



Deschutes County Board of Commissioners
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AGENDA REQUEST & STAFF REPORT

For Board Business Meeting of March 2, 2016

DATE: February 25, 2016

FROM: Steve Reinke 911 541-322-6101

TITLE OF AGENDA ITEM:

Three related items. 1) Consider an IGA with ODOT creating a partnership for building a new radio system. 2) Consider an agreement with Harris Corporation for materials and services to construct the District's portion of the new radio system. 3) Consider authorizing the addition of \$274,000 to the District's existing consulting agreement with ADCOMM Engineering for assistance with the construction of the new radio system.

PUBLIC HEARING ON THIS DATE? No.

BACKGROUND AND POLICY IMPLICATIONS:

These three agenda items are the result of years of planning by 9-1-1 User Board members for the replacement of the area's existing trunked radio system, which is at the end of its service life.

A 2014 consultant's report estimated a new radio system would cost \$13 million. Staff began working on a partnership with Oregon State Radio Project officials at ODOT to lower the cost by sharing system switches, microwave transport capability, radio site buildings and tower facilities. The result of those discussions is the attached IGA with ODOT; a partnership which will allow the District to cut the cost of the new system in half to less than \$6.5 million.

The agreement with Harris Corporation is for the major portion of the materials and services necessary for construction of the new radio system.

ADCOMM Engineering is serving as the District's agent to verify the system is properly engineered. The Company's staff will also supplement the District's staff during system installation and deployment.

The construction of this new, consolidated, multi-jurisdictional and multi-disciplinary radio system will allow local law enforcement, fire and EMS responders to talk to dispatch and to each other in places where they cannot communicate today.

FISCAL IMPLICATIONS:

Funding for the radio project is budgeted and adequate to complete the work.

RECOMMENDATION & ACTION REQUESTED:

Approve the intergovernmental agreement with ODOT. (Document No. 2016-150)

Approve the agreement with Harris Corporation. (Document No. 2016-146)

Authorize up to an additional \$274,000 for ADCOMM Engineering consulting. (Document No. 2016-019)

ATTENDANCE: Steve Reinke.

DISTRIBUTION OF DOCUMENTS:

Three originals of the ODOT IGA and Harris Contract. One for the County's records, one to Steve Reinke at the 9-1-1 Service District and one to return to the other party.

TRUNKED RADIO USE AGREEMENT AND COLLOCATION AUTHORIZATION

This Trunked Radio Use Agreement and Collocation Authorization ("Agreement") is between the State of Oregon ("State") acting by and through its Department of Transportation ("ODOT"), and Deschutes County 9-1-1 Service District ("Local Government"), each a "Party" and, together, the "Parties".

RECITALS

- A. ODOT and Local Government are not currently parties to any agreements for use of Radio systems or communications sites, except for the following (the "Existing Agreements"):
 - 1. Intergovernmental Agreement Bend Deschutes County 9-1-1 Communications Site, effective July 1, 2015; and
 - 2. Intergovernmental Agreement Site Lease and Tower Lease Wampus Butte/OSP Tower, effective September 5, 2007, which was assigned from the Oregon State Police to ODOT effective September 13, 2012.
- B. Under the Existing Agreements ODOT uses Facilities (defined below) controlled by Local Government, and Local Government uses Facilities controlled by ODOT.
- C. State owns a 700 MHz trunked Radio system which provides for trunked Radio Wireless Communications including coverage in Deschutes County and the surrounding area and which has been funded with tax exempt bonds ("State TRS");
- D. Local Government owns 700/800 MHz trunked Radio equipment which provides Radio communications including coverage in Deschutes County and the surrounding area funded with local government tax revenues;
- E. Each Party desires to authorize use of specific trunked Radio system components and sites owned and separately operated by the Parties for 1) Radio voice communications for each Party to carry out its mission, including communications with the Party's personnel as well as other agencies that aid the Party in carrying out its mission during emergency as well as normal conditions , 2) mutual aid, and 3) to foster maximum use of public resources;
- F. ODOT and Local Government each desires to terminate the Existing Agreements and enter into a single Trunked Radio Use Agreement and Collocation Authorization to: 1) authorize Local Government use of the Harris P25 Network Switching Centers owned by State and operated and maintained by ODOT at Salem Oregon and at Bend Oregon ("State Master Switches"); 2) authorize use of specific trunked Radio sites by each Party 3) establish fees for each Party, 4) establish responsibilities for each Party, and 5) authorize Collocations at Wireless Communications Sites that are used for trunked Radio infrastructure owned by each Party as defined in this Agreement

AGREEMENT

1. AUTHORITY

This Agreement is authorized by ORS 190.110 and by the State Chief Information Office per ORS 279A.050, 291.038 and 291.039.

2. DEFINITIONS

Unless modified by this Section, terms contained in this Agreement have the meaning given to them in the State Radio System Standards, Policies and Procedures, Trunked Radio System (“SPPs”) a copy of which will be delivered to Local Government with the signed Agreement.

- 2.1. “Collocate” or “Collocation” means the locating by a Party of Communications Equipment on a common support structure or in an equipment building at a Site owned or leased by the another party.
- 2.2. “Controlling Party” means the Party identified as the Controlling Party of a Wireless Communications Site (defined below).
- 2.3. “Facility” means a tower, other support structure, or building (accessory structure) that houses communications equipment, including Radio or microwave transmitters, receivers, associated accessories and ancillary equipment, or a Radio/microwave antenna or satellite support structure, or a combination of the above.
- 2.4. “Local Government Trunked Radio Sites” means the 700MHz/800MHz trunked Radio Wireless Communications Sites and associated microwave equipment or lines providing connectivity for land mobile Radio communications that are owned or leased by Local Government.
- 2.5. “State Trunked Radio System” or “State TRS” means the State 700 MHz trunked Radio Sites, and associated microwave equipment or lines, controllers and State Master Switches providing connectivity for land mobile Radio communications that are owned or leased by State.
- 2.6. “Wireless Communications” means communications accomplished without the use of a hard wire connection via Radio, microwave or infrared technologies, including but not limited to fixed, mobile, and portable Radios licensed under Federal Communications Commission rules and regulations as detailed in 47 CFR Parts 90 and 101, cellular phones, wireless networking (i.e. WiFi, WiMAX), or satellite communications.
- 2.7. “Wireless Communications Site” or “Site” means a physical location described in an agreement between the Parties that is occupied by Facilities where Collocation may occur, or houses a trunked Radio Site used by the Parties.

3. EFFECTIVE DATE, DURATION AND RENEWALS

- 3.1. This Agreement is effective on July 1, 2016 or the date of the last signature, whichever occurs last (“Effective Date”), and terminates on June 30, 2031, unless terminated earlier in accordance with Section 16 (“Initial Term”). Notwithstanding the foregoing, the Collocation authorizations granted to each Party in Section 6 below expire as provided in Exhibit D Collocation Authorizations.
- 3.2. Either Party may request that this Agreement be renewed for one (1) additional five (5) year term (“Renewal Term”) on the expiration date of the preceding Initial Term or Renewal Term by providing notice to the other Party in writing on or before one hundred eighty (180) days prior to the expiration of the then current Term. Unless otherwise amended pursuant to Section 19, the Renewal Term shall be on the same terms and conditions as the then-existing Agreement. The Initial Term and the Renewal Terms are collectively referred to as the Term.

4. TERMINATION OF EXISTING AGREEMENTS AND MUTUAL RELEASE

The Existing Agreements are hereby terminated in their entirety as of the Effective Date of this Agreement. State and Local Government agree that upon termination of the Existing Agreements neither Party will have any existing or continuing obligations thereunder, and both Parties hereby agree to fully release the other from any known or unknown claim arising under or relating to such Existing Agreements.

5. AUTHORIZED REPRESENTATIVES

5.1. State's Authorized Representative is:

ODOT Wireless Section Manager or designee
455 Airport Rd SE, Building C
Salem, OR 97301-5375
Robert.L.Reish@odot.state.or.us
(503) 986-2896

ODOT 24 Hour Contact

ODOT Wireless Section Manager, or designee
Phone: 503-986-2911

5.2. Local Government's Authorized Representative is:

Deschutes County 9-1-1 Systems Manager or designee
PO Box 6005, Bend, OR 97701
Phone: (541) 388-0185
Fax: (541) 382-5767
Email: tim.beuschlein@deschutes.org

Local Government 24 Hour Contact

Deschutes County 9-1-1 Systems Manager or designee
Phone: (541) 419-6604
Email: _911_Systems@deschutes.org

5.3. A Party may designate a new Authorized Representative by written notice to the other Party.

6. GRANT OF RIGHT TO USE; RESPONSIBILITIES OF EACH PARTY

6.1. State grants Local Government and its Authorized Users the right to use the State TRS and State Facilities as described in this Agreement.

6.2. Local Government grants State and its Authorized Users the right to use Local Government Trunked Radio Sites and Local Government Facilities as described in this Agreement.

6.3. ODOT and Local Government responsibilities are set forth on **Exhibit A Responsibilities**.

7. FEES

7.1. Local Government shall pay fees as set forth in this Section and **Exhibit B Fees**. Payment shall be made annually in advance on or before July 30 and shall be for a fiscal year from July 1 through June 30. Payment for the first year shall be prorated as appropriate from the Effective Date of this Agreement and shall be due and payable to State within forty-five (45) calendar days from the Effective Date. Fees shall be reviewed by the Parties annually, but no later than February 1 of each year, to establish fees for the following year that reflect actual costs of each Party's use of the other Party's trunked Radio infrastructure and Facilities.

7.2. State shall pay fees as set forth in this Section and **Exhibit B Fees**. Payment shall be made annually in advance on or before July 30 and shall be for a fiscal year from July 1 through June 30. Payment for the first year shall be prorated as appropriate from the Effective Date of this Agreement and shall be due and payable to Local Government within forty-five (45) calendar days from the Effective Date. To the extent State fees are less than Local Government fees, State fees shall be an offset credit to Local Government fees as identified on

Exhibit B. Fees shall be reviewed by the Parties annually, but no later than February 1 of each year, to establish fees for the following year that reflect actual costs of State's use of Local Government Trunked Radio Sites.

7.3. The following fees will be allocated to each Party based on the Party's proportionate use of the trunked Radio system infrastructure and Facilities owned by the other Party as identified in this Section and Exhibit B, including, but not limited to the following:

- 7.3.1. State Master Switches Use Fee. Cost shall be allocated based on a percentage of the total number of allocated end user Radios that use the State Master Switches as of the date of the report required by Exhibit A, Section 3.10.
- 7.3.2. Annual Site Maintenance Fee. Cost shall be allocated based on the number of Partner or User Agencies that use the trunked Radio infrastructure at a TRS Site as a primary means of Radio communications.
- 7.3.3. Microwave Transport Fee. Costs for microwave transport shall be allocated by the Controlling Party to the other Party based on the State rate for one (1) T1 from the Wireless Communications Site where the trunked Radio equipment is located to the DC911 PSAP Site in Bend, Oregon ("DC911 PSAP") and from DC911 PSAP to the State Master Switch in Salem, Oregon ("Salem Switch").
- 7.3.4. Collocation Fee. Collocation authorizations and costs for each Party shall be as identified in Exhibit A and Exhibit D.

7.4. The fees to each Party shall be reviewed annually and modified by written approval of the Parties as provided in Section 19. Costs resulting from the annual review required by this Section shall not result in an increase to payments by either Party that exceed ten percent (10%) of the total payments scheduled to be made under the previous years' fees. This restriction to increases in fees does not apply to either Party's proportionate share of power fees.

8. REPRESENTATIONS AND WARRANTIES

8.1. Local Government represents and warrants to State that:

- 8.1.1. Local Government is a governmental consolidated public safety dispatching agency duly organized and validly existing. Local Government has the power and authority to enter into and perform this Agreement;
- 8.1.2. The making and performance by Local Government of this Agreement (a) have been duly authorized by Local Government, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Local Government's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Local Government is party or by which Local Government may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Local Government of this Agreement, other than those that have already been obtained;
- 8.1.3. This Agreement has been duly executed and delivered by Local Government and constitutes a legal, valid and binding obligation of Local Government enforceable in accordance with its terms;
- 8.1.4. Local Government has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this

Agreement, and Local Government will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and

- 8.1.5. Local Government shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.
- 8.1.6. The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by Local Government.

9. GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between the State, ODOT or any other agency or department of the State of Oregon and Local Government that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. LOCAL GOVERNMENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or as consent to the jurisdiction of any court.

10. CONTRIBUTION

10.1. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 10 with respect to the Third Party Claim.

10.2. With respect to a Third Party Claim for which ODOT is jointly liable with Local Government (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of Local Government on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of Local Government on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the ODOT had sole liability in the proceeding.

10.3. With respect to a Third Party Claim for which Local Government is jointly liable with ODOT (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of Local Government on the

one hand and of ODOT on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Local Government on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Local Government's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

11. LOCAL GOVERNMENT DEFAULT

Local Government will be in default under this Agreement upon the occurrence of any of the following events:

- 11.1. Non-payment of fees if such fees remain unpaid for more than sixty (60) days after receipt of written notice from ODOT of such failure to pay; or
- 11.2. Local Government fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement; or
- 11.3. Any representation, warranty or statement made by Local Government in this Agreement is untrue in any material respect when made.

12. ODOT DEFAULT

ODOT will be in default under this Agreement upon the occurrence of any of the following events:

- 12.1. Non-payment of fees if such fees remain unpaid for more than sixty (60) days after receipt of written notice from Local Government of such failure to pay; or
- 12.2. ODOT will be in default under this Agreement if ODOT fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

13. REMEDIES

13.1 In the event Local Government is in default under Section 11, ODOT may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, or (b) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief. These remedies are cumulative to the extent the remedies are not inconsistent, and ODOT may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

13.2 In the event ODOT is in default under Section 12, Local Government may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, or (b) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief. These remedies are cumulative to the extent the remedies are not inconsistent, and Local Government may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

14. RECOVERY OF OVERPAYMENTS

14.1 If payments to Local Government under this Agreement, or any other agreement between State and Local Government, exceed the amount to which Local Government is entitled, State may, after notifying Local Government in writing, withhold from payments due Local Government under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

14.2 If payments to State under this Agreement, or any other agreement between State and Local Government, exceed the amount to which State is entitled, Local Government may, after notifying State in

writing, withhold from payments due State under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

15. LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

16. TERMINATION

16.1. This Agreement may be terminated at any time by mutual written consent of the Parties.

16.2. ODOT may terminate this Agreement as follows:

- 16.2.1 Upon 365 days advance written notice to Local Government;
- 16.2.2 Immediately upon written notice to Local Government, if ODOT fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in ODOT's reasonable administrative discretion, to perform its obligations under this Agreement;
- 16.2.3 Immediately upon written notice to Local Government, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that ODOT's performance under this Agreement is prohibited or ODOT is prohibited from paying for such performance from the planned funding source;
- 16.2.4 Immediately upon written notice to Local Government, if Local Government is in default under this Agreement and such default remains uncured 60 days after written notice thereof to Local Government; or
- 16.2.5 As otherwise expressly provided in this Agreement.

16.3. Local Government may terminate this Agreement as follows:

- 16.3.1 Upon 365 days advance written notice to ODOT;
- 16.3.2 Immediately upon written notice to ODOT, if Local Government fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Local Government's reasonable administrative discretion, to perform its obligations under this Agreement;
- 16.3.2 Immediately upon written notice to ODOT, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Local Government's performance under this Agreement is prohibited or Local Government is prohibited from paying for such performance from the planned funding source;
- 16.3.3 Immediately upon written notice to ODOT, if ODOT is in default under this Agreement and such default remains uncured 60 days after written notice thereof to ODOT; or
- 16.3.4 As otherwise expressly provided in this Agreement.

17. INSURANCE

Each Party shall provide insurance or self-insurance as described below:

17.1. The State is self-insured under ORS 30.282(2) up to the limits described in ORS 30.269 to 30.273. In addition, the State has qualified for self-insurance under ORS 806.130 of the Oregon Vehicle Code up to the

limits as set forth in ORS 806.070. Upon request by the Local Government, ODOT shall provide written proof of self-insurance to Local Government.

17.2. Local Government shall, at its own cost and expense, either (1) secure and maintain a policy of insurance from a qualified insurance company(s) through the term of this Agreement, or (2) provide similar type protection through an Administrative Trust commonly known as City County Insurance Services or Special Districts of Association of Oregon (SDAO) insurance. In either case, Local Government shall secure liability protection with respect to its operations and operations of its officers, employees, and agents including volunteers acting within the scope of their employment or duties arising out of a governmental or proprietary function, equivalent to the limits identified in the Oregon Tort Claims Act, ORS 30.260 through 30.300.

17.3. The insurance certificates will be located in each Party's files and will be made available upon request by either Party.

17.4. All employers, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Both Parties shall ensure that each of its contractors or subcontractors complies with these requirements.

18. NONAPPROPRIATION

18.1. ODOT's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon ODOT receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of ODOT.

18.2. Local Government's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Local government receiving funding, appropriations, limitations, allotments or other expenditure authority as approved by its governing board sufficient to allow Local Government in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement

19. AMENDMENTS

Except as otherwise provided in Section 20 below, the terms of this Agreement may not be altered, modified, supplemented or otherwise amended, unless by written amendment executed by the Parties.

