

**Interlocal Agreement Between Collin County and the City of Princeton  
for the  
P25 Public-Safety Radio System's Use of Princeton's Water Tower**

1. **Purpose.** Collin County is building a Project 25 (P25) standards-based Public-Safety Radio System. Under this agreement, the City of Princeton will provide Collin County with access to space on and around the North Elevated Storage Tank (EST, water tower) on 185 West County Road 461, to locate antennas and related equipment for the Public-Safety Radio System's planned duration, with extension options. In exchange, Collin County will provide the City of Princeton, including its police and fire departments, with services and access to the Public-Safety Radio System. Collin County and the City of Princeton (sometimes referred to herein as "the City" or "the County") intend for all equipment, components, and operations of the Public-Safety Radio System to conform to industry standards and the law, and this agreement should be interpreted to achieve this public-safety purpose.

2. **Authority.** Collin County and the City of Princeton enter this agreement under the Interlocal Cooperation Act, Texas Government Code, Chapter 791.

3. **Agreement's Term.** Collin County will need access to the City's water tower and the City will need access to the County's radio system for the radio system's lifespan. The County expects its radio system to last at least 20 years or longer with regular upgrades. Thus, this agreement will go into effect on April 16 2018 and will continue until September 30, 2037. *See* Tex. Gov't Code, § 791.011(i). After this term, either party may extend this agreement for two-year terms on comparable terms, adjusted for then-prevailing conditions, for the expected life of the Public-Safety Radio System's lifespan. *See id.* § 791.011(f).

4. **Background.** Collin County is building a new multimillion-dollar Public-Safety Radio System with nine simulcast sites and will connect the system to the public-safety radio system operated by the Cities of Plano, Allen, Wylie, and Murphy (the PAWM system). Each simulcast site is an essential component of the radio system in that it provides critical radio coverage to first responders throughout the area.

Collin County plans to use the City of Princeton's North Elevated Storage Tank on 185 West County Road 461, for the placement of microwave and radio antennas, other equipment, transmission line cabling, an equipment shelter, and a standby generator with fuel tank.

The County's radio vendor is scheduled to begin installing elements of the County's new radio system on the City's tower in March 2018. The County plans to begin testing its new system in July 2018 and for first responders to begin using it as a primary system in October 2018.

5. **Liaison Officers**

The City of Princeton's liaison officer for regular communications and performance under this agreement will be Tommy Mapp, Public Works Director.

Collin County's liaison officer for regular communications and performance under this agreement will be Commander Pam Palmisano, ppalmisano@co.collin.tx.us, 972-547-5100.

6. **Necessary Conditions or Standards.** The new Public-Safety Radio System's radio towers, antenna, related equipment, and microwave paths, and installation must meet various minimum industry standards for safe operations for public safety.

a. **P25 and Performance Standards.** Collin County intends to operate its radio system according to Project 25 phase 2 standards, and it must have the quality, design, and performance characteristics of operability, interoperability, reliability, portability, resiliency, redundancy, scalability, security, and efficiency. The radio system and each of its components must operate with a soundness and performance suitable for public safety. As to functionality, the radio system and its components must operate and perform as designed by their relevant manufacturer. Microwave paths must be able to travel a clear, line-of-sight path from simulcast site to simulcast site (tower to tower), and the radio system must provide coverage free from undue interference. The County intends to maintain its simulcast sites according to Motorola R56 Standards and Guidelines for Communications Sites (2005).

b. **Tower Location.** The tower must remain in the precise location shown on the Tower Map and Specifications, Exhibit B (33 11 25, 96 30 4.5).

c. **Tower Specifications.** The tower must meet all required industry standards, including marking and lighting laws and standards, such as FAA Advisory Circular AC No. 70/7460-1L, Obstruction Marking and Lighting (Dec. 4, 2015) as revised.

d. **Location for P25 Antenna.** The County will install the antenna on the tower, and the antenna must remain at the same location and height on the tower as shown in Exhibit A. The tower must remain free of other equipment or appurtenances that would unduly interfere with the Collin County radio frequencies.

e. **Location for Transmission Line Cabling.** Collin County will install the transmission line cabling, and it must remain as shown in Exhibit A.

f. **Location for Equipment Shelter.** The equipment shelter housing the radio-system equipment must remain at the same location as shown in Exhibit A.

g. **Emergency Generator and Fuel Tank.** The emergency generator and fuel tank must remain at the same location as shown in Exhibit A.

h. **Microwave Paths.** The City of Princeton's tower occupies a location between the Verona and Farmersville towers as shown on the Tower Map, Exhibit B. The P25 Public Radio System's microwaves must be able to travel the paths between the towers continuously and without undue interference for the Public-Safety Radio System's proper operation during its lifespan. The tower must remain free of other equipment or appurtenances that would block the Collin County microwave paths.

**7. Collin County's Obligations and Warranties**

**a. Radio Services**

Collin County will provide the City of Princeton police, fire, and other approved departments with full-time access to the Public-Safety Radio System. The parties may negotiate and sign a separate interlocal agreement or memorandum of understanding to set out the terms of such access and service for the related radios. The County's provision of this system access is part of the consideration for this agreement.

**b. Dispatch Services**

Collin County and the City of Princeton have a separate interlocal agreement defining the terms under which the County provides the City's police, fire, and other approved departments with full-time dispatch services, renewed annually. The County's provision of dispatch services is part of the consideration for this agreement.

**c. Equipment Installation and Maintenance**

Collin County will install and maintain its antennas and related equipment on the tower and at the tower location.

**d. Insurance for the Antenna and Related Equipment**

Collin County will procure and maintain warranties and insurance for the antennas and related equipment.

**e. AC Power**

Collin County will have access to AC power via the power grid. Collin County will be responsible for working with the electrical company and will bear all costs, initial and ongoing, for providing AC power to all Collin County equipment at the tower site.

