

**Interlocal Agreement Between Collin County and the City of Wylie
for
The County's Use of Wylie's Radio Tower for Public-Safety Radio**

1. **Purpose.** Collin County is upgrading its current 800 MHz public-safety radio system to a 700 MHz Motorola ASTRO 25 simulcast cell with a Nokia/Alcatel-Lucent MPLS microwave system (the County's simulcast cell). For Collin County's simulcast cell to operate according to the manufacturers' specifications, it must connect to the ASTRO 25 simulcast system collectively owned and operated by the Cities of Plano, Allen, Wylie, and Murphy (PAWM's or the Joint Radio System's simulcast system). Under this Agreement, the County will place a microwave antenna on the City of Wylie's radio tower at 2000 Highway 78, Wylie, TX, as a microwave link to the Joint Radio System. The parties enter this Agreement under the Interlocal Cooperation Act, Texas Government Code, Chapter 791. If the County does not connect its simulcast cell to the Joint Radio System by December 31, 2019, then this Agreement will be null and void.

2. **Term.** Given Motorola's commitment to support ASTRO 25 technology until 2036, the County and the Joint Radio System anticipate using their ASTRO 25 technology until the end of its lifespan. This Agreement will go into effect on the day the party to last sign it signs it and will continue until October 1, 2036, unless terminated under section 11.

3. **Liaison Officers.** The parties' liaison officers are listed in section 14(g), below.

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

a. **Tower Study**

At its expense, Collin County will have a structural study performed on Wylie's tower to assess the impact of the addition of the County's antenna. Wylie will provide reasonable access for the study, and the County will provide Wylie a copy of the structural analysis and equipment layout. Provided that Wylie provides the County with prior written authorization, the County, at its sole cost and expense, is entitled to modify the tower if necessary to accommodate the County's antenna in accordance with plans and specifications approved by Wylie.

b. **Equipment Installation, Maintenance, and Insurance**

Collin County will install and maintain its antenna and related equipment, including cabling or wave guides and connections to the DC power plant, on the tower and at the tower location at its expense. The County will retain ownership of its equipment. The County will maintain warranties for its property. Collin County will procure and maintain warranties and insurance for its property on the tower or at the tower site, including the antenna and other equipment. Collin County shall ensure that the antenna and other equipment it places on Wylie's property meets all manufacturer and industry standards applicable to such antenna and equipment.

c. **Microwave DC Power**

Collin County will have access to Wylie's battery power plant. The County will be responsible for working with the microwave contractor and will bear all initial costs for providing

DC power to all the County's equipment at the tower site. Thereafter the parties will confer and agree on an allocation of ongoing costs for the DC power to be provided to the parties' equipment at the tower site, such as each being responsible for costs of such DC power for its equipment or sharing jointly in such ongoing costs as necessary to serve both parties' needs and to obtain economic efficiencies.

d. Fee for Fair Compensation

The County will pay 25 percent of the cost of maintaining Wylie's battery bank or replacement technology, which provides back-up power to the microwave equipment, including the cost of replacing the batteries at the end of their life cycle. The parties agree that this cost sharing arrangement is fair compensation to Wylie as the County will have one of four microwave antennas on the tower. *See* Gov't Code, § 791.011(e). The formulas to calculate the County's share of the premium costs, inspection and maintenance costs, and battery bank costs will be adjusted in the event a party or other entity connects additional antennas or equipment to the battery power plant or disconnects an antenna or other equipment

Each year, Wylie will provide the County with its calculation of the County's annual fee for the upcoming contract year, with supporting documentation, in time to allow the County to prepare for its related annual budget. The parties use a fiscal year of October 1 to September 30. The County will pay its annual fee under chapter 2251 of the Government Code.

If the County provides Wylie with any services connected to the County's simulcast cell, then the parties will consider the County's cost of providing such services to Wylie in calculating the County's fee under this provision and will agree to equitable adjustments to such fee.