20. CHANGE ORDER PROCESS

20.1. Change Control. The Parties may change Exhibits B, C and attachments to Exhibit D through an ODOT-authorized change control process that reflects at least the processes described in this Section. ODOT or Local Government may request a change to Exhibits B, C, or attachments to Exhibit D by submitting a written proposal describing the requested change to the other Party ("Change Request"). ODOT's and Local Government's Authorized Representatives will review the written Change Request and either mutually approve it with or without modification, or reject it.

20.2. Approval of Change Requests; Change Orders. If a Change Request is mutually approved, the agreed-upon Party will prepare a written change order, detailing all modifications to Exhibits B, C, and attachments to Exhibit D, and related costs (the "Change Order"). A Change Order at a minimum must contain:

20.2.1 The effective date of the Change Order;

20.2.2 A detailed description of the changes to Exhibit B User Fees and a justification for the change;

- 20.2.3 Detailed site information for any changes to Exhibit C, including the following:
 - a) Site name
 - b) Site coordinates
 - c) Facility owners
 - d) Controlling Party
- 20.2.4 Detailed site information for any changes to attachments to Exhibit D shall include the following:
 - a) Site ownership
 - b) Controlling Party
 - c) Collocating Party
 - d) Site Location, including coordinates.
 - e) Term of collocation (Shall not exceed any underlying ground lease.)
 - f) Description of the building and tower space to be used by the collocating party
 - g) Frequencies to be used by the collocating party.
 - h) Collocation fees.

20.3. A Change Order must be made in accordance with the terms of this Section and must not otherwise affect the terms and conditions of this Agreement. Both Parties must sign the Change Order to authorize the provisioning or configuration described therein and incorporate the changes into this Agreement.

21. NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 21. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

22. SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 9, 10, 13, 14, 15, 22 and 32 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

23. SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

24. COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

25. COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

26. INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Local Government is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

27. INTENDED BENEFICIARIES

ODOT and Local Government are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement. Authorized Users of either Party are intended beneficiaries of this Agreement.

28. FORCE MAJEURE

Neither Party is responsible for any failure to perform nor any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODOT may terminate this Agreement upon written notice to Local Government after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

29. ASSIGNMENT AND SUCCESSORS IN INTEREST

Local Government may not assign or transfer its interest in this Agreement without the prior written consent of ODOT and any attempt by Local Government to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. ODOT's consent to Local Government's assignment or transfer of its interest in this Agreement will not relieve Local Government of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

30. SUBCONTRACTS, ADDITIONAL PARTICIPANTS

30.1. Local Government shall not, without ODOT's prior written consent, enter into any subcontracts for use of any ODOT Facilities or for use of the State TRS without prior written consent of ODOT except as authorized by Exhibits A or D. ODOT's consent to any subcontract will not relieve Local Government of any of its duties or obligations under this Agreement.

30.2. ODOT shall not, without Local Government's prior written consent, enter into any subcontracts for use of any Local Government Facilities or for use of the Local Government Trunked Radio Sites without prior written consent of Local Government except as authorized by Exhibits A or D. Local Government's consent to any subcontract will not relieve ODOT of any of its duties or obligations under this Agreement.

30.3. State retains the right to approve other agencies' use of the State TRS subsequent to the Effective Date of this Agreement as long as such use does not interfere with Local Government's rights for use of the State TRS as provided in this Agreement. ODOT shall review and adjust the fees to Local Government as appropriate based on Local Government's percentage use of the State TRS not less than thirty (30) days following execution of an agreement that authorizes additional users of the State TRS.

31. MERGER, WAIVER

This Agreement and all exhibits and attachments constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

32. RECORDS MAINTENANCE AND ACCESS

Each Party shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, each Party shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of the Party, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document the Party’s performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of each Party, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as “Records.” Each Party acknowledges and agrees that the other Party and the Oregon Secretary of State’s Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Each Party shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, each Party shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

33. HEADINGS

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

34. ADDITIONAL REQUIREMENTS

Local Government shall comply with the additional requirements set forth in the State Radio System Standards, Policies and Procedures, Trunked Radio System (“SPP” or “SPPs”).

35. AGREEMENT DOCUMENTS

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (Responsibilities) Exhibit B (User Fees), Exhibit B (Site Identification), Exhibit D (Collocation Authorizations).

[SIGNATURE PAGE FOLLOWS]

THE PARTIES, by execution of this Agreement hereby acknowledge that its signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

DESCHUTES COUNTY 9-1-1 SERVICE DISTRICT, by and through the BOARD OF COMMISSIONERS OF DESCHUTES COUNTY, OREGON, AS THE GOVERNING BODY OF THE 911 COUNTY SERVICE DISTRICT

DATED this 2nd Day of March 2016.

By _____
ALAN UNGER, Chair

By _____
TAMMY BANEY, Vice Chair

By _____
ANTHONY DEBONE, Commissioner

APPROVAL RECOMMENDED

By _____
Steve Reinke

Deschutes County 9-1-1 Service District Director

Date _____

REVIEWED

By _____
David Doyle, Counsel

Date _____.

STATE OF OREGON, by and through its Department of Transportation

By _____
Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
Maintenance and Operations Branch Manager

Date _____

APPROVAL RECOMMENDED

By _____
ODOT Wireless Section Manager, or designee

Date _____

APPROVAL/AUTHORIZATION

By _____
Alex Pettit, Oregon State Chief Information Officer

Date _____

APPROVED FOR LEGAL SUFFICIENCY

By _____
Oregon Department of Justice

Date _____

Exhibit A RESPONSIBILITIES

1.0 Local Government Responsibilities under this Agreement.

1.1 Collocation Authorization. Local Government grants to State nonexclusive right to Collocate in Local Government Facilities as identified in Exhibit D.

1.2 Local Government Trunked Radio Sites. Local Government shall:

1.2.1 Fund and install the Local Government TRS Sites identified on Exhibit C, including any required connecting microwave links from the Local Government Trunked Radio Sites to an ODOT identified Demarcation Point at the DC911 PSAP Site. All equipment associated with Local Government Trunked Radio Sites shall remain the property of Local Government unless otherwise identified in this Agreement. Local Government shall also install monitoring equipment substantially equivalent to the monitoring equipment used by ODOT for the State TRS.

1.2.2 Authorize State nonexclusive use of the Local Government Trunked Radio Sites, including the nonexclusive associated use of the microwave Links connecting the Local Government Trunked Radio Sites to the State TRS, including but not limited to the following:

1.2.2.1 Use of the Local Government Trunked Radio Sites as a primary means of Radio communications for a maximum of one thousand three hundred (1,300) end user Radio units. Notwithstanding the foregoing, ODOT is authorized to program all State Radio units for use of the Local Government Trunked Radio Sites.

1.2.2.2 Parties understand that State users of the Local Government Trunked Radio Sites include ODOT and the Oregon State Police (OSP). Upon written notification to Local Government, ODOT may authorize other State agencies or other Governmental Entities that have a written agreement with ODOT for use of the State Master Switches to use Local Government Trunked Radio Sites; however, such use shall not exceed the maximum number of State end user Radio units identified in this Subsection.

1.2.3 Unless otherwise agreed to by the Parties under the terms of this Agreement, Local Government shall be responsible for the operations, maintenance, and repair costs associated with Local Government Trunked Radio Sites and for connecting Local Government Trunked Radio Sites to the point of demarcation at the DC911 PSAP Site. Hours of Operation for Local Government Trunked Radio Sites support will be at least equivalent to ODOT's hours of support.

1.2.4 Retain rights as owners of the Local Government Trunked Radio Sites, including, but not limited to the right to limit future access to Local Government Trunked Radio Sites by terminating this Agreement as provided in Section 16.

1.2.5 Retain Priority Use of the Local Government Trunked Radio Sites, including the right to preempt a State transmission on Local Government Trunked Radio Sites until Local Government transmission is completed.

1.2.6 Provide system management of the Local Government Trunked Radio Sites including the following:

1.2.6.1 Generate and provide statistical data and reports to ODOT concerning **Radio usage** of the Local Government Trunked Radio Sites.

1.2.6.2 Generate and provide financial reports to ODOT concerning operating and maintenance costs of the Local Government Trunked Radio Sites.

1.2.6.3 Coordinate training for Local Government users.

1.2.6.4 Primary Alarm Response for Local Government Trunked Radio Sites

1.2.6.5 Backup Alarm Response for ODOT TRS.

1.2.6.6 System Performance management.

1.2.6.7 Radio Traffic management on Local Government sites.

- 1.2.6.8 Talk Group management for Local Government users, including managing Talk Groups and Radio identification (“ID”) within agreed ID ranges and according to the policies set by ODOT.
- 1.2.6.9 Local Government Console activity, reports, programming parameters.
- 1.2.6.10 Monitoring of Local Government Trunked Radio Sites and backup monitoring for State TRS.

1.2.7 Provide annual reports to ODOT on the use of the Local Government Trunked Radio Sites not later than January 1 for Radio activity for the previous Fiscal Period. For purposes of this Section “Fiscal Period” shall be defined as the period from July 1st through and including June 30th.

1.3 Local Government Use of State TRS. Local Government shall:

- 1.3.1. Restrict use of the State TRS to the following entities: Alfalfa Rural Fire Protection District, City of Bend, Black Butte Ranch Police Service District, Black Butte Ranch Fire District, Cloverdale Rural Fire Protection District (RFPD), Crooked River Ranch Fire and Rescue, Deschutes County, Deschutes County 9-1-1 Service District, La Pine RFPD, City of Redmond, Redmond Fire and Rescue, Sisters-Camp Sherman RFPD, and Sunriver Service District.
- 1.3.2. Restrict Local Government use of State TRS to two thousand (2000) Radios.
- 1.3.3. Negotiate, obtain, and maintain to the extent necessary, agreements for all Local Government Authorized Users of the State TRS. Parties agree that all agreements that allow access to the State TRS shall be subject to the terms and conditions of this Agreement except the following: Sections 4.
- 1.3.4. Before programming any Templates Local Government shall provide ODOT with a list of Local Government Radios, each identified by: vendor/service provider, manufacturer, model number and serial number and flash or operating version. If Local Government contracts for a service provider to maintain Local Government Radios, Local Government shall allow ODOT to review the service provider’s credentials and shall require that the service provider complies with the SPPs.

2.0. ODOT Responsibilities under this Agreement.

2.1. Collocation Authorization. ODOT grants to Local Government the nonexclusive right to Collocate in State Facilities as identified in Exhibit D.

2.2. State TRS. ODOT shall:

- 2.2.1. Fund and install the State Master Switches with microwave connectivity to the DC911 PSAP Site in Bend, Oregon and the State trunked Radio Sites identified on Exhibit C, including any required connecting microwave links from the State trunked Radio Sites to the State Master Switches and to an ODOT identified Demarcation Point at the DC911 PSAP Site. All equipment associated with the State TRS shall remain the property of State.
- 2.2.2. Authorize Local Government nonexclusive use of the State TRS, including the nonexclusive associated use of the microwave links connecting the State TRS sites on Exhibit C to the State Trunked Radio System, including but not limited to the following:
 - 2.2.2.1. Use of the State TRS as a primary means of communications for a maximum of two thousand (2000) Radios.
 - 2.2.2.2. Parties understand that Local Government use of the State TRS includes use by Authorized Users or agencies that are part of the consortium of Governmental Entities that are part of Local Government for purposes of this Agreement through written agreements (“Local Government Sponsored Agencies”); however, such use shall not exceed the maximum number of Local Government end user Radio units identified in this Section. Permit the following entities to use the State TRS pursuant to this Agreement: Alfalfa Rural Fire Protection District, City of Bend, Black Butte Ranch Police Service District, Black Butte Ranch Fire District, Cloverdale Rural Fire Protection District (RFPD), Crooked River Ranch Fire and Rescue,

Deschutes County, Deschutes County 9-1-1 Service District, La Pine RFPD, City of Redmond, Redmond Fire and Rescue, Sisters-Camp Sherman RFPD, and Sunriver Service District.

- 2.2.2.3. Radio talk group access to the State trunked Radio Sites identified on Exhibit C, including the nonexclusive associated use of the microwave Links connecting the State TRS Sites to the State Master Switches.
 - 2.2.2.4. Connection of the Local Government Trunked Radio Sites to the State microwave link that connects to the State Master Switches at an ODOT identified Demarcation Point at the Local Government DC911 PSAP Site.
 - 2.2.3. Retain the right to coordinate with other eligible users to provide or restrict communication access to the State TRS for usage beyond mutual aid communications, and the right to limit future access to State TRS by terminating this Agreement as provided in Section 16.
 - 2.2.4. Retain priority use of the State TRS, including the right to preempt a Local Government transmission on State TRS until State transmission is completed.
- 2.3. ODOT Use of Local Government Trunked Radio Sites. ODOT shall:
- 2.3.1. Restrict State use of Local Government Trunked Radio Sites to Authorized Users.
 - 2.3.2. Restrict State use of Local Government Trunked Radio Sites to one thousand three hundred (1300) Radios. Notwithstanding the foregoing, State may program all State Radios with the necessary programming to access Local Government Trunked Radio Sites.
 - 2.3.3. Negotiate, obtain, and maintain to the extent necessary, agreements for all State Agency users of the Local Government Trunked Radio Sites. Parties agree that all agreements that allow access to the Local Government Trunked Radio Sites shall be subject to the terms and conditions of this Agreement except the following: Sections 4.
 - 2.3.4. Provide system management of the State TRS including the following:
 - 2.3.4.1. Generate and provide statistical data and reports to Local Government concerning Radio usage of the State TRS.
 - 2.3.4.2. Generate and provide financial reports to Local Government concerning operating and maintenance costs of the State TRS.
 - 2.3.4.3. Coordinate training for State users.
 - 2.3.4.4. Alarm Reporting
 - 2.3.4.5. Primary alarm response for ODOT equipment.
 - 2.3.4.6. Backup alarm response for Local Government equipment.
 - 2.3.4.7. System performance management.
 - 2.3.4.8. System security management.
 - 2.3.4.9. Traffic management.
 - 2.3.4.10. Talk Group management for State users.
 - 2.3.4.11. State console activity, reports, programming parameters.
 - 2.3.4.12. Visibility management, tiering and permissions.
 - 2.3.4.13. Monitoring of State TRS and backup monitoring of Local Government Trunked Radio Sites .
- 3.0. General Responsibilities of the Parties. Each Party shall:**
- 3.1. Annually review the number of Radio units using the other Party's TRS and modify the authorizations in Sections 1.2.2.1, 1.3.2, 2.2.2.1, and 2.3.2. Modifications required under this Section may be made without amendment to this Agreement with written approval of the Parties, including written approval to modifications to Exhibit B if any as appropriate.
 - 3.2. Meet State standards for trunked Radio sites and to the extent possible trunked Radio Sites shall be designed and configured with equipment equal or substantially equivalent to the standards used for the State TRS, including but not limited to the following:

- 3.2.1. Forty-Eight hours emergency back-up power for Local Government Trunked Radio Sites unless the Parties mutually agree in writing on a lower standard for a specific site. Agreement required by this Subsection may be by electronic or U.S. mail.
- 3.2.2. Trunked Radio infrastructure standards and specifications substantially equivalent to the standards established under the ODOT's contract with its vendor for the State TRS as it exists at the time of execution of this Agreement. A copy of ODOT's vendor contract is available from ODOT upon request by Local Government.
- 3.2.3. Redundant microwave connectivity to the State Master Switches.
- 3.3. Negotiate, obtain, and maintain to the extent necessary leases, permits, or agreements for all Facilities required for its trunked Radio equipment. Except as provided on Exhibit B Fees, each Party shall be solely responsible for all rent and fees associated with said leases.
- 3.4. Maintain its trunked Radio system according to industry standards and in accordance with any required manufacturer warranty requirements. Maintenance shall be performed by a certified technician. In the event a Party fails to adequately maintain or otherwise provide for proper maintenance of its trunked Radio system to the extent that it materially affects the critical Public Safety communications of the other Party, then the aggrieved Party within 24 hours of notifying the other Party of such, shall have the right to designate a certified technician to provide the proper maintenance and request reimbursement upon demand and receipt of invoice to the owner of the trunked Radio system equipment for the maintenance required to restore critical Public Safety communications.
- 3.5. Technical Support
 - 3.5.1. If either Party requests technical support ("Requesting Party") from the other Party ("Responding Party") to respond to service affecting problems and it is determined and agreed by both Parties that the service affecting problem is on the Requesting Party's equipment, the Requesting Party shall pay the reasonable actual costs of the Responding Party involved in responding to the request as defined in Subsection 3.5.2 of this Section. Responding Party shall submit an itemized invoice to Requesting Party within forty-five (45) days of the service. Requesting Party shall pay Responding Party within forty-five (45) days of receipt of invoice.
 - 3.5.2. For purposes of this Section, reimbursable expenses and reasonable actual costs for the Responding Party are as follows:
 - 3.5.2.1. Clerical, accounting, administrative, management, and dispatch time during normal business hours will be considered part of routine business for both Parties and the Parties shall reimburse for such time at fifty percent (50%) of the current loaded State published salaries. Published salaries are available at the following website:
<http://www.oregon.gov/Pages/cgi-bin/ccrt.aspx?pg=ccrt>
Salary loading shall be calculated using the State calculations for overhead. Information for calculating loaded salaries is available from ODOT upon request.
 - 3.5.2.2. The Requesting Party shall reimburse for time required outside of normal business hours at the full published rates.
 - 3.5.2.3. Technician time performed by in-house personnel will be considered professional technical services and the Requesting Party shall reimburse for such time at a rate of one hundred dollars (\$100.00) per hour for actual time spent on responding to the request. Actual time will be defined as travel time for one (1) round trip from the official work station to a communications Site and actual time at a Site working to resolve the Requesting Party's service request. Any additional technician time required to resolve the service request must be approved in advance by the Requesting Party.
 - 3.5.2.4. The Parties shall reimburse for technician time performed by an outside contractor at the full rate charged by the contractor. Reimbursable contractor expenses will be defined as travel time for one (1) round trip from the official work station to a communications Site

and actual time at a Site working to resolve the Requesting Party's service request. Any additional technician time by an outside contractor required to resolve the service request must be approved in advance by the Requesting Party.