**f. FCC Registration and FAA Notification**

The tower is registered with the FCC. The FAA has the required notice of the tower, or the tower is exempt from FAA-notification laws. If Collin County takes an action that requires a registration, notification, or a change in status of a registration or notification, then Collin County will either comply with the applicable registration or notification law or cooperate with the City of Princeton so that it may comply with the law.

**g. Records and Requests**

Collin County will maintain various records and data about the Public-Safety Radio System, the antenna and related equipment located at the tower location, and their performance. Collin County will provide information in response to the City of Princeton's reasonable requests, particularly about the antenna and related equipment at the tower or tower location or their performance.

Except as the law may require, Collin County will not disclose price, cost, or proprietary information where it is not reasonably related to the City's performance obligations under this agreement. Also, Collin County will not disclose information in violation of a law, privilege, or another contract.

**h. Predicates to an Act by the City**

Collin County will meet a legally required or reasonable predicate or condition precedent to the City of Princeton taking an action, which the County may request or require under this agreement. For example, the County may require the City to remove, redirect, or relocate a piece of equipment on the tower (*see* sections 8(f) and 8(j)). As a reasonable condition precedent, the County will provide the City with documentation, data, or other support for the proposition that the equipment interferes with the Public-Safety Radio System's performance.

**i. General Cooperation**

The City of Princeton intends to use the tower as a water tower for its lifespan. Likewise, Collin County intends to build and operate the Public-Safety Radio System for the system's lifespan and expects to need access for its antennas and equipment at the tower site during this time. Thus, the County will benefit from the tower's continued integrity. Collin County will reasonably cooperate with, and contribute to, the City's efforts to maintain the tower and will use its best efforts not to use its antennas and other equipment so as to unduly impair the City's use of the tower as a water tower.

**8. The City of Princeton's Obligations and Warranties**

**a. Land at the Tower's Location**

The City of Princeton warrants that it owns the land at the tower's location in fee simple and that it owns or has an easement for access to the tower from a public road. The City of Princeton will maintain its ownership of the land and access rights for the water tower's lifespan.

**b. The Tower**

The City of Princeton warrants that it owns the water tower itself in fee simple. The City of Princeton will retain its ownership of the tower for the tower's lifespan. The City will keep the tower at its present location for the tower's lifespan.

**c. The Tower Location**

Collin County has inspected the tower and determined that it meets the standards to serve as a tower for the Public-Safety Radio System's antennas and related equipment.

The City of Princeton will also continue to maintain any road, which is reasonably necessary for access to the tower and the tower's location. In the case of a road, which the City does not maintain or have the right to maintain, the City of Princeton will reasonably cooperate with Collin County in reporting problems to the appropriate owner or other party to maintain, repair, or improve the road.

**d. Access to AC Power**

Under 7(e), the County is responsible for working with the electrical company to provide AC power to all Collin County equipment at the tower site. The City will reasonably cooperate with the County in obtaining and maintaining access to the power grid, including allowing the County to use the City's rights, such as a license, easement, or other right of way between the tower and the power grid.

**e. Tower Management with Respect to Radio**

The City will maintain and manage the water tower and water tower site according to the law and industry standards applicable to water towers, including lightning protection.

With respect to the tower's management that affects the County's Public-Safety Radio System, the City will maintain and manage the water tower and water tower site according to industry standards such as those in chapter 8 of Motorola R56 Standards and Guidelines for Communications Sites (2005), to provide the best radio-frequency environment to support the proper operations of the County's radio system. The City will also maintain and manage the water tower and water tower site to provide clear microwave paths for the County's radio system.

**f. License**

The City of Princeton grants Collin County a license so that the County may take all actions, including entering the City's real and personal property at the tower site and on the tower, the County deems appropriate to install, maintain, and operate its Public-Safety Radio System, including the microwave and radio antennas, equipment shelter, and emergency generator, so as to conform to industry standards and the law. Collin County's license gives it the right to install, inspect, maintain, repair, improve, or replace any component, including the antennas and related equipment, as well as to survey, study, or gather data about the tower, antennas, related equipment, and the operations of anything that the County suspects may affect the Public-Safety Radio System's performance.

Collin County's license includes the right to require the City of Princeton to remove, shield, or relocate—or have removed, shielded, or relocated—other antennas, equipment, or attachments to the tower, which may interfere with the performance of the Public-Safety Radio System, its antenna structure, or related equipment.

Where the City of Princeton lacks the right or authority to remove or redirect, or require the removal or redirection, of an antenna, piece of equipment, or attachment, or to alter its functioning, then Collin County's license includes only the right to request that the City of Princeton use reasonable efforts to restore the Public-Safety Radio System's performance to meet the applicable industry standards, P25 definition or standards, and the law.

**g. Access to the Tower Site (Equipment Shelter) and the Tower**

In general, the County will have equipment in a shelter at the tower site and microwave and radio antennas on the tower. The shelter will contain heat, smoke, electrical-failure, and other sensors and alarms. The City will have no property or equipment in the shelter.

The County will have the right to immediately enter the equipment shelter at the tower site. For example, the County will have to respond immediately to an alarm or alert. The County will reasonably notify the City when the County enters the tower site. If the City has a fence and gate, or similar security measures, at the tower site, then the City and County will cooperate to establish a procedure by which the County can rapidly enter the shelter consistent with the City's security interests. The County will not access or climb the water tower itself under this right.

The County will have the right to access the water tower's base for the purpose of inspecting, testing, maintaining, repairing, or replacing its equipment located at the water tower's base, including its antenna cabling. The County will not climb the water tower itself under this right.

The County will have the right to access the tower with reasonable advance notice to the City. For example, the County would need access to respond to an event like a lightning strike, to investigate microwave or radio-frequency interference, or to inspect or service the equipment on the tower. The City will cooperate to provide the County with appropriate access to the tower under the circumstances.

The County will also have the right to place a camera at the entrances to the City's water tower site, the County's equipment compound, and near its equipment on the water tower and to connect the cameras to the County's cabling and radio system to allow the County to monitor the camera feed remotely.

