

**AGREEMENT BETWEEN THE CITY OF PLANO AND THE  
CITY OF ALLEN FOR A JOINT RADIO COMMUNICATIONS SYSTEM  
FOR MUNICIPAL SERVICES**

This Agreement is made between the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation with the authorization of its governing body, (hereinafter referred to as "Plano"), and the **CITY OF ALLEN, TEXAS**, a home rule municipal corporation with the authorization of its governing body, (hereinafter referred to as "Allen") as follows:

**WITNESSETH:**

**WHEREAS**, Plano and Allen are political subdivisions within the State of Texas, and each is engaged in the provision of governmental services for the benefit of its citizens; and

**WHEREAS**, the Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the "Act") provides authority for local governments of the State of Texas to enter into Interlocal agreements with each other for the purpose of performing governmental functions and services as set forth in the Act; and

**WHEREAS**, municipalities own and operate radio systems for the purpose of providing radio communications in support of their governmental operations; and

**WHEREAS**, each of the municipalities has investigated and determined that it would be advantageous and beneficial to the citizens within its respective municipality to jointly operate a radio system; and

**WHEREAS**, in order to provide dependable/mission-critical voice radio service for use by each of the municipalities and its respective users, Plano and Allen desire to enter into an Interlocal Agreement to provide a Joint Radio Communications System for Municipal Services (hereinafter "Joint Radio System"); and

**WHEREAS**, use of this Joint Radio System will provide for system coverage for each city to ensure safe, effective and efficient communications, and benefit the greatest number of citizens both now and in the future; and

**WHEREAS**, this Agreement will provide the framework for administering the Joint Radio System, and the costs associated with implementation, maintenance and operation of the Joint Radio System distributed amongst Plano and Allen; and

**WHEREAS**, as of the date of this executed Agreement, Plano and Allen, operate a Motorola ASTRO 25 Phase II and Nokia Trunked Voice and Data Radio System for providing Public Safety microwave radio communications for entities in the southwest portion of Collin County and select entities in adjacent counties. The system will operate with a primary, a redundant simulcast prime site, and remote trunked simulcast sites in other parts of the county and adjacent cities. Under this Agreement, the Plano master

site will be primary and the Allen master site will be the secondary and back-up location; and

**WHEREAS**, Plano and Allen hereby agree to renew their Interlocal Agreement (ILA) for the Joint Radio Communication System (Joint Radio System) infrastructure in accordance with the specific details and requirements for use, including pricing, as set forth in **Exhibit A** "Terms of Use", which are 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;

**NOW, THEREFORE**, Plano and Allen (hereinafter collectively referred to as "Party" or Parties"), for and in consideration of the mutual benefits and obligations set forth in this Agreement, agree as follows:

## I. TERM

**1.01** This Agreement shall begin upon the last day executed by all authorized Parties ("Execution Date") and shall continue in full force and effect for a period of one year (the "Initial Term"). After the Initial Term, this Agreement shall automatically renew for successive one-year terms unless otherwise terminated in accordance with the provisions set forth herein and in **Exhibit A**.

## II. ADMINISTRATION OF THE JOINT COMMUNICATIONS SYSTEM

**2.01 Coordinating Committee.** Operation, administration and policy development of the Joint Radio System shall be the responsibility of a Coordinating Committee, comprised of one (1) Designee from each City, appointed by the respective City Manager of both Plano and Allen (hereinafter "Coordinating Committee"). Additional ex-officio members may be selected by the City Managers to serve on the Coordinating Committee and to assist the Committee, but shall have no voting authority.

The Coordinating Committee's duties will be to make recommendations to the respective Parties' governmental bodies of system changes, upgrades, additional uses and any other aspects of the Joint Radio System. Payment of Monies pursuant to the terms and obligations of this Agreement must be approved by the governing bodies or the designee of each of the Parties as required by their respective City Charters and ordinances. Administrative decisions may be made by the Coordinating Committee.

The Coordinating Committee quarterly meeting schedule will be established by the appointed representative from each Party to this Agreement. The schedule for the Technical Committee will also be set by the Coordinating Committee.

**2.02 Technical Committee.** A committee of technical personnel shall be selected to advise the Coordinating Committee (hereinafter "Technical Committee"). Each City's Coordinating Committee member shall be able to appoint up to four (4) persons to serve on the Technical Committee.