- 3.5.2.5. The Parties shall reimburse for travel expenses in accordance with the then current rates established by the Oregon Department of Administrative Services.
- 3.5.2.6. Total obligation for reimbursable expenses per incident request under this Agreement will not exceed one thousand dollars (\$1,000.00) including all expenses without prior approval of the Requesting Party.
- 3.5.2.7. An authorized manager of the Requesting Party shall provide all approvals in writing during regular business hours. During non-business hours approval may be verbal and may be provided by the emergency contact of the Requesting Party if the Requesting Party considers the requested service an emergency to restore vital communications. If verbal approval is provided, the Requesting Party shall provide follow up approval in writing within one (1) Business Day. An authorized manager of the Requesting Party shall provide follow-up approval. Written approvals may be provided by U.S. Mail or electronic mail.
- 3.5.2.8. The Responding Party shall perform the work under this Agreement as an independent contractor and the Responding Party shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
- 3.5.2.9. All employers, that employ subject workers who work under this Agreement in the State of Oregon must comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Local Government shall ensure that each of its subcontractors complies with these requirements.

- 3.6. Abide by the SPPs applicable to the State TRS.
- 3.7. Submit a Change Order Request as provided in Section 20 of this Agreement to the other Party for any proposed use that exceeds the limits of end user Radio units identified in this Agreement.
- 3.8. Restrict use of the other Party's frequencies to Authorized Users. .
- 3.9. Restrict use of the other Party's trunked Radio system to ODOT-approved Radios, with authorized and validated serial numbers, Talk groups and Radio ID's. The list will be updated periodically by ODOT.
- 3.10. Submit to the other Party an annual inventory of all Radios that will access the other Party's trunked Radio system during the following fiscal year on or before January 1 of each year.
- 3.11. Provide all programming, maintenance and repair of its own Radios.
- 3.12. Provide back-up technical staff for maintenance of the other Party's trunked Radio system according to the terms in SPP 08 Service Protocols. Technical staff providing maintenance shall receive training approved by ODOT.
- 3.13. Provide Radio user training to all of the Party's Authorized Users of the State TRS and Local Government Trunked Radio Sites and not permit any employee or other personnel, including volunteers to use the State TRS or Local Government Trunked Radio Sites until such individual has received Radio user training.
- 3.14. Take appropriate corrective action against any of its employees, contractors, or individuals it has authorized to use the State TRS or Local Government Trunked Radio Sites under this Agreement who violate SPPs in order to protect the integrity, security, safety, and efficient operation of the State TRS and Local Government Trunked Radio Sites.
- 3.15. Assure Radio units are properly operated on either the State TRS or Local Government Trunked Radio Sites, including any ongoing maintenance or upgrades associated with the Radio units. This provision does not affect any Party's ability to pursue and obtain third-party funding for Radio units or funding through grant programs available to a Party.

EXHIBIT B – USER FEES – PAGE 1 OF 3

State Fees

ODOT shall pay the following annual fees to Local Government as identified in Section 7 of this Agreement. Fees may increase annually based on the Consumer Price Index for Portland, Oregon published in January and published mid-February unless otherwise noted below. Notwithstanding the foregoing, fees shall be adjusted to reflect proportionate share of costs for any new Partner Agencies or User Agencies using the State TRS and Local Government Trunked Radio Sites after the Effective Date of this Agreement.

Total State Radios using Local Government Trunked Radio Sites for primary Radio communications: maximum 1300. (State Radios accessing Local Government Trunked Radio Sites calculated on the following: Existing Radios in Deschutes and neighboring counties: Crook –ODOT 19, OSP 13; Deschutes –ODOT 249, OSP 92; Harney – ODOT 36, OSP 12; Jefferson – ODOT 55, OSP 14; Klamath - ODOT 122, OSP 45; Lake – ODOT 51, OSP 8; Linn – ODOT 74, OSP 27 Total 1087 Total Number was increased by approximately 20% to 1300 for planned future growth.
Total Local Government Radios using Local Government Trunked Radio Sites for Primary Radio Communications: maximum 2000 (Estimated current and future use as of the date of this Agreement.)
Percent of total use of Local Government Trunked Radio Sites attributed to State use: 39% (Total Radios using Local Government Trunked Radio Sites equals 1300 State Radios plus 2000 Local Government Radios (3300); State Use =1300/3300

Description	Annual Fees July 1, 2016 -June 30, 2017
TRS Site Maintenance fee for Primary Use Sites, as identified in Exhibit C (Formula: \$42,994.00 x .39 x 6) (Fees shall be pro-rated based on the date each Local Government Trunked Radio Site is commissioned, accepted by Local Government and available for State Radio traffic. (See this Exhibit B pg. 3 for detailed information on Site Maintenance Cost calculations)	\$100,606.00
Microwave Fee - microwave transport associated with State Use of Local Government Trunked Radio Sites (State Rates for T1 spanning 7+ hops Formula: \$1,639/month x .40 = 7,867.00)	\$7,867.00
Collocations – State use of Local Government Communications Sites	
DC911 PSAP (Negotiated rate for maintenance and power in Collocation authorization Exhibit D, Attachment 1)	\$3,600
TOTAL State Annual FEES*	\$112,073.00

***Throughout the Term of this Agreement, State Annual fees shall be a credit to offset the Local Government Annual fees to the extent that State Annual fees are less than Local Government Annual fees.**

EXHIBIT B – USER FEES – PAGE 2 OF 3

Local Government Fees:

Local Government shall pay the following annual fees to ODOT as identified in Section 7 of this Agreement. Fees may increase annually based on the Consumer Price Index for Portland, Oregon. Notwithstanding the foregoing, fees shall be adjusted annually to reflect proportionate share of costs for all Partner Agencies or User Agencies using the State TRS and Local Government Trunked Radio Sites.

Total State Radios using State Master Switches 5500 (Actual Radio count statewide plus approximately 20% for planned growth)
Total State Radios using State TRS Sites on Exhibit C for Primary Radio Communications maximum 1300 (See Page 1 of this Exhibit for detail.)
Total Local Government Radios using State TRS Sites on Exhibit C for Primary Radio Communications: maximum 2000 (See Page 1 of this Exhibit for detail.)
Percent of total use of State Master Switches attributed to Local Government use: 27% (Formula: Local Government Use = 2000/7500)
Percent of total use of State TRS Sites on Exhibit C attributed to Local Government use: 61% (Formula: Local Government Use = 2000/3300)

Description	Annual Fees July 1, 2016 - June 30, 2017
State Master Switches – percentage of annualized cost of switches. (Formula: \$2.1M/15=\$140k; \$140k x .27 = Deschutes annualized cost for use of State Master Switches; Plus \$199,500.00 x .27 = \$53,865.00 Deschutes annual cost for Harris software upgrades to the switch; Plus \$80,000.00 x .27 = \$21,600 Deschutes annual cost for Harris contract for switch maintenance; TOTAL \$37,800 + \$53,865 + \$21,600 = \$113,265.00)	\$113,265.00
TRS Site Maintenance – Primary Use Sites (61% of \$42,994.00 x 7) (See this Exhibit B pg. 3 for detailed information on Site Maintenance Cost calculations)	\$183,584.00
TRS Site Maintenance – Occasional Use Sites (10% of \$42,994.00 x 2) (See this Exhibit B pg. 3 for detailed information on Site Maintenance Cost calculations) (Note: Cost for use of Glass Butte will be added after State completion and Acceptance and will be prorated from the date Site is available for Local Government use.)	\$8,589.00
Microwave Fee – microwave transport associated with Local Government Use of ODOT TRS Sites (State Rates for T1 spanning 7+ hops Formula: \$1,639/month x .40 = 7,867.00)	\$7,867.00
Microwave Fee – microwave transport associated with Local Government Use of the State Master Switches (State Rates for T1 spanning 7+ hops Formula: \$1,639/month x .40 = 7,867.00)	\$7,867.00
Collocations – State use of Local Government Communications Sites	
Wampus Butte (Negotiated rate for maintenance and power in Collocation authorization Exhibit D)	\$3,600.00
TOTAL ANNUAL FEES	\$324,772.00
OFFSET CREDIT FOR STATE ANNUAL FEES	(-112,073.00)
ANNUAL FEES DUE FOR 7/1/16 THROUGH 6/30/17 (TO BE PRORATED FROM THE EFFECTIVE DATE AS APPROPRIATE)	\$212,699.00
ONE-TIME ADMINISTRATIVE SET-UP FEES	
Set- up fee (40 hours @ \$60.00/hr.) -ODOT set-up of Local Government administrative rights -ODOT set-up of Local Government Talk Groups	One-Time Fees \$2,400.00

EXHIBIT B – USER FEES – PAGE 3 OF 3

Fee Assumptions:

State Master Switches Use Fee

- State and Local Government are the only parties using the State Master Switches as of the Effective Date of this Agreement.
- As of the date of this Agreement Local Government use of the State Master Switches is calculated as 26.67% of the total use.
- Switch costs include the following:
 - Annualized capital cost of State Master Switches (Based on 15 year estimated life) \$140,000.00
 - Annual vendor contract for software upgrades \$199,500.00
 - Annual vendor contract for switch hardware maintenance \$80,000.00
 - TOTAL ANNUAL SWITCH COSTS:** **\$419,500.00**

TRS Annual Site Maintenance Fees

- TRS Site maintenance fees are assessed to State for Local Government Sites identified on Exhibit C and to Local Government for State Sites identified on Exhibit C Site Identification
- ODOT, OSP and Local Government are the only Partner or User Agencies using the State Trunked Land Mobile Radio Sites and the Local Government Sites as of the date of this Agreement and shall each pay 50% of the TRS Site maintenance costs for a site identified on Exhibit C as a primary use site and 10% of the TRS Site maintenance costs for a site identified on Exhibit C as an occasional use site.
- TRS Site maintenance fees for one Site include the following:
 - Technician loaded salary- two technicians (1/7 of annual based on State published rates Step 5) \$ 27,341.00
 - Technician vehicle (1/7 of annual for 2 vehicles) \$ 2,268.00
 - Site Utilities (based on averaged cost of 7 State sites) \$ 1,717.00
 - Site Lease (based on averaged cost of 7 State sites) \$ 11,688.00
 - TOTAL AVERAGE ANNUAL MAINTENANCE COST PER SITE** **42,994.00**

Microwave Transport

- Microwave fees are assessed based on the State’s annually approved rates for bandwidth sharing available from ODOT upon request.

Radio Counts - Radio Counts will be reviewed and adjusted annually on or before January 1 of each year.

- State will have maximum 5500 Radios utilizing the State Master Switches.
- Local Government will have maximum 2000 Radios utilizing the State Master Switches.
- Total State will have maximum 1300 Radios using Local Government Trunked Radio Sites for primary Radio communications.

EXHIBIT C SITE IDENTIFICATION – PAGE 1 OF 4

STATE TRS

A. State TRS Sites to be used by Local Government:

1. Primary Use Sites for Local Government: The following sites will be programmed into Local Government Radios for use of the State TRS for daily primary communications.
 - a. Pine Mountain M/W (aka Antelope), State Site #F70901
Coordinates: Latitude 43.81128, Longitude -120.87436
State owns a tower and equipment building and associated structures at this Site under a ground lease from the United States of America, United States Forest Service (Controlling Party). Subject to ongoing approval from the Controlling Party, ODOT will provide trunked Radio Wireless Communications capabilities at this TRS Site with microwave backhaul to the DC911 PSAP Site. Local Government will not own any equipment at this TRS Site.
 - b. Grizzly Mountain M/W (Crook), State Site #F70701
Coordinates: Latitude 44.437586, Longitude -120.95431
State owns a tower and equipment building and associated structures at this Site under a ground lease from the United States of America, Bureau of Land Management (Controlling Party). Subject to ongoing approval from the Controlling Party, ODOT will provide trunked Radio Wireless Communications capabilities at this Site with microwave backhaul to the DC911 PSAP Site. Local Government will not own any equipment at this Site.
 - c. Five Mile Butte, State Site #F70901
Coordinates: Latitude 44.35178, Longitude -121.69178
State owns a tower and equipment building and associated structures at this Site under a ground lease with Jerry R. Freund & Kevin L. Spencer (Controlling Party). Subject to ongoing approval from the Controlling Party, ODOT will provide trunked Radio Wireless Communications capabilities at this Site with microwave backhaul to the DC911 PSAP Site. Local Government will not own any equipment at this Site.
 - d. Wampus Butte, State Site #F70906
Coordinates: Latitude 43.69971, Longitude -121.62195
State owns a tower and equipment building and associated structures at this Site under a ground lease with the United States of America, United States Forest Service (Controlling Party). Subject to ongoing approval from the Controlling Party, ODOT will provide trunked Radio Wireless Communications capabilities at this Site with microwave backhaul to the DC911 PSAP Site. Local Government will install equipment at this site as described in Exhibit D.
 - e. Sugar Pine Butte, State Site F70912
Coordinates: Latitude 43.828631, Longitude -121.351979
ODOT leases tower space and building space at this site under a Sublease with Vista Towers, LLC (“Vista”) who owns Facilities at this Site under a ground Lease with the United States of America, United State Forest Service (“USFS”). Vista and the USFS are Controlling Parties at this Site. Subject to ongoing approval from the Controlling Parties, ODOT will provide trunked Radio Wireless Communications capabilities at this Site with microwave backhaul to the DC911 PSAP Site. Local Government will not own any equipment at this Site except under separate authorization from Vista.
 - f. Powell Butte Vista, State Site F70705
Coordinates: Latitude 44.19742, Longitude -120.97886
State owns a tower and equipment building and associated structures at this Site under a ground lease with Powell Butte Vistas, LLC (Controlling Party). Subject to ongoing approval from the Controlling

EXHIBIT C SITE IDENTIFICATION – PAGE 2 OF 4

Party, ODOT will provide trunked Radio Wireless Communications capabilities at this Site with microwave backhaul to the DC911 PSAP Site. Local Government will not own any equipment at this Site.

g. Mt. Bachelor, State Site F70903

Coordinates: Latitude 43.97756, Longitude -121.68569

ODOT leases antenna mounting space and building space at this site under a Sublease with Mt. Bachelor, LLC who owns Facilities at this Site under a ground Lease with the United States of America, United States of America, United States Forest Service (“USFS”). Mt. Bachelor, LLC and the USFS are Controlling Parties at this Site. Subject to ongoing approval from the Controlling Parties, ODOT will provide trunked Radio Wireless Communications capabilities at this Site with microwave backhaul to the DC911 PSAP Site. Local Government will not own any equipment at this Site.

2. Occasional Use Sites for Local Government: The following sites will be programmed into Local Government Radios for use of the State TRS for occasional mutual aid communications.

a. Walker Mountain M/W (Klamath), State Site #F71801

Coordinates: Latitude 43.30583, Longitude -121.71622

ODOT leases antenna mounting space and building space at this site under a Sublease with United States of America, Bonneville Power Administration (BPA) who owns Facilities at this Site under a ground Lease with the United States of America, United States Forest Service (“USFS”). BPA and the USFS are Controlling Parties at this Site. Subject to ongoing approval from the Controlling Parties, ODOT will provide trunked Radio Wireless Communications capabilities at this Site with microwave backhaul to the DC911 PSAP Site. Local Government will not own any equipment at this Site.

b. Agency Plains, State Site #F73314

Coordinates: Latitude 44.75511, Longitude -121.21961

State owns a tower and equipment building and associated structures at this Site. The underlying land is owned by the United States of America, Bureau of Land Management (Controlling Party). The Parties acknowledge the real property rights to the underlying land are not secure and ODOT’s ongoing obligations to Local Government under this Agreement are entirely contingent upon obtaining the appropriate authorization from the Controlling Party. Subject to approval from the Controlling Party, ODOT will provide trunked Radio Wireless Communications capabilities at this Site with microwave backhaul to the DC911 PSAP Site. Local Government will not own any equipment at this Site.

c. Glass Butte, State Site #F71915

Coordinates: Latitude 43.55900, Longitude -120.07239

ODOT has coordinated with United States of America, Bonneville Power Administration (BPA) on an application for a ground Lease from the United States of America, Bureau of Land Management (“BLM”). BPA and the BLM are Controlling Parties at this Site. The Parties acknowledge the real property rights to the underlying land are not secure and ODOT’s ongoing obligations to Local Government under this Agreement are entirely contingent upon obtaining the appropriate authorization from the BLM. Subject to approval from the Controlling Party and construction of the Wireless Communications Facilities by BPA, ODOT will provide trunked Radio Wireless Communications capabilities at this Site with microwave backhaul to the DC911 PSAP Site. Local Government will not own any equipment at this Site.