**h. Initial Equipment Installation**

The City of Princeton will permit Collin County to install its antenna and related equipment at the tower site and on the tower according to the Public-Safety Radio System's schedule. Currently, the County plans to begin installing equipment at the tower site in March 2018 and to begin testing the new Public-Safety Radio System in July 2018. The County may amend the schedule and will keep the City reasonably informed of the work schedule.

**i. Monitoring and Notice**

Because the tower is a water tower, the City of Princeton will periodically inspect and conduct operations on the tower or at the tower's location. The City will promptly notify the County if it detects what it suspects is a change or possible problem with the condition or operation of the Public-Safety Radio System or the antenna or related equipment located at the tower. The City should resolve any doubts in favor of notifying the County of a suspected change or problem. This provision imposes no duty to inspect the tower for the County's purposes or on the radio-system's schedule. It only requires the City to notify the County of relevant radio-system information that may come to its attention in its routine inspections of the tower for the City's purposes.

**j. Notice of Consideration of Tower Additions or Significant Work**

If the City of Princeton considers adding, or allowing another person or entity to add, any equipment or appurtenances to the tower, then the City will promptly notify Collin County and

will provide the County with sufficient information for the County to assess the proposed addition, study its potential effect on the Public-Safety Radio System, and to set out its position to the City. "Promptly" means with enough time for the County to exercise its rights under this subsection but, in no event, less than 60 calendar days' notice.

If the City of Princeton considers allowing another person or entity to add any equipment or appurtenances to the tower, then the City will include a provision in its relevant contract with the other party that gives the City the right to require the other party to relocate, redirect, or shield its equipment to prevent interference with the County's Public-Safety Radio System. The City will enforce any provisions in its contract with other persons or entities as reasonably necessary to prevent or eliminate undue interference with the Public-Safety Radio System.

**k. Notice of Planned Work or Maintenance**

The City will be responsible for routine maintenance, including painting, on the water tower and the City's property or equipment at the water tower site. The City will provide reasonable notice, but in no event less than 30 days' notice, to the County about any maintenance, such as painting, that may affect the County's operations at the water tower site. The City will reasonably cooperate with the County to protect its interests and continue its operations at the water tower site during any maintenance by the City.

The County will inspect, service, and maintain its own antennas, equipment, shelter, and standby generator at the water tower site. The County will coordinate its maintenance efforts with the City and will use best efforts not to interfere with the City's operation of its water tower.

**l. Notice to City Departments, particularly Planning & Zoning**

The City of Princeton will supply sufficient information about the Public-Safety Radio System, the tower, the microwave paths, and the need to maintain clear line-of-sight paths between towers, to its municipal departments, which have a role in zoning rules, permits and approvals, and construction. The goal is to enable the departments and officials to identify problems or possible future problems for a microwave path or radio system. Collin County will reasonably cooperate in putting together a package or report with such information.

If the City learns about a problem or potential problem for the Public-Safety Radio System, then the City will promptly notify Collin County. The City will notify the County of applications to construct high rise or other buildings in or near the microwave path or which may adversely affect the Public-Safety Radio System or its performance in sufficient time for the County to submit papers to the appropriate department, commission, or other authority on the County's position.

**m. General Cooperation**

In addition to other duties of cooperation under this agreement, the City as a duty to reasonably cooperate with the County to maintain clear microwave paths for the Public-Safety Radio System, including imposing requirements or conditions in permits and other grants of authority to prevent or correct any interference with a microwave path. Such requirements or

conditions may include a requirement for a microwave-path duty or other engineering study to help identify a solution to keep a path clear, location restrictions on buildings or other structures to keep a path clear, or a requirement to install one or more microwave antennas or other equipment to reroute microwaves around obstructions. In this regard, the City will reasonably cooperate with the County's efforts to build and operate the Radio System in accordance with industry standards, including those in section 6(a), and the law.

n. **Tower Insurance**

The City of Princeton will provide a minimum of \$1 million in all-risk insurance against property damage or loss to the tower and the tower site. If the tower is damaged or lost, then the City of Princeton will promptly submit and pursue the appropriate insurance claims.

o. **FCC Registration**

The City of Princeton warrants that it has met all legal requirements to register the tower with the FCC via an Antenna Structure Registration (ASR). If an event occurs that requires a renewal or change in status of the registration, then the City will comply with the applicable law to renew or appropriately change the registration.

p. **FAA Notification**

The City of Princeton warrants that it has met all legal requirements to provide all required notice of the tower to the FAA or that the tower is currently exempt from all FAA-notice requirements. If this status changes, then the City will comply with the applicable law.

9. **Unexpected Events, Cooperation**

Unexpected events may negatively affect the Public-Safety Radio System or its performance, including damage to or failure of the tower, damage to or failure of an antenna or other equipment, interference with or obstruction of the microwave paths or radio frequencies, loss of or changes to a party's property or contract rights with others, and changes to the applicable law (including operations, licenses, permits, registrations). As result of an unexpected event, the tower itself may have to be replaced, repaired, or relocated. The parties will discuss and cooperate to resolve or avoid problems cooperatively.

**Notice and Discussion.** Each party will promptly notify the other party of any performance problem or issue of which it becomes aware, or of concerns or information indicating a possible future problem for the Public-Safety Radio System. As examples, a party will immediately inform the other of any known failure or damage to the tower, an antenna, or other component of the Radio System. Under section 8(i)-(l) the City will notify the County of various events, which might interfere with the Radio System's performance.

**Access and Evaluation.** Each party will provide the other party, and its representatives and experts, with full access to any site or location or piece of personal property for an inspection and evaluation of a problem or issue affecting the Public-Safety Radio System.



**Information Exchange.** The parties will exchange with one another their information, reports, the results of any inspection or evaluation, expert analyses and recommendations, and proposals for fixing a problem or resolving an issue. The parties will promptly exchange this information with each other before moving on to the next step of cooperation.

