



# City of Saginaw

**Meeting Date:** 7/17/2018

**Staff Contact:** Doug Spears  
Interim Police Chief

**Agenda Item:** 4d  
(CC-0718-04)

**E-mail:** [dspears@saginawtx.org](mailto:dspears@saginawtx.org)

**Phone:** 817-230-0374

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**SUBJECT:** Action regarding City of Fort Worth Regional Radio Communications System Subscriber Agreement

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**BACKGROUND/DISCUSSION**

This item is related to Item 4c. It addresses the city becoming a user of the City of Fort Worth Regional Radio Communications System. Moving to this system will resolve the current communication issues and will provide some significant enhancements and capabilities that the current system cannot provide. The proposed agreement has been reviewed by the City Attorney. It mirrors the agreements between the City of Fort Worth and the current forty-nine users of the system.

**FINANCIAL IMPACT:**

The annual estimated cost will be \$61,944 (minus Tarrant County 9-1-1 grant funding assistance) with an additional biennial cost of \$17,600. Funds are available for this expenditure in the current Fund Balance. A budget adjustment will be made at the end of the current fiscal year.

**RECOMMENDATION:**

Staff recommends approval of the City of Fort Worth Regional Radio Communications System Subscriber Agreement.

**Attachments**

Memo from Doug Spears with Proposed Agreement



# Saginaw Fire Department

400 S. Saginaw Blvd. Saginaw, Texas 76179  
Tel: 817-230-0412 Fax: 817-232-3731

**DOUG SPEARS**  
**FIRE CHIEF**

**TO:** City Manager Gabe Reaume

**FROM:** Fire Chief Doug Spears

**DATE:** June 7, 2018

**RE:** City of Fort Worth Regional Radio System Subscriber Agreement

With our planned migration to the City of Fort Worth Regional Radio System as a full user or subscriber it requires execution of the accompanying Communications System Agreement. Annual subscriber fees for the PD and FD combined exceed \$50,000 so it will require the approval of City Council. The document has undergone legal review by Rob Allibon of TOASE as directed by Bryn.

This agreement mirrors the agreements between the City of Fort Worth and the 49 other full users or subscribers of the system. I recommend approval as presented.

# **COMMUNICATIONS SYSTEM AGREEMENT**

## **CATEGORY 1 – GOVERNMENT ENTITY**

This **COMMUNICATIONS SYSTEM AGREEMENT** (the “**Agreement**”) is made and entered into by and between the **City of Fort Worth (“Fort Worth” or “CFW”)** acting herein by and through its duly authorized Assistant City Manager, and the **City of Saginaw (“USER”)**, acting herein by and through its duly authorized City Manager, individually referred to as a “party,” collectively referred to herein as the “parties.” The CFW or Fort Worth shall include all employees, directors, officers, agents, and authorized representatives. **USER** shall include all employees, directors, officers, agents, and authorized representatives.

### **RECITALS**

**WHEREAS**, this Agreement is made under the authority of Sections 791.001-791.029, Texas Government Code; and

**WHEREAS**, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

**WHEREAS**, each governing body finds that the subject of this Agreement is necessary for the benefit of the public and each has the legal authority to perform and to provide the governmental function or service which is the subject matter of this Agreement; and

**WHEREAS**, each governing body finds that the performance of this Agreement is in the common interest of both parties and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

**WHEREAS**, Fort Worth owns, operates, and maintains Trunked Voice Radio Systems for the purpose of providing Public Safety voice radio communications and is the sole license holder of the CFW Trunked Voice Radio Systems with all privileges and responsibilities thereof.

**NOW THEREFORE**, Fort Worth and **USER** agree as follows:

#### **1. GRANT OF LICENSE**

Fort Worth hereby grants the **USER** specific permission to operate **USER’s** owned or leased field radio equipment or equipment attached and/or interfaced to the CFW Trunked Voice Radio Systems (the “Radio System”) infrastructure in accordance with the specific details and requirements for use as set forth in “**Exhibit A, Terms of Use,**” which is attached hereto, incorporated herein, and made a part of this Agreement for all purposes. Failure to comply with these specific details and requirements may result in the immediate withdrawal of the specified permissions.

