

INTERLOCAL AGREEMENT

**BEDFORD, COLLEYVILLE, EULESS, GRAPEVINE,
KELLER, AND SOUTHLAKE
(Northeast Tarrant County Radio Consortium – NETCO) AND
CITY OF ARLINGTON, TEXAS**

THIS AGREEMENT is made this the ____ day of _____, 2009, by and between the CITIES OF BEDFORD, COLLEYVILLE, EULESS, GRAPEVINE, KELLER, AND SOUTHLAKE, all being home-rule municipalities, all located, at least in part, in Tarrant County, Texas and members of the Northeast Tarrant County Radio Consortium (hereinafter collectively known as the “NETCO”), and the CITY OF ARLINGTON, a Texas home-rule municipality (hereinafter known as "Arlington").

WHEREAS, in July, 1994 the cities of Bedford and Colleyville entered into an interlocal agreement to construct and operate the initial 800 Mhz trunked radio system in Northeast Tarrant County and constructed *The Trunked System* with an antenna site located in Colleyville, with the intent of offering membership to other agencies; and

WHEREAS, in November, 1994 the City of Keller adopted the interlocal agreement to become the third member of NETCO; and

WHEREAS, in February, 1996 the City of Euless adopted the interlocal agreement to become the fourth member of NETCO; and

WHEREAS, in March, 2000, the City of Grapevine adopted the interlocal agreement to become the fifth member of NETCO; and

WHEREAS, in April 2003, the City of Southlake adopted the interlocal agreement to become the sixth member of NETCO; and

WHEREAS, Arlington owns and operates an 800 MHz trunked radio system;

WHEREAS, NETCO and Arlington support the concept of combining resources, including but not limited to licensed 700/800 MHz channels, public safety communications transmitter sites and network equipment, to construct a regional digital public safety radio system that meets the Project 25 operating standards (the "P25 System");

WHEREAS, accomplishing the P25 System undertaking will be a multi-year process requiring funding from federal, state and local sources;

WHEREAS, expediting federal funding will provide NETCO and Arlington with access to the substantial resources needed to undertake planning and launch of the P25 System undertaking;

and

WHEREAS, Chapter 791 of the Texas Government Code provides for interlocal agreements for governmental functions such as contemplated by this Agreement, NOW, THEREFORE, upon the mutual covenants, conditions, and promises contained herein, NETCO and Arlington hereby agree as follows:

Section 1 **Interlocal Agreement**

1.0 This Agreement is entered into and shall be construed pursuant to Chapter 791 of the Texas Government Code, the Texas Interlocal Cooperation Act.

Section 2 **System Formation and Implementation**

2.0 Formation of the P25 System is a complex undertaking requiring detailed cooperation and coordination between NETCO and Arlington. Details of forming, governing and implementing the P25 System undertaking will be addressed in a separate inter-local agreement.

Section 3 Federal Funding

3.0 NETCO and Arlington have engaged the law firm of Holland & Knight, LLP, (the "Firm") to provide legal services in support of reconfiguring their respective public safety radio systems. The Firm has substantial experience in obtaining federal funding to assist localities in implementing public works projects such as the P25 system.

3.1 NETCO and Arlington will engage the Firm for a period of one year, starting in October of 2009, to seek federal funding in support of the P25 System undertaking with an option to renew that engagement for future fiscal years.

3.2 The cost of the Firm's legal services shall be \$96,000, to be paid over a one year period on a quarterly basis pursuant to a letter of engagement with the Firm. NETCO Members and Arlington shall divide the cost of the Firm's fees among themselves equally, each paying 1/7 of the Firm's fees.

3.3 The amount of federal funding sought shall be determined in collaboration with NETCO and Arlington, and shall be the maximum feasible based on the federal government's budget for the applicable fiscal year.

Section 4 Addition of Jurisdictions

4.0 From time to time, other jurisdictions may wish to join the P25 undertaking, thereby promoting regional expansion of the public safety communication system. A governmental entity may join the P25 undertaking by executing an amendment to this agreement, with the understanding that if the volume of additional jurisdictions extends beyond the jurisdictions wholly located in Tarrant County, it will be necessary to increase the level of federal funding sought, and Holland & Knight's annual fees will therefore increase proportionately. For example, if the City of Fort Worth elects to join the P25 undertaking, Holland & Knight's annual fees will increase by \$40,000. All members of the P25 undertaking, including those governmental entities subsequently joining the undertaking, will pay their equal share of Holland & Knight's annual fee. Any governmental entity that decides to join the P25 undertaking must, as a condition of membership, agree to pay its equal share of payments to Holland & Knight made from the inception of the P25 undertaking.