EXHIBIT C SITE IDENTIFICATION – PAGE 3 OF 4

3. Other Site required for Connectivity to State TRS:

DC911 PSAP, State Site #F70911

Coordinates: Latitude 44° 5` 52.102"; Longitude 121° 18` 22.20"

ODOT will provide microwave backhaul at this Site to the State switch in Bend. Local Government is the Controlling Party at this Site. ODOT has equipment at this site as authorized in Exhibit D.

LOCAL GOVERNMENT TRUNKED RADIO SITES TO BE USED BY STATE

B. Local Government Trunked Radio Sites shall be purchased and installed at the sole cost and expense of Local Government. Local Government shall use best efforts to complete installation of the Local Government Trunked Radio Sites on or before October 1, 2016 unless otherwise agreed by the Parties.

1. Primary Use Sites for State: The following sites will be programmed into State Radios for use of the Local Government Trunked Radio Sites for daily primary communications.

a. Cline Butte

Coordinates: Latitude 44° 15` 0.0"; Longitude 121° 17` 50.79"

Local Government shall provide siting at this site for Local Government Trunked Radio Sites. Local Government shall provide trunked Radio Wireless Communications capabilities at this Site with microwave or redundant fiber backhaul to the DC911 PSAP Site. State will not own any equipment at this Site.

b. Jack Pine

Coordinates: Latitude 44° 02` 47.377"; Longitude 121° 31` 58.066"

Local Government shall provide siting at this site for Local Government Trunked Radio Sites. Local Government shall provide trunked Radio Wireless Communications capabilities at this Site with microwave or redundant fiber backhaul to the DC911 PSAP Site. State will not own any equipment at this Site.

c. County Fair & Expo

Coordinates: Latitude 44° 14` 09.62"; Longitude 121° 20` 58.76"

Local Government shall provide siting at this site for Local Government Trunked Radio Sites. Local Government shall provide trunked Radio Wireless Communications capabilities at this Site with microwave or redundant fiber backhaul to the DC911 PSAP Site. State will not own any equipment at this Site.

d. St. Charles

Coordinates: Latitude 44° 04` 3.5"; Longitude 121° 16` 10.34"

Local Government shall provide siting at this site for Local Government Trunked Radio Sites. Local Government shall provide Trunked Radio Wireless Communications capabilities at this Site with microwave or redundant fiber backhaul to the DC911 PSAP Site. State will not own any equipment at this Site.

e. Pine Marten

Coordinates: Latitude 45° 59` 26.4"; Longitude 121° 41` 11.5"

Local Government shall provide siting at this site for Local Government Trunked Radio Sites. Local Government shall provide trunked Radio Wireless Communications capabilities at this Site with

EXHIBIT C SITE IDENTIFICATION – PAGE 4 OF 4

microwave or redundant fiber backhaul to the DC911 PSAP Site. State will not own any equipment at this Site.

f. Awbrey Butte

Coordinates: Latitude 44° 04` 38.6"; Longitude 121° 19` 54"

Local Government shall provide siting at this site for Local Government Trunked Radio Sites. Local Government shall provide trunked Radio Wireless Communications capabilities at this Site with microwave or redundant fiber backhaul to the DC911 PSAP Site. State will not own any equipment at this Site.

2. Other Site required for connectivity to State TRS:

a. DC911 PSAP

Coordinates: Latitude 44° 5` 52.102"; Longitude 121° 18` 22.20"

Local Government shall provide siting at this site for connectivity to the State TRS. Local Government is the Controlling Party at this Site. State will install equipment at this site as described in Exhibit D.

Exhibit D – Collocation Authorizations
EXHIBIT D - COLLOCATION AUTHORIZATIONS
(Collocation Authorizations)

1. Collocation Site. Each Party has Collocation of Communications Equipment in Facilities owned or controlled by the other Party as described in the Attachments to this Exhibit D.

2. Supplemental Terms and Conditions for Collocation. The following terms and conditions supplement the Agreement.
 - a. Local Government and State each own, or have authorized use of a portion of the property on which communications Facilities are located as identified in the Attachments to this Exhibit D.

 - b. Permitted Use. Each Party will use its Communications Equipment installed within the Premises (defined below), for the installation, maintenance, operation, and repair of Wireless Communications Equipment. Neither Party will prohibit or interfere with the use of the Site or any portion thereof by the Controlling Party or other tenants, licensees or occupants. Neither Party will sublicense, lease, rent, share, or allow the use of its Communications Equipment or the Premises in whole or in part, by any third party, without the Controlling Party’s prior written consent.

 - c. Access. Pursuant to its access rights under any underlying lease, policies and procedures, the Controlling Party will provide the Collocating Party reasonable access to the Premises 24 hours per day, 7 days per week so that the Collocating Party may perform installation, operation, maintenance, replacement and repair functions on its Wireless Communications Equipment. The Collocating Party will provide the Controlling Party with reasonable advance notice. The Collocating Party will be responsible for the actions of all who access the Site on the Collocating Party’s behalf.

 - d. Utilities. Each Party will be responsible for the cost of utilities for its Wireless Communications Equipment and use, unless otherwise stated in this Agreement.

 - e. Installation. Prior to the commencement of any work within the Premises, the Collocating Party will, at its cost and expense, prepare and deliver to the Controlling Party working drawings, plans and specifications (the “Plans”) detailing the technical characteristics, location and size of its Communications Equipment, specifically describing the proposed installation and related work, and detailing the schedule for all installation activities related thereto. No work will commence until the Controlling Party, in its sole reasonable discretion, has approved the Plans in writing.

 - f. The Collocating Party’s Covenants and Warranties. The Collocating Party hereby covenants and warrants:
 - i. To keep the Premises and its Communications Equipment in good order, repair and condition throughout the Collocation Term (defined below) and to promptly and completely repair all damage to the Site, the Premises, or both, caused by The Collocating Party, reasonable wear and tear excepted;

- ii. To comply with federal, state and municipal laws, orders, rules and regulations applicable to its activities and Communications Equipment; and
 - iii. Not to disrupt, adversely affect or interfere with other providers of services to the Premises or with any occupant's use and enjoyment of the Premises or any common areas of the Site.
- g. Equipment Ownership and Maintenance.
- i. The Communications Equipment will belong to or be leased by the Collocating Party, and will be located at the Premises at the sole risk of the Collocating Party.
 - ii. The Collocating Party will, at its sole expense, maintain and repair its Communications Equipment to avoid hazard or damage to the Site and Premises or injury to the Controlling Party employees, agents, suppliers or the public. Any necessary additional protective devices will be provided by The Collocating Party, at The Collocating Party's sole expense. The Controlling Party will have no responsibility for maintenance or repair of the Collocating Party's Communications Equipment.
 - iii. At the expiration or earlier termination of The Collocating Party's Collocation Authorizations, The Collocating Party will remove its Communications Equipment and The Collocating Party's personal property from the Premises in a neat and orderly manner, and repair all damage caused by such removal, excluding normal wear and tear, at The Collocating Party's sole expense. Any property not so removed within thirty (30) days after the expiration or termination of The Collocating Party's Collocation Authorizations will be deemed abandoned and the property of the Controlling Party. The Collocating Party will be liable for all costs incurred by the Controlling Party from removing the Communications Equipment and repairing the Premises as a result thereof.
- h. Additional Authorizations. The Controlling Party reserves the right to grant, renew or extend similar Authorizations to others for locating Communications Equipment in the Premises.
- i. CONDITION OF PREMISES. THE CONTROLLING PARTY MAKES NO WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, CONCERNING THE CONDITION OF THE PREMISES. THE COLLOCATING PARTY HAS INSPECTED THE PREMISES AND THE SITE, ACCEPTS THE SAME "AS IS" AND AGREES THAT THE CONTROLLING PARTY IS UNDER NO OBLIGATION TO PERFORM ANY WORK OR PROVIDE ANY MATERIALS TO PREPARE THE PREMISES OR THE SITE FOR THE COLLOCATING PARTY.
- j. Liens. The Collocating Party will be responsible for the satisfaction or payment of any provider of work, labor, material or services claiming by, through or under The Collocating Party related to The Collocating Party's Collocation at a Site. The Collocating Party will indemnify, hold harmless and defend the Controlling Party against any liens, including reasonable attorneys' fees. Any lien will be discharged by The Collocating Party within ten (10) days of notice of filing. Failure to discharge any lien is a material breach of this Agreement, and will result in immediate termination of the affected Authorization.

- k. Subcontractors. The Collocating Party may subcontract any portion of installation, maintenance or repair of its Communications Equipment within the Premises contemplated by this Agreement to an approved entity competent to perform such work. The Collocating Party must obtain the Controlling Party's written approval before utilizing any subcontractor to perform any activities under this Agreement, and access to the Premises is subject to the terms of this Agreement. In no event will such subcontract relieve The Collocating Party of any of its obligations or liabilities under this Agreement. If either Party's Communications Equipment is damaged or disrupted by a third party permitted at a Site by the other Party ("Authorizing Party"), it will be the Authorizing Party's responsibility to mitigate the damages or disruption and ensure the equipment is restored to its condition prior to the damage or disruption.

- l. Taxes and Assessments and Other Fees. The Collocating Party shall be responsible for any taxes or assessments that may be levied against a Site that directly result from its installation of The Collocating Party's Communications Equipment at the Premises or Site improvements. This provision also includes any fees that may be charged by any landowner.

**Attachment 1 to Exhibit D
(DC911 PSAP)**

1. Site Ownership. Local Government owns the real property and the shelter at the DC911 PSAP Communications Site (DC911 PSAP).
2. Controlling Party. Local Government is the Controlling Party of the DC911 PSAP Site.
3. Collocating Party. ODOT is the Collocating Party at the DC911 PSAP Site.
4. Site Location. DC911
5. is located at 20355 Poe Scholes Road, Bend, Oregon, Latitude 44° 5` 52.102" / Longitude -121° 18` 22.20".
6. Term. This Collocation Authorization expires on June 30, 2026, unless renewed pursuant to Section 3 of this Trunked Radio Use Agreement and Collocation Authorization Agreement or earlier terminated pursuant to this Agreement.
7. Premises. The Premises are comprised of rack space within the Local Government Shelter and tower space on the Local Government tower as identified in Section 7 of this Attachment 1.
8. Communications Equipment. State's authorized Communications Equipment:

Authorized Tower Equipment:

- QTY (1) Ice Shield ISMD4 @ -92' B Leg
- QTY (1) Bend Maint. HP MW Andrew VHLPX800-11 @ -88' B Leg
- QTY (1) Ice Shield ISMD6 @ 90' C Leg
- QTY (1) Sugar Pine STD/RAD MW Andrew PARX6-59W @ 85' C Leg

Frequencies:

<i>TX</i>	<i>Power Output</i>	<i>RX</i>
1114.85.0	27.5dBm	10995.0
6404.79	29.0dBm	6152.75

Authorized Shelter Space:

QTY 4 Racks

9. Site Specific Provisions: ODOT staff requiring authorized access to Local Government Facilities shall comply with Local Government requirements for security as modified from time to time.
10. Collocation Fees: \$1,300 annually

**Attachment 2 to Exhibit D
(Wampus Butte)**

1. Site Ownership. The United States Forest Service (USFS) owns the real property and State owns the tower and shelter at the Wampus Butte Communications Site (Wampus).
2. Controlling Party. ODOT is the Controlling Party at Wampus.
3. Collocating Party. Local Government is the Collocating Party at Wampus.
4. Site Location. Wampus is located 28 miles SW of Bend, Oregon; Latitude 43° 41` 58.97" / Longitude -121° 37` 19.03".
5. Term. This Collocation Authorization expires on June 30, 2026 unless renewed pursuant to Section 3 of this Agreement, and contingent upon ODOT renewing its communications use lease with the USFS or unless earlier terminated pursuant to this Agreement.
6. Premises. The Premises are comprised of rack space within the State Shelter and tower space on the State tower as identified in Section 7 of this Attachment 2.
7. Communications Equipment. Local Government’s authorized Communications Equipment:

Temporary Authorization:

Authorization includes the following for a period of not more than 24 months following the transition to use of the State TRS for Local Government’s primary Radio communications:

Temporary Authorized Tower Equipment:

QTY(1) 10’ OMNI 800 MHz Rx @ 80’ C Leg

QTY (1) 10’ OMNI Inverted 800 MHz Rx @ 65’ A Face

Frequencies:

TX 815.7375

Power Output 100W

RX 860.7375

Temporary Authorized Shelter Space:

Shelter space for Radio equipment as currently configured occupying approximately six (6) rack spaces

Long-Term Authorization: Authorization includes the following for the Term of this Authorization:

Long Term Authorized Tower Equipment:

QTY (1) 10’ OMNI VHF Paging @ 60’ C Face

QTY (1) 20’ OMNI VHF Voice @ 40’ C Face

QTY(1) 5’ OMNI LPFD Voice @ 20’ B Face

Frequencies:

TX 155.130

Power Output 100W

RX 155.625

Long-Term Authorized Shelter Space:

QTY 2 Racks – Location to be determined by ODOT

8. Site Specific Provisions:
 - a. Local Government will comply with requirements of ODOT’s underlying ground lease with the USFS, including the Communications Site Management Plan—documents available from ODOT upon request.
 - b. Within forty-five (45) days following execution of this Agreement, ODOT shall submit any required application/notice to the electric and propane providers and assume the responsibility for payment of the electric bill and propane refueling at the site.
 - c. Collocation Fees: \$1,300 annually

**State Trunked Land Mobile Radio System
Standards, Policies, and Procedures**

TABLE OF CONTENTS

SPP-01. **DEFINITIONS****2**

SPP-02. **TRUNKED LAND MOBILE RADIO USERS GROUP [PLACEHOLDER]****4**

SPP-03. **CHANGE MANAGEMENT****5**

SPP-04. **SECURITY****7**

SPP-05. **SYSTEM KEY AND FLEET MAP MANAGEMENT****8**

SPP-06. **BACKGROUND CHECKS****10**

SPP-07. **STATE TRS ADMINISTRATION AND PROGRAMMING****11**

SPP-08. **SERVICE PROTOCOLS****12**

SPP-09. **TERMINATIONS****14**

SPP-10. **STATE TRUNKED LAND MOBILE RADIO SITE STANDARDS****16**

Approved

By: _____
ODOT Technical Services Manager Date

APPROVAL RECOMMENDED:

By: _____
ODOT State Radio Project Manager Date

APPROVAL RECOMMENDED:

By: _____
ODOT Wireless Communications Section Manager Date

APPROVAL RECOMMENDED:

By: _____
Statewide Interoperability Coordinator Date

SPP-01. **DEFINITIONS**

- a) "Abuse of User Privileges" means repeated violation of System Standards, Policies, and Procedures for the State TRS (defined below).
 - b) "Authorized User" means a person granted the right to use a Radio.
 - c) "Business Days" means 8:00 AM to 5:00 PM Pacific Time, Monday through Friday, except for holidays recognized by the State of Oregon.
 - d) "Compatible" means equipment that complies with the P25 suite of standards for digital land mobile (LMR) services for local, state and national (federal) public safety organizations and agencies. P25 is applicable to LMR equipment authorized or licensed in the U.S., under the National Telecommunications and Information Administration (NTIA) or Federal Communications Commission (FCC) rules and regulations.
 - e) "Configuration Item" means an information technology resource identified in the Change Management Policy.
 - f) "Controlling Party" means the party identified as the Controlling Party of a Wireless Communications Site.
 - g) "Event Talk Group" means a non-exclusive Talk Group assigned by Dispatch or by ODOT during a multi-agency operation, such as a dispatch request for users to travel outside of their normal assignment area to provide mutual aid.
 - h) "Fleet Map" means the configuration of features and programming parameters of the State TRS to function according to the unique operational requirements of each participating agency.
 - i) "Priority Use" means the order of right or privilege of use when the network is congested and the ability to transmit or receive is hindered.
 - j) "Radio" means a base station, control station, mobile, or portable Radio, which has a unique identification number and may operate on a Radio system.
 - k) "Radio Programming" means Fleet Mapping, Template programming and reprogramming, and assignment of Talk Groups for use of the State TRS.
 - l) "Service Level Protocol" means the operations and maintenance services protocols set forth in SPP08.
 - m) "Service Provider" means an entity under contract to provide services, including maintaining Radios, microwave network, trunked Radio system, trunked land mobile Radio repeaters, or related electronic hardware equipment that connect to or operate on the State Radio System.
 - n) "State Microwave Network" means the State of Oregon-owned microwave antennas, data network, facilities and associated hardware at communications sites. ODOT operates and maintains the State Microwave Network.
 - o) "State Trunked Land Mobile Radio System or State TRS" means the State of Oregon 700 MHz Trunked Land Mobile Radio Sites and associated controllers and switches providing connectivity for land mobile Radio communications.
 - p) "System Management" means management and administration of State TRS and Local Government TRS operations, including, but not limited to: (a) Assign Radio use priorities; (b) Manage Talk Groups to ensure appropriate use of the State TRS; (c) Set standards policies, and procedures for the State
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TRS; (d) Enforce standards, policies, and procedures governing the use of the State TRS; (e) Generate use and statistical data and reports concerning users of the State TRS; (f) Enforce termination of services, access or agreements for Abuse of User Privileges.