The parties will provide each other with all information, documentation, and data reasonably necessary to permit the other party to account for this Agreement under the standards applicable to the party, such as GASB Statement No. 87, Leases (2017).

e. Roaming

The County may grant Wylie and Wylie's subscriber radios, consoles, and consolettes programmed with another radio system, such as the Joint Radio System's simulcast system, as their primary system for daily two-way radio communications a license to roam onto the County's simulcast cell. The County will include the terms and conditions, including equipment and functionality restrictions and a fee for fair compensation, if any, in a separate document.

f. Records and Requests

Collin County shall maintain records and data about its simulcast cell and its equipment at Wylie's tower. The County will respond to Wylie's reasonable requests for information or documentation about the County's equipment and operations at the tower site, but it will not disclose information in violation of a law, privilege or another contract.

g. General Cooperation

Wylie intends to use its tower for its lifespan to facilitate its participation in the Joint Radio System's simulcast system and other uses deemed appropriate by Wylie. The County intends to operate its simulcast cell for its lifespan and expects to need access to Wylie's tower to connect its cell to the Joint Radio System. The parties will reasonably cooperate with one another to facilitate both parties' respective goals.

5. Wylie's Obligations and Warranties

a. Land at the Tower's Location

Wylie warrants that it owns the land at the tower site in fee simple and that it owns or has an easement for access to the tower site from a public road. Wylie will maintain these rights or interests during the term of this Agreement. Should Wylie decide to relocate or sell its tower, Wylie is entitled to terminate this Agreement in accordance with section 11(b).

b. The Tower and Tower Management

Wylie warrants that it owns the tower itself in fee simple, will retain its ownership, and will keep the tower at its present location of 33-01-30.1N, 96-30-53.4W, during the term of the Agreement, subject to Wylie's right to terminate this Agreement in accordance with section 11(b).

Wylie will maintain the tower so that it meets all required industry standards, such as (i) ANSI/TIA-222-G or ANSI/TIA-222-H, based on a design and wind speed of 90 m.p.h. (3-second gust), structure class II, exposure C, with a topographic category 1 and a crest height of 0 feet, (ii) industry standards for tower marking and lighting, such as FAA Advisory Circular AC No. 70/7460-1L, Obstruction Marking and Lighting (Dec. 4, 2015) as revised, and (iii) industry standards for lightning protection, such as chapters 4 and 5 of Motorola R56 Standards and Guidelines for Communications Sites (2005) and the standards discussed there.

Wylie will manage its radio tower and tower site according to industry standards, such as Motorola R56 Standards and Guidelines for Communications Sites (2005), to provide the best microwave and RF environment—and to avoid undue interference—to support the proper operations of the County's simulcast cell and the Joint Radio System's simulcast system. Wylie will use best efforts to provide clear microwave paths for the cell and system.

c. Access to Wylie's DC Power Plant

The County may connect its microwave-radio equipment to Wylie's DC power plant and waveguide-dehydrator system. Wylie will maintain the DC power plant as recommended by the manufacturer (Nokia) to support Wylie's and the County's equipment. The parties will share the costs of the DC power plant as set forth in section 4(c).

d. License

Subject to the terms of this Agreement, Wylie grants the County a license to take all actions the County deems appropriate to install, maintain, and operate its microwave antenna and permitted equipment at the tower site and on the tower at the locations stated in the structural analysis provided by the County. In brief, the County will locate a microwave antenna—initially

a PAD6-W57BCS1R microwave antenna—at the 163-foot level on the tower and microwave radio equipment in Wylie’s existing shelter. This will include the Nokia 9500 series MPR microwave transceiver and the 7705 Site Router, waveguide, and other hardware as needed. The County will use City’s existing DC power plant and a port on the manifold of Wylie’s dehydrator system. The County will install its equipment in Wylie’s equipment rack or space as designated by Wylie. Rack-face drawings are included in the structural analysis package that the County will provide.