**Cooperation.** At all times, the parties will cooperate to resolve a problem quickly and collaboratively consistent with the Public-Safety Radio System's public-safety purposes and industry standards. Each party agrees promptly to take actions within its rights and authority when an action has a realistic chance of resolving or improving a problem, including moving or changing the use of the party's personal property, exercising a right or option under a contract with another person or entity, and making and pursuing a warranty or insurance claim relevant to the Public-Safety Radio System.

If the parties decide to act as co-employers or to enter an agency relationship as part of addressing a problem, then the parties will follow section 10(d), below.

**Possible Cost Sharing.** The parties may decide to share costs in identifying, assessing, or addressing a problem with the Public-Safety Radio System. For example, the parties may want to commonly engage an engineer to assess or recommend solutions for a problem. If so, the parties will negotiate, in good faith, the terms for equitably sharing the related costs on a basis that considers each party's interest in the problem and its resolution and likely receipt of benefits of the cost-sharing project.

The meaning of "promptly" in this section will vary with the situation. For example, a party will immediately notify the other of a problem that is currently harming, or is likely to imminently harm, the Public-Safety Radio System or its performance, and the parties will immediately assess and cooperate to prevent the problem or to return the Public-Safety Radio System or the City's tower to safe and normal operation. In situations other than emergencies, a party will notify the other of concerns or possible future problems in time to permit the parties to discuss and use their best efforts to avoid or resolve the issue, and the parties will assess and cooperate to prevent, ameliorate, or remedy a problem and restore the Public-Safety Radio System or the City's tower to safe and normal operation at an appropriate and cost-effective timeline.

**Emergencies or Interim Measures.** In the case of emergencies with the Public-Safety Radio System or the City's tower's operation as a water tower, Collin County or the City may take an interim measure to prevent or ameliorate a problem or threatened problem or to restore safe operation while the parties assess and confer on a longer-term or more permanent resolution.

#### 10. **Each Party's Additional Responsibilities**

##### a. **Collin County's Employees, Contractors, and Property**

Collin County will be the sole employer of its officials, deputies, and employees, who work on or are involved in the Public-Safety Radio System. These may include, for example, Collin County employees who need to inspect alarm conditions at the tower site. Collin County will be solely responsible for all of their compensation and benefits, including salary, overtime, pension contributions, health coverage, worker's compensation insurance, short-term and long-term

disability insurance or coverage, leave time (including PTO and FMLA), and liability insurance, coverage, or indemnification.

Collin County alone will supervise and direct its employees and be responsible for their safe work practices and compliance with all law, agreements, and policies.

Collin County alone will be the principal in its relations with independent contractors, such as Motorola Solutions, the City of Plano (radio shop), CrossPoint Communications, or other service provider. For example, such a vendor may provide repair service, alarm and failure inspection, and as between the County and the City of Princeton, the County will be responsible for and to its contractors.

Collin County alone will own the antennas and related equipment installed on the water tower or at the tower location as part of the Public-Safety Radio System. The County will obtain warranty, insurance, or other coverage for all of the County's property associated with the Public-Safety Radio System.

**b. The City of Princeton's Employees, Contractors, and Property**

The City of Princeton will be the sole employer of its officials, officers, and employees, who work on or are involved in the City's water tower or the Public-Safety Radio System. The City of Princeton will be solely responsible for all of their compensation and benefits, including salary, overtime, pension contributions, health coverage, worker's compensation insurance, short-term and long-term disability insurance or coverage, leave time (including PTO and FMLA), and liability insurance, coverage, or indemnification.

The City of Princeton will be solely responsible for its employees, who work with or on the water tower, including their safety and safe work practices. For example, the City of Princeton will observe safety regulations for its employees and contractors, who will be on the tower or in a position to be affected by the radio system's operations, including microwaves and radio waves.

The City of Princeton alone will supervise and direct its employees and be responsible for their safe work practices and compliance with all law, agreements, and policies.

The City of Princeton alone will be the principal in its relations with independent contractors and, as between the City and Collin County, will be responsible for and to its contractors.

The City of Princeton alone will own the tower and real property comprising the tower site. The City obtain warranty, insurance, or other coverage for the tower and the City's related personal property.

**c. Insurance**

Each party will procure and maintain the appropriate types and amounts of insurance or other coverage, including self-insurance, to cover the risks of their conduct under this agreement and in relation to the water tower and the Public-Safety Radio System, including liability insurance or coverage, property insurance or coverage, motor-vehicle insurance or coverage, as well as

coverage against environmental damage. Upon reasonable inquiry, a party will provide the other with appropriate insurance or coverage information as part of cooperating to operate the tower as a water tower and the Public-Safety Radio System or to address problems under section 9 of this agreement.

**d. Not Co-Employers or Agents; Future Exception**

The parties are not agreeing to act as co-employers of any persons by virtue of this agreement alone. Likewise, the parties are not entering a joint-venture or agency relationship by virtue of this agreement alone.

If Collin County and the City of Princeton decide that they should act as co-employers or enter an agency relationship, for example, as part of addressing a problem with the Public-Safety Radio System, then they will use their best efforts to memorialize the agreement in a separate written document.

If the parties decide to agree to act as co-employers, then they will use their best efforts to specify each one's obligations with respect to (i) identifying the persons to be jointly employed, (ii) defining the work, (iii) setting the goals and schedule for the work, (iv) supervising the work daily or regularly as the work is performed, (v) acting to ensure that the workplace is reasonably safe for the planned work, (vi) compensating the employees and providing them with worker's compensation coverage, (vii) evaluating the work, and (viii) accepting liability for the work, including insuring or otherwise covering the relevant risks.

If the parties decide to agree to enter an agency relationship, then they will use their best efforts to (i) identify the agent and principal, (ii) define the agency's scope, (iii) set the agency's duration or specify the conditions, once fulfilled, which result in the relationship's end, and (iv) accepting liability for acts or omissions taken in the scope of the agency, including insuring or otherwise covering the relevant risks.

**e. No Restriction against Contracting or Self-Insuring**

This provision does not restrict Collin County's or the City of Princeton's ability to address and assign responsibility or liability for the risks discussed here in other contracts, including those with the County's or City's independent contractors.