Technical Standards based on the most current microwave radio system technology, for the operation of the Joint Radio System shall be developed by the Technical Committee and approved by mutual agreement of the Coordinating Committee. Once approved, these standards must be compatible with existing equipment and may not violate any of the terms of this Agreement or of any existing maintenance or hardware agreement.

### III. FUTURE EXPANSION OF THIS AGREEMENT

**3.01 Third Parties to this Agreement.** All third parties who are serviced by the respective radio systems of Plano and Allen at the time of signing of this Agreement may participate in the Joint Radio System created by this Agreement. However, for purposes of this Agreement, including its intended operation and effect, the Parties specifically agree and contract that: (1) this Agreement only affects the Parties hereto, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity not a party hereto, notwithstanding the fact that such third person or entity may be in a contractual relationship with Plano or Allen, either individually or collectively; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owed by them to any of the Parties or to create any rights for the benefit of third parties, unless expressly provided herein.

### IV. OWNERSHIP INTERESTS OF THE PARTIES

**4.01 Radio License Modification.** All Federal Communications Commission (FCC) licenses shall be managed by the City of Plano for single entity titling, as required by FCC standards.

**4.02 Hardware/Software.** Each Party shall retain individual ownership of its respective hardware and software purchased prior to, or as a part of this Agreement. All communications and operating equipment owned by each Party will continue to be separately owned by such Party.

In order to ensure hardware and software compatibility with the Joint Radio System infrastructure, all Subscriber Radios and consoles intended for use on the Joint Radio System shall be compliant with ASTRO 25 Phase II and Motorola SUA II standards for upgrades and maintenance. The use of unauthorized devices on the Joint Radio System may result in suspended operation of those devices and/or termination of the Agreement.

**4.03** Recommendations regarding changes, upgrades, and maintenance costs for the Joint Radio System must be submitted to the Coordinating Committee for joint resolution and policy determination.

## V.

### FINANCING AND INFRASTRUCTURE COST SHARING

**5.01** Each Party incurring costs has the sole responsibility to make payment to the vendors providing equipment and services for the Joint Radio System to that Party. In no event shall any Party be held liable for debts incurred by any other Party as a direct or indirect result of expenditures made pursuant to this Agreement.

**5.02 Radio Support Technicians.** Technicians within the Plano Radio Division will provide support for the Joint Radio System. The technicians will provide programming service and maintenance of radios on the system in accordance with Terms of Use cited in **Exhibit A**. Plano shall provide the necessary office space, supplies, equipment and training for these technicians. Should Allen decide to hire an additional radio technician during the Term of this Agreement based in Allen, Allen will provide Plano with a one (1) year advance notice of its intent.

**5.03 Comprehensive Maintenance Agreement for Equipment.** The Parties agree that consistent with and to the extent allowed by all laws governing purchases made by municipalities, each Party shall pay its respective cost of its maintenance agreement to include software, hardware, and consoles, mobile and portable radios directly to the manufacturer. The Plano Radio Division will provide shipping and receiving point for all agencies. This ensures proper programming, database maintenance and fault analysis trends.

**5.04 Subscriber Revenue Fund.** The Parties agree that there will be public and non-municipal entities who receive beneficial use of the Joint Radio System although not a party hereto. The Parties agree to charge entities a reasonable fee, in accordance with **Exhibit A**, and as set by the Coordinating Committee. Fees shall be remitted to the established Plano Subscriber Revenue Fund ("Fund") for the benefit of the Parties to this Joint Radio System Agreement, as recommended by the Coordinating Committee and approved by each Party's governing body. This Fund shall be used to pay expenses associated with the operation of the Joint Radio System. Any additional monies or fees shall be used for repairs, upgrades or other enhancements to the Joint Radio System. Plano will retain a 2/3 share of the Fund and Allen will receive 1/3.

**5.05 Future Subscribers.** Any public entity who builds infrastructure such as a tower with communications repeaters and backhaul infrastructure connected to the Joint Radio System will be considered a future infrastructure subscriber. Those future subscribers with radio and console connections only, are classified as radio subscribers.

Future infrastructure subscriber participation will require approval by the Coordinating Committee. In addition, they will be required to meet the minimum system

requirements for site hardening, maintenance and reliability as defined by the Coordinating Committee.

Additional ex-officio members may be selected by the future infrastructure subscriber entities to serve on the Technical Committee and to assist the Coordinating Committee, but will have no voting authority.