The County’s license includes the right to install, inspect, maintain, or replace any component of the antenna and related equipment, as well as to survey, study, or gather data about the tower, antenna, related equipment, and the operations of anything that the County suspects may affect the performance of its simulcast cell or its connection to the Joint Radio System’s simulcast system. The County will reasonably coordinate any such work with Wylie.

e. Access to the Tower Site (Equipment Shelter) and the Tower

The County will have the right to immediately enter the equipment shelter (not the tower) at the tower site to check or operate its system, such as to check an alarm. Wylie’s 9-1-1 center will have the relevant information to be able to grant a County representative access to the County’s equipment shelter by remote control. In such an event, the County’s representative will phone Wylie’s 9-1-1 center on the way to the tower site and will reasonably cooperate with Wylie’s security instructions in entering the site.

Apart from accessing the equipment shelter, the County may also need to climb the tower itself to check on its microwave antenna or related parts of the tower. The County will ask Wylie for access and will confer about Wylie’s conditions and terms of access. The County will comply with Wylie’s security and other tower procedures and requirements. Wylie will not unreasonably withhold or delay access to the tower.

f. Significant Information, Events, Plans, or Work

Possible Problems. If, during its normal operations for its own purpose, Wylie detects what it suspects might be a possible problem with the County’s equipment or antenna, then it will promptly notify the County.

Possible Tower Additions. If Wylie considers adding, or allowing another person or entity to add, any equipment or appurtenances to the tower, then Wylie will promptly notify the County and supply sufficient information for the County to assess the proposed addition. The County will then have a reasonable time to submit a response addressing any possibilities of interference.

Wylie will include a provision in its contract with any party who will be allowed to add equipment or an antenna on the tower that subordinates the party’s right to place or operate its equipment or appurtenances on the tower or at the tower site to the County’s right to operate its antenna and equipment at the tower site as essential components of its simulcast cell. For example, Wylie’s contract with the other party should give Wylie the right to require the other party to relocate, redirect, or shield its equipment to prevent undue interference with the County’s simulcast cell. Wylie will enforce any provisions in its contract with other persons or entities as reasonably necessary to prevent or reduce undue interference with the County’s simulcast cell.

Other Possible Changes or Work. Wylie will notify the County, in advance, if Wylie considers (1) changes to the DC power plant, dehydrator, or tower site, (2) outages or reductions in service, or (3) significant maintenance on the tower or at the site (e.g., painting or bracing the tower). Wylie will give the County reasonable information and time to enable it to submit its position to Wylie and to protect its operations at the tower site.

Information to City Departments. Collin County will provide to Wylie information about the County's simulcast cell, the Joint Radio System's simulcast system, the related microwave paths, the need for clear, line-of-sight paths, and undue interference, and Wylie will provide such information to City departments, such as the Planning and Zoning Commission, so that these officials are better equipped to identify possible problems for the County's simulcast cell or the Joint Radio System's simulcast system (e.g., a construction application could propose a building that would block a microwave path). Wylie will promptly notify the County of any such issue so that the County may submit a position paper to the appropriate official or board.

g. Tower Insurance

Wylie will procure and maintain the appropriate types and amounts of insurance or other coverage, to cover City owned property involved in this Agreement (including General Liability, Real and Personal Property, and Workers Compensation); and the acts of its employees and agents in performing the party's respective obligations herein. Such coverage will be primary to any insurance maintained by the County. If the tower is damaged or lost, then Wylie will promptly pursue the appropriate insurance claims consistent with the radio tower's public-safety purposes. Collin County agrees to waive all rights of subrogation against Wylie, its officers, officials, employees and volunteers for losses arising (including but not limited to death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance) from work performed by the County or its contractors or sub-contractors on property owned or controlled by Wylie.

h. FCC Registration and FAA Notification

Wylie warrants that it has met, and will meet in the future, all requirements to register the tower with the FCC via an Antenna Structure Registration (ASR) and to provide all required notice of the tower to the FAA (or that the tower is exempt from FAA-notice requirements).

6. Unexpected Events, Cooperation

Unexpected events may negatively affect the tower, tower site, or the County's antenna or equipment, including damage to or failure of the tower, the antenna, or equipment, undue interference with the microwave paths or radio-frequency environment, loss of a party's property or contract rights, and changes to the applicable law. As result, the tower itself may have to be replaced or relocated. The parties will discuss and cooperate to resolve or avoid problems in accordance with the following provisions:

Notice. Each party will promptly notify the other party of any damage, failure, or performance problem with respect to the tower, tower site, or the equipment at the tower site.

