



## LOCAL GOVERNMENT RADIO SYSTEM UTILIZATION AGREEMENT

This Local Government Radio System Utilization Agreement (“Agreement”) is entered into between Broward County, a political subdivision of the State of Florida (“County”), and the \_\_\_\_\_, a \_\_\_\_\_ in Broward County (“User”) (County and User are collectively referred to as the “Parties”).

### RECITALS

A. County owns and operates a 400 MHz UHF trunked digital mobile radio system (DMR) for local government non-public safety communications (“Local Government Radio System”). County has contracted with Radio One, Inc. to implement the Local Government Radio System and provide ongoing support and maintenance pursuant to the System and Services Agreement Between Broward County and Radio One, Inc., dated March 22, 2018 (“Radio One Agreement”).

B. County desires to make the Local Government Radio System available to municipalities, special districts, and local government entities within Broward County in accordance with the terms of this Agreement.

C. County’s Local Government Radio System was originally implemented for use by County’s local government users only, but the system can be expanded to accommodate additional users. In anticipation of such potential expansion, the Radio One Agreement permits County to designate municipalities, special districts, and other local government entities as Authorized Third Party Users for the Local Government Radio System.

D. Pursuant to this Agreement, the Parties desire to designate User as an Authorized Third Party User of the Local Government Radio System, subject to User’s compliance with the license restrictions, technical requirements, and operational procedures and protocols established by County for the Local Government Radio System. In addition, by this Agreement the Parties desire to allocate the costs for any necessary expansion of the system as well as the incremental increased costs for ongoing support and maintenance.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1. DEFINITIONS**

1.1 County Contract Administrator. The Director of County’s Department of Regional Emergency Services and Communications or such other person designated by same in writing.

1.2 Effective Date. The date of signature by the last signing party such that on such date this Agreement will have been executed by authorized representatives of both Parties.

1.3 FCC. The Federal Communications Commission, including as established in 47 U.S.C. § 154, et seq.

1.4 Local Government Radio System. The 400 MHz UHF trunked digital mobile radio (DMR) system for local government non-public safety communications owned and operated by County.

1.5 Subscriber Units. The subscriber units of User programmed to operate on the Local Government Radio System, including as identified in Exhibit A or otherwise approved in writing by County's Contract Administrator.

## ARTICLE 2. TERMS AND CONDITIONS

2.1 Term. This Agreement shall be effective for a period of two (2) years from the Effective Date ("Initial Term"), unless otherwise terminated pursuant to the terms of this Agreement. The Agreement shall be automatically renewed for additional one (1) year renewal terms (each, a "Renewal Term"), unless either party provides written notice of intent not to renew at least ninety (90) days prior to the expiration of the then-current term.

2.2 Authorized Third Party User. County designates User as an Authorized Third Party User under the Radio One Agreement.

a. Radio Coordinators. Within sixty (60) days of the Effective Date, User will designate a Radio Coordinator and provide County Contract Administrator with the name and 24-hour contact information of the appointed Radio Coordinator.

b. Licenses. User agrees to abide by all applicable restrictions and limitation on use of the software and frequency licenses as stated in the Radio One Agreement or otherwise required by FCC regulations.

2.3 Local Government Radio System Operation. The Parties agree and acknowledge that the Local Government Radio System is and will remain under the sole control of County, including as required by FCC regulations. County hereby permits User to utilize the components of the Local Government Radio System required for interoperable communication, including the frequencies occupied by the Local Government Radio System and the talk groups assigned to User, subject to reasonable limitations on the foregoing as may be imposed by the County. User shall ensure that its use of the of the Local Government Radio System and the use of same by its employees, agents, vendors, and subcontractors shall strictly comply with the terms of this Agreement, any operating procedures or protocols as maybe established by County from time to time, and all applicable laws and regulations, including FCC regulations.