2. **TERM**

This Agreement shall begin upon the last day executed by all authorized parties and shall continue in full force and effect unless terminated in accordance with the provisions set forth herein and in **Exhibit A**.

3. **COMPENSATION**

**USER** shall remit payment to Fort Worth in the amount and manner set forth in **Exhibit A**.

4. **LIABILITY**

Each party agrees to be liable for any damages or loss that may be caused by its own negligence, omission or intentional misconduct. For purposes of this Section 4, the term party shall include employees, directors, officers, agents, authorized representatives, subcontractors, consultants, and volunteers of the respective party. Nothing in the performance of this Agreement shall impose any liability for claims against either party other than for claims for which the Texas Tort Claims Act may impose liability.

5. **INDEPENDENT CONTRACTOR**

It is expressly understood and agreed that **USER** shall operate as an independent contractor as to all rights and privileges granted herein, and not as agent, representative or employee of the CFW. Subject to and in accordance with the conditions and provisions of this Agreement, **USER** shall have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants. **USER** acknowledges that the doctrine of *respondeat superior* shall not apply as between the CFW, its employees, directors, officers, agents, and authorized representatives, and **USER** and its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants. **USER** further agrees that nothing herein shall be construed as the creation of a partnership or joint enterprise between CFW and **USER**.

6. **NON-APPROPRIATION OF FUNDS**

Fort Worth and **USER** will use best efforts to appropriate sufficient funds to support obligations under this Agreement. However, in the event that sufficient funds are not appropriated by either party's governing body, and as a result, that party is unable to fulfill its obligations under this Agreement, that party (i) shall promptly notify the other party in writing and (ii) may terminate this Agreement, effective as of the last day for which sufficient funds have been appropriated.

7. **RIGHT TO AUDIT**

**USER** agrees that the CFW shall, at no additional cost to the CFW, during and until the expiration of three (3) years after termination of this Agreement, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers, records, and communications of the **USER** involving transactions relating to this Agreement. **USER** agrees that the CFW shall

have access during normal working hours to all necessary **USER** facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The CFW shall give **USER** reasonable advance notice of intended audits.

#### **8. ASSIGNMENT**

**USER** shall not have the right to assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of the CFW. Which such right shall be granted solely at the discretion of the CFW. Any assignment in violation of this provision shall be void.

#### **9. NO WAIVER**

The failure of either party to insist upon the performance of any provision or condition of this Agreement or to exercise any right granted herein shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

#### **10. GOVERNMENTAL POWERS/IMMUNITIES**

It is understood and agreed that by execution of this Agreement, the neither CFW nor **USER** waives or surrender any of its governmental powers or immunities.

#### **11. AMENDMENTS**

No amendment to this Agreement shall be binding upon either party hereto unless such amendment is set forth in writing, dated subsequent to the date of this Agreement, and signed by both parties.

#### **12. SEVERABILITY**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

#### **13. CONFIDENTIAL INFORMATION**

To the extent permitted by law, **USER** for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the CFW as confidential ("City Information") and shall not disclose any such information to a third party without the prior written approval of the CFW, unless such disclosure is required by law, rule, regulation, court order, in which event **USER** shall notify CFW in writing of such requirement in sufficient time to allow CFW to seek injunctive or other relief to prevent such disclosure. **USER** shall store and maintain City Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. **USER** shall notify the CFW immediately if the security or integrity of any City Information has been compromised or is believed to have been compromised.

#### **14. FORCE MAJEURE**

The parties shall exercise their best efforts to meet their respective duties and obligations hereunder, but shall not be held liable for any delay in or omission of performance due to force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any state or federal law or regulation, acts of God, acts of omission, fires, strikes, lockouts, national disasters, wars, riots, material or labor restrictions, transportation problems, existing contractual obligations directly related to the subject matter of this Agreement, or declaration of a state of disaster or emergency by the federal, state, county, or City government in accordance with applicable law.

**15. NOTICES.**

Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of the transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

City of Fort Worth  
Attn: Susan Alanis, Assistant City Manager  
200 Texas Street  
Fort Worth TX 76102  
Facsimile: (817) 392-8654

City of Saginaw  
Attn: Gabe Reaume, City Manager  
333 W McLeroy Blvd.  
Saginaw TX, 76179  
Facsimile: 817-232-4644

With Copy to the City Attorney  
At same address

**16. GOVERNING LAW / VENUE**

This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought on the basis of this Agreement shall lie exclusively in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas – Fort Worth Division. In any such action, each party shall pay its own attorneys’ fees, court costs and other expenses incurred as a result of the action.