- q) "Talk Group" means a configurable, pre-programmed, voice pathway in the State TRS by which properly programmed Radios can communicate with each other. (NOTE: Talk Groups differ from regular and conventional Radio channels in that they are not restricted to a certain Radio frequency and may use up to 21 separate frequencies that are assigned by a controller on a control channel.)
 - r) "Template" means the Radio software programmed into a Radio to control the Radio's Talk Group functions and communication capabilities.
 - s) "Trunked Land Mobile Radio Site" or "TRS Site" means trunked land mobile Radio repeaters, related electronic hardware equipment and connectivity equipment that connect a TRS Site to other TRS Sites or to a controller or switch.
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SPP-02. **TRUNKED LAND MOBILE RADIO USERS GROUP [PLACEHOLDER]**

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SPP-03. CHANGE MANAGEMENT

1. OBJECTIVE

- (a) To ensure that standardized and optimized methods and procedures are used for the efficient and prompt handling of all Changes to technology configuration items.
- (b) To minimize the potential adverse impacts of changes to technology configuration items on ODOT business operations and to improve the delivery of services to customers.
- (c) To maintain compliance with applicable Federal, State and Local Government statutes, regulations, policies and guidelines regarding the management of technology configuration items.

2. SCOPE

- (a) All employees and contractors that install, operate, or maintain technology configuration items housed by, maintained by, or supported by ODOT Wireless are subject to this change management policy.
- (b) Documentation, including policies, processes, and procedures that govern the actions of Authorized Users.

All environments listed below are subject to this change management policy, with exceptions as noted:

- i. Development (DEV) Environment - a working environment for individual developers or small teams used to develop code or build, configure, and integrate infrastructure changes—applies to all configuration items EXCEPT: changes to existing applications under development, changes to existing databases under development, Documentation
- ii. Quality Assurance (QA) Environment - to assure the functionality, performance, and business acceptance of solutions prior to deployment. The QA environment can also double as a staging environment when used to assemble solution changes into releases. – applies to all configuration items EXCEPT: Documentation
- iii. Production (PROD) Environment - the actual environment in which a system will run once it is deployed. This environment is used to support the business's live services— applies to changes to all configuration items

PROCEDURE:

1. **State TRS Hardware or Programming Change Request**

- (a) Hardware/programming changes necessary to restore operation to the State TRS pursuant to the contract are excluded from the requirements of this procedure.
 - (b) All non-routine* hardware/programming changes requested shall be submitted in writing to ODOT).
 - A written request shall include a detailed description and operational reason for the change.
 - Upon receipt of the change request ODOT will provide prompt notification to the requestor.
 - ODOT will provide a response to the request no later than three (3) business days after receipt.
 - ODOT will consult with impacted parties to review the request. Upon review, ODOT will provide the requestor with acceptance or rejection of the request. A rejected request will include a detailed description of the reason for the rejection,
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which may include recommended modifications for a new submittal.

(c) All non-routine* hardware/programming changes deemed necessary by the vendor shall meet the following conditions:

- The vendor shall submit a written request to ODOT including a detailed description and impact statement regarding the change.
- Upon receipt of the change request, ODOT will provide prompt notification to all impacted parties.
- ODOT will provide a response to the request no later than three (3) business days after receipt.
- ODOT will consult with impacted agencies to review the request. Upon review, ODOT will provide the vendor with acceptance or rejection of the request. A rejected request will include a detailed description of the reason for the rejection, which may include recommended modifications for a new submittal.

2. **Financial Responsibility for a Hardware or Programming Change**

(a) The cost of a requested hardware/programming upgrade change shall be the responsibility of the requestor, unless otherwise agreed by the parties.

* Routine shall be defined as hardware and programming updates that will have no functional and/or operational change for all Radio users.

SPP-04. **SECURITY**

1. ODOT shall:

- (a) Develop a security plan for the State TRS and require any local government agency with Trunked Land Mobile Radio Sites that use the ODOT master switch to adopt a security plan that is substantially equivalent to the ODOT security plan.
 - (b) Develop security procedures for use and operation of the State TRS.
 - (c) Develop and manage the encryption keys for the State TRS as well as manage all interagency encryption keys. Local government encryption keys will be developed and managed by local government representatives.
 - (d) Conduct a biennial review of operations to determine compliance with the Security Plan.
 - (e) Verify that agency Radio programming templates/personalities in use comply with the SPP5 and do not contain unauthorized talk-groups or encryption keys from another agency.
 - (f) ODOT is authorized to initiate an audit of any Radio accessing the State TRS to ensure Radio programming is compliant with the Federal Communications Commission (FCC) rules, state policies, SPPs, and agreement with ODOT.
-

SPP-05. **SYSTEM KEY AND FLEET MAP MANAGEMENT**

1. SYSTEM KEYS – As the primary system key Holder, ODOT will house and keep secure the master system keys for all manufacturers of equipment authorized to operate on the State TRS. Agencies requesting a system key shall have an executed agreement with ODOT for use of the State TRS. ODOT will be responsible for issuing subsequent keys to eligible programming agencies. The use of any State TRS System Key and associated equipment is subject to all rules, regulations and policies established by the ODOT, the FCC and applicable vendor. Any violation will result in the agreement for use of the State TRS being terminated and the State TRS System Key revoked.
 2. ELECTRONIC SYSTEM KEY POLICIES
 - (a) System keys will only be issued to agencies that use the State TRS that are self-maintained and use the State TRS for their primary dispatch functionality or Manufacturer Authorized Service Shops that are maintaining equipment for any agency that has an agreement with ODOT for use of the State TRS after completion of ODOT approved training.
 - (b) No one will directly or indirectly permit any third party to: view, read, print, extract, copy, archive, edit, create, clone, transfer, tamper with, or otherwise compromise the security of any Radio code plug programming file, State TRS key file, encryption key file, or template information for any Radio on the State TRS. State TRS system keys will not be shared or distributed to a third party, nor any State TRS Radio ID's or Talk Group(s) information disclosed to a third party for any reason. However, State TRS system Key holders may create code plugs and provide the code plugs to qualified agencies or Service Providers for programming into subscribers units. An authorized service shop may only create or modify files with the permission of ODOT Wireless.
 - (c) In the event that a user of the State TRS learns that any party has improperly or fraudulently obtained Radio code plug file information, State TRS key file information, encryption key file information, or template data, they will immediately notify ODOT Wireless of the security breach. Any Agency or Service Provider found to be responsible for a security breach as listed above will be responsible for the cost of all reprogramming to include but not limited State TRS infrastructure and subscriber programming necessary to overcome said breach.
 - (d) State TRS keys that are capable of expiring will be set to expire annually and will be updated or reissued annually after reverification of agency needs. Only ID(s) and Talk Groups that have received prior authorization from ODOT may be programmed.
 - (e) Self-maintained agencies may only program Radio ID(s) and Talk Group(s) of the State TRS for agencies authorized to use the State TRS by written agreement. ODOT will provide and maintain a matrix of authorized Talk Groups and permitted users.
 - (f) Commercial Service Providers that are maintaining equipment that accesses the State TRS may only program Radio ID(s) and Talk Group(s) of the State TRS for which they provide subscriber maintenance for use of the State TRS if they have received ODOT approved training. Providers shall provide copies of all Talk Group authorization to the State TRS Administrator.
 - (g) All Radios will be programmed for write protect file access if the equipment supports the write protect function. All Radios will be programmed to allow "Radio Inhibit" from the State TRS management terminal.
 - (h) Any Radio sent to the vendor for repair may be sent with the programming intact, unless the programming includes sensitive or encrypted programming, in which case it will be erased
-

first. Whenever possible, the sending agency should archive the file from the Radio prior to shipping. When Radios are returned from Vendor repair, they should be verified for correct codeplug information and that they are write protected if capable.

- (i) All State TRS key holders shall maintain current and accurate records of all programming performed. Records shall be made available upon request to the State TRS Administrator.
- (j) Any programming agency with a State TRS key will provide electronic update to the State TRS Manager for any Radios that have been added, removed or modified in the UCM. This update should be sent via email within five (5) days of the change. ODOT has the authority to request a specific format for the data to match Harris format and State needs.

3. STATE TRS KEY FEES

- (a) ODOT reserves the right to set fees for access to State TRS keys.

4. FLEET MAP

- (a) ODOT will be responsible for managing the Fleet Map information for all agencies on the State TRS. TRS Partners may hold delegated authority for their Fleet Map. New Talk Groups must be approved by ODOT prior to activation. An Event Talk group will not be exclusive to one party and will be assigned by Dispatch or by ODOT for use only during an event requiring mutual aid.
 - (b) The State TRS subscriber database will be a closed database. Only Radios authorized for service on the State TRS will be activated in the subscriber database. ODOT or its authorized representative(s) will be the only personnel authorized to activate and deactivate Radios in the subscriber database. Partner Agencies with TRS admin logins and authority may be expected to activate and deactivate the Radios over which they have control.
-

SPP-06. **BACKGROUND CHECKS**

POLICY

Criminal background checks (CBC) shall be required for all staff, vendors, volunteers, student intern, or temporary hire performing work on the State TRS in accordance with the ODOT Criminal Background Check Policy PER 01-19. ODOT will provide a copy of PER-01-19 to requestor.

PROCEDURE:

1. ODOT will perform CBCs in accordance with ODOT procedure PER-01-19-01.
 2. As a condition of being approved, a local government entity will adopt a policy for CBCs substantially equivalent to ODOT PER-01-19.
 3. CBCs shall be performed in accordance with the policy required under Sections 1 and 2.
-

SPP-07. **STATE TRS ADMINISTRATION AND PROGRAMMING**

Policy

1. Radio programming is accomplished using several sets of permissions. The various layers of permissions combine to determine a Radio's programming and functionality.
 2. A Radio approved to join the State TRS will use an ID within its assigned range. The party controlling the assigned ID will be responsible for adding the Radio to the State TRS database (UAS) and its continuing administration.
 3. Allowed Talk Groups will be given from a permissions matrix maintained by ODOT. The Permissions Matrix will have a list of all Talk Groups on the State TRS and which classes of users are allowed to use each Talk Group. The originating agency for each Talk Group will have the authority to deny classes of users if they would have a negative effect on that agency or do not have permission/clearance to hear that Radio traffic.
 4. Interoperability Talk Groups may also be included with usage determined by SPP and inter-agency agreements.
 5. Allowed Radio sites and Talk Group coverage will be determined by the agreement that allows each Radio onto the TRS. A user agreement may cover all Radio sites or only a portion thereof. Each Talk Group's coverage will be determined by its coverage class (allowed sites), which could be greater or lesser than the sites available to the Radio.
 6. The creation of the Radio programming file will be performed by ODOT Wireless, the sponsoring Partner, or by an authorized service shop. Only those with an authorized programming key are allowed to create or program Radio files. Each programming key will be tailored to its assigned user, including whether it can create files, and which Talk Groups and State TRS ID's it can edit. Authorized programmers may not have permissions for all Talk Groups or ID ranges on the TRS. Only Talk Groups and sites authorized by agreement will be allowed into the Radios. Any costs for programming will be determined by the agreement between the Radio user and the programming shop.
 7. If a Radio has encrypted Talk Groups, the loading of encryption keys will be performed only by a 'trusted technician', as determined by other SPPs.
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SPP-08. SERVICE PROTOCOLS

1. Protocols Description: ODOT and OSP use a combined trunked land mobile Radio system comprised of equipment owned by ODOT and equipment owned by others. Each user of the State Trunked Land Mobile Radio System ("State TRS") relies on the State TRS for essential business and public safety functions. The purpose of this Service Protocols (SP) is to define specific roles and responsibilities for service of the State TRS and any Trunked Land Mobile Radio sites owned by others and connected to the State TRS.
 2. The entity that owns a Trunked Land Mobile Radio Site shall be responsible for performance, coverage testing and maintenance of its trunked land mobile Radio equipment.
 3. STATE TRS AVAILABILITY; SERVICE PROBLEMS
 - a. State TRS Availability. ODOT and any party with infrastructure connected to the State TRS will strive to maintain its trunked land mobile Radio system and Sites available 24/7; however, any electronic equipment, power systems, and facilities can fail for a variety of reasons.
 - b. Service Problems
 - i. The equipment owner will be responsible for resolving service affecting problems with its equipment. If trunked land mobile Radio communications for any user of the State TRS is adversely affected by another party's equipment, the affected user will contact the equipment owner immediately upon identifying the need, but not less than five (5) minutes prior to taking the other party's Radio traffic off line as follows: if contacting ODOT -- the Wireless Work Order Desk at 503-986-2911; or the authorized representative identified in the agreement that authorizes use of the , with the pertinent information. In no case shall either party interrupt the other party's Radio traffic without positive confirmation from the other party due to the critical nature of the Radio communications.
 4. HOURS OF OPERATION
 - a. Hours of Operation for ODOT
 - i. The core business hours for the ODOT Wireless Communications Section (WCS): specialists ("Specialists") are from 6:00 AM to 5:30 PM Monday through Friday. Exception - many Specialists work alternative work schedules and may be available earlier and later each day and not available on a Monday or Friday.
 - Administrative Support 7:00 AM to 4:30 PM Monday through Friday,
 - Engineering support 7:00 AM to 5:30 PM Monday through Friday.
 - After hours and weekend support (24 x 7) is obtained through the ODOT Wireless Dispatch (503) 986-2911.
 - ii. WCS will provide immediate and stand-by support for special operations when requested by any agency that has an agreement for use of the State TRS.
 - b. Hours of Operation:
 - i. Unless otherwise identified by Agreement with ODOT, the minimum core business hours shall be as follows:
 - Administrative Support 7:00 AM to 4:30 PM Monday through Friday,
 - Engineering support 7:00 AM to 5:00 PM Monday through Friday.
 - After hours and weekend support (24 x 7) available through dispatch.
 - ii. Any party that owns infrastructure connected to the State TRS will provide immediate and stand-by support for special operations when requested by ODOT.
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5. PLANNED OUTAGE NOTICES

- a. Forty-Eight (48) Hours Prior Notice
 - i. Each party will give the other party a minimum of a forty-eight (48) hour (two (2) Business Days) prior notice for all planned outages affecting or having the possibility to affect the other party's use of the trunked land mobile Radio system.
 - ii. Notification of the planned outage will include the following information:
 - a. scope of work (routine maintenance, tower repair, facilities, etc.)
 - b. time scheduled for the outage and expected outage duration
 - c. list of Circuits impacted (hops or systems affected)
 - d. And any other information that may be helpful to the other party for contingency and further notification actions.
 - iii. Each party will provide the other forty-eight (48) hours notification at the number identified for 24 HOUR CONTACT in the agreement with ODOT.
 - b. Thirty (30) Minute Notice – prior to switching from primary to back-up equipment. Also used as **additional notice** following forty-eight hours prior notice prior to taking the trunked land mobile Radio system off line
 - i. Each party will contact the other party at the number identified for 24 HOUR CONTACT in the agreement with ODOT and notify them of the exact time they will take the outage, confirm the estimated timeframe the trunked land mobile Radio system is expected to be off line, and provide contact information.
 - ii. The notifying party will advise the other party that they should contact all Authorized Users that will be affected by this outage.
 - c. Immediate Notification - when ready to turn off the switch
 - i. The notifying party will advise the other party at the number identified in Section 12 of this SP that are now taking the outage.
 - d. Unplanned Immediate Outage Notification
 - i. Each party shall provide notice for unplanned immediate outages at the number identified for 24 HOUR CONTACT in the agreement with ODOT.
 - ii. Notice for unplanned equipment failure will be provided immediately upon identifying the need if possible, but not less than five minutes from identifying the failure at the number identified for 24 HOUR CONTACT in the agreement with ODOT.
6. A party may request to postpone a scheduled outage, should the outage present a life safety or significant adverse impact to field operations.
 7. Any agency using the State TRS may contact ODOT at the number identified for 24 HOUR CONTACT in the agreement with ODOT and report a problem affecting service within one (1) hour of discovery of the problem.
 8. Each party using the State TRS shall repair and maintain its equipment at its own expense and shall obtain proper access rights to a Wireless Communications Site, from the property owners, building owners, or both as required.
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SPP-09. TERMINATIONS

1. OBJECTIVE

- (a) To ensure that standardized and optimized methods and procedures are used for the efficient and prompt handling of all Radio user equipment service terminations
- (b) To protect the security of State TRS from unauthorized and disruptive Radio communications due to lost or compromised Radios.
- (c) To define a process for reporting, documenting, tracking, disabling, and reactivating subscribers as required.
- (d) To ensure Radios decommissioned and removed from service are deprogrammed and any sensitive information is removed.

2. SCOPE

- (a) All Authorized Users receiving service shall abide by this policy.
- (b) All employees of any Service Provider providing services to the State TRS shall abide by this policy.
- (c) This policy applies to all P25 user trunked land mobile Radio equipment including those with encryption that is connected or interconnected to the State TRS operating on any frequency band.
- (d) The loss of an encrypted Radio could result in the requirement to rekey all other Radios with that same encryption key.