Collin County or the City of Princeton may also meet any of their respective obligations, even in part, with insurance or other form of coverage, including self-insurance. If a party self-insures some or all of its risks here, the party should use appropriate methods to assess the relevant risks and set aside appropriate reserve funds to finance the party's obligations under this agreement, including its duty to inspect, repair, or maintain property, or its duties to defend and indemnify the other under sections 11-13, below.

**Notice: This provision imposes special duties on Collin County.**

**11. Other Liability-Related Provisions Benefitting the City of Princeton**

**a. Restriction of the City of Princeton's Liability**

The City of Princeton will not be liable to Collin County for claims or damages arising from the acts or omissions of Collin County's employees or contractors.

**b. Collin County's Duty to Defend and Indemnify**

Collin County will defend, indemnify, and hold the City of Princeton harmless for all claims and damages arising from the alleged acts or omissions of Collin County's employees or contractors. This provision falls under subsection (b) to sections 5 and 7 of article XI of the Texas Constitution.

**c. Covenant not to Sue**

Collin County will not sue the City of Princeton for personal injuries or property damages resulting from the acts or omissions of the County's employees or contractors, including (i) personal injury suffered by the County's employees or contractors, (ii) damage to the County's real or personal property, including antennas and related equipment, (iii) personal injury suffered by persons who are not a party to this agreement, or (iv) property damage suffered by persons who are not a party to this agreement. If Collin County files a claim in breach of this covenant, then the City of Princeton may immediately move to dismiss the claim, to stay proceedings on the claim, or for other appropriate, interlocutory relief under the circumstances.

**d. Limitation**

This provision does not restrict Collin County from suing the City of Princeton for personal injuries or property damage that results from the acts or omissions of the City's employees. If the personal injuries or property damage arose from the acts or omissions of the City of Princeton's contractors, however, then Collin County may sue the contractor, not the City of Princeton—except on a claim that the City of Princeton is directly liable by reason of an exercise of actual control over a person or instrument that proximately caused the injury or damage. Also, this section 11 does not limit Collin County's right to assert its third-party-practice rights, including the right to designate the City of Princeton as a responsible third party, in the context of a claim by a person who is not a party to this agreement.

**e. Definitions and Interpretation**

"Claims or damages" means all types of claims, requests, demands, and disputes whether arising under contract or tort law or a statute, and all types of damages, including personal injuries; damage to real or personal property; statutory or regulatory damages, fines, or penalties; attorney's fees, expert costs, and litigation or ADR costs; and all forms of interest.

**“Acts or omissions” means all types of acts or omissions, including those that constitute negligence; gross negligence; malice; intentional, negligent, or innocent misrepresentation; breach of contract; or other actionable conduct.**

**This section’s rights, duties, and restrictions apply at all relevant stages of a dispute, proceeding, or lawsuit, including at the outset of the assertion of a claim, including a lawsuit’s initial filing or pleading stage. This section’s use of terms or phrases like “damages,” “acts or omissions,” and “arising from” instead of “alleged damages,” “alleged acts or omissions,” or “allegedly arising from” does not mean that these matters must be found, substantiated, or determined (instead of merely asserted or alleged) before this section’s rights, duties, and restrictions become effective.**

**Notice: This provision imposes special duties on the City of Princeton.**

**12. Other Liability-Related Provisions Benefitting Collin County**

**a. Restriction of Collin County’s Liability**

**Collin County will not be liable to the City of Princeton for claims or damages arising from the acts or omissions of the City of Princeton’s employees or contractors.**

**b. The City of Princeton’s Duty to Defend and Indemnify**

**The City of Princeton will defend, indemnify, and hold Collin County harmless for all claims and damages arising from the alleged acts or omissions of the City of Princeton’s employees or contractors. This provision falls under subsection (b) to sections 5 and 7 of article XI of the Texas Constitution.**

**c. Covenant not to Sue**

**The City of Princeton will not sue Collin County for personal injuries or property damages resulting from the acts or omissions of the City’s employees or contractors, including (i) personal injury suffered by the City of Princeton’s employees or contractors, (ii) damage to the City of Princeton’s real or personal property, including the tower and the tower location, (iii) personal injury suffered by persons who are not a party to this agreement, or (iv) property damage suffered by persons who are not a party to this agreement. If the City of Princeton files a claim in breach of this covenant, then Collin County may immediately move to dismiss the claim, to stay proceedings on the claim, or for other appropriate, interlocutory relief under the circumstances.**

**d. Limitation**

**This provision does not restrict the City of Princeton from suing Collin County for personal injuries or property damage that results from the acts or omissions of Collin**

County's employees. If the personal injuries or property damage arose from the acts or omissions of Collin County's contractors, however, then the City of Princeton will sue the contractor, not Collin County—except on a claim that Collin County is directly liable by reason of an exercise of actual control over person or instrument that proximately caused the injury or damage. Also, this section 12 does not limit the City of Princeton's right to assert its third-party-practice rights, including the right to designate Collin County as a responsible third party, in the context of a claim by a person who is not a party to this agreement.

**e. Definitions and Interpretation**

"Claims or damages" means all types of claims, requests, demands, and disputes whether arising under contract or tort law or a statute, and all types of damages, including personal injuries; damage to real or personal property; statutory or regulatory damages, fines, or penalties; attorney's fees, expert costs, and litigation or ADR costs; and all forms of interest.

"Acts or omissions" means all types of acts or omissions, including those that constitute negligence; gross negligence; malice; intentional, negligent, or innocent misrepresentation; breach of contract; or other actionable conduct.

This section's rights, duties, and restrictions apply at all relevant stages of a dispute, proceeding, or lawsuit, including at the outset of the assertion of a claim, including a lawsuit's initial filing or pleading stage. This section's use of terms or phrases like "damages," "acts or omissions," and "arising from" instead of "alleged damages," "alleged acts or omissions," or "allegedly arising from" does not mean that these matters must be found, substantiated, or determined (instead of merely asserted or alleged) before this section's rights, duties, and restrictions become effective.