The Coordinating Committee shall determine the support impact of future subscribers and the need for any additional technician(s) to support the Joint Radio System infrastructure. The purpose of additional technician(s) is to offset the costs of an annual system maintenance agreement. The shared costs of the technician by the future subscribers are expected to result in a costs savings over the typical manufactures' maintenance agreement. The technician will be stationed at the City of Plano Radio Shop and assigned maintenance and repair tasks in a prioritized manner. The technician will also provide after-hours call out service for the Joint Radio System and dispatch agencies. The technician will be on-call after hours, holidays and weekends for both infrastructure and Radio Subscribers.

External non-municipal or public entities who choose to migrate along with the future subscribers are required to seek approval from the Technical and Coordinating Committees prior to joining the system. The Technical Committee will evaluate and make recommendations to the Coordinating Committee. In addition to any other obligations, any subscribers added to the Joint Radio System shall also be required to pay a rate established by the Coordinating Committee, and if required by Charter or ordinance, approved by the respective governing bodies of Plano and Allen.

## VI. JOINT RADIO SYSTEM USE AND STANDARDS

**6.01 Joint Radio System Priorities.** The Parties agree that radio transmission for the Joint Radio System is as follows from highest to least priority:

1. Emergency Activation
2. Community Warning Systems
3. Police/Fire/EMS
4. Non Public Safety – Special Events
5. Non Public Safety – Schools
6. Non Public Safety

See **Exhibit A** for detailed information on Joint Radio System use and standards.

## VII. ACQUISITION/DISPOSITION OF ASSETS

**7.01** Assets acquired under this Agreement by each Party must be acquired and disposed of in accordance with applicable law and the Parties' respective City Charters.



**7.02** Each Party paying for assets acquired or making any type of payment pursuant to this Agreement shall make such payments from current revenues legally available to that respective Party.

**VIII.  
SYSTEM MANAGEMENT AND OPERATION**

**8.01** The City of Plano shall perform the day-to-day operation and management of the Joint Radio System. Policies and procedures for specific management issues shall be pre-determined and approved by the Coordinating Committee. The Coordinating Committee shall make all decisions regarding matters other than the day-to-day operation and management of the Joint Radio System.

**IX.  
TERMINATION OF THE AGREEMENT**

**9.01** The Initial Term of this Agreement shall begin on the last date of execution hereof (the "Effective Date"), and shall continue for a period of one year, unless sooner terminated as provided herein (the "Initial Term"). After the Initial Term, this Agreement shall automatically renew for successive one (1) year terms.

**9.02** This Agreement may be terminated upon one (1) year advanced written notice from the Party seeking termination to the other Party. Upon termination, the Party terminating shall be entitled to seek an FCC license with the same frequencies, which the Party had prior to the execution of this Agreement.

Upon termination, Plano will receive ten (10) 700 MHz or 800 MHz and Allen will receive two (2) 700 MHz or 800Mhz radio frequency channels from the joint use system.

The Party terminating this Agreement shall reimburse the remaining Party for reconfiguring of the system such as microwave realignment and licensing fees.

**X.  
RELEASE AND HOLD HARMLESS**

**10.01** Each of the Parties does hereby agree to waive all claims against, release, and hold harmless the other Party and their respective officials, officers, agents, representatives, and employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorney's fees, and costs, including all expenses of litigation or settlement, or causes of action which may arise by reason or 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 the acts or omissions of their respective officials, officers, agents, representatives, and employees related to or arising out of the performance of this Agreement. In the event that a claim is filed, each Party shall be responsible for its proportionate share of liability. The Parties agree that each shall be liable only for damages, including attorney fees and costs, related to or arising out of the

intentional or negligent act or omission of their respective officials, officers, agents, representatives, and employees in the performance of this Agreement.

## **XI. IMMUNITY**

**11.01** It is expressly understood and agreed that, in the execution of this Agreement, no Party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Parties 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.

## **XII. ASSIGNMENT AND SUBLETTING**

**12.01** The Parties shall not assign, sublet, subcontract or transfer any interest in this Agreement without the prior written consent of the other Parties. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of the Parties.

## **XIII. ENTIRE AGREEMENT**

**13.01** This Agreement represents the entire and integrated agreement between Plano and Allen and supersedes all prior negotiations, representations and/or agreements, either written or oral with regard to the subject matter hereof. This Agreement may be amended and modified only by written instrument signed by all Parties.