2.4 Subscriber Unit Specifications, Purchasing, Programming, and Maintenance.

a. Technical Specifications. All Subscriber Units must comply with County's technical specifications and requirements for subscriber units utilizing the Local Government Radio

System in effect as of the date the Subscriber Unit is introduced to the Local Government Radio System. County shall provide User with these technical specifications and requirements upon request at any time, and shall provide written notice to User of any material changes (including changes that would require replacement or upgrade of existing units) at least ninety (90) days in advance of any such material change.

b. Purchase and Programming of Subscriber Units. User is solely responsible for the purchase of Subscriber Units, and any such purchase (including any required upgrade or reprogramming) will be at the expense of User. Subscriber Units must be procured by User under the Radio One Agreement, unless otherwise approved in writing in advance by County Contract Administrator; in all instances, User must obtain County written approval of the Subscriber Units prior to utilization on the Local Government Radio System. User is also solely responsible for the costs of programming the Subscriber Units. Programming and reprogramming of Subscriber Units may only be performed by County, unless otherwise expressly approved in advance in writing by County Contract Administrator.

c. Subscriber Unit Maintenance. User must ensure the proper functioning and routinely maintain the User's Subscriber Units. For all of User's Subscriber Units, User shall meet or exceed the minimum maintenance standards as set forth in Exhibit C, as may be modified by County from time to time. County may offer (but is not required to) and User may utilize (but is not required to) maintenance services by County for Subscriber Unit maintenance at County's then-current rates. In all events, User shall utilize only certified Motorola repair facilities or persons expressly approved in writing by County to maintain or repair any Subscriber Unit.

d. Malfunctioning Units. Any Subscriber Unit that is determined by County to (i) be in violation of FCC regulations; (ii) be operating in violation of the terms and conditions of this Agreement or of any operating procedures or protocols established by County; (iii) be causing interference; or (iv) have duplicate identification numbers, County may immediately inhibit and remove that radio from use and access to the Local Government Radio System. If requested by County, User shall fully cooperate and take all steps necessary to affect the requested inhibition or removal of the Subscriber Unit. Upon inhibiting any Subscriber Unit, the Party taking the action must notify the Radio Coordinator of other Party as soon as possible, but in any event within twenty-four (24) hours of the inhibition of the unit.

e. Lost Units. If any Subscriber Unit is lost, stolen, or destroyed ("Lost Radio"), User shall immediately notify County (within twenty-four (24) hours) so that the identification number of the Lost Radio may be removed from the Local Government Radio System. If the unit is believed by User to be lost or stolen, User shall file a police report on same. Unless otherwise agreed by the Parties, identification numbers removed from the Local Government Radio System due to a Lost Radio will remain inactive until the Lost Radio is accounted for and destroyed or located and returned to service, in which event the User

shall provide written notice to County of the details of same and the identification number of the unit at issue.

2.5 Use Protocols. County maintains and periodically updates the protocols that govern the end user operation on the Local Government Radio System, including the issuance of identification numbers and the assignment of talk groups or other radio resources. Protocols include common standards of operation to simplify communication when using shared talk groups, including methods of self-identification, and the use of “plain language” rather than “lingo” or codes. County will provide User written notice of any changes to use protocols, and User shall comply with all such protocols include as updated by County from time to time.

2.6 Fleetmap and Talk Groups. User may utilize the talk groups expressly stated in Exhibit B (if any), provided User timely pays the associated fees stated on Exhibit B. Except as expressly stated in Exhibit B, User must obtain prior written approval from County Contract Administrator for fleet maps, codeplugs, and talk groups on the Local Government Radio System. County may, at any time, modify the permitted talk groups for User upon at least ten (10) business days prior written notice; any amount charged to User for utilization of talk groups shall be adjusted pro rata.

2.7 Expansion of System and Allocation of Costs. The Parties agree to the allocation of costs as stated in this section. The estimated costs for User for applicable items are stated in Exhibit B. If the actual costs of those items vary from the estimates stated in Exhibit B, the allocation stated in this Section 2.7 shall govern. To the extent payment or reimbursement between the Parties is required under this section, the party required to pay shall make payment in the amount required within thirty (30) days of invoice by the other party.

a. Subscriber Units: User is solely responsible for the costs of acquisition, programming, maintenance, and repair of the Subscriber Units.

b. Licenses. County may charge User for any radio licenses required by User’s utilization of the Local Government Radio System; if County so elects, User shall reimburse County the actual costs of such additional licenses.

c. System Infrastructure. County has procured and provided for the base system installation and implementation that County determined was necessary for the Local Government Radio System. In the event additional infrastructure is required to accommodate the increased utilization occasions by User, County may charge User the actual costs imposed on County for such equipment.

d. Support and Maintenance. User will pay for the pro rata costs of Support and Maintenance Services for the Local Government Radio System based upon the number of User’s Subscriber Units programmed to operate on the system compared to the total number of units programmed to operate on the system. For example, if User’s Subscriber Units comprise 20% of all Subscriber Units programmed to operate on the Local

Government Radio System, then User would be responsible for 20% of the annual support costs for the system. On an annual basis, County will provide User with an estimate of the user's pro rata share for the upcoming year (or portion thereof), and User shall pay the estimated amount; at the conclusion of each annual period, County will provide the calculation of User's actual pro rata share of the total Support and Maintenance Services costs for the Local Government Radio System, and any overpayment shall be credited or reimbursed by County and underpayment shall be promptly paid by User.

