

**Interlocal Cooperation Agreement
between the
City of Corpus Christi,
Regional Transportation Authority,
County of Nueces,
and Nueces County Emergency Services District #3
For Radio Communications System**

(Fifth Amendment to the Radio Communications System Interlocal Agreement)

This Interlocal Cooperation Agreement (“Agreement”) is made by and between the City of Corpus Christi, Texas (“City”), a Texas home-rule municipal corporation, Regional Transportation Authority (“RTA”), a metropolitan transit authority under Article 1118x, V.A.T.S., the County of Nueces (“County”), a political subdivision of the State of Texas, and the Nueces County Emergency Services District #3 (Nueces County ESD #3), a political subdivision of the State of Texas, each acting herein by and through its duly authorized official, effective for all purposes upon the execution by all parties.

WHEREAS, the City and RTA are parties to an Interlocal Cooperation Agreement dated September 23, 1991 (the “Radio Communications System Interlocal Agreement”), providing for the development and operation of an advanced 800 MHz public safety trunked radio system (“Radio System”); and

WHEREAS, the City, RTA, and County are parties to an Interlocal Cooperation Agreement dated February 4, 1994 (the “Radio System Participation Agreement”), being the first amendment to the Radio Communications System Interlocal Agreement;

WHEREAS, the City, RTA, and County entered into a Second Amendment to the Radio Communications System Interlocal Agreement with the City of Driscoll , a Third Amendment with the Nueces County Emergency Services District #4 and a Fourth amendment with the Nueces Jim Wells County Emergency Services District #5;

WHEREAS, the City, RTA, and County have entered into Memorandums of Agreement with the Naval Air Station, and Port Industries Corpus Christi/ Port of Corpus Christi Authority allowing for their participation in the Radio Communications System;

WHEREAS, the Nueces County Emergency Services District #3, a Texas Emergency Services District located within Nueces County, desires to use the Radio System developed by City and RTA and being utilized by City, RTA, County, and others; and

WHEREAS, the parties desire to allow the Nueces County Emergency Services District #3 to participate in the Radio Communications System Interlocal Agreement, the original 1991 radio communications system agreement allowing for participation by other public entities.

NOW, THEREFORE, BE IT AGREED BY THE CITY OF CORPUS CHRISTI, REGIONAL TRANSPORTATION AUTHORITY, THE COUNTY OF NUECES AND THE NUECES COUNTY EMERGENCY SERVICES DISTRICT #3 (“Parties”):

ARTICLE 1: RIGHTS, DUTIES AND RESPONSIBILITIES OF CITY, RTA, AND COUNTY

1. Operate an 800 MHz public safety trunked radio system (“Radio System”).
2. Provide maintenance and support to the Radio System.
3. Provide radio and equipment specifications to Nueces County ESD #3.
4. Provide or assign a Call Group on the Radio System for Nueces County ESD #3 if needed.

ARTICLE 2: RIGHTS, DUTIES AND RESPONSIBILITIES OF NUECES COUNTY ESD #3

1. Purchase or lease radios and equipment through the vendor contracted by City, RTA, and County which are compatible with the Radio System and conform to the specifications provided by City, RTA, and County.
2. Pay the maintenance and user fees to the City, RTA, and County for each radio that is added or supported by the Radio System.
3. Provide hardware maintenance and technical support for radios and equipment owned by Nueces County ESD #3.
4. Maintain and provide City, RTA, and County with a current and an updated list of all radios that Nueces County ESD #3 uses and are supported by the Radio System.
5. Pay proportionate share of maintenance and insurance costs for the backbone of the Radio System.

ARTICLE 3: TERM AND TERMINATION

This Agreement shall begin on the final date of execution by all parties for an initial term of one (1) year and automatically renew annually without further action of the parties. The City’s City Manager, or his designee, is authorized to execute any and all subsequent renewals and amendments to this Agreement on behalf of the City, unless otherwise prohibited by law. This Agreement may be terminated at any time by any party upon ninety (90) days written notice to the other three parties.

ARTICLE 4: PAYMENT AND CURRENT REVENUE

A. Payment shall be made by Nueces County ESD #3 within thirty (30) days from receipt of the City, RTA, and County’s request for expenses incurred in the performance of this Agreement. Any payment made by Nueces County ESD #3 for any of the services provided pursuant to this Agreement shall be made out of current revenues available to Nueces County ESD #3 as required by the Texas Interlocal Cooperation Act.

B. Fees for system participation and maintenance to be paid by Nueces County ESD #3 are as follows:

A one-time start up fee of \$562 per radio

System annual service fees: \$124.08 per radio per year (beginning the second year of service)

System monthly maintenance fees: (Number of Units x Rate per Unit)

Control Units: Units x \$14.99

Mobile Units: Units x \$5.63

Portable Units: Units x \$5.63

“Control units” include land-based radios in offices; “mobile units” include radios in vehicles; and “portable units” include radios carried on the officer. “Year,” as used in this article, means the period beginning on the final execution date of this Agreement and concluding 365 days later.