## **XIV. NOTICES**

**14.01** Unless notified otherwise in writing in accordance with this section, all notices required to be given to any Party hereto shall be in writing and delivered in person or sent by certified mail, return receipt requested, to the respective Parties at the following addresses:

**Allen Representative:**  
IT Director  
205 W. McDermott  
Allen, Texas 75013  
(214) 509-4200

**Plano Representative:**  
Chief Information Officer  
1520 K Avenue  
Plano, TX 75086  
(972) 941-7930

**XV.  
AUTHORIZATION**

**15.01** Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that is granted and assumed under this Agreement.

**XVI.  
SEVERABILITY**

**16.01** 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, any Party may terminate this Agreement by giving the other Party thirty (30) days written notice.

**XVII.  
VENUE**

**17.01** This Agreement and any of its terms or provisions, as well as the rights and duties of the Parties hereto, shall be governed by the laws of the State of Texas. The Parties agree that this Agreement shall be enforceable in Collin County, Texas, and, if legal action is necessary, exclusive venue shall lie in Collin County, Texas.

**XVIII.  
INTERPRETATION OF AGREEMENT**

**18.01** This is a negotiated document. Should any part of this Agreement be in dispute, the Parties agree that the terms and provisions of this Agreement shall not be construed more favorable for or strictly against any Party.

**XIX.  
REMEDIES**

**19.01** No right or remedy granted herein or reserved to the Parties is exclusive of any right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the Parties. It is further agreed that one (1) or more instances of forbearance by any Party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

**XX.  
SUCCESSORS AND ASSIGNS**

**20.01** The Parties bind themselves, their respective successors, executors, administrators and assigns, to the other Parties to this Agreement. References in this



Agreement to Plano and Allen whether individually or collectively, includes the successors and assigns of each of the respective Parties.

## **XXI. DISPUTE RESOLUTION**

**21.01** In the event of a dispute regarding any aspect of this Agreement, the dispute shall be sent first to the Coordinating Committee, for resolution and the Coordinating Committee shall act as mediator. If the Coordinating Committee is unable to agree on a resolution, then the dispute shall be referred to a joint meeting of management representatives from the City of Plano and the City of Allen. If the dispute continues to remain unresolved after this process, the Parties shall refer the dispute to outside non-binding mediation for resolution prior to engaging in litigation. All Parties shall share equally in the costs of a certified mediator and each Party shall be responsible for its own attorney fees.

## **XXII. FORCE MAJEURE**

**22.01** 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, existing contractual obligations directly related to the subject matter of this Agreement, or declaration of a state of disaster or emergency by the federal, state, county, or City government in accordance with applicable law.

## **XXIII. GOVERNMENTAL FUNCTION**

**23.01** The Parties have determined by their execution of this Agreement that this Agreement and the obligations of the Parties contained herein are in discharge of a governmental function as set forth in the Interlocal Cooperation Act, and participation in this Agreement by one Party shall not be construed as creating any kind of agency relationship, partnership, or joint enterprise between the Parties.

## **XXIV. CONFIDENTIAL INFORMATION**

**24.01** To the extent permitted by law, the Parties to this Agreement and its officers, agents and employees, agree that they shall treat all information provided to it by the City of Plano (Radio Division) as confidential ("City Information") and shall not disclose any such information to a third party without the prior written approval of the City of Plano (Radio Division), unless such disclosure is required by law, rule, regulation, court order,

in which event the Parties shall notify City of Plano (Radio Division) in writing of such requirement in sufficient time to allow the Parties to seek injunctive or other relief to prevent such disclosure. The Plano Radio Division shall store and maintain Plano and Allen network Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt Plano and Allen Information in any way. The Parties shall notify the City of Plano (Radio Division) immediately if the security or integrity of any Plano and Allen Information has been compromised or is believed to have been compromised.

**XXV.  
HEADINGS**

**25.01** The headings of this Agreement are for convenience of reference only and shall not affect in any manner any of the terms and conditions of this Agreement.

**XXVI.  
DUPLICATE ORIGINAL DOCUMENTS**

**26.01** This Agreement will be executed in two identical counterparts, each of which shall be deemed an original for all purposes.

*(signature page to follow)*

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF PLANO, TEXAS**

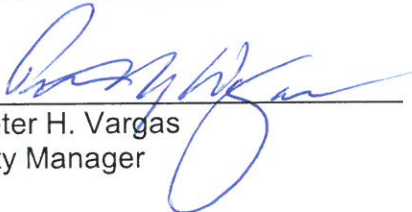
BY: \_\_\_\_\_  
Bruce Glasscock  
City Manager

APPROVED AS TO FORM:

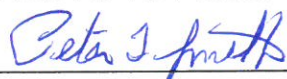
BY: \_\_\_\_\_  
Paige Mims  
City Attorney

EXECUTED this 12<sup>th</sup> day of September, 2018.