Access. 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 any problem or issue.

Information Exchange. The parties will promptly exchange with one another their information, reports, the results of any inspection or evaluation, expert analyses and recommendations, and proposals for fixing a problem.

Cooperation. The parties will cooperate to resolve all problems quickly and collaboratively consistent with public safety. Each party will take actions within its rights and authority to solve or improve a problem, including moving or changing the use of the party's personal property, exercising a contract right, and pursuing a warranty or insurance claim.

Emergencies. In the case of emergencies, Wylie or the County 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.

7. Each Party's Additional Responsibilities

a. A Party's Employees and Contractors; Property

A party will remain the sole employer of its officials, officers, deputies, and employees, who work on or are involved with the tower or tower site. The party will be solely responsible for all their compensation and benefits, including salary, overtime, pension contributions, health coverage, workers' compensation coverage, disability insurance or coverage, leave, and liability insurance, coverage, or indemnification.

A party alone will supervise and direct its employees and be responsible for their safe work practices and compliance with all laws, agreements, and policies.

A party alone will be the principal in its relations with independent contractors, such as Motorola or Nokia/Alcatel, or other service providers. For example, such a vendor may provide repair service or alarm and failure inspection, and, as between the party and the other party, the party will be responsible for and to its contractors.

Wylie alone will retain its ownership or other interest in the tower and tower site and its property at the site. Collin County will retain its ownership of the antenna and equipment at the tower site.

b. Insurance

Other than as is provided in section 5(g) above, each party will procure and maintain the appropriate types and amounts of insurance or other coverage, including self-insurance, to cover its property involved in this Agreement, and the acts of its employees and agents in performing the party's respective obligations here.

Upon reasonable inquiry, a party will provide the other party with appropriate insurance or coverage information related to the duties under this section.

c. Not Co-Employers; Future Exception

The parties are not agreeing to act as co-employers of any persons by virtue of this Agreement alone.

If the parties decide that they should jointly retain a third party for actions arising under this agreement, for example, as part of addressing a problem with the tower or equipment, then they will collaborate with one another to memorialize the agreement in a separate written document. The parties should specify each one's obligations with respect to (i) identifying the persons to perform the work tasks, (ii) defining the work, (iii) setting the goals and schedule for the work, (iv) supervising the work as it's performed, (v) making the workplace reasonably safe, (vi) providing compensation and worker's compensation coverage, (vii) evaluating the work, and (viii) accepting liability for the work, including insuring or otherwise covering the relevant risks.

d. No Restriction against Contracting or Self-Insuring

This Agreement does not restrict a party's ability to address and assign responsibility or liability for the risks discussed here in other contracts, including those with the party's independent contractors.

A party may also meet any of its obligations, even in part, with insurance or other form of coverage, including self-insurance.

Notice: This provision imposes special duties on each party.

8. Liability-Related Provisions Benefitting the Other Party

One party (*e.g.*, Wylie) will not be liable to the other (the County) for claims or damages arising from the acts or omissions of the party's (the County's) employees or contractors. To the extent permitted by law, a party (*e.g.*, the County) will defend, indemnify, and hold the other (*e.g.*, Wylie) harmless for all claims and damages arising from the acts or omissions of the party's (*e.g.*, the County's) employees or contractors. A party (*e.g.*, the County) will not sue the other (*e.g.*, Wylie) for personal injuries or property damage resulting from the acts or omissions of that party's (*e.g.*, the County's) employees or contractors, including personal injuries or property damage suffered by the party's (*e.g.*, the County's) own employees, contractors, or guests.

