neal

**SUPPORT MATERIAL:** (Must enclose supporting documentation)

**TIME:** 5 min

**ACTION ITEM:**   x  

**WORKSHOP:** \_\_\_\_\_

(Anticipated number of minutes needed to discuss item) **CONSENT:** \_\_\_\_\_

**EXECUTIVE:** \_\_\_\_\_

**STAFF NOTICE:**

**COUNTY ATTORNEY:**   x  

**IT DEPARTMENT:** \_\_\_\_\_

**AUDITOR:** \_\_\_\_\_

**PURCHASING DEPARTMENT:** \_\_\_\_\_

**PERSONNEL:** \_\_\_\_\_

**PUBLIC WORKS:** \_\_\_\_\_

**BUDGET COORDINATOR:** \_\_\_\_\_

**OTHER:** \_\_\_\_\_

\*\*\*\*\*This Section to be Completed by County Judge's Office\*\*\*\*\*

ASSIGNED AGENDA DATE: \_\_\_\_\_

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE \_\_\_\_\_

COURT MEMBER APPROVAL \_\_\_\_\_ Date \_\_\_\_\_

THE STATE OF TEXAS §

§

KNOW ALL BY THESE PRESENTS

COUNTY OF JOHNSON §

**AGREEMENT  
FOR INTERSYSTEM ROAMING**

This AGREEMENT FOR INTERSYSTEM ROAMING (the "Agreement") is made and entered into by and between the Johnson County, Texas, a political subdivision of the State of Texas ("County") acting herein by and through its duly authorized Commissioners Court, and City of Burleson, Texas ("USER"), a municipal corporation, acting herein by and through its duly authorized City Council, individually referred to as a "Party," collectively referred to herein as the "Parties." The term County shall include all employees, directors, officials, agents, and authorized representatives of County. The term USER shall include all employees, directors, officials, agents, and authorized representatives of USER.

**RECITALS**

**WHEREAS**, this Agreement is made under the authority of Sections 791.001-791.029, Texas Government Code; and

**WHEREAS**, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

**WHEREAS**, each governing body finds that the subject of this Agreement is necessary for the benefit of the public and each has the legal authority to perform and to provide the governmental function or service which is the subject matter of this Agreement; and

**WHEREAS**, each governing body finds that the performance of this Agreement is in the common interest of both parties and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

**WHEREAS**, the City Fort Worth ("CFW") owns, operates, and maintains Trunked Voice Radio Systems for the purpose of providing Public Safety voice radio communications and is the sole licensee of the CFW Trunked Voice Radio Systems with all privileges and responsibilities thereof; and

**WHEREAS**, County has entered into a Communication System Agreement with the CFW whereby the CFW has granted County specific permission to operate its owned Motorola Solutions ASTRO® Site Repeater System, Console System or equipment attached and/or interfaced to the CFW Project 25 Master Site located at the Eagle Mountain Communications Site at 6869 Bowman Roberts Road, Fort Worth, Texas (the "System"); and

**WHEREAS**, County and USER have entered into a Communications System Agreement whereby County has granted USER a non-exclusive specific permission to operate its radios on County's owned Motorola Solutions ASTRO® Site Repeater System, Console System or equipment attached and/or interfaced to the City of Fort Worth Project 25 Master Site located at the Eagle Mountain Communications Site at 6869 Bowman Roberts Road, Fort Worth, Texas

(the "System").

**NOW THEREFORE, COUNTY and USER agree as follows:**

**1. INTERSYSTEM ROAMING**

County hereby grants USER non-exclusive specific permission for Intersystem Roaming with the City of Fort Worth Radio System.

**2. APPLICABLE FEES**

Effective upon the beginning of the term of this Agreement as set forth in paragraph number 3 below, USER shall pay County a "Roaming Fee" in the amount of \$3.00 per month per radio for USER's ability for Intersystem Roaming with the City of Fort Worth Radio System. The Roaming Fee is a separate and additional fee over and above the Annual Subscriber Unit Fee set forth in the Communications System Agreement between County and USER. Beginning October 1, 2021, and each year thereafter as long as this Agreement is in effect, USER shall pay the County a Roaming Fee of \$3.00 per month, per subscriber radio, 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 when new Radio IDs are issued on a pro-rata basis, and thereafter, at the beginning of each County fiscal year (which is October 1). Further, at the beginning of each fiscal year of this Agreement, the County may increase the Roaming Fee to offset any actual increased costs incurred by the County due to the City of Fort Worth changing the rate invoiced to the County. There will be no refunds or credits for radios removed from service during the fiscal year.