**CITY OF ALLEN, TEXAS**

BY:   
Peter H. Vargas  
City Manager

APPROVED AS TO FORM:

By:   
Peter G. Smith  
City Attorney  
(07-26-2018:FINAL TM101354)

**ACKNOWLEDGMENTS**

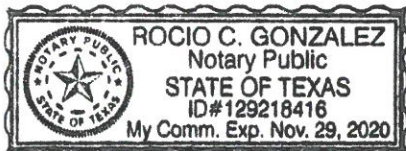
STATE OF TEXAS       )  
                                  )  
COUNTY OF COLLIN    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by **BRUCE GLASSCOCK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipality, on behalf of such corporation.

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS       )  
                                  )  
COUNTY OF COLLIN    )

This instrument was acknowledged before me on the 12<sup>th</sup> day of September, 2018, by **PETER H. VARGAS**, City Manager, of the **CITY OF ALLEN, TEXAS**, a home-rule municipality, on behalf of such Municipality.



Rocio Gonzalez  
Notary Public, State of Texas

## EXHIBIT A TERMS OF USE

1. The installation and maintenance of the Joint Radio System infrastructure equipment is the responsibility of the City of Plano (Radio Division) unless otherwise stated in this Agreement.
2. The City of Plano (Radio Division) is the holder of the FCC (Federal Communications Commission) license(s) that the Joint Radio System uses for its operation.
3. The City of Plano (Radio Division) makes no guarantee, either express or implied, as to radio signal strength or a specific level of radio coverage in a particular location. Subscribers are responsible for conducting appropriate and applicable in-building and geographical coverage testing to determine the expected radio coverage level for their equipment.
4. Subscribers will be responsible for the acquisition and maintenance of all equipment utilized in connection with the Joint 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 Joint Radio System infrastructure, all Subscriber Radios and consoles intended for use on the Joint Radio System shall be compliant with Project 25 Phase II standards established by the Telecommunications Industry Association. The use of unauthorized radios on the Joint Radio System may result in suspended operation of the radios and/or termination of the Agreement.
6. Subscribers agree to exclusively utilize antennas specifically approved by the radio manufacturer for use with the specific models of radios. The use of short, broad spectrum, or "stubby," antennas is not recommended. Subscribers shall be solely liable for coverage gaps in the event they utilize short broad spectrum or stubby antennas or other antennas not approved by the manufacturer for use with the specific models of radios.
7. No antenna gain greater than 3 DB will be allowed for mobiles and consolettes.
8. Subscribers shall use due diligence in the maintenance and configuration of their radio equipment to ensure that no radio or console causes a degradation to the Joint Radio System operation. The City of Plano (Radio Division) shall have the right to remove from operation any field radio unit or equipment owned or leased by a subscriber that is operating on, attached and/or interfaced to the Joint Radio System infrastructure, if the City of Plano (Radio Division) determines in its sole reasonable discretion that such equipment is causing interference or harm to the Joint Radio System in any way. The City of Plano (Radio Division) reserves the right to request that subscriber 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 Plano (Radio Division). The cost of such testing or repair will be the sole responsibility of the subscriber. Furthermore, the City of Plano (Radio Division) shall have the right to deactivate, without prior notification to or consent of subscriber, any field radio or other equipment suspected of causing interference, intentionally or unintentionally, to any other radios on the Joint Radio System or to the System's overall operation.

9. Subscriber's Radios may be used for voice radio communications over the Joint 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 Plano (Radio Division) will be responsible for managing infrastructure loading and demand. The City of Plano (Radio Division) 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 Joint Radio System. The Coordinating Committee shall have sole discretion in determining whether to allow additional users or radios based on the City of Plano's (Radio Division) determination of whether such addition to the Radio System can be made without adversely impacting the Joint Radio System.

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

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

13. Subscribers utilization of data communications on the Joint Radio System will be limited to the System's OTAP or OTAR functions currently in use on the System. Performance of data communications over the Joint Radio System is not guaranteed. For programming changes involving more than ten Subscriber Radios, Subscribers agree to coordinate with the City of Plano (Radio Division) prior to executing changes to minimize impact on other users and on the System.

14. The administration of encryption keys will be performed exclusively by the City of Plano (Radio Division). Subscribers may utilize and administer other encryption methods as required.

