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CITY SECRETARY
CONTRACT NO. 45218-A1

**FIRST AMENDMENT TO
FORT WORTH CITY SECRETARY CONTRACT NO. 45218**

This First Amendment to Fort Worth City Secretary Contract No. 45218 (“First Amendment”) is made between the City of Fort Worth (“**FORT WORTH**” or “**CFW**”), a municipal corporation, acting herein by and through Susan Alanis, its duly authorized Assistant City Manager and the City of North Richland Hills, a municipal corporation, (“**USER**”) acting herein through Mark Hindman, its duly authorized City Manager.

WHEREAS, FORT WORTH and USER entered into an Agreement identified as Fort Worth City Secretary Contract No. 45218 beginning December 19, 2013 (the “Agreement”); and

WHEREAS, USER wishes to subscribe to additional services of the CFW Trunked Voice Radio Systems; and

WHEREAS, it is the collective desire of both FORT WORTH and NORTH RICHLAND HILLS to amend the Agreement to include additional services of the CFW Trunked Voice Radio Systems.

NOW THEREFORE, KNOWN ALL BY THESE PRESENT, FORT WORTH and USER, acting herein by the through their duly authorized representatives, enter into this First Amendment, which amends the Agreement as follows:

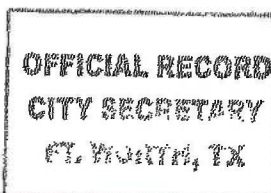
1.

The Agreement is hereby amended by adding Exhibit B, attached to this First Amendment, as Exhibit B of the Agreement, which is incorporated into and made a part of this Amendment for all purposes.

2.

All other terms, provisions, conditions, covenants and recitals of the Agreement not expressly amended herein shall remain in full force and effect.

[Signature Page Follows]



EXECUTED IN MULTIPLE ORIGINALS on this the 19th day of Feb, 2018.

APPROVED FOR
CITY OF FORT WORTH:

By: [Signature]
Susan Alanis
Assistant City Manager

Date: 2/13/2018

APPROVED AS TO FORM
AND LEGALITY:

By: [Signature]
J.B. Strong
Assistant City Attorney

APPROVED FOR
NORTH RICHLAND HILLS:

By: [Signature]
Mark Hindman
City Manager

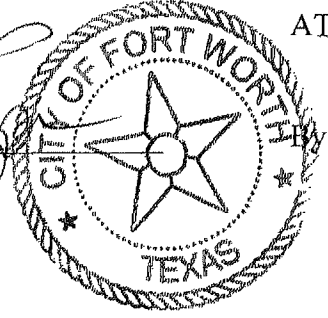
Date: 11-28-2017

APPROVED TO FORM AND LEGALITY:

By: [Signature]
Maleshia B. McGinnis
City Attorney

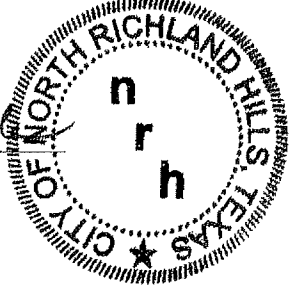
ATTEST:

By: [Signature]
Mary J. Kayser
City Secretary



ATTEST:

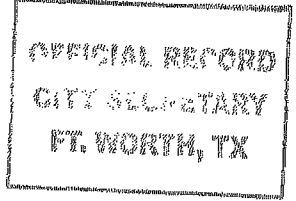
By: [Signature]
Alicia Richardson
City Secretary



Contract Authorization:

M&C: C-28548
Date Approved: 1-30-2018

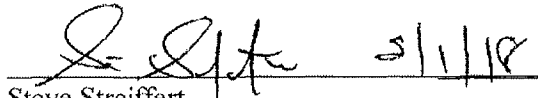
NRH Council Action N
Date Approved 11-13-2017
Agenda No. B. 8
Ord / Res No. _____



City of North Richland Hills, CSC 45218 Amendment No. 1

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.


Steve Streiffert

Assistant Director, IT Solutions Department

EXHIBIT B

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

“Chat Channel” shall mean a talk group that appears only on the WAVE System and is exclusive to a USER. Chat Channels are not transmitted over the Radio System, but only to the USER’s smart devices on the WAVE System.