**17. SIGNATURE AUTHORITY**

The person signing this Agreement hereby warrants that he/she has the legal authority to execute this Agreement on behalf of his or her respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. The other party is fully entitled to rely on this warranty and representation in entering into this Agreement.

**18. ENTIRETY OF AGREEMENT**

This written instrument, including all Exhibits attached hereto, contains the entire understanding and agreement between Fort Worth and **USER** as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with this Agreement. Any previously executed Communication System Agreement

between the parties shall be terminated simultaneously with the final execution of this Agreement by both parties.

**19. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute one and the same instrument.

[Signature Page Follows]

**EXECUTED IN MULTIPLE ORIGINALS** on this the \_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF FORT WORTH:**

By: \_\_\_\_\_  
Susan Alanis  
Assistant City Manager  
Date: \_\_\_\_\_

**CITY OF SAGINAW:**

By: \_\_\_\_\_  
Gabe Reaume  
City Manager  
Date: \_\_\_\_\_

**CONTRACT COMPLIANCE MANAGER:**

By signing, I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED TO FORM AND LEGALITY:**

By: \_\_\_\_\_  
J.B. Strong  
Assistant City Attorney

**APPROVED TO LEGALITY:**

By: \_\_\_\_\_  
Bryn Meredith  
City Attorney

**ATTEST:**

By: \_\_\_\_\_  
Mary J. Kayser  
City Secretary

**ATTEST:**

By: \_\_\_\_\_  
Janice England  
City Secretary

**Form 1295:** \_\_\_\_\_

**Contract Authorization:**

M&C: \_\_\_\_\_  
Date Approved: \_\_\_\_\_

## EXHIBIT A

### CATEGORY 1, TERMS OF USE

The following definitions shall have the meanings set forth below and apply to this Agreement and the Terms of Use set forth herein:

#### DEFINITIONS

**“Console System”** shall mean all hardware and software associated with any dispatch console or set of consoles operated by the **USER** that are connected to the CFW Master Switch.

**“Interoperable Communications Governance Committee”** (“Governance Committee”) shall mean that group of individuals tasked with maintaining and administering the Interoperable Communications Plan. The Governance Committee shall consist of ten to fifteen individuals with CFW selecting at least one representative and each classification of users selecting at least one representative. The Governance Committee shall determine and may periodically adjust the number of members and the method for selecting members for each classification of users with a goal of ensuring that the Governance Committee reflects the full range of user types.

**“Infrastructure Support Fee”** shall mean the annual fee charged by CFW to offset costs incurred by the CFW in the operation and maintenance of the Radio System.

**“Interoperable Communications Plan”** (the “Plan”) means the plan developed and established by CFW and the Governance Committee to facilitate, enhance and simplify radio communications among all agencies utilizing the Radio System or connecting their Site Repeater Systems or Console Systems to the CFW Master Switch. The Plan is available upon request from CFW or can be found on the CFW website at <http://fortworthtexas.gov/itsolutions/>.

**“Master Switch”** shall mean the primary processing and network infrastructure to which all Console Systems and Site Repeater Systems must connect in order to operate on the Radio System. The Master Switch is currently located at the CFW Eagle Mountain facility.

**“Over The Air Rekeying”** (“OTAR”) shall mean the management and support of Subscriber Radio encryption keys via over-the-air, radio channel transmission.

**“OTAR Administration Fee”** shall mean the annual fee charged by CFW to offset costs incurred by the CFW in the management and support of Subscriber Radio encryption keys administered through the Radio System’s OTAR functions.

**“Over the Air Programming”** (“OTAP”) shall mean the method of implementing programming changes to Subscriber Radios using the over-the-air data capabilities of the Radio System.

**“Private Call”** shall mean a feature that reserves channel resources specifically for conversations between two Subscriber Radios.

**“Site Repeater System”** shall mean the base stations, shelter, tower and all site-specific hardware and software infrastructure associated with the provision of a radio site connected to the CFW Master Switch.