C. Within 10 days of the final execution date of this Agreement, Nueces County ESD #3 shall determine the number of radios and total count of units to be added to the Radio System and notify the City, RTA, and County of same. Once the radios and units are active in the Radio System, the one-time start up fees for radios placed into service and the initial month’s unit maintenance fees will be billed to Nueces County ESD #3. At the beginning of each remaining month this Agreement is in force, Nueces County ESD #3 shall be invoiced for the previous month’s monthly maintenance fees. Payment of the annual service fees is due, in advance, beginning on the first anniversary of the final execution date of this Agreement and on every yearly anniversary date thereafter. Nueces County ESD #3 may, but is not required to, pay the monthly maintenance fees in advance for any period of time up to 12 months or the annual anniversary date of the execution of this Agreement, whichever period occurs first in time.

D. In the event of an early termination of this Agreement, any unearned funds paid to the City, RTA, and County by Nueces County ESD #3 will be refunded within 30 days of the termination date of the Agreement. A written final accounting will be provided to Nueces County ESD #3 along with the remittance payment.

ARTICLE 5: LIABILITY

Each party to this Agreement will be responsible for any civil liability for its own actions under this Agreement, except that nothing in this Agreement shall constitute a waiver or limitation on any immunity, defense, or other protection afforded either party under state or federal law. The liability, if any, of either party, shall be that prescribed by the laws of the State of Texas.

ARTICLE 6: SEVERABILITY

If any portion of this Agreement, or the application thereof to any person or circumstances, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby and shall continue to be enforceable in accordance with its terms.

ARTICLE 7: NOTICES

Notices allowed or required under this Agreement shall be addressed to and sent to the parties as indicated below, unless such address is changed by written notice to such effect, and any notice shall be effective when deposited in the U.S. mail, postage prepaid, certified, return receipt requested.

CITY: Ronald Olson, City Manager
1201 Leopard Street
Corpus Christi, TX 78401

with a copy to:
Mike Markel, Interim Chief of Police
Corpus Christi Police Department
321 John Sartain
Corpus Christi, TX 78401

RTA: Jorge Cruz-Aedo, Chief Executive Officer
Regional Transportation Authority
5658 Bear Lane
Corpus Christi, TX 78405

COUNTY: Loyd Neal, County Judge
Nueces County Courthouse
901 Leopard Street, Room 303
Corpus Christi, TX 78401

Nueces Co. ESD #3:
Board President
Justin Harris
4164 FM 70
Bishop TX 78343

ARTICLE 8: LAW AND VENUE

All parties shall comply with all applicable federal, State, county and local laws, ordinances, rules, and regulations pertaining to this Agreement and each party's respective performance hereunder. This Agreement will be interpreted according to the Texas laws which govern the interpretation of contracts. Venue for an action arising under this Agreement shall lie in Nueces County, Texas, and be in accordance with the Texas Rules of Civil Procedure.

ARTICLE 9: ENTIRE AGREEMENT AND WRITTEN AMENDMENT

This Agreement represents the entire agreement between the parties and may not be modified by any oral agreements or understandings. Any amendments must be made in writing and signed by all parties. No officer or employee of any of the parties may waive or otherwise modify the limitations in this Agreement, without the express action of the governing body of the party.

ARTICLE 10: ASSIGNMENT AND SUCCESSORS

This Agreement shall be binding on and inure to the benefit of the parties to the Agreement and their respective successors and permitted assigns. This Agreement may not be assigned by any party without the written consent of all of the other parties. This Agreement does not create any personal liability on the part of any officer or agent of the City, RTA, County or Nueces County ESD #3 or any of their respective officers, agents, or employees.

ARTICLE 11: NON-WAIVER

Failure of any party to this Agreement to insist on the strict performance of any of the conditions or agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

ARTICLE 12: NO WAIVER OF IMMUNITY

No party to this Agreement waives or relinquishes any governmental, official, or other immunity or defense on behalf of itself, its officers, employees, and agents as a result of its execution of this Agreement and performance of the covenants contained herein.

ARTICLE 13: NO THIRD PARTY BENEFIT

This Agreement and all activities under this Agreement are solely for the benefit of the parties and not the benefit of any third party.

ARTICLE 14: WARRANTY

This Agreement has been officially authorized by the governing body of each party, and each signatory has full authority to execute the Agreement and to legally bind their respective party to this Agreement.

ARTICLE 15: CONTINUATION OF PROVISIONS

This Agreement amends the existing Radio Communications System Interlocal Agreement and the Radio System Participation Agreement (which is the first amendment to the Radio Communications System Interlocal Agreement) to the extent necessary to allow the Nueces County ESD #3 to participate and use the Radio Communications System. All other provisions of the Radio Communications System Interlocal Agreement and Radio System Participation Agreement that do not conflict with this Agreement remain in full force and effect and are unchanged by this instrument, by express intention of the parties.

EXECUTED in quadruplicate to be effective as of the last execution date set forth below:

City of Corpus Christi:

ATTEST:

Approved as to form:

Ronald L. Olson
City Manager

Rebecca Huerta
City Secretary

Buck Brice
Assistant City Attorney
for City Attorney

Date: _____

Date: _____

Date: _____

Regional Transportation Authority:

Jorge Cruz-Aedo
Chief Executive Officers
Date: _____

County of Nueces:

ATTEST:

Approved as to form:

Samuel Loyd Neal
County Judge
Date: _____

Diana T. Barrera
County Clerk
Date: _____

Laura Garza Jimenez
Nueces County Attorney
Date: _____

Nueces County ESD #3:

ATTEST:

Approved as to form:

Justen Harris
Board President
Date: _____
Password1

Date: _____

Date: _____