**Notice: This provision imposes special duties on both parties.**

**13. No Personal Liability, No Waiver of Immunity, No Non-Party Beneficiaries**

This agreement does not create any form of personal liability on the part of any official, officer, employee, or agent who is an individual of the City of Princeton or Collin County. Each party will not sue or try to hold an official, officer, employee, or individual agent of the other party personally liable for any personal injuries or property damage.

The parties do not waive any form of immunity by signing this agreement.

If a person, who is not a party to this agreement, files or asserts a claim against one or both of the parties to this agreement, then the parties will assert and pursue all immunity and other defenses against the claim. In addition, however, each party may pursue its third-

party-practice rights against other party in the context of a claim by person who is not a party to this agreement.

The parties do not intend to create a claim or right for, or in favor of, a person or entity who is not a party to this agreement.

#### **14. Confidential Information**

##### **a. Right to Designate Confidential Information**

Each party may designate specific information as confidential by a method reasonably designed to notify the other party that the information is confidential, such as by including "confidential" as a stamp or marking at the bottom of a page or spreadsheet (e.g., PDF or Excel page) or on the cover of a separately bound or self-contained report. In the event of testimony or deposition, a party may designate portions of the testimony, Q&A, transcript, or an exhibit as confidential.

For example, a party may use this designation for information that is subject to a privilege like the attorney-client privilege, executive-session information, information falling under an exception in subchapter C of chapter 552 of the Texas Government Code, or information that the party is obliged to protect under a contract. During this agreement's life, the parties may also designate some reports or communications to each other as a confidential agency memoranda under section 552.111 of the Texas Government Code

A party should not designate as confidential information that is publicly available or that constitutes public information under a government-transparency law, such as the Public Information Act, Texas Government Code, Chapter 552.

##### **b. Duty to Protect Confidential Information**

Each party will protect the other's confidential information by the same methods and procedures it uses to protect its own confidential or privileged information. If a party intends to disclose the other party's confidential information to a contractor or representative, like an attorney, subject-matter expert, consultant, or accountant, then the party will protect the information with a confidentiality provision in the related contract.

If a party uses confidential information in a court filing, then the party will use its best efforts to protect the information, such as by filing the information under seal or agreeing to a protective order.

If the parties are also parties, potential parties, or responsible third parties with similar or common interests in a lawsuit or other proceeding, then the parties will assess whether they may legally enter a joint defense agreement to protect privileged information consistent with the applicable law at the time. If they arguably meet the standards, then they will use their best efforts to enter one.

##### **c. Notice**

If a party believes that it may have to disclose the other party's confidential information (e.g. in response to a court order or subpoena), then the party will notify the other party of the possible pending disclosure with enough information and sufficiently far enough in advance for the other party to take steps to protect its interests.

## **15. Termination**

### **a. By Collin County**

If Collin County intends to terminate this agreement, the County will confer with the City of Princeton ahead of time about its intention and will give the City no less than 120 calendar days' advance notice before terminating the agreement. Also, the termination of this agreement alone will not terminate the City of Princeton's receipt of radio or dispatch services.

### **b. By the City of Princeton**

The City of Princeton may not terminate this agreement without making alternative arrangements for Collin County to continue proper and uninterrupted operations of the Public-Safety Radio System, including replacing the functionality provided by the City of Princeton's tower. An alternative arrangement would most likely involve an alternative tower in the local area for the County's radio antenna and other equipment and the associated microwave-path study and radio-coverage assessment needed to relocate an antenna. Collin County has the final authority to determine whether a proposed alternative arrangement is satisfactory, but the County will not unreasonably deny this determination. If the City desires to withdraw for a good reason, then the County will reasonably cooperate in trying to formulate alternative arrangements, including sharing costs, under a process analogous to the one set out in section 9. For example, Collin County's use of its antennas or other equipment in a way that unduly interferes with the City's use of the tower as a water tower would be a good reason here.

## **16. Dispute Resolution**

### **a. Notice & Conference**

If a party believes that the other party has not met, or is not meeting, an obligation under this agreement, the party will contact the other's Liaison Officer to discuss the issue. If the aggrieved party does not believe that this informal contact, discussion, and ensuing efforts have fixed the issue, then the party will notify the other's Liaison Officer in writing of the party's belief or complaint with reasonable detail to permit the other party to address the issue. The other party will then have a reasonable time to address the issue and improve its performance. The parties should assess a "reasonable time" under the relevant circumstances and with regard to the nature of the issue. But, in general, this time should take no more than 14 calendar days.

### **b. Prerequisites to Filing for ADR or a Lawsuit**

Neither party may file a claim or lawsuit in any forum before (i) the parties are finished using the cooperation procedures in section 9, (ii) the parties have conferred under section 16(a), and (iii) the parties participate in at least a one-day mediation with a mediator qualified and experienced in public-safety contracts of this or a similar nature. If a party breaches this provision,



the other may file for a dismissal or stay of the proceeding pending the parties' use of the procedures—except that if the parties cannot agree on a mediator, then they may ask the court or other authority to appoint one.

If a dispute between the parties potentially involves this agreement's termination, then the parties will also use reasonable efforts to comply with section 15's termination provisions before filing a claim in another forum.

**c. Emergency Exception**

Either party may file a petition and an application for a temporary restraining order, preliminary injunction, declaration, or similar equitable relief in the event of an emergency and for the purpose of continuing or restoring the proper operations of the Public-Safety Radio System or the tower as a water tower.

**17. Limitation on Extraordinary Remedies**

Each party is entitled only to its benefit of the bargain under this agreement or expenses actually and reasonably paid or incurred to keep the Public-Safety Radio System properly operating or to keep the tower properly and safely operating as a water tower. The parties are not liable to each other for other consequential, incidental, indirect, special, punitive, or exemplary damages or for damages that arise from special circumstances. This provision does not affect either party's rights to remedies set out in this agreement, including the parties' rights in sections 9, 11, 12, 14, 15, and 16.