**“System Upgrade Agreement Fee”** shall mean the annual fee charged by CFW to offset cost charged to CFW by Motorola Solutions for the maintenance of the Software Upgrade Agreement applicable to the **USER’s** Console Systems and Site Repeater Systems.

**“Subscriber Radio”** shall mean a radio that has a unique identification number and is programmed to operate on the Radio System. The term shall include, but not be limited to, control stations (desk top radios), mobile radios, and portable radios.

**“Talk Group”** shall mean a specific group of Subscriber Radios allowed to communicate privately within that group over shared infrastructure resources.

### **TERMS OF USE**

1. The installation and maintenance of the Radio System infrastructure equipment is the responsibility of CFW unless otherwise stated in this Agreement.
2. The CFW is the holder of the FCC (Federal Communications Commission) license(s) that the Radio System uses for its operation. This Agreement shall not be construed or interpreted to grant, convey, or otherwise provide **USER** with any rights whatsoever to the CFW FCC license(s) or to the Radio Frequency spectrum used by the Radio System.
3. The CFW makes no guarantee, either express or implied, as to radio signal strength or a specific level of radio coverage in a particular location. The **USER** is responsible for conducting appropriate and applicable in-building and geographical coverage testing to determine the expected radio coverage level for **USER’s** equipment.
4. **USER** will be responsible for the acquisition, programming, and maintenance of all equipment **USER** will be utilizing in connection with the Radio System infrastructure, including, but not limited to, Subscriber Radios, consoles, and special equipment.
5. In order to ensure hardware and software compatibility with the Radio System infrastructure, all Subscriber Radios and consoles intended for use by **USER** on the Radio System shall be compliant with Project 25 standards established by the Telecommunications Industry Association. The use of unauthorized radios on the Radio System may result in suspended operation of the radios and/or termination of the Agreement.
6. **USER** agrees to exclusively utilize antennas specifically approved by the radio manufacturer for use with the specific models of **USER’s** radios. The use of short, broad spectrum, or “stubby,” antennas is not recommended. **USER** shall be solely liable for coverage gaps in the event **USER** utilizes short broad spectrum or stubby antennas or other antennas not approved by the manufacturer for use with the specific models of **USER’s** radios.
7. No antenna gain greater than 3 DB will be allowed for mobiles and consolettes.

8. **USER** shall use due diligence in the maintenance and configuration of its Subscriber Radio equipment to ensure that no **USER** radio or console causes a degradation to the Radio System operation. The CFW shall have the right to remove from operation any field radio unit or equipment owned or leased by **USER** that is operating on, attached and/or interfaced to the CFW infrastructure, if CFW determines in its sole reasonable discretion that such equipment is causing interference or harm to the Radio System in any way. The CFW reserves the right to request that **USER** operated field radio units or equipment operating on, attached and/or interfaced to the infrastructure be tested for proper operation and/or repaired by an authorized radio repair facility approved by the CFW. The cost of such testing or repair will be the sole responsibility of **USER**. Furthermore, the CFW shall have the right to deactivate, without prior notification to or consent of **USER**, any field radio or other **USER** equipment suspected of causing interference, intentionally or unintentionally, to any other radios on the Radio System or to the Radio System's overall operation.

9. **USER**'s radios may be used for voice radio communications over the Radio System infrastructure in accordance with the terms and conditions of this Agreement for as long as this Agreement remains in effect.

10. The CFW will be responsible for managing infrastructure loading and demand. CFW reserves the right, without notice to incumbent users, to enter into a similar agreement with other entities or to deny the addition of new Subscriber Radio equipment to any user of the Radio System. The CFW shall have sole discretion in determining whether to allow additional users or radios based on CFW's determination of whether such addition to the Radio System can be made without adversely impacting the Radio System.

11. **USER** is prohibited from utilizing telephone interconnect on the Radio System. This prohibition shall include, but is not limited to, connecting to either the PSTN (Public Switched Telephone Network) or **USER**'s internal phone system(s) through a console patch into the Radio System or to any Subscriber Radio on the Radio System.

12. Due to the radio infrastructure resource allocations required by "Private Call," **USER** is not permitted to utilize "Private Call" on the Radio System.