“Interoperability Channels” shall mean common channels accessible by multiple agencies for the express purpose of providing communications among agencies during multi-agency operations in accordance with the Interoperable Communications Plan.

“Radio System Talk Group” shall mean a talk group that is transmitted over the Radio System, and may be accessed through the WAVE System.

“Smart Device” shall mean an electronic device utilized to access the WAVE System, including but not limited to smartphones, tablets, workstations and any device specifically intended for use with the WAVE System.

“WAVE Support Fee” shall mean the annual fee charged by CFW to offset costs incurred by the CFW in the administration, operation and maintenance of the WAVE System.

“WAVE System” shall mean the Motorola Solutions WAVE™ System adjunct to the Master Switch and all other associated hardware, software and network facilities necessary to provide access to the CFW Trunked Voice System from smart devices.

TERMS OF USE

1. The installation and maintenance of the WAVE 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 the performance of smart devices used with the WAVE system. The **USER** is responsible for conducting appropriate and applicable testing to determine the performance and suitability of the WAVE System for the **USER**’s requirements.

4. **USER** will be responsible for the acquisition, programming, and maintenance of all smart device equipment and software **USER** will be utilizing in connection with the WAVE System.

5. **USER** will be responsible for the acquisition and annual renewal of all licenses associated with the **USER**'s utilization of the WAVE System directly from Motorola Solutions, Inc., or its successors. **USER** agrees to acquire one appropriate license for each smart device that will access the WAVE System. **USER** will instruct Motorola Solutions, Inc., to provide license files to CFW. Upon receipt of the license files, CFW will install the **USER**'s licenses on the WAVE System.

6. The CFW will coordinate with the **USER** for the establishment of user accounts, radio system talk groups and chat channels to be accessed through the WAVE System. Implementation and administration of user accounts and talk groups will be the responsibility of CFW.

7. The CFW will provide access to a limited number of Interoperability Channels that may be accessed by the **USER**. The number and selection of Interoperability Channels will be determined at the sole discretion of CFW. **USER** will not be required to acquire licenses for Interoperability Channels.

7. **USER** shall use due diligence in the maintenance and security of its smart device equipment to ensure that no **USER** smart device causes a degradation to the WAVE System or Radio System operation. The CFW shall have the right to remove from operation any smart device owned or leased by **USER** that is operating on, attached and/or interfaced to the WAVE System, if CFW determines in its sole reasonable discretion that such equipment is causing harm to the Radio System in any way. Furthermore, the CFW shall have the right to deactivate, without prior notification to or consent of **USER**, any smart device suspected of causing harm, intentionally or unintentionally, to the operation of the WAVE System or the Radio System.

8. **USER**'s smart devices may be used for voice 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.

9. 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 smart device equipment to any user of the WAVE System. The CFW shall have sole discretion in determining whether to allow additional users or smart devices based on CFW's determination of whether such addition to the WAVE System can be made without adversely impacting the WAVE System or the Radio System.

10. The CFW, at its sole discretion, will upgrade the WAVE System periodically. **USER** will be notified at least sixty (60) days before commencement of the upgrade. **USER** will be responsible for ensuring its smart devices have the software release appropriate to the current software release of the WAVE System.

APPLICABLE FEES; TERMINATION; REFUNDS

11. **USER** shall pay the CFW an annual Infrastructure Support Fee in the amount of **\$39** per month, per smart device. This fee is payable in advance on an annual basis for all active smart devices registered to **USER** at the time of the annual billing. Invoicing will occur on a pro-rata basis when new smart device accounts are issued, and thereafter, at the beginning of each CFW fiscal year. There will be no refunds or credits for smart devices removed from service during the fiscal year.

12. **USER** shall pay the CFW an annual Chat Channel Fee in the amount of **\$14** per month, per Chat Channel. This fee is payable in advance on an annual basis for all active Chat Channels registered to the **USER** at the time of the annual billing. Invoicing will occur on a pro-rata basis when new Chat Channels are activated, and thereafter, at the beginning of each CFW fiscal year. There will be no refunds or credits for Chat Channels removed from service during the fiscal year.

12. 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 or WAVE 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.

13. 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. 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 WAVE System or Radio System 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

14. 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 smart device equipment owned or leased by **USER**.

[End of Document]

1. fort worth emailed our original, however they mailed us an original without our stamp so what is in LF and what is a hard copy are different. (th)