15. The provision of Advanced System Keys (ASK) must be reviewed and approved by the Joint Radio System's Coordinating Committee. If approved, the City of Plano (Radio Division) will be responsible for issuing the ASK which will expire annually and the subscriber shall be responsible for requesting a new ASK following expiration if required. Subscribers will be responsible for safeguarding the security of the ASK to prevent theft and/or loss. Subscribers agree to notify the City of Plano (Radio Division) immediately upon the theft or loss of the ASK.



16. The City of Plano (Radio Division) will assign Subscriber Talk Group IDs unique to their operation. All Talk Group names shall include a prefix unique to the subscriber's agencies. No other agency will be authorized to use other agencies' Talk Groups without the express written permission of that agency and a copy of such permission must be on file with the City of Plano (Radio Division) before such use may occur. The City of Plano (Radio Division) reserves the right to require certain Talk Group IDs to be programmed in Subscriber Radios. Additionally, the City of Plano (Radio Division) shall have the right to limit the number of Talk Group IDs to be used by a Subscriber and to disable Talk Groups IDs, as it deems appropriate.

17. The City of Plano (Radio Division) will establish a coordinated Interoperable Communications Plan to apply to the City of Plano (Radio Division) and the users of the Joint Radio System. Subscribers agree to participate in the Plan and include the Plan's interoperable Talk Groups in the programming of their Radios and Console Systems.

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

19. The City of Plano (Radio Division) will utilize a Network Management Console (NMC) to manage the Joint Radio System environment. The Radio Division will ensure the NMC is located in a secure area. All security patches related to operating systems and other associated software will be maintained at current manufacturer-tested levels. No other software applications may be utilized by the NMC.

20. The City of Plano (Radio Division) maintains aliases for units operating on the Joint Radio System. If a subscriber has acquired the capability to modify its aliases, it may administer and maintain its own subscriber unit aliases. From that point, the subscriber will be responsible for administering and maintaining its own subscriber unit aliases and the City of Plano (Radio Division) will no longer administer and maintain the subscriber unit aliases.

21. 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 Joint Radio System is the responsibility of the City of Plano (Radio Division), including software, hardware and carrier services. Unless otherwise approved by the City of Plano (Radio Division), connectivity will be achieved through microwave radio facilities. The use of other connectivity methods, including but not limited to fiber must be approved by the City of Plano (Radio Division). Subscribers may incur additional costs from the City of Plano (Radio Division) for other connectivity methods.

22. The City of Plano (Radio Division) has executed with Motorola Solutions a System Upgrade Agreement for the Console Systems and Site Repeater Systems that would be affected by the software upgrades. Those owned (or leased) and operated by Infrastructure subscribers must be covered by a System Upgrade Agreement at their expense. Unless Infrastructure Subscribers are notified otherwise by the City of Plano (Radio Division), the software for the Joint Radio System, all Site Repeater Systems and all Console Systems will be upgraded to the current level every two years. Infrastructure subscribers will provide all reasonable coordination necessary for the upgrade of its Console Systems. Infrastructure subscribers acknowledge that reductions in functionality may occur during the upgrade process.

**APPLICABLE FEES; TERMINATION; REFUNDS**

23. Subscribers shall pay the City of Plano (Radio Division) an annual Infrastructure Support Fee in the amount of \$32.00 per radio/month, per Subscriber Radio or console, and a \$2.00 per radio/month network access fee, for a total of \$34.00 per month per radio/console. The network access fee for infrastructure subscribers is \$1.00 per radio/console per month for a total charge of \$33.00 per month per radio/console. This fee is payable in advance on an annual basis for all active radio IDs issued to Subscribers 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 the City of Plano fiscal year. There will be no refunds or credits for radios removed from service during the fiscal year.

The monthly per Subscriber Radio support and network fee covers access to the primary master site in Plano and the back-up site in Allen and the following City of Plano Radio Division services:

Radio Installation & Patching	Shipping & Receiving Devices
Loaner Program	Service, Parts, & Repair
FCC License Management	Solution Engineering
Encryption & Key Management	Talk Group Assignment
Network Problem Resolution	Service Center
Network Upgrade Management	Tower Operation & Maintenance
Radio Monitoring	On-Call Support (7x24x365)

24. With Coordinating Committee prior approval, the City of Plano (Radio Division) 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 Plano (Radio Division) in the operation or maintenance of the Joint Radio System. Any increase in applicable fees will be effective at the beginning of the next City of Plano fiscal year. The City of Plano (Radio Division) shall provide subscribers with 120 days' written notice of any intended fee increase. Provided, however, that this notice period may be reduced if Motorola Solutions provides the City of Plano (Radio Division) with less than 120 days' notice of an increase in the

System Upgrade Agreement Fee and such reduced notice period shall not impact Subscriber's obligation to pay the increased fee.