13. **USER**'s utilization of data communications on the Radio System will be limited to the Radio System's OTAP functions. Performance of data communications over the Radio System is not guaranteed. For programming changes involving more than ten Subscriber Radios, **USER** agrees to coordinate with CFW prior to executing changes to minimize impact on other users and on the Radio System.

14. The use of OTAR in association with Subscriber Radio encryption is prohibited without prior approval of CFW. Administration of encryption keys will be performed exclusively by CFW. **USER** may utilize and administer other encryption methods as required.

15. The CFW will provide **USER** with an Advanced System Key (ASK) for use with the **USER**'s Subscriber Radios only. The ASK will expire annually, and **USER** shall be responsible for requesting a new ASK following expiration if one is required. **USER** will be responsible for

safeguarding the security of the ASK to prevent theft and/or loss. **USER** agrees to notify CFW immediately upon the theft or loss of the ASK.

16. CFW will assign the **USER** Talk Group IDs unique to **USER** operation. All Talk Group names shall include a prefix unique to the **USER**'s agency. No other agency will be authorized to use **USER** Talk Groups without the express written permission of **USER**, and a copy of such permission must be on file with the CFW before such use may occur. The CFW reserves the right to require certain Talk Group ID's to be programmed in **USER** radios. Additionally, the CFW shall have the right to limit the number of Talk Group ID's to be used by **USER** and to disable Talk Groups ID's as it deems appropriate.

17. The CFW has established a coordinated Interoperable Communications Plan to apply to CFW and the users of its Radio System. **USER** agrees to participate in the Plan and include the Plan's interoperable Talk Groups in the programming of its Subscriber Radios and Console Systems.

18. Roaming to other systems or the use of **USER**'s Talk Groups on other trunked systems that are interconnected to the Radio System is prohibited without prior approval by CFW. Roaming to other trunked systems will be limited to the Radio System's interoperable Talk Groups, although this capability may be terminated by CFW if its use is determined to result in performance degradation to either the Radio System or the interconnected trunked system.

19. **USER** may utilize a Network Management Console (NMC) to manage its own environment. **USER** is responsible for acquiring and maintaining, at **USER**'s sole cost, all components required to connect the NMC to the Radio System. The **USER**'s NMC must be partitioned in manner to limit access to **USER**'s own environment only and to prevent **USER** from viewing, accessing, or making any changes to equipment that is not owned or leased by **USER**. The **USER** must ensure the NMC is located in a secure area. USB ports on the NMC must be deactivated except during maintenance activity. All security patches related to operating systems and other associated software must be maintained at current manufacturer-tested levels. No other software applications may be utilized by the NMC.

20. CFW generally maintains aliases for units operating on the Radio System. If the **USER** has acquired the capability to modify its aliases, it may administer and maintain its own subscriber unit aliases. From that point, **USER** will be responsible for administering and maintaining its own subscriber unit aliases, and the CFW will no longer administer and maintain the **USER**'s subscriber unit aliases.

21. USB ports on the **USER**'s Console Systems must be deactivated except during maintenance activity. All security patches related to operating systems and other associated software must be maintained at current manufacturer-tested levels. If required, all connectivity between the Console Systems and the Radio System is the responsibility of the **USER**, including software, hardware and carrier services. Associated costs will be incurred by the **USER**. Unless otherwise approved by CFW, connectivity will be achieved through local terrestrial circuit facilities. The use of other connectivity methods, including but not limited to microwave or fiber, must be approved by the CFW. **USER** may incur additional costs from CFW for other connectivity methods.

22. The CFW shall execute with Motorola Solutions a System Upgrade Agreement for the Console Systems and Site Repeater Systems that would be affected by the software upgrades, including those owned (or leased) and operated by the **USER**. Unless the **USER** is notified otherwise by CFW, the software for the Radio System, all Site Repeater Systems and all Console Systems will be upgraded to the current level every two years. The **USER** will provide all reasonable coordination necessary for the upgrade of its Console Systems. **USER** acknowledges that reductions in functionality may occur during the upgrade process.