**18. Glossary**

**Antennas and related equipment** means the microwave and radio antennas, which Collin County installs on the tower, and *all* related and ancillary equipment, including the antennas, microwave, generator, uninterruptable power supply (UPS), batteries and charger, switches, shelter, HVAC, ice shields, cables and wires and transmission lines, alarms and smoke detectors, fire-suppression equipment, lighting, lightning protection, security equipment, installed and maintained on the tower or at the tower location as part of the Public-Safety Radio System.

**APCO** means the Association of Public-Safety Communications Officials. APCO may publish or comment on industry standards that are relevant in interpreting the parties' duties here.

**City of Princeton** means the City and its officials, officers, employees, agents, representatives, and insurers, as well as their successors. "The City" also includes its vendors, contractors, and service providers, who may perform part or all of the City's obligations under the agreement, including those in section 8 and 9.

**Collin County** means the County and its officials, officers, deputies, employees, agents, representatives, and insurers, as well as their successors. "The County" includes its vendors, contractors, and service providers, who may perform part or all of the County's obligations under the agreement, including those in section 7 and 9.

**Efficiency** means the Public-Safety Radio System's ability to use resources to fulfill its purpose at a reasonable cost.

**FAA** means the Federal Aviation Administration.

**FCC** means the Federal Communication Commission.

**Immunity** means all forms of a county's or city's immunity, including sovereign immunity, assigned burdens of proof, heightened standards of proof, notice and procedural protections, and limitations or caps under state or federal law, including those in the Texas Tort Claims Act (Texas Civil Practice & Remedies Code) and damages law (Texas Civil Practice & Remedies Code, chapter 41).

**Industry Standards** means any standard that is followed in the design and implementation of Land Mobile Radio Systems, such as Project 25; Motorola R56 Standards and Guidelines for Communications Sites; Motorola's product manuals related to ASTRO 25 technology and equipment; National Electrical Code; ANSI TIA-222-G or ANSI/TIA-222-H (Structural Standard for Antenna Supporting Structures and Antennas with Addendums); 47 C.F.R. Part 17 (ASR); 14 C.F.R. Part 77 (FAA); FAA Advisory Circular AC No. 70/7460-1L, Obstruction Marking and Lighting (Dec. 4, 2015). A court or authority may also consult an expert or publication to define technical or engineering terms.

**Industry Standards Applicable to Water Towers** means any standard that is followed in the design and maintenance of elevated water storage tanks, such as standards published by the American Water Works Association (*e.g.*, AWWA D107-10 or D107-16), the International Building Code, NTCOG's Public Works Construction Standards, and lightning protection (NFPA 780 and UL 96, 467, and 96A). A court or authority may also consult an expert or publication to define technical or engineering terms.

**Interoperability** generally means the ability of different systems to operate with each other over the radio systems used.

**Law** means all local, state, or federal law, including statutes, regulations, and ordinances, as amended.

**Microwave Path** means a microwave radio path between two tower sites that provides connectivity between the two sites. A Microwave Path must have line-of-sight clearance with no obstructions to work properly.

**Operability** means Public-Safety Radio System's ability to support and provide the public-safety services for which the Radio System was formed.

**OSHA** means the Occupational Safety and Health Administration.

**P25 or Project 25** means a set of standards for digital radio communications for use by federal, state, and local public-safety agencies in North America to enable them to communicate with other agencies and mutual-response teams. Here, P25 refers to Phase 2 standards.

**Public-Safety Radio System** means the new public-safety radio system, which Collin County is building and plans to operate, under RFP No. 2016-020 P25 Public Safety Radio System Replacement, as amended.

**Reliability** means a system's or component's ability to perform its function under stated conditions for a specified time, and reliability reflects the confidence a person may have in the system's dependability.

**Resiliency** means the Public-Safety Radio System's ability to respond to change or recover from mishap.

**Scalability** means the Public-Safety Radio System's ability to adapt and grow with expanded requirements and users.

**Security** means the end-to-end integrity of the transmission process to insure error-free and uncompromised exchange of information.

**Talkgroup** means a trunked virtual talk channel that is synonymous with a conventional radio channel or frequency.

**Third-Party-Practice Rights** means all forms of third-party practice, including claims for contribution or indemnity, defenses (e.g., proportionate responsibility), and practice under Rules 34, 38, and 39 of the Texas Rules of Civil Procedure and chapters 32 and 33 of the Texas Civil Practice & Remedies Code, or their federal counterparts.

**The tower or the water tower** means the North Elevated Storage Tank (EST, water tower) on 185 County Road 461 located in the City of Princeton (33 11 25, 96 30 4.5) on which Collin County will install its antenna and some of the related equipment.

**The tower location, the tower site, or the water tower site** means the specific parcel of land on which the tower and some of the related equipment are located.

**Undue interference (or unduly interferes)** means the unacceptable degradation of the Public-Safety Radio System's routine ability to perform its public-safety function consistent with the system's performance specifications or industry performance standards. Interference may have several causes. Sources or causes include, but are not limited to, physical interference from equipment or appurtenances, frequency interference from intermodulation products, transmitter noise or receiver desensitization, and physical blockage of microwave paths. Interference should be measurable or objectively detectable or demonstrable. A substantial degradation of a portable radio's in-building ability to transmit or receive radio signals (without a bi-directional amplifier or in-building signal booster) is a sign or result of undue interference. Interference may be undue even though it is seasonal, periodic, intermittent, or otherwise variable.