25. Either subscribers or the City of Plano (Radio Division) may terminate this Agreement for any reason, with or without cause, upon one hundred twenty (120) days written notice to the other Party. If subscriber terminates, there will be no refunds or credits for any fee. If the City of Plano (Radio Division) terminates, the City of Plano (Radio Division) will issue a refund to subscriber of all fees, pro-rated to the end of the current fiscal year. The City of Plano (Radio Division), in its sole discretion, shall have the right to deny subscriber access to the radio infrastructure and/or the right to terminate the Agreement immediately if the subscriber fails to make full payment of invoiced system fees within thirty (30) days of the date payment is due. The City of Plano (Radio Division) further reserves the right to terminate this Agreement immediately, or deny access to subscriber, upon notice of subscriber misuse of the Joint Radio System. Notwithstanding the foregoing, the City of Plano (Radio Division), in its sole discretion, reserves the right to immediately deny access to subscriber, 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 subscriber's environment. The City of Plano (Radio Division) will use its best efforts to restore access to subscriber as soon as possible once the security breach, emergency, operational issue, or critical incident is resolved.

### **COMPLIANCE WITH LAWS**

26. Subscribers shall comply with all relevant Federal, State, and Local laws, Ordinances, and Mandates, including Federal Communications Commission rules and regulations regarding proper use of radio communications equipment. Subscribers will also comply with the guidelines, or procedures set out in this Agreement. Furthermore, subscribers are responsible for enforcing such compliance by its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants for Subscriber Radio equipment. Furthermore, subscribers will be responsible for payment of any fines and penalties levied against the City of Plano (Radio Division) (as the license holder) as a result of improper or unlawful use of Subscriber Radio equipment owned or leased by the subscriber.

27. In order to comply with Federal, State, and Local Laws and/ or Mandates, the City of Plano (Radio Division), as the license holder for the Plano/Allen portion of the Joint Radio System, may need to act on behalf of subscribers 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, subscribers will allow the City of Plano (Radio Division) to facilitate such activities on subscriber's behalf, as necessary.

28. In the instance where the Subscriber's Radio equipment is to be replaced in order to be in compliance with Federal, State, and Local Laws and/or Mandates, title and ownership of such replacement Subscriber Radio equipment, if delivered to the City of Plano (Radio Division) site, shall pass directly to the owner of the equipment that is being replaced. Subscriber shall provide the City of Plano (Radio Division), or its designee, with

the Subscriber Radio equipment to be replaced, in good working order, as determined by the City of Plano (Radio Division) or its designee. Subscribers shall be liable for payment of any fees associated with (i) radios deemed to be not in proper working order and (ii) upgrades to Subscriber's Radio equipment.

29. As the owners of the simulcast master sites, the Cities of Plano and Allen will have the right to charge subscribers, as members who directly use the master sites, an annual fee for the license to connect to and use the master sites.

30. Subscribers on the Plano and Allen Joint Radio System shall coordinate with the City of Plano (Radio Division) to program individual radios, consoles, or consolettes. The Joint Radio System owners will cooperate with one another in relation to such programming, and must comply with Plano and Allen's programming policies.

31. The City of Plano (Radio Division) will not deny or restrict permission for subscribers to program radios, consoles, or consolettes onto the master sites as long as those devices comply with P25 Phase II standards. Devices added during the fiscal year will be billed on a prorated basis at the end of that fiscal year. The City of Plano (Radio Division) will maintain a database of all radios, consoles, and consolettes programmed onto the master switches during the fiscal year and charge the relevant member an adjustment fee.

32. Subscribers will provide to the City of Plano (Radio Division) a list or report of the member agencies total number of Subscriber Radios in its system 120 days prior to the beginning of the upcoming fiscal year budget process.

Should subscribers program radios, consoles, or consolettes onto the master sites and those radios, consoles, or consolettes are not included in the member's subscriber count at the start of the fiscal year, then the City of Plano (Radio Division) may charge the member an adjustment fee.

The adjustment fee will be calculated as if the subscriber's count and the Joint Radio System's total subscriber count had included all such radios, consoles, and consolettes programmed during the year. An adjustment fee under this section will be added to the member's fee for the next contract year to give the member the time to process the additional fee in its budget process.