This provision does not restrict the other party (*e.g.*, Wylie) from suing the party (*e.g.*, the County) for personal injuries or property damage that results from the acts or omissions of the party's (*e.g.*, the County's) employees. If the injuries or damage arose from the acts, directions, or omissions of the party's contractors, however, then the other party may sue the contractor, not the party—except on a claim that the party is directly liable by reason of an exercise of actual control over a person or instrument that proximately caused the injury or damage. This provision also doesn't limit a party's right to assert its third-party-practice rights, including the right to designate the other party as a responsible third party, in the context of a claim by a person who is not a party to this Agreement.

These clauses fall under subsection (b) to sections 5 and 7 of article XI of the Texas Constitution.

A court or other authority may issue any order or injunction, including a TRO or preliminary injunction, to effectuate these clauses.

“Claims or damages” means all types of claims, demands, or requests whether under contract, tort law, or statute, and all types of damages, including compensatory damages, fines, penalties, attorney’s fees, and all other costs.

“Acts or omissions” means all types of conduct that may give rise to a claim.

This provision applies to all stages of a dispute, litigation, or proceeding, including the initial or pleading stage. Terms like “damages,” “acts or omissions,” and “arising from” (instead of those terms preceded by “alleged”), does not mean that these matters must be found or substantiated (instead of merely pleaded or alleged).

These rights are reciprocal; the names in the parentheses are reversible. Nothing herein is intended to waive any governmental immunity to which a party is entitled.

Notice: This provision imposes special duties on all parties.

9. 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 a party. A party will not sue or try to hold an individual personally liable for any personal injuries or property damage allegedly incurred during the performance of a party’s obligations under this Agreement. This clause does not apply to a person’s conduct that is unrelated to the performance of a duty under this Agreement.

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 more parties to this Agreement, then the parties will assert and pursue all immunity and other defenses against the claim.

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.

10. Confidential Information

A party may designate specific information as confidential, including information that is subject to a privilege or contract obligation, or information falling under an exception in subchapter C of title 552 of the Government Code. Certain information about a public-safety radio system is confidential because it relates to critical infrastructure. *See, e.g.,* Tex. Gov’t Code, § 423.0045(1)(A)(vii), (x); 42 U.S.C. § 5195c(e); Tex. Gov’t Code, chapter 552, subchapter c; Tex. Att’y Gen. OR2015-22157; Tex. Att’y Gen. ORD 143 (1976). A party shouldn’t designate as confidential information that is publicly available under a transparency law, such as the Open Meetings or Public Information Acts, Gov’t Code, Chapters 551 and 552.

As allowed by law, a party will protect the other's designated confidential information by the same methods that it protects its own, including confidentiality provisions in contracts with vendors, consultants, or experts. If a party uses confidential information in a court filing, then it will use best efforts to keep it confidential under seal or a protective order.

A party will promptly notify the other if it believes that it has an obligation to produce the other's confidential information.

11. Termination

a. By Collin County

If Collin County intends to terminate this Agreement, the County will confer with Wylie and give it no less than 120 calendar days' advance notice. The County alone will bear the responsibility and cost of removing its antenna and equipment.

b. By the City of Wylie

Should Wylie choose to relocate or sell the tower or to terminate this Agreement, Wylie agrees to give the County a six-month notice beforehand so that the County may use land owned by the County to build a radio tower and replace the functionality provided by Wylie's tower.

12. Dispute Resolution

a. Notice & Conferences

If a party believes that the other is not meeting an obligation under this Agreement, the party will contact the other's Liaison Officer. If discussions do not resolve the issue, then the party will notify the other in writing of the complaint with reasonable detail. The other party will then have a reasonable time—ordinarily not to exceed 14 calendar days—to improve its performance.

If these discussions do not resolve an issue, then the County Judge, Sheriff, or County Administrator from Collin County and the Mayor, City Manager, or Chief of Police from Wylie of Wylie will meet in person to discuss and try to resolve any issue. This process should take no more than five business days, unless the parties agree otherwise.