### **APPLICABLE FEES; TERMINATION; REFUNDS**

23. **USER** shall pay the CFW an annual Infrastructure Support Fee in the amount of **\$34** per month, per Subscriber Radio or console. This fee is payable in advance on an annual basis for all active radio IDs issued to **USER** at the time of the annual billing. Invoicing will occur on a pro-rata basis when new Radio IDs are issued, and thereafter, at the beginning of each CFW fiscal year. There will be no refunds or credits for radios removed from service during the fiscal year.

24. If the **USER** subscribes to OTAR services, the **USER** shall pay the CFW an annual OTAR Administration Fee in the amount of \$1 per month, per Subscriber Radio. This fee is payable in advance on an annual basis for all active radio IDs issued to **USER** at the time of the annual billing. Invoicing will occur on a pro-rata basis when new Radio IDs are issued, and thereafter, at the beginning of each CFW fiscal year.

25. **USER** shall pay the CFW an annual System Upgrade Agreement Fee equal to the amount invoiced to the CFW by Motorola Solutions, Inc., or its successors, for the upgrade of the **USER's** Console Systems and any other component subject to upgrade as a result of the upgrade of the Radio System.

26. CFW shall have the right to increase any applicable fees under this Agreement each fiscal year to offset any increased costs incurred by CFW in the operation or maintenance of the Radio System. Any increase in applicable fees will be effective at the beginning of the next CFW fiscal year. CFW shall provide **USER** with 60 days' written notice of any intended fee increase, **provided, however**, that this notice period may be less than 60 days if Motorola Solutions provides CFW with less than 60 days' notice of an increase in the System Upgrade Agreement Fee and such reduced notice period shall not impact **USER's** obligation to pay the increased fee.

27. Either **USER** or CFW may terminate this Agreement for any reason, with or without cause, upon ninety (90) days written notice to the other party. If **USER** terminates, there will be no refunds or credits for any fee. If CFW terminates, CFW will issue a refund to the **USER** of all fees, **except for the System Upgrade Agreement Fee**, which is non-refundable, pro-rated to the end of the current fiscal year. The CFW, in its sole discretion, shall have the right to deny **USER** access to the radio infrastructure and/or the right to terminate the Agreement immediately if **USER** fails to make full payment of invoiced system fees within thirty (30) days of the date payment is due. The CFW further reserves the right to terminate this Agreement immediately, or deny access to the **USER**, upon notice of **USER** misuse of the Radio System. Notwithstanding the foregoing, the CFW, in its sole discretion, reserves the right to immediately deny access to the **USER** if such action is required to prevent the spread of a security breach or threatened security breach or due to an emergency, operational issue, or other critical incident between the Master Switch and the

**USER's** environment. The CFW will use best efforts to restore access to the **USER** as soon as possible once the security breach, emergency, operational issue, or critical incident is resolved.

### **COMPLIANCE WITH LAWS**

28. The **USER** shall comply with all current and future Federal, State, and Local laws, Ordinances, and Mandates, including Federal Communications Commission rules and regulations regarding proper use of radio communications equipment. The **USER** will also comply with the guidelines, or procedures set out in this Agreement. Furthermore, the **USER** is responsible for enforcing such compliance by its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants for **USER** Subscriber Radio equipment. Furthermore, the **USER** will be responsible for payment of any fines and penalties levied against the CFW (as the license holder) as a result of improper or unlawful use of Subscriber Radio equipment owned or leased by **USER**.

29. In order to comply with Federal, State, and Local Laws and/ or Mandates, the CFW, as the license holder, may need to act on behalf of the **USER** regarding possible modifications, reconfiguration, or exchange of Subscriber Radio equipment in order to meet these obligations. For as long as this Agreement is in force, the **USER** will allow the CFW to facilitate such activities on **USER's** behalf as necessary.

30. In the instance where **USER** Subscriber Radio equipment is to be replaced in order to be in compliance with Federal, State, and Local Laws and/or Mandates, title and ownership of such replacement Subscriber Radio equipment shall, upon delivery of Subscriber Radio equipment to the **USER's** site, pass directly to the owner of the equipment that is being replaced. The **USER** shall provide the CFW, or its designee, with the Subscriber Radio equipment to be replaced, in good working order, as determined by the CFW or its designee. **USER** shall be liable for payment of any fees associated with radios deemed to be not in proper working order. **USER** shall be liable for payment of any fees associated with upgrades to Subscriber Radio equipment.

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