33. The City of Plano (Radio Division) will maintain a database of all Joint Radio System IDs and will provide this information upon request to subscribers. Entities connected to the radio network are encouraged to maintain their subscriber information and to make updates as changes occur. End of the fiscal year billing, including any prorated amounts will be based on these databases.

34. The Cities of Plano and Allen shall grant a license to subscribers to allow them to connect and integrate their radios to the Cities' ASTRO 25 master site according to the standards and specifications so that the total subscriber group is able to conduct its

routine operations and route its wide-area radio and dispatch audio and data through the Plano and Allen's ASTRO 25 master sites.

Subscriber connectivity includes the right to set the number of individual Subscriber Radios and dispatch consoles on the Joint Radio System. Subscribers will comply with the rules for programming radios and consoles onto the master switches set by the City of Plano (Radio Division). Subscribers' fees will be based on the total number of Subscriber Radios.

35. The Cities of Plano and Allen have designated the ASTRO 25 master site in Plano as the primary master site of the Joint Radio System and the ASTRO 25 master site in Allen as the DSR site. The Cities may change these designations at their option. No Party shall purchase, install or use equipment on the Joint Radio System, unless such use is approved by the other Party in writing. All subscriber units shall be equipped with P25 Phase II digital architecture. Additionally, agencies may request subscriber units that are backwards compatible to Motorola Privacy Plus Smartnet systems for interoperability with other agencies.



## **EXHIBIT B DEFINITIONS**

The following definitions are not all-inclusive, but shall have the meanings set forth below and apply to this Agreement and the Terms of Use set forth herein:

**“Console System”** -- all hardware and software associated with any dispatch console or set of consoles that connect to the Plano / Allen Master Sites.

**“Infrastructure Support Fee”** -- the annual fee charged by the City of Plano (Radio Division) to offset costs incurred in the operation and maintenance of the Joint Radio System.

**“Interoperable Communications Plan”** (the “Plan”) -- the plan developed and established by the City of Plano (Radio Division) and the Coordinating Committee to facilitate, enhance and simplify radio communications among all agencies utilizing the Joint Radio System or connecting their Site Repeater Systems or Console Systems to the Plano / Allen Master Sites.

**“Master Site”** -- the primary processing and network infrastructure to which all Console Systems and Site Repeater Systems must connect in order to operate on the Joint Radio System. The Master Sites are currently located in Plano and Allen tower facilities.

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

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

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

**“Site Repeater System”** -- the base stations, shelter, tower and all site-specific hardware and software infrastructure associated with the provision of a radio site connected to Plano/Allen Master Sites.

**“Subscriber Radio”** -- a radio that has a unique identification number and is programmed to operate on the Joint Radio System. The term shall include, but not be limited to, control stations (desktop radios), consoles, consolette, mobile radios, and portable radios. Subscriber radio are individual radios. The number of Subscriber Radios permitted on the system shall be reviewed and approved by the Coordinating Committee.

**“Infrastructure Subscribers”** -- any entity who builds infrastructure such as a tower with communications, repeaters, and backhaul infrastructure connected to the Joint Radio



System will be considered Infrastructure Subscriber. Radio rates for Infrastructure Subscribers are the same as standard subscribers.

**"Radio Subscriber"** -- any governmental entity, not an owner of infrastructure, that is connected to the master site(s) on the Joint Radio System.

**"Talk Group"** -- a specific group of Subscriber Radios allowed to communicate privately within that group over shared infrastructure resources. A talk group is comparable to a "channel" used on a conventional system. The term "talk group" shall mean a group of radio users in a common functional responsibility that transmit and talk among themselves. The number of talk groups that each Party to this Agreement may maintain shall not exceed fifteen percent (15%) of the total number of their respective subscriber units as hereinafter defined. For example, a city with 500 active subscriber units shall have no more than 75 talk groups. The number of talk groups used by subscribers shall be determined by the Coordinating Committee.

**"Patching"** -- Cross connecting or patching of radio, talk groups to talk groups or channels on other radio systems shall be done only as necessary for a specific event or emergency. Continuous patching to other systems or agencies requires the prior written approval of the Coordinating Committee.

**"Technical Committee"** -- A committee consisting of representative(s) from each entity utilizing the Plano and Allen Joint Radio System. This group will function as advisers to the Coordinating Committee regarding technology, new Subscribers, microwave network capacity planning, communication plan, and tasks assigned by the Coordinating Committee.