Section 5 Disbursement of Funds

5.0 Funding received through the efforts of the Firm will be used SOLELY for the development, deployment, and support of the P25 system.

5.1 Nothing herein shall prevent NETCO and Arlington from agreeing to “pool” the funds acquired through this agreement for the procurement and construction of shared portion of the P25 system. In fact, priority shall be given to the development, deployment, and support of the shared portion of the P25 system with the funds acquired through the efforts of the Firm.

5.2 Funding received through the efforts of the Firm will be disbursed based on the number of radios with system IDs each signatory operates on their system.

Funding received by any other means is not subject to this agreement.

5.3 For the purpose of the disbursement, the number of radios for each signatory shall be “frozen” at the number of radios on the date this document is effective.

5.4 Disbursements will be calculated on the percent of total radios each signatory owns and is subject to this agreement. As an example, if the City of Colleyville has 5.42% of the radios subject to this agreement, they would then be entitled to 5.42% of the funds acquired through this agreement.

Section 6 Indemnity

6.0 To the extent allowed by law, NETCO and Arlington agrees to defend and hold harmless every other, its officials, agents, officers and employees in both their public and private capacities, from and against any and all claims, suits, demands, losses, damages, causes of action, and liability of every kind, including all expenses of litigation or settlement, including but not limited to court costs and attorney’s fees, which may arise due to any death or injury to any person, or the loss of, damages to, or loss of use of any property arising out of or occurring as a consequence of the performance of this Agreement, whether such injuries, death, or damages are caused by the sole negligence or the joint negligence of any Member, its officials, agents, officers and employees.

Section 7 Non-Waiver of Immunity

7.0 It is expressly understood and agreed that, in the execution of this Agreement, neither NETCO nor Arlington waives nor shall it be deemed to have waived, any immunity or defense that would otherwise be available to it against any claims arising in exercise of its governmental powers or functions.

7.1 In the event that any person, elected official, employee, or agent of either NETCO or Arlington, performing services pursuant to this Agreement be cited as a party to a state or federal civil lawsuit arising out of the performance of those services, that person, elected official, employee, or agent of NETCO or Arlington shall be entitled to the same defenses that he or she would be entitled to receive as if such civil action and arisen out of the performance of his or her duties as an employee NETCO or Arlington which appointed them or where he or she is regularly employed and in the regular jurisdiction of NETCO or Arlington by which that person is regularly employed.

Section 8 Miscellaneous

8.0 NETCO and Arlington agree that if legal action is brought under this Agreement, exclusive venue shall lie in Tarrant County and the contract shall be governed by the laws of the State of Texas.

8.1 In case any one or more of the terms, sentences, paragraphs or provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or un-enforceability shall not affect any other term, sentence, paragraph or provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision and never been contained herein.

8.2 This Agreement may be amended or modified only by the mutual agreement of NETCO and Arlington hereto in writing, such amendment or modification being attached to and incorporated herein.

8.3 This Agreement may be signed in multiple counterparts and shall be binding on NETCO and Arlington hereto when duly authorized by the governing body of each Member and its duly authorized representative.

8.4 This Agreement contains all of the commitments and agreements of the NETCO and Arlington hereto.

8.5 All notices required to be given herein shall be directed to the Manager of the NETCO member involved and Arlington.

8.6 All payments and expenses made by any NETCO Member or Arlington hereto shall be made from the current revenues of the Member or Arlington.

APPROVED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:

By: _____

Date: _____

APPROVED AS TO FORM:

ATTEST: _____

CITY ATTORNEY

APPROVED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS:

By: _____

Date: _____

APPROVED AS TO FORM:

ATTEST: _____

CITY ATTORNEY

APPROVED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS:

By: _____

Date: _____

APPROVED AS TO FORM:

ATTEST: _____

CITY ATTORNEY

APPROVED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS:

By: _____

Date: _____

APPROVED AS TO FORM:

ATTEST: _____

CITY ATTORNEY

APPROVED BY THE CITY COUNCIL OF THE CITY OF KELLER, TEXAS:

By: _____

Date: _____

APPROVED AS TO FORM:

ATTEST: _____

CITY ATTORNEY

APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTHLAKE, TEXAS:

By: _____

Date: _____

APPROVED AS TO FORM:

ATTEST: _____

CITY ATTORNEY

APPROVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

By: _____

Date: _____

APPROVED AS TO FORM:

ATTEST: _____

CITY ATTORNEY