PROCEDURE:

1. **Reporting, documenting and tracking lost or stolen Radios**

- (a) Users of the State TRS must inform their Radio system manager and the ODOT Wireless Help Desk at 503-986-2911 as soon as reasonably possible when they become aware a specific Radio is lost or stolen.
- (b) The User must follow-up in writing with the model, Radio ID, and Radio serial number. At a minimum the Radio ID shall be provided. Emergency requests can be made verbally but shall be followed up with a written request as soon as possible.
- (c) The Radio system manager will disable the lost or stolen Radio as soon as possible.
- (d) If the lost or stolen Radio is an encrypted Radio, the agencies responsible for the encrypted Talk Groups shall make the determination in writing if the other Radios sharing that encryption key shall be rekeyed.
- (e) The Radio system manager or designee may disable any Radio without notice that is found to be causing harmful interference.

2. **Disabling, Reactivation and Termination Process**

- (a) The State TRS database manager will inhibit the Radio from the network manager when the information is received from the user as defined above.
 - (b) The inhibited Radio will be restricted access to the State TRS and will be “bricked” if it attempts to access the State TRS. This will make the Radio inoperable and will require it be brought back to the Radio shop or other programming location to be restored to operation.
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Note that the database manager must be notified and the database updated prior to reprogramming the Radio or it will be disabled again.

- (c) If the Radio has been found but has not been powered up, notify the database manager and the Radio database can be updated so the Radio is not bricked when it is powered up.
- (d) There may be a fee for reactivating Radios that have been recovered.
- (e) When the Radio system manager unilaterally disables a Radio that is causing harmful interference, the owner agency of the Radio shall be notified as soon as possible. The Radio system manager shall document the interference, the reason for disabling the Radio, and the time the owner agency was notified. If the Radio was lost or stolen it shall remain disabled. If the interference was caused by Radio misuse, the owner agency shall request in writing that the Radio be restored to service and the cause of the Radio interference.
- (f) The Radio IDs of lost or stolen Radios shall not be reused unless the Radio has been recovered.

3. Disposition of User Radio Equipment

- (a) Radio equipment deemed obsolete, surplus, partially defective, or not meeting the requirements of the owner agency shall be deprogrammed when it is removed from service.
- (b) Deprogramming means it shall be “blanked” prior to disposition. This includes the removal of Radio IDs, Talk Group IDs, frequencies, State TRS IDs, etc. If the Radio is in a condition that will not allow it to be blanked as above, the components that hold the State TRS information shall be destroyed.
- (c) If any Radios are temporarily added to the State TRS for mutual aid during a major event or exercise, they shall also be blanked for all information after the event and before they leave the area or are returned to their owner. This language will be included in all agreements. This also needs to be part of any multi-agency exercise plan.
- (d) The database administrator shall be advised of the Radio ID and serial number of any Radio decommissioned and removed from service including mutual aid Radios.

4. Abuse of User Privileges

- (a) Abuse of User Privileges may result in termination of the agreement authorizing use of the State TRS subject to review of the State Radio Users Group. A decision by the State Radio Users Group is final and non-appealable.
 - (b) Abuse of User Privileges by an individual user may result in temporarily deactivating an individual Radio while the agency whose personnel is responsible for the abuse takes appropriate corrective actions to prevent the abuse.
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SPP-10. STATE TRUNKED LAND MOBILE RADIO SITE STANDARDS

A. **Reliability Standards**

The Wireless Communications Section (“WCS”) maintains Radio systems for ODOT and OSP and infrastructure to support other public safety and first responders throughout Oregon. In addition to State Radio traffic, these systems also carry internal and interagency traffic for Federal and Local agencies during routine and critical incidents.

To this end, WCS desires to maintain a highly reliable communications system. Though zero down-time is desired, failures will happen and a resilient system will adapt and cope. This system is composed of multiple interdependent components and subsystems that serve diverse functions. Each should be cost-effective and contribute toward the stated goals.

The hundreds of sites which compose these systems cover a wide geographic area, with nearly every terrain imaginable. In addition to Oregon, sites are also located just across the borders with Washington, Idaho, and California. The elevations range from near sea level to 9,700 ft., with equally extreme temperature and climate conditions.

This SPP is a discussion of the approach WCS takes when building and maintaining its system, and lays out the expectations WCS has for itself and other users with whom WCS shares sites and systems. Some of these standards have only been adopted recently and WCS is also working toward meeting them. This document is not intended to be a comprehensive list of requirements and standards, and the omission of any specific mention within this document does not imply that WCS does not support the application of a relevant standards document.

1. **Internal and External Risk Factors**

Reliability is affected by multiple factors, some fixed and others variable; some within WCS control and others beyond. The reliability of a single item is the easiest to quantify. As ODOT connects multiple units together, equipment can be chosen or connected in multiple ways to reduce the chances of a failure or mitigate its impact. As even more pieces combine, the ability to measure and predict reliability becomes increasingly complex, to the point where a PhD in Risk Assessment is eventually necessary for a complete understanding.

External factors are those over which WCS has little control. Weather is an example of an external factor which cannot be adapted or modified. Everything else must be designed and implemented to withstand some expectation of severe conditions. In the event that expected level is exceeded, an adaptive response is required to restore service.

To the physical equipment and weather risks, add the interaction of multiple personnel responsible for various portions of systems. Each of them has a direct impact on whether State systems meet the goals set for them. Personnel can be adapted to fit a situation and improve reliability so they are a combination risk factor.

2. **Weather**

Weather is a significant external risk factor. As mentioned earlier, Oregon has communications sites from Sea Level to 9,700 feet, with temperature extremes from -30F to 110F and humidity and wind extremes to match. The difference between high and low temperature records is 173 degrees. State sites, towers, and mounted equipment need to be designed to 100 year record levels or greater if they are expected to be usable when needed. If the site itself does not experience these conditions, it may be that it is servicing an area that does. This drives the power and tower discussions that follow.

3. Personnel

Personnel are the biggest single factor in maintaining a system. Not only did humans design the equipment installed, but no matter its conditions or capabilities upon arrival, its implementation and continued usability will be determined by the people who work with it on a daily basis. The quality and effectiveness of the workforce are determined and affected by the values and expectations of the work environment.

The State of Oregon, ODOT, and WCS promote safety in all activities. The design and implementation of a site and its equipment must promote safe operations in every aspect of its construction, maintenance, and repair over its lifetime.

WCS understands that the more personal investment employees have in their work; the more likely they are maintaining a high standard. WCS personnel are encouraged to take responsibility for their sites, and to explore and suggest improvements.

WCS employees are trained to support the equipment as often as equipment on which they work is upgraded. Regular training and exchange of ideas is necessary and encouraged to maintain interest, knowledge, and high standards. Communication needs to be WCS practice, as well as its business.

4. Partnerships

Partnerships are an external risk factor for the WCS shops. Some portion of State communications is placed at risk anytime it is outside State control. Differences in priorities, budget, and workforce sometimes complicate WCS' ability to maintain a high reliability communications system.

If the relationship truly is a partnership, then in addition to the equity of financial contribution, the State needs to be assured of an equal commitment to the other factors that aid reliability. WCS has staff working 7:00-5:30, Mon-Fri, with afterhours and weekend support available through a single phone number to a rotating list of personnel. Any reliance by the State on partnership systems or sites requires a Service Level Agreement ("SLA") and a 24x7 phone contact for the partner in emergencies. This number will be used by the WCS Work Order Desk ("WWOD"), WCS Network Operations Center "NOC" and the on-call technicians.

Partnership negotiations will establish a clear set of expectations for initial setup and long-term operations, including timely coordination of planned outages, maintenance, and repairs.

5. Design Approach

When designing complex systems for safety and reliability, WCS follows the following guidelines.

- a) Requirements are determined.
- b) Systems and subsystems are selected, designed, and built to meet the requirements, with an appropriate safety factor.
- c) Only systems properly designed and built for the application are to be employed.
- d) When a (sub) system fails, it should do no harm to other (sub) systems.
- e) An alternative means of meeting the need should be provided by the operational personnel using the system during a failure.
- f) A failed system shall not prevent an alternative system from performing the required function.
- g) The repair or replacement of the failed system should be achieved with an efficiency of effort and minimum downtime.

The systems include:

- a) Site property
- b) Grounding - lightning, surge protection
- c) Towers
- d) Buildings
- e) Electrical power systems
- f) Backhaul and network
- g) Radio equipment
- h) Installation and service

6. **Equipment**

The WCS selects equipment for these systems based on criteria which include reliability cost, robustness, features, and criticality to operations. Only type-accepted Radios intended for fixed site installations are allowed in State communications sites; mobile Radios are not acceptable.

7. **Systems**

a) Site Property

In order to provide timely service and repair of our systems, WCS specialists need to be able to access sites at any time. Gates on access roads will be kept in smooth operating condition, with keys or combinations supplied to the site owners and tenants as agreed. When accessing the site, road gates will be returned to the locked condition in which they were found. The agency in charge of the right-of-way will keep the site owner/administrator informed about any change that affects immediate access to the site. When planned work is expected to affect site access for more than four hours, the owners of the right-of-way will inform the site owner/administrator, who is then responsible for informing other tenants in the site. When this work can be known in advance, early notification will be given.

The layout of a site will support the install, maintenance, and repair of equipment expected at the site. Normal site activities include fueling, generator or battery maintenance with a 5-ton boom-truck, high angle tower work on Radio and microwave antennas, and snow cat operations in winter.

Perimeter fences will be maintained in good repair and bonded to the site ground system. Site grounds are to be kept tidy. Garbage and other trash will be placed in bins on site or removed. The compound area is to be kept clear of vegetation.

b) Lightening, Surge suppression and Grounding

Newly constructed sites and towers will have ground systems per Harris' recommendations. The ground system testing and installation will extend to soil resistivity, tower, feedline, building entry, racks, and equipment. Equipment installed in the sites will have its chassis bonded to the ground system.

Site grounding and surge protections systems will be kept complete and in proper working order. The principle of a single ground path within the building will be maintained. Grounding/bonding shall not be daisy-chained and the removal of any piece of equipment may not interrupt the grounding of any other equipment. However, multiple grounds may be bonded to a running ground cable of sufficient gauge. Racks and equipment will be bonded separately.

- Existing State TRS sites have lightning and surge protection systems installed, including lightning arrestor mounting panels. Newer systems may have a pass-through plate with a provision for placement of a lightning suppressor just inside of the plate. All transmission lines must enter and exit the building via one of these entry panels or an approved entry (see ***Antennas, Feed Lines and Cable Entries***)
- Connect equipment to the site's ground system using compression fittings, bolted joints or Cadwelding (exterior or in-ground) for connection. Do not use "split-bolt" connectors as junctions. Cable runway trays above the equipment rack usually include a ground pigtail.
- Remove from the site all coaxial cable that serves no purpose or is abandoned. Properly terminate and protect all coaxial cables that are spare equipment or dedicated but inactive. Terminate both ends of the cable with, at least, a 2 watt 47-ohm resistor (only inside the building if the antenna has not been removed).

c) Towers and Antennas

General requirements are laid out by Harris' Tower Requirements and General Specifications, LBI-39185. Additional material is found in Motorola R56, section 2.12.8.

All towers will be equipped with a safety climb cable on the main ladder /climb route.

Antennas, mounts, and ancillary equipment will be of a professional standard, purpose-designed, and corrosion-resistant. Galvanized finishes are preferred, but high-quality stainless is acceptable for some purposes. The installation methods and locations will be prearranged with, and approved by, the site owner/administrator. Each subsequent installation or modification requires its own approval. Respect will be shown for the affected users. Tower loading and antenna spacing requirements will be respected.

Antenna selections and power outputs will be appropriate to the purpose of the Radio and the FCC license limitations. Antennas shall be rated for heavy duty. Where practical, all microwave antennas shall have ice shields unless located within 15 feet of the tower top. This determination should be made on a site by site basis but is most critical for sites in the Cascade Mountain Range and west thereof.

Vertical feed line and waveguide runs will be secured to a cable ladder, while horizontal and diagonal runs will be secured under horizontal and diagonal structural members to prevent damage from ice fall and service work. Neither nylon cable ties nor tape may be used for securing anything to the tower. Connectors not guaranteed watertight by the manufacturer will be made weather tight with self-vulcanizing rubber tape (preferred) or another weatherproofing method.

Anyone performing tower work will be certified for that work by their employer, and by extension, the agency for which they are performing work. Tower work is never performed alone and 100% tie-off is the working standard.

When a modification or new installation introduces interference into a site, other tenants will correct any deficiencies in their installations. It then becomes the responsibility of the recent installer/modifier to eliminate the problem or remove their equipment.

Antennas, Feed Lines and Cable Entries

- All antennas to tower mounting hardware shall be purchased from the tower manufacturer.
 - Feed lines shall be no less than ½" heliax (See Table 1 above).
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- Feedline with braided shield may not be used on the tower; only solid shielding is permissible.
- Feedline and waveguide will be grounded at the top and bottom of the tower, as well as the entry port. Additional grounding on the vertical portion will be installed such that grounding kits are not more than 70 feet apart. Feedline will also be protected by Polyphaser (or similar) units at the entry port. Jumper cables within the building may not have a single braided shield. Neither feed line runs nor antenna mounts may impede ladder access.
- Microflect cushion assemblies shall be used to attach feed lines to the tower (Leg clamps may be required on some towers).
- Use the provided cable entry or, if none available, use a Microflect B220 entry.
- All installations shall be cleared by ODOT and installations shall be performed with ODOT personnel present.
- Feed-through lightning protectors should be used on all coaxial cable connections to equipment enclosures. Gas, Gap and MOV (Metal Oxide Varistor) protectors should be used on Control, Audio, Telephone and Power connections. All feed line entering the building must be terminated, even when not in use.
- Transmission lines between the equipment building and tower structure shall be secured to a messenger wire or anchored to an approved ice bridge. If it becomes necessary to bury a transmission line it shall be placed inside PVC conduit, with a minimum diameter of 3" and buried to a depth of no less than 12" below the surface of the ground. The ends, where the transmission line enters and/or exits, shall be sealed in a manner that prevents moisture from entering and being trapped within the PVC conduit.
- All loose wire or metal objects are to be removed from the tower and site. This is to include unused antennas and transmission lines.

d) Buildings

Buildings will be appropriate to the site conditions. It is preferable that the buildings protect equipment from stray bullets. A safe means of winter ingress and egress will be incorporated into the design and installation. Depending on the site and elevations, snow hatches or entry alcoves are highly desirable. In no case shall outward opening doors be used in line with sloped roofs or any roof capable of unloading snow, thereby trapping personnel behind a closed door.

Buildings will be maintained in good repair and kept in a tidy condition. Trash is to be placed in bins or removed from the site. Room temperature and humidity will be kept within acceptable limits. Storage batteries will be kept above freezing. Equipment will be installed in racks with exceptions made for local conditions on a site-by-site basis. Racks will be anchored into the floor and use seismic bracing. Wiring and cabling between racks will be run in, and secured to, the cable trays.

Generator buildings shall have an air input snorkel that protrudes above the maximum snow line to ensure the generator is not disabled by deep snow.

Inside Equipment

- Use only transmitters, receivers, and related equipment designed for use in a high-RF, multi-user environment. This includes power supply equipment, rectifiers, control equipment, alarm units, etc. This generally means that equipment must have additional filtering on input and output leads, and has additional physical shielding installed on the equipment.
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The equipment specifications will usually be higher than those encountered for use in a mobile Radio or desktop base station environment.

- In the event Radio Interference occurs and the above standards are complied with, additional isolators, filters, cavities, etc. may be required to correct specific problems. The need for additional filtering equipment will be determined on a case-by-case basis.
- Systems involved, not in full compliance with these standards, will be asked to comply immediately. Users, who remain non-compliant with these standards, after formal notification, are at risk of having their site use agreement(s) terminated.
- Sites are designed to accommodate equipment housed in 7' (84") racks.
- Fasten racks to the floor with an approved anchor. Also, use an approved method to connect racks to an overhead cable runway tray. For example, using a 14-inch length of Chatsworth 11450-001 framing channel and "J-bolt" kits to fasten a rack to the cable runway tray is acceptable. **Do not drill holes into existing cable runway trays.**
- Install seismic bracing on equipment and mounting frames.
- All cables/wires are to be securely and neatly routed, bypassing any potentially hazardous areas such as heat, sharp objects or human interference. All wires are to be labeled or have written documentation on site that identifies the use of the cable/wire.

e) Power

WCS utilizes DC battery plants as primary power. While an inverter may be available at a site, it is preferable that all State communications equipment within a site be able to operate from the DC supply. The State DC power supply at a site shall be for State use only unless a negotiated agreement with the State is in place authorizing such use. The load at each site will be evaluated periodically to ensure that battery reserve times are still met. It is possible that load-shedding may be used to drop non-essential or lower priority loads in the event that battery reserve needs to be extended. With 20% of capacity remaining, a Low-Voltage Disconnect will open and the battery will be isolated from its load to prevent its permanent damage.