**3. TERM**

This Agreement shall begin as between County and USER upon the last day executed by all authorized Parties and shall continue in full force and effect unless terminated in accordance with the provisions set forth herein. Termination or cessation of this Agreement between County and USER will not affect the continuation of any other agreement County may have with any other USER or Party.

**4. COMPENSATION**

USER shall remit payment to County in the amount invoiced by County.

**5. LIABILITY**

Nothing in the performance of this Agreement shall impose any liability for claims against County or USER other than claims for which liability may be imposed by the Texas Tort Claims Act.

**6. INDEPENDENT CONTRACTOR**

It is expressly understood and agreed that USER shall operate as an independent contractor as to all rights and privileges granted herein, and not as agent, representative or employee of the County. Subject to and in accordance with the conditions and provisions of this Agreement, USER

shall have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors and subcontractors. USER acknowledges that the doctrine of *respondeat superior* shall not apply as between the County, its officers, agents, servants and employees, and USER, its officers, agents, employees, servants, contractors and subcontractors. USER further agrees that nothing herein shall be construed as the creation of a partnership or joint enterprise between County and USER.

**7. NON-APPROPRIATION OF FUNDS**

County and USER will use best efforts to appropriate sufficient funds to support obligations under this Agreement. However, in the event that sufficient funds are not appropriated by either Party's governing body, and as a result, that Party is unable to fulfill its obligations under this Agreement, that Party (i) shall promptly notify the other Party in writing and (ii) may terminate this Agreement, effective as of the last day for which sufficient funds have been appropriated.

**8. RIGHT TO AUDIT**

USER agrees that the County shall, until the expiration of three (3) years after termination of this Agreement, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers, records, and communications of the USER involving transactions relating to this Agreement at no additional cost to the County. USER agrees that the County shall have access during normal working hours to all necessary USER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The County shall give USER reasonable advance notice of intended audits.

**9. ASSIGNMENT**

USER shall not have the right to assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of the County. Which such right shall be granted solely at the discretion of the County.

**10. NO WAIVER**

The failure of either Party to insist upon the performance of any provision or condition of this Agreement or to exercise any right granted herein shall not constitute a waiver of that Party's right to insist upon appropriate performance or to assert any such right on any future occasion.

**11. AMENDMENTS**

No amendment to this Agreement shall be binding upon either Party hereto unless such amendment is set forth in writing, and signed by both Parties.

**12. SEVERABILITY**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

**13. CONFIDENTIAL INFORMATION**

To the extent permitted by law, USER for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the County as confidential and shall not disclose any such information to a third party without the prior written approval of the County. USER shall store and maintain County information in a secure manner and shall not allow unauthorized USERS to access, modify, delete, or otherwise corrupt County information in any way. USER shall notify the County immediately if the security or integrity of County information has been compromised or is believed to have been compromised.

**14. FORCE MAJEURE**

The parties shall exercise their best efforts to meet their respective duties and obligations hereunder, but shall not be held liable for any delay in or omission of performance due to force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any state or federal law or regulation, acts of God, acts of omission, fires, strikes, lockouts, national disasters, wars, riots, material or labor restrictions, transportation problems or existing contractual obligations directly related to the subject matter of this Agreement.

**15. GOVERNING LAW / VENUE**

This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought on the basis of this Agreement shall lie exclusively in state courts located in Johnson County, Texas or the United States District Court for the Northern District of Texas -Dallas Division. In any such action, each party shall pay its own attorneys' fees, court costs and other expenses incurred as a result of the action.

**16. SIGNATURE AUTHORITY**

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective Party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. The other Party is fully entitled to rely on this warranty and representation in entering into this Agreement.

**17. ENTIRETY OF AGREEMENT**

This written instrument contains the entire understanding and agreement between County and USER as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with this Agreement. This Agreement may not be amended unless set forth in writing and signed by both parties.

**18. TERMINATION**

Either County or USER may terminate this Agreement for any reason, with or without cause, upon one hundred eighty (180) days written notice to the other Party. This Agreement will automatically terminate on the date the Communications System Agreement between County and

USER is terminated should said termination occur..

EXECUTED IN MULTIPLE ORIGINALS as of the dates set forth below.

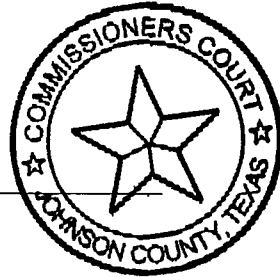
COUNTY:

By:   
Roger Harmon, County Judge

Date: 1-25-2021

Attest:

  
Becky Ivey, County Clerk



Date: 1-25-2021

USER:

By: 

Date: 1/4/21

Printed Name: Chris Fletcher

Title: Mayor