2.8 Excluded Services. This Agreement does not in any way address or affect dispatch services, including call-taking and teletype (queries only), or the provision of same. This Agreement does not in any way address or affect utilization of the public safety answering points (PSAPs) or the emergency radio communications system.

2.9 System Coverage. User acknowledges that County cannot guarantee coverage, availability, or clarity of communications. User acknowledges that the Local Government Radio System is intended for utilization only for non-public safety radio communications. Notwithstanding the foregoing, County has contracted for and will use best efforts to provide and maintain the Local Government Radio System with a minimum of 90% reliability countywide, medium density building, radio coverage with a minimum Delivered Audio Quality (DAQ) of 3.0 (i.e., speech understandable with slight effort, which may require occasional repetition due to noise or distortion).

### **ARTICLE 3. MISCELLANEOUS**

3.1 Effective Date; Time is of the Essence. The Agreement shall become effective as of the Effective Date. Time is of the essence for all performance required under this Agreement.

3.2 Termination. This Agreement may be terminated by either party with or without cause upon ninety (90) days' prior written notice.

3.3 Third-Party Beneficiaries. The Parties acknowledge that there are no third-party beneficiaries under this Agreement.

3.4 Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail, with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change.

NOTICE TO COUNTY:

Director of Regional Emergency Services and Communications  
Attn: Tracy Jackson  
115 S. Andrews Ave., Suite 325  
Ft. Lauderdale, Florida 33301  
Email address: tjackson@broward.org

NOTICE TO USER:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email address: \_\_\_\_\_

3.5 Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either party.

3.6 Headings and Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein,” “hereof,” “hereunder,” and “hereinafter,” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Any reference to days shall be deemed to refer to calendar days unless otherwise expressly stated.

3.7 Governing Law, Venue and Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the State of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. **BY ENTERING INTO THIS AGREEMENT, THE COUNTY AND THE USER HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CAUSE OF ACTION OR CLAIM ARISING FROM, RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT.**

3.8 Amendments. Except as otherwise expressly stated herein, no modification or amendment to this Agreement shall be effective unless it is in writing and executed by the governing bodies of each party.

3.9 Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

3.10 Sovereign Immunity. Nothing in this Agreement is intended to serve as a waiver of sovereign immunity by the County or the User to the extent sovereign immunity may be applicable.

3.11 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The Exhibits are incorporated herein and made a part of this Agreement.

3.12 Counterparts. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same, and CITY OF \_\_\_\_\_, signing by and through its \_\_\_\_\_, duly authorized to execute same.

COUNTY

WITNESS:

BROWARD COUNTY, by and through its County Administrator

\_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
County Administrator

\_\_\_\_\_  
(Print Name of Witness)

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Signature)

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

\_\_\_\_\_  
(Print Name of Witness)

By \_\_\_\_\_  
René D. Harrod (Date)  
Deputy County Attorney

RDH  
2019-03-13 Local Government Radio System Utilization Agreement  
3/13/2019  
#417021.3



**CITY OF** \_\_\_\_\_

ATTEST:

CITY OF \_\_\_\_\_

\_\_\_\_\_  
CITY CLERK

By: \_\_\_\_\_  
CITY MAYOR

\_\_\_\_\_  
Print Name

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

I HEREBY CERTIFY that I have approved this Agreement as to form and legal sufficiency subject to execution by the parties:

\_\_\_\_\_  
City Attorney

**EXHIBIT A**  
**User Subscriber Units**

**EXHIBIT B**  
**Estimated Costs**

Description	Estimate
Licenses (up to ____)	\$
Subscriber Units	\$
Additional Infrastructure Equipment	\$
Programming	\$
Pro Rata Support and Maintenance	\$____/annually
Other	\$
<b>TOTAL</b>	<b>\$</b>

**EXHIBIT C**  
**Minimum Subscriber Unit Maintenance**