If these efforts don't resolve the issue, then the parties on each side of a dispute may write a letter to the others' governing body. Each party will circulate the other's letter to its County Judge and Commissioners or its Mayor and City Council Members.

b. Prerequisites to a Lawsuit or Other Proceeding

No party may file a claim or lawsuit in any forum before the parties are finished using the above procedures and the parties have participated in at least a two-day mediation with a mediator qualified and experienced in public-safety contracts of this or a similar nature. A court or other authority may stay a proceeding or dismiss a claim pending the parties' use of these procedures—except that a party may ask the court or authority to appoint a mediator if the parties cannot agree on one.

c. Emergency Exception

As an exception, 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 to continue or restore the proper operation of Wylie's radio tower or the County's simulcast cell, including its connection to the Joint Radio System's simulcast system.

13. 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 Wylie's tower and tower site operating properly or to maintain the operation of Collin County's simulcast cell or its connection to the Joint Radio System's simulcast system. 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 4-9, 11, and 12.

14. Other

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

b. **Current Revenues for Governmental Functions.** Each party paying for the performance of governmental 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.

c. **Non-Party Beneficiaries.** Collin County and the City of Wylie are agreeing to cooperate in maintaining Wylie's tower and the connection of the County's simulcast cell to the Joint Radio System's simulcast system as outlined here. The County and Wylie 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 County's simulcast cell and the Joint Radio System's simulcast system. Their interests should be considered in addressing problems with the County's simulcast cell or its performance. But Collin County and Wylie 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 Wylie do not intend to benefit, much less create a claim for, persons who are not parties to this Agreement.

d. **Interpretation and Integration.** A court or other authority should interpret this Agreement so as to maintain the operation of Wylie's tower and the County's simulcast cell according to the manufacturers' design and standards. A court or other authority may consider this Agreement and related documents, including but not limited to (1) the County's RFP No. 2016-020, as amended, (2) other agreements that relate to the County's simulcast cell or the Joint Radio System, including agreements with Motorola Solutions or Nokia/Alcatel-Lucent, and (3) reports

or data related to a problem with the County's simulcast cell or the Joint Radio System, including materials developed under section 6.

e. **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 going forward. Or a party, court, or other authority may benefit by consulting the latest edition or revision 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 clause does not retroactively make a party's earlier performance a breach.

f. **Governing Law and Venue.** 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. Venue for disputes arising under this Agreement will lie in Collin County, Texas.

g. **Notice and Liaison Officers.**

Wylie's **liaison officer** for regular communications and performance under this Agreement will be Brandon Blythe, Assistant Chief, Wylie Fire & Rescue, brandon.blythe@wylietexas.gov, 972.429.8117.

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.

In addition to communications through the liaison officers, each party may provide required notice and will notify the other of a serious dispute or an intention to file litigation at:

If to Wylie:

Mindy Manson
City Manager
Wylie Municipal Complex
300 Country Club Road, Bldg. 100
Wylie, Texas 75098
Mindy.Manson@wylietexas.gov
972.516.6100

J. Brent Parker
Fire Chief
Wylie Fire & Rescue
300 Country Club Road, Bldg. 100
Wylie Texas, 75098
Brent.Parker@wylietexas.gov
972.429.8117

Anthony Henderson
Chief of Police
Wylie Public Safety Complex
2000 N. Hwy 78
Wylie, Texas 75098
Anthony.Henderson@wylietexas.gov
972.429.8117

If to Collin County:

Collin County Sheriff's Office
Commander Pam Palmisano
4300 Community Blvd.
McKinney, Texas 75071
ppalmisano@co.collin.tx.us
972.547.5100

Collin County Purchasing Dept.
2300 Bloomdale Road, Ste. 3160
McKinney, Texas 75071
purchasing@co.collin.tx.us
972.548.4165

h. 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.

i. 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.

j. Severability

This Agreement's provisions are severable. If a court or other authority determines that any paragraph or part 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.

k. 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.

l. Amendment

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.

m. Attorney's Fees

In the event of a dispute under or related to this Agreement, each party will bear its own attorney's fees and costs, except where attorney's fees or costs are an element of damages for a breach of section 8 or 9.

n. **No Partnership or Agency**

The Parties hereto have not created a partnership and nothing contained in this Agreement shall in any manner whatsoever constitute any Party the partner, agent or legal representative of the other Party, nor create any fiduciary relationship between them for any purpose whatsoever. No Party shall have any authority to act for, or to assume any obligations or responsibility on behalf of, the other party except as may be, from time to time, agreed upon in writing between the Parties or as otherwise expressly provided in this Agreement.