19. **Other**

a. **Authorization.** Each party represents and warrants that the person or persons signing this Agreement has the requisite authority under section 791.011(d)(1) of the Government Code.

b. **Fair Compensation.** The parties' exchange of obligations and performances under this agreement meet the Interlocal Cooperation Act's requirement for fair compensation for government services. *See* Tex. Gov't Code, §791.011(e).

c. **Current Revenues for Governmental Functions.** Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party within the meaning of section 791.011(d)(3) of the Government Code or other provision.

d. **Non-Party Beneficiaries.** Collin County and the City of Princeton are agreeing to cooperate in maintaining the Public-Safety Radio System as outlined here. Collin County and the City of Princeton are the only parties and chief intended beneficiaries to this agreement. But they recognize that other municipalities and towns will benefit from access to, or receipt of radio services from, the Public-Safety Radio System. Also, other municipalities and towns, such as those in the PAWM system, also have interests related to the Public-Safety Radio System. In these senses, their interests should be considered in addressing problems with the radio system or its performance. But Collin County and the City of Princeton do not intend to create a right for a non-party to sue to enforce a right under this agreement or for alleged damages arising from an alleged breach of this agreement. The parties also do not intend to enter a joint enterprise so as to create a right or claim in favor of another person by virtue of this agreement alone. *See* Tex. Gov't Code, § 791.006(d).

Also, Collin County and the City of Princeton do not intend to benefit, much less create a claim for, persons who are not parties to this agreement. Nothing in this agreement alters Collin County's or the City of Princeton's ability or rights to enter contracts apportioning or covering risks between the County or City, on the one hand, and others, such as contractors, or the County's or City's ability to procure insurance or other coverage for such risks.

e. **Interpretation and Integration.** A court or other authority should interpret this agreement and fashion relief, including equitable relief, so as to maintain the routine operation of the Public-Safety Radio System according to its original performance standards or industry standards, and to maintain the customary, safe, and proper operation of the City's tower as a water tower. This agreement is just one agreement in a series or set of contracts and agreements for the construction and operation of the Public-Safety Radio System. In interpreting this agreement and the parties' rights and obligations, a court or other authority may consider other relevant documents, including but not limited to: (i) Collin County's RFP No. 2016-020, P25 Trunked Radio System Replacement, as amended, (ii) other interlocal agreements for tower space, (iii) Collin County's agreements with its vendors, including Motorola Solutions, (iv) agreements between Collin County and police or fire departments or other agencies, who use the Public-Safety Radio System, (v) other agreements related to the Public-Safety Radio System or the City of Princeton's tower, and (vi) reports, studies, and data related to scientific, engineering, or technical aspects of the Public-Safety Radio System or to the existence, nature, extent, avoidance,

amelioration, improvement, or resolution of a problem or issue with the Radio System, or its performance, including materials developed under section 9.

f. **Latest Editions or Revisions.** Where this agreement refers to a statute, regulation, ordinance, industry standard, policy statement, advisory circular, RFP, agreement, contract, or similar document, the agreement means the latest edition or revision of the document with all amendments. A later edition or revision may revise a party's duty or performance. Or a party, court, or other authority may benefit by consulting the latest edition or revision of one of these things in assessing or trying to solve a problem. Even if a party's performance, particularly an engineering performance, or a structure is revised, upgraded, or improved, this latest-edition or latest-revision clause does not retroactively make the party's earlier performance a breach.

g. **Governing Law.** Texas law will govern this Agreement and the relationship between, and claims and defenses of, the parties, except where federal law governs a specific issue (e.g., FCC regulations related to radio frequency or FAA regulations related to towers). See Gov't Code, § 791.012.

h. **Notice.**

In addition to the parties' communications through their liaison officers, each party may notify the other under this agreement, and will notify the other of a serious dispute or an intention to file litigation at:

If to City:

Fire Chief  
xxxxx

Chief of Police  
xxxxx

Derek Boyd  
City Manager  
City of Princeton  
Princeton City Hall  
123 West Princeton Drive  
Princeton, Texas 75407  
972.736.2416  
dborg@princetontx.us  
xxxxx

If to Collin County:

Collin County Sheriff's Office  
Commander Pam Palmisano  
Commander of Support Services  
4300 Community Blvd.  
McKinney, Texas 75071  
[ppalmisano@co.collin.tx.us](mailto:ppalmisano@co.collin.tx.us)  
972.547.5100

With copy to:  
Sara Hoglund, CPPB  
Collin County Buyer II  
2300 Bloomdale Road, Ste. 3160  
McKinney, Texas 75071  
[shoglund@co.collin.tx.us](mailto:shoglund@co.collin.tx.us)  
972.548.4101

**i. No waiver of Immunities**

By signing this agreement, no party waives any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. Likewise, the parties do not create any obligations, expressed or implied, other than those set forth here.

**j. Compliance with Law**

Each party will observe and abide by all applicable law. If a change in, or amendment to, a law requires the parties to amend this agreement, then the parties will reasonably cooperate to make necessary amendments.

**k. Severability**

This agreement's provisions are severable. If a court or other authority determines that any paragraph, section, subdivision, sentence, clause, or phrase of this agreement is void or unenforceable or any reason, then the court or other authority will enforce the agreement's remaining portions as if the invalid portions had never been included.

**l. Assignment**

A party will not assign its rights or obligations under this agreement, in whole or in part, to another person or entity without first obtaining the other party's written consent. If a party asks the other for such consent, then the party will provide adequate information for the other party to evaluate the request and will promptly respond to reasonable requests for additional information.

**m. Amendment**

As section 4 discusses, the County has made, and will continue to make, a substantial investment in the Public-Safety Radio System, including installing and maintaining microwave and radio antennas and other equipment at the City's tower site. An amendment to this agreement, which would materially affect the County's rights or the Radio System's operations, could cost the County tens or hundreds of thousands of dollars. Thus, the County cannot afford informal amendments to the agreement. No party will attempt to enforce a purported amendment that is not properly documented and approved by each party's governing body under section 791.011(d)(1) of the Texas Government Code.



**COLLIN COUNTY**

Signature Page


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City of Princeton

  
\_\_\_\_\_  
Mayor, City of Princeton

2-12-18  
\_\_\_\_\_  
Date

Collin County

  
\_\_\_\_\_  
County Judge, Keith Self

4/17/18  
\_\_\_\_\_  
Date



**Exhibit A & B are on file in Purchasing  
Department and Sheriff's Office.**