Before equipment in a site is modified or augmented, the impact of its load on the battery reserve capacity will be evaluated by WCS staff and approved by WCS management.

f) AC Powered sites

Radio sites shall use 48VDC battery plants as their primary source of power and shall have enough capacity to run the expected essential load for a minimum of 48 Hrs. If the site is located near an ODOT maintenance facility, less battery run time may be permissible. The batteries' charge will be maintained by an n+1 rectifier system powered from AC Mains, or alternately from a generator plant. Rectifiers shall be able to recharge the battery plant in a maximum of 24 hours. Surge suppression equipment is highly desirable on the AC Mains supply and shall be located between the AC Mains and the Transfer Panel. Additional protection may be installed in the building, but it will not remove the need for primary protection.

When an AC site loses power, it shall have backup power available from a generator by

automatically switching the load through a transfer panel. When the generator is not responsible for maintaining power at an occupied facility, it may cycle on and off under automatic local control, or manual remote control, to maintain battery charge without running continuously.

g) Solar powered sites

If a site uses solar or alternative power as the primary source with generator backup power, the site should have battery plants that exceed 48 hour capacity reserve of an AC site. Four days of reserve (96 hours) is a desired standard.

In the event that the solar array is not able to maintain battery charge, the generator will start when batteries have reached 60% of capacity. A means of detecting Generator Run should be connected to a remote monitoring system. In the event the generator does not start, the remaining 40% of capacity before low-voltage disconnect may allow WCS staff time to plan a response before the site goes off the air. Prioritized load-shedding may also be employed to extend a site's run-time during critical events.

Equipment for solar sites will be selected with efficiency as a primary goal. AC will only be available from an inverter or while a generator is running so the use of AC-powered equipment will be considered more carefully than on a standard site.

h) Generators

Generators and loads should be sized so the site load is at least 30% of the stated capacity to keep run times short and reduce carbon build-up. Generators will be given weekly exercise runs to maintain readiness. Generator run reports from monitored sites will allow service before the absence of power becomes a critical issue. When a generator runs to charge batteries, it will not shut off until the batteries are fully charged as determined by monitoring current in/out of the stack (preferred) or by using a voltage switch in combination with an extended-run timer.

i) Batteries

Only maintenance-free batteries are to be used. Large battery plants should have individual cell monitoring connected to the network monitoring system.

j) Site Use Requirements

- Key use and control must comply with ODOT Key Issuance requirements. Keys are issued to governmental entities and they hold the responsibility for proper use and control.
- An intermodulation/frequency analysis must be completed and approved prior to installation of any new equipment.
- Agreements for use of State owned sites by another party will include fees for power and backup power applicable to the other party's use of the site.

k) Miscellaneous Requirements

- In no case shall 120 VAC power equipment come into contact with ODOT racks containing microwave or base band equipment.
 - Extension cords are not permissible as a permanent power connection.
 - Site noise and system interference tests (desense) shall be performed before and after the installation of new equipment to ensure the existing State Radio System integrity.
 - All books and spare parts are to be kept in neat order, floors clean, and all debris removed after each site visit.
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- Each site will have a site log, with the following minimum information logged during each visit: Date and arrival time, names and contact information of all persons at the site, purpose of visit, time left site.

8. Backhaul and Network

The WCS network exists to support mission-critical Radio and data traffic. Proactive QOS and bandwidth shaping will be employed to ensure this traffic not affected. Non-critical traffic may be carried provided the users understand their traffic is subject to conditions and risks that differ from other users. Users with non-critical data unwilling to accept these conditions and risks should consider other means of transporting their traffic. The risk to the State is that during incidents which create large amounts of critical traffic, WCS may not have time to take calls from, nor be able to address the concerns of, those whose data is not being carried in the manner to which they've become accustomed.

Microwave backhaul equipment will be configured in such a way as to allow system traffic to have redundant paths to reach its destination. This is normally accomplished using a ring configuration along the backbone, and by using a hot-standby configuration in linear sections such as spurs. This equipment operates from the 48 VDC (positive ground) battery system, resulting in the power supply being very stable and reliable. Per hop path availability is targeted at 99.999% or better.

Backhaul equipment, RF and network, will be monitored by the Wireless Infrastructure management Systems (WIMS). Abnormalities will be reported and logged as soon as they are detected; and critical items will trigger notification by email or messaging when the system is not manned. Equipment will be installed using current best industry practices to secure and ground equipment, route signal and power cabling, install antennas and route waveguide.

The network (baseband) portion of the backhaul will be capable of handling the traffic requirements of the agencies it serves (state or partner). Latency through the network must be no greater than 150 msec and jitter no greater than +/- 5 msec. Standards based interfacing should be available on network components for circuits which traverse the network. Demarcation points for the origin and destination of the circuits will be clearly marked and nomenclature for circuit naming should make it easy to locate a circuit for troubleshooting and circuit modification.

Microwave backhaul and network equipment must be installed to best industry practices. This includes, but is not limited to, earthquake bracing, proper grounding procedures, appropriate wire gauge for power feeds, pressurized waveguides, sealed waveguide entries, waveguide grounding, proper antenna mounts that are installed plumb and level and all hardware appropriately tightened.

Microwave antennas shall be properly assembled and secured in place with quality hardware. Dish alignment will be accomplished by qualified technicians and antenna sweep data will be provided to prove compliance with manufacturer's stated performance specifications and for future troubleshooting purposes.

Stiff-arms will be used to ensure azimuth stability under heavy winds and will never be tied back to the antenna pipe mount, thereby relying on clamping force only at a single pivot point. Appropriate stiff-arm lengths and additional hardware will be utilized to eliminate antenna to stiff-arm angles greater than 25 degrees. Stiff-arms shall not impede personnel ladder access or interfere with waveguide/coaxial cable runs.

Waveguide ground kits will be installed and weatherproofed in accordance with best industry practices. This will include top and bottom ground kits and mid-run ground kits on runs longer than 70 feet. Waveguide runs should ascend the waveguide ladder on vertical sections and be placed under horizontal or diagonal tower members when crossing a tower face, for ice protection. In no case shall

waveguide flex sections be used in an outside environment.

Waveguide pressure shall be tested and confirmed to hold pressure for a minimum of one hour without noticeable pressure loss. Personal grounding straps will be used when working on static sensitive equipment to reduce the risk of Electrostatic Discharge failures.

9. Installation and Service

Proper installation will help guarantee that new equipment not only performs its best, but is prepared to do so for years. Most wireless shops are familiar, at least in name, with Motorola's *Standards and Guidelines for Communication Sites*, commonly referred to as R56. Harris also has *Site Grounding and Lightning Protection Guidelines* and several other references. Installation to either standard is acceptable, however when standards conflict, Harris standards will prevail unless agreed in advance.

Agencies who install authorized equipment in a substandard manner will be given the opportunity to upgrade their installations to acceptable standards within a specified time. Unauthorized equipment, or equipment not installed to the standards expected by ODOT will be disabled and/or removed to prevent negative impact.

The goal of service and maintenance is to ensure that each system continues to perform as it did when it was new. As each site is constructed and put into service, clear records must be maintained. Contact information for the relevant power company, other site users, and property/right-of-way owners should be kept in the site file so it is available to everyone. Installed equipment and frequencies are also kept in the site file. Information and business cards should be posted in the site for convenient reference.

Each Radio site is visited at least two times per year. At this time preventative maintenance checks are performed and the stations adjusted as necessary. The recorded results of the tests may be returned for analysis or archival purposes. When possible, Distance-to-Fault and Frequency Sweep tests are performed on the antenna systems using an Anritsu Sitemaster, or equivalent. The results of these test are displayed using "Return Loss" and may be saved and transferred to data storage for comparison over time.

Additionally, local generator statistics are checked by the specialists. The generator is serviced by the generator mechanics at annual intervals. Battery condition and fuel/oil levels are checked, and the remainder of the site is checked for condition.

When a snowcat is required to access a site, the trip shall be made by a minimum of two technicians. At least two personnel will have had training in snowcat operations and winter survival. The snowcats will have survival equipment, emergency locator beacons, and a Radio for maintaining contact with dispatch.

FEDERAL AND STATE REFERENCES

Code of Federal Regulations (CFR) Title 47 Part 90 – Private Land Mobile Radio Services

Code of Federal Regulations (CFR) Title 47 Part 101 – Fixed Microwave Services

Code of Federal Regulations (CFR) Title 26 CFR § 1.103-1 – Interest upon obligations of a State, territory, etc.

Code of Federal Regulations (CFR) Title 47 Part 90 47 CFR §90.20 – public safety pool

SYSTEM PURCHASE

AGREEMENT

BETWEEN

Deschutes County 9-1-1 Service District (Buyer)

and

**HARRIS CORPORATION
COMMUNICATIONS SYSTEMS SEGMENT
(Seller)**

DATE: March 2, 2016

SYSTEM PURCHASE AGREEMENT

TABLE OF CONTENTS

SECTION TITLE

1. DEFINITIONS
2. SCOPE OF WORK
3. PROJECT MANAGEMENT AND PLANNING
4. OBLIGATIONS FOR SYSTEM IMPLEMENTATION
5. DELIVERY, TITLE AND RISK OF LOSS
6. PRICE
7. TAXES
8. CHANGES AND ADDITIONS
9. PAYMENTS
10. SUBCONTRACTING
11. EXCUSABLE DELAYS
12. SELLER'S INSURANCE
13. TESTING AND ACCEPTANCE
14. SOFTWARE LICENSE, SOFTWARE MAINTENANCE SERVICES
15. COVERAGE
16. WARRANTIES
17. INTERFERENCE
18. INDEMNIFICATION
19. PATENTS
20. LIMITATION OF LIABILITY
21. REMEDIES
22. CONFIDENTIALITY
23. COMPLIANCE
24. NOTICES
25. ORDER OF PRECEDENCE
26. TERM
27. ENTIRE AGREEMENT
28. AMENDMENT
29. SEVERABILITY
30. WAIVER
31. HEADINGS
32. GOVERNING LAW
33. ASSIGNMENT; SUCCESSORS AND ASSIGNS

EXHIBITS

- A. STATEMENT OF WORK
- B. SOFTWARE LICENSE AGREEMENT
- C. SOFTWARE F/X AGREEMENT
- D. BEON END USER LICENSE AGREEMENT

SYSTEM PURCHASE AGREEMENT

THIS SYSTEM PURCHASE AGREEMENT ("Agreement") is made and entered into this 2nd day of March, 2016 ("Effective Date"), by and between the Deschutes County 9-1-1 Service District (hereinafter referred to as "Buyer") and Harris Corporation, a Delaware corporation, acting through its Communications Systems Segment (hereinafter referred to as "Seller") together the ("Parties").

WITNESSETH:

WHEREAS, Buyer whose address is 20355 Poe Sholes Road, #300, Bend, OR 97703 (mailing address PO Box 6005, Bend, OR 97708) and

WHEREAS Seller, whose address is 221 Jefferson Ridge Parkway, Lynchburg, VA 24501, delivered a proposal (collectively, the "Seller's Proposal") to provide the radio communication system and services requested by Buyer.

WHEREAS Buyer has selected Seller's Proposal and now desires to contract with Seller to provide Buyer with the radio communications system and services set forth in the Statement of Work attached to this Agreement as an exhibit.

WHEREAS Buyer and Seller desire to enter into this Agreement to set forth in writing their respective rights, duties and obligations hereunder.

WHEREAS THIS CONTRACT IS PLACED AGAINST PRICE AGREEMENT #0491. THE PRICE AGREEMENT TERMS AND CONDITIONS APPLY TO THIS CONTRACT AND TAKE PRECEDENCE OVER ALL CONFLICTING TERMS AND CONDITIONS.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, it is mutually agreed between the Buyer and Seller as follows:

SECTION 1. DEFINITIONS:

As used herein, the terms set forth below shall have meanings set forth below.

- A.** "Acceptance" shall mean acceptance of the System as set forth in the Testing and Acceptance section of this Agreement.
- B.** "Acceptance Date" shall mean the date the System is accepted or deemed accepted as set forth in the Testing and Acceptance section of this Agreement.
- C.** "Acceptance Tests" shall mean the testing procedures attached to the Statement of Work and mutually agreed upon by Buyer and Seller to be performed to determine whether the System has met the acceptance criteria either set forth in the Statement of Work attached to this Agreement as an exhibit or as mutually agreed upon in writing by Buyer and Seller.
- D.** "Certificate of Insurance" shall mean the certificate to be provided by Seller evidencing the insurance coverage of Seller.

- E.** "Change Order" shall mean a written modification to the Total Agreement Price, Project Schedule or other Agreement terms which is signed by both Parties.
- F.** "Detailed Design Documents" shall mean those documents deliverable by Seller to Buyer at the conclusion of the Detailed Design Review described in the subsection Detailed Design Review under the Project Management Planning section of this agreement.
- G.** "Detailed Design Review" or "DDR" shall have the meaning given in the subsection Detailed Design Review under the Project Management Planning section of this agreement.
- H.** "Documentation Deliverables" shall mean the standard commercial quality manuals to be furnished by the Seller to the Buyer pursuant to the terms set forth in the Statement of Work attached to this Agreement as an exhibit and this Agreement.
- I.** "Effective Date of the Agreement" shall be the date on which the Agreement is signed by the last of the parties to sign the Agreement. The "Effective Date" shall be the date inserted on the first page of the Agreement.
- J.** "Expiration Date" shall mean the date on which the Term of this Agreement shall end which shall be the end of the Warranty Period (as defined in the Warranty Section) except that some other sections of this Agreement may have a later end date for that section of the Agreement as specifically provided in those sections of this Agreement.
- K.** "FX Agreement" shall have the meaning given in Section Software License – Software Maintenance Services of this agreement.
- L.** "Hardware" shall mean, collectively, the Terminal Hardware and Infrastructure Hardware, as defined below.
- M.** "Infrastructure Hardware" shall mean the equipment, goods, and materials to be supplied by Seller for the System infrastructure, as further described in the Statement of Work attached to this Agreement as an exhibit.
- N.** "Project Kick-Off Meeting" shall have the meaning given in the Project Management and Planning section of this Agreement.
- O.** "Project Manager" shall mean each respective Party's duly authorized representative designated to manage each Party's Project obligations.
- P.** "Project Schedule" shall mean the schedule attached to the Statement of Work or otherwise mutually agreed upon by Seller and Buyer in writing for the delivery of the Hardware and Software and the performance of the Services described in the Statement of Work attached to this Agreement as an exhibit.
- Q.** "Project Sites" shall mean those sites where any construction work is performed or any Infrastructure Hardware is installed under the terms of this Agreement. The term "Project Sites" will include all of the Tower Sites (as defined below).
- R.** "Responsibility Matrix" shall mean the table included in the Statement of Work attached to this Agreement as an exhibit which depicts the roles and responsibilities of Seller and Buyer set forth in this Agreement.

- S. "Services" or "Work" shall mean the services and work to be provided by Seller to Buyer included in the Statement of Work attached to this Agreement as an exhibit.
- T. "Software" shall mean the proprietary computer software of Seller as owned exclusively by Seller or Seller's suppliers, as appropriate, and as further defined in and licensed to Buyer pursuant to the terms of the Software License Agreement.
- U. "Software License Agreement" shall mean the System Software License Agreement set forth in an exhibit attached to this Agreement.
- V. "Statement of Work" shall mean the description of the work to be performed by Seller to deliver the Hardware, install the System and provide the Services, all as described in an exhibit attached to this Agreement.
- W. "System" shall mean the radio communications system comprised of the Hardware and Software to be furnished by Seller to Buyer pursuant to the terms set forth in the Statement of Work attached to this Agreement as an exhibit.
- X. "Terminal Hardware" shall mean mobile units, portable units, control stations and related accessories to be provided by Seller as listed in the Statement of Work attached to this Agreement as an exhibit.
- Y. "Total Agreement Price" shall mean the price of the Hardware, the Software license and the Services to be furnished by Seller to Buyer pursuant to the terms set forth in the Statement of Work attached to this Agreement as an exhibit and this Agreement.
- Z. "Tower Sites" shall mean those sites where equipment will be installed on existing or new towers as included in the Contractor's Proposal and to be finalized in the Detailed Design Documents or subsequent Change Orders.

SECTION 2. SCOPE OF WORK:

- A. Seller shall furnish, deliver and install the Hardware and Software for the System and provide the Documentation Deliverables and Services in accordance with the terms of the Statement of Work, attached to this Agreement as an exhibit, the Project Schedule and this Agreement.
- B. The Detailed Design Documents, as described in the Project Management and Planning section of this Agreement and as amended from time to time in writing by the Parties, shall be incorporated into this Agreement after the Detailed Design Documents are approved by the Buyer and thereafter shall supersede any contrary provisions in the Statement of Work attached to this Agreement as an exhibit.
- C. Seller shall commence, carry on and complete its obligations under this Agreement with all deliberate speed in accordance with the dates set forth in the Project Schedule and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, Seller agrees to cooperate with the various departments, agencies, employees and officers of Buyer.
- D. Seller agrees to secure at Seller's own expense all personnel necessary to carry out Seller's obligations under this Agreement. Such personnel shall not be deemed to be employees of Buyer nor shall they or any of them have or be deemed to have any direct contractual relationship with Buyer.

Seller expressly understands and agrees that the Seller is and shall in all respects be considered an independent contractor.