15. **Glossary**

Antenna and related equipment means the microwave antenna system, which Collin County installs on the tower, and *all* related and ancillary equipment, including the antenna, microwave, a connection to an uninterruptable power supply (UPS) or to a battery bank, switches, ice shields, cables and wires and transmission lines, lighting, lightning protection, security equipment, installed and maintained on the tower or at the tower location as part of the County's simulcast cell.

City of Wylie or Wylie means the City of Wylie and its officials, officers, employees, agents, representatives, and insurers, as well as their successors. "Wylie" 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 5, 6, or 12.

City of Wylie's Subscriber Radios or Wylie's Subscriber Radios means the group of radios, consoles, and consolettes that are (1) programmed with the Joint Radio System's simulcast system as their primary system for daily two-way radio communications and (2) are owned or otherwise controlled by the Wylie, or (3) receive dispatching services from Wylie, including the City of Lucas Fire Department, the City of Branch Fire Department, the City of Fairview Fire Department, and any other similar department that Wylie may designate in the future with Collin County's consent. The County will not unreasonably withhold consent.

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 4, 6, or 12.

Collin County's simulcast cell means the County's nine Motorola ASTRO 25 simulcast prime and remote sites, all of the County's dispatch and other consoles and consolettes, along with a Nokia/Alcatel-Lucent MPLS loop microwave system (with all their components), as described in the County's contract with Motorola Solutions, Inc. in connection with RFP No. 2016-020, P25 Trunked Radio System Replacement. The County's simulcast cell includes, or will include, any equipment or sites the County may add later. The County owns or holds the radio-frequency licenses from the FCC used on its simulcast cell.

FAA means the Federal Aviation Administration, and **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, T1.333.2001 Grounding and Bonding of Telecommunications Equipment, Motorola R56, Standards and Guidelines for Communications Sites (2005), NEC, National Electrical Code, and ANSI TIA-222G or TIA-222H (Structural Standard for Antenna Supporting Structures and Antennas with Addendums). A court or authority may also consult an expert or publication to define technical or engineering terms.

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.

PAWM's or the Joint Radio System's simulcast system means the set of Motorola ASTRO 25 simulcast master, prime, and remote sites, including a Nokia/Alcatel-Lucent MPLS loop microwave system (with all their components), collectively owned and operated by the Cities of Plano, Allen, Wylie, and Murphy. A master site contains equipment such as the core LAN switches, base radios, repeaters, core routers, gateway routers, a primary zone controller, a redundant zone controller, and a network management terminal. PAWM's master sites are located in Plano and Allen. The Joint Radio System's simulcast system includes or will include any equipment or sites that a city may add later. Plano and Allen own or hold the radio-frequency licenses from the FCC used on the Joint Radio System's simulcast system.

Roaming means a radio's ability to move from the coverage of one RF site to another. Roaming may be automatic (without user intervention) or manual.

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 means the radio tower located at 2000 Highway 78, Wylie, Texas (33-01-30.1N, 96-30-53.4W) on which Collin County will install its antenna and some of the related equipment.

The tower location or the 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 either Collin County's simulcast cell's or the Joint Radio System's simulcast system's (with reference to §§ 1 and 8(b)) routine ability to perform its public-safety function consistent with the cell's or 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.

IN WITNESS THEREOF, the parties hereto have executed this Agreement.

COLLIN COUNTY, TX

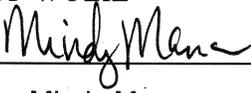
BY:  _____

NAME: Chris Hill

TITLE: County Judge

DATE: 9 APRIL 2019

CITY OF WYLIE

BY:  _____

NAME: Mindy Manson

TITLE: City Manager

DATE: 3/26/19

19 APR - 1 PM 1:54
RECEIVED
PURCHASING AGENT