SECTION 3. PROJECT MANAGEMENT AND PLANNING:

- A. **Project Managers.** Seller shall designate a Project Manager who will lead the Seller’ team for the System installation project and other Services and Work described in this Agreement (the “Project”) and will serve as the Buyer’s primary point-of-contact for Seller’s project team and the official liaison between Seller’s project team and Buyer. Buyer shall designate a Project Manager to function as the single point-of-contact and official liaison between Seller’s Project Manager and the Buyer.
- B. **Project Completion Dates.** The Project completion dates are described in the schedule included in the Statement of Work, entitled “Project Schedule.” The Project Schedule may only be modified by mutual written approval of the Parties or as otherwise provided in this Agreement.
- C. **Project Kick-off Meeting.** Promptly after the Effective Date of the Agreement, the Seller’s Project Manager shall schedule a Project Kick-Off Meeting, the timing and location of which will be mutually agreed upon by Seller and Buyer. The objectives of this meeting include introduction of all project participants, review of the roles of the project participants, review of the overall project scope and objectives, review of the resource and scheduling requirements and review of current site status.
- D. **Site Visits.** All existing towers, shelters and associated equipment provided by or mandated by Buyer shall be satisfactory in all manners to accommodate the System proposed by the Seller. Following the Effective Date of the Agreement, the Buyer shall provide Seller with access to all Project Sites upon reasonable notice to allow Seller to thoroughly examine each Site and to perform the Detailed Design Review, to prepare a schedule of preparatory work required for each site and a timeline for completion of the preparatory work at each site.
- E. **Construction Management Services, Site Preparatory Work.** Seller shall perform the civil construction services set forth in the Statement of Work and the Responsibility Matrix including, but not limited to, the site improvement civil construction to be performed at the identified sites. Buyer shall identify and disclose to Seller any and all problems or conditions at all Project Sites of which Buyer is aware that may affect the Work to be performed by Seller under this Agreement.
- F. **Detailed Design Review.** The Detailed Design Review (“DDR”) phase will commence after the Effective Date of the Agreement, and conclude at a mutually acceptable time to maintain adherence to the Project Schedule. During the DDR, Seller’s Project Manager will meet with Buyer’s project team on one or multiple occasions to review the system design, technical data, and site specific information to confirm and to refine the System and Tower Sites. At the conclusion of the DDR, Seller will provide Buyer with the following documents (the “Detailed Design Documents”) for review and approval by Buyer:
- Final Siting Plans
 - Project Schedule
 - Engineered Site plans (sufficient for the Buyer to obtain required zoning approvals) and construction drawings for each site.
 - Shelter Floor Plan Drawings
 - Rack Elevation Drawings

- System Block and Level Diagrams
- Power and HVAC Loads
- Antenna Network Diagrams
- Site Frequency Plans (including spectrum analysis and intermodulation studies of existing and proposed frequencies at each site).
- TX Combiner Plan by Site
- Network Backhaul Plans
- Any other documents as mutually agreed upon by the parties

Buyer shall have fourteen (14) days to conduct its review of the above documents. Approval of Detailed Design Documents by the Buyer shall not be unreasonably withheld, conditioned or delayed.

- G. Project Schedule.** The Project Schedule for the Work is included in the Statement of Work, as an attachment entitled “Project Schedule.” Updates to the start dates and durations will be made as the information evolves and will be mutually agreed upon by both parties or updated as otherwise provided herein.
- H. System Implementation Communications.** Seller and Buyer shall jointly establish a plan that defines regular meetings, reporting structure, and other communications activities, including working sessions that may be needed throughout the term of this Agreement to plan sub-tasks, including at a minimum: (a) one or more DDR meetings to communicate the final engineering design; (b) formal monthly reports to Buyer’s Project Manager concerning work in progress and accomplishments; (c) periodic status meetings at which the parties’ Project Managers and other project participants will provide updates; (d) conference calls with Seller’s and Buyer’s project teams to discuss tasks, assign responsibility, and establish schedules; and (e) workshops or working sessions that may be needed throughout the Project to plan subtasks.
- I. Buyer Approvals.** Buyer will review and respond with reasonable promptness to all submittals or other items requiring its approval under this Agreement. For all such submittals or other items Buyer will provide the Seller with either; (i) written notification of Buyer's approval, or (ii) a written notification of conditional approval subject to Seller providing prompt correction of any noted deficiency, or (iii) in the case of a submittal that does not meet the requirements of the Agreement, a written notification of Buyer's disapproval. Buyer's disapproval notification will be provided with reasonable detail to sufficiently advise Seller of the basis on which the submittal was determined to be unacceptable. Buyer agrees that, except as otherwise provided, failure to provide approval, conditional approval or non-approval of a submittal for which its approval is required within fifteen (15) days of receipt of the submittal from the Seller shall constitute approval of the submittal. The parties agree that this section, Project Management and Planning, does not relate to the Testing and Acceptance procedures in the Testing and Acceptance section of this Agreement.

SECTION 4. OBLIGATIONS FOR SYSTEM IMPLEMENTATION:

The following subsections apply to the Work to be performed under the Agreement.

- A. Project Management and Implementation Plan.** Buyer and Seller each agree to perform their respective tasks and obligations pertaining to permits and licenses, Project Site surveys, general

Project Site-related responsibilities, general Hardware-related responsibilities, and Project Site-specific responsibilities as set forth in the Statement of Work. The Buyer's obligations set forth in the Statement of Work shall be performed by Buyer in a timely and proper fashion in accordance with the Project Schedule, or as otherwise agreed upon by Buyer and Seller, to allow Seller to timely perform its obligations under the Agreement.

- B. Access.** Buyer shall provide access, at no cost to Seller, to all owned, leased, or licensed Project Sites at reasonable times, and with an escort (if required) at no charge, upon reasonable prior notification from Seller. Buyer shall ensure sufficient room, within reason, for construction vehicles used by Seller. Buyer shall issue temporary identification cards to Seller's personnel and its authorized subcontractors, if required, for access to any of the Project Sites.
- C. Changes in Sites.** Any sites where Seller will operate and perform System installation under the terms of this Contract must be approved by Buyer, which approval shall not be unreasonably withheld, delayed or conditioned. Should Buyer direct an addition to, removal from, or modification of the list of sites as detailed in this Agreement that affects Seller's cost or schedule or System performance, the parties agree that such change shall entitle Seller to a Change Order and each Party shall attempt, in good faith to fully negotiate and execute such change order prior to commencement of the Work at the changed site.
- D. Preparatory Work on Sites.** Notwithstanding anything to the contrary contained in this Agreement, the parties agree that some Project Sites may require tower replacement or modifications, as well as related permitting and licensing for Work and/or obtaining physical real estate space. As stated in the Responsibility Matrix, Buyer shall be responsible for securing all necessary site zoning, site access, or other permits (including but not limited to easements, impact studies, planning commission approval, variances, etc.) necessary for the Work, whether required by federal, state, or local authorities, with Seller assisting by providing information and any required civil engineering drawings. Buyer shall also have the responsibility to secure by lease, purchase, easement or otherwise all rights and access to selected sites or additional real estate as may be required. Buyer also shall be responsible for paying all utility charges to the appropriate utility for providing utility services to the System installation areas. The Parties agree to mitigate the need for tower replacement or modification to the extent practical. If any unanticipated tower replacements become necessary, Seller is entitled to an extension of time for any impacted activities and/or an equitable adjustment to the Contract Price to maintain the Project Schedule.
- E. Frequency FCC Licensing.** The Buyer will be responsible for obtaining all Federal Communications Commission frequency licenses for the System, with Seller providing technical assistance and information as set forth in the Statement of Work. Seller has no responsibility or obligation to secure licensed frequencies.
- F. Federal Aviation Administration (FAA) Approvals.** Buyer will be responsible for obtaining all FAA approvals for newly-constructed or modified towers.
- G. Contractor Licenses.** Seller will be responsible for obtaining all contractor licenses required for the performance of its duties and obligations.

SECTION 5. DELIVERY, TITLE AND RISK OF LOSS:

- A.** Seller shall ship the Hardware to Buyer at Buyer's expense on or before the dates set forth in the Project Schedule. Partial deliveries shall be permitted. Upon delivery to Buyer, title to each portion

of the Hardware and all risk of loss or damage shall pass to Buyer; provided, however, that Seller shall remain responsible until Acceptance of the System for loss or damage resulting from the willful misconduct or negligent acts or omissions of Seller, its employees, agents, and subcontractors. Buyer shall keep the Hardware fully insured for the total amount of all monies then due, or yet to become due, to Seller with respect to this Agreement.

- B.** If Buyer fails to take delivery of any of the Hardware, Seller may place such Hardware in storage at the place of manufacture or elsewhere. In such event: (1) Seller shall notify Buyer of the placement of any Hardware in storage; (2) Seller's delivery obligations shall be deemed fulfilled and title and all risk of loss or damage shall thereupon pass to Buyer; (3) any amounts otherwise payable to Seller upon delivery shall be payable upon presentation of Seller's invoices therefore; and (4) promptly upon submission of Seller's invoices therefore Buyer shall reimburse Seller for all expenses incurred by Seller such as preparation for and placement into storage, handling, storage, demurrage, inspection, preservation and insurance.

SECTION 6. PRICE:

The Total Agreement Price to be paid by Buyer to Seller is Three Million, Nine Hundred Twenty Three Thousand, Four Hundred and Ninety Dollars (\$3,923,490.00). The individual prices for the units of Hardware, the Software license and the Services to be performed are as set forth in the Price Schedule as an attachment to the Statement of Work.

SECTION 7. TAXES:

In addition to any price specified herein, Buyer shall pay the gross amount of any present or future sales, use, excise, value-added, or other similar tax applicable to the price, sale or any Products or services furnished hereunder or to their use by Seller or Buyer, or Buyer shall otherwise furnish Seller with tax exemption certificates acceptable to all applicable taxing authorities.

SECTION 8. CHANGES AND ADDITIONS:

- A.** **Hardware Changes.** In the event of any change in the Hardware as a result of the imposition after the Effective Date of this Agreement of any requirements by any federal, state, or local government, an equitable adjustment in the price shall be made to reflect any added cost and expense of such change and the Agreement shall be modified in writing accordingly.
- B.** **Buyer Requested Changes.** Buyer may request changes in or additions to the Work or in the time or place of performance of the Work under this Agreement. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the Work under this Agreement, Seller shall be entitled to an equitable adjustment, by change order, in the Total Agreement Price, the Project Schedule, or both. Any such adjustment in the Total Agreement Price or Project Schedule shall be mutually satisfactory to Buyer and Seller. Price increases and/or extensions of time shall not be binding upon either Party unless and until evidenced by a change order signed by the parties hereto.
- C.** **Buyer Delays in Performance.** To the extent that Buyer fails to timely perform its obligations under the Responsibility Matrix or otherwise under this Agreement, and such failure has a material impact on the cost of Work performed by Seller under the Agreement and/or the schedule, the parties agree that Seller shall be entitled to an equitable adjustment to the Project Schedule, the Total Agreement Price, or both and that a Change Order shall be agreed to by the parties.

- D. Concealed Conditions.** If, following Buyer's acceptance of the Detailed Design Documents, Seller encounters a concealed condition, of which it had no reason to be aware, at one or more Project Sites, then the Parties agree to work together to determine the best course of action and agree to negotiate in good faith a Change Order and an equitable adjustment to the Project Schedule and/or Total Agreement Price.
- E. Product Discontinuance.** Subject to its obligation to fulfill its obligations set forth in the Agreement, Seller reserves the right to change or to discontinue any product covered by the Agreement provided that Seller agrees to make available to the Buyer a functionally equivalent replacement product equal to or better than the product discontinued.
- F. Frequency Support and Frequency Changes.** Seller shall reasonably support Buyer in submitting the Buyer's frequency licensing applications to the Regional authorities and the Federal Communications Commission for this project. In the event that, after all commercially reasonable efforts and due diligence have been expended, the Buyer cannot obtain all of the necessary United States and Canada government approvals for the frequency plan as described in this Statement of Work and this Agreement, it shall be treated as an excusable delay event pursuant to the Excusable Delays section of this agreement for which an extension to the Project Schedule shall be granted, and Seller will diligently and expeditiously prepare and provide to Buyer a System re-design for its review and approval including all price and schedule changes. Notwithstanding anything to the contrary contained in the Agreement, the Parties agree that Seller may be entitled to an equitable adjustment to the Total Agreement Price and/or the Project Schedule for Seller's services on any such System re-design. In the event that Buyer and Seller cannot mutually agree on the System re-design, either party may then terminate the Agreement on thirty (30) days written notice to the other Party.

SECTION 9. PAYMENTS:

- A.** The Total Agreement Price for the Hardware, the Software license and the Services shall be paid by the Buyer to Seller as follows:

A.1. Infrastructure Hardware:

1. Twenty percent (20%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due at the time of the signing of the Agreement by the Buyer and Seller.
2. Ten percent (10%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due at the time of the first System design review meeting.
3. Twenty percent (20%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due at the time of Infrastructure Hardware factory staging as described in the project schedule.
4. Twenty five percent (25%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due at the time of Infrastructure Hardware shipment and delivery to Buyer. Partial payments of the total Infrastructure Hardware amount due under this subparagraph shall be allowed and shall be calculated using the value of the Infrastructure Hardware shipped and delivered as a percentage of the total value of the Infrastructure Hardware to be shipped and delivered

under the terms of this Agreement. The Buyer shall have the right to inspect and confirm that the Infrastructure Hardware included in Seller's invoice has been delivered to the District.

5. Ten percent (10%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due upon substantial completion of the Hardware installation (exclusive of the mutually agreed upon value of any punch list items).
6. Fifteen percent (15%) of the Total Agreement Price (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) plus any remaining unpaid portion of the Total Agreement Price for all Hardware, Software and Services to be provided under the terms of this Agreement (excluding the aggregate price of the Terminal Hardware included in the Total Agreement Price) shall be due upon final Acceptance of the System.

A.2. Terminal Hardware:

1. One Hundred Percent (100%) of the purchase price of Terminal Hardware shall be invoiced upon shipment of unit on a per unit basis.

B. Payment Dates

The Payment(s) associated with the event(s) above shall be due thirty (30) days following the date of Seller's invoice.

C. Other Amounts

Any other amounts due Seller hereunder shall be due upon Buyer's receipt of Seller's invoice.

D. Late Payments

All amounts past due over sixty (60) days shall accrue interest from their due date at the rate of one and one-half percent (1-1/2%) per month (or such lesser rate as may be the maximum permissible rate under applicable law).

SECTION 10. SUBCONTRACTING:

Seller may subcontract any portion of Work to be performed by Seller hereunder provided that Seller shall be responsible for the performance and Work of any such subcontractors.

SECTION 11. EXCUSABLE DELAYS:

- A.** Seller shall not be liable for delays in delivery or failure to perform due directly or indirectly to: (1) causes beyond Seller's reasonable control, (2) Acts of God, acts (including failure to act) of any governmental authority (de jure or de facto), wars (declared or undeclared), riots, revolutions, strikes or other labor disputes, fires, floods, sabotage, nuclear incidents, earthquakes, storms, epidemics, (3) Seller's inability to timely obtain necessary materials, items, components or services from suppliers who are affected by the foregoing circumstances, or (4) the failure of the Buyer to perform its obligations hereunder in a timely manner. The foregoing shall apply even though any of such causes

exists at the time of signature of the Agreement by Seller or occurs after delays in Seller's performance of its obligations due to other reasons.

- B. In the event of any delay or failure excused by this Section Excusable Delays, Seller shall as soon as practical notify Buyer and shall at the same time, or at the earliest practical date after such notice, specify the revised delivery and performance dates. In the event of such delay, the time of delivery or of performance shall be extended for a reasonable time period to compensate for the time lost by Seller by reason of the delay.

SECTION 12. SELLER'S INSURANCE:

- A. In order to protect itself and Buyer, its officers, boards, commissions, agencies, employees and representatives under the indemnity and other provisions of this Agreement, Seller shall obtain and at all times during the term of this Agreement keep in full force and effect comprehensive general liability and auto liability insurance policies issued by a company or companies authorized to do business in the State of Oregon and licensed by the Insurance Department, with liability coverage provided for therein in the amounts of at least \$3,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. Buyer shall be given ten (10) days advance notice of cancellation or nonrenewal. Within ten (10) days after execution of this Agreement, Seller shall furnish Buyer with a Certificate of Insurance listing Buyer as an additional insured. If Seller's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this Agreement and the Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date, Seller shall maintain coverage for the duration of this Agreement and for two years following the completion of this Agreement. Seller shall furnish Buyer, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that Seller shall furnish the Buyer with a 30-day notice of cancellation or renewal. Seller shall furnish evidence of adequate Worker's Compensation Insurance.
- B. In case of any sublet of Work under this Agreement, Seller shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage substantially equal to that required of Seller.
- C. The parties do hereby expressly agree that Buyer, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this section Seller's Insurance, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by Buyer's Risk Manager taking into account the nature of the Work and other factors relevant to Buyer's exposure, if any, under this Agreement.

SECTION 13. TESTING AND ACCEPTANCE:

- A. Seller shall notify Buyer that the System is ready for Acceptance Tests at least ten (10) days before commencement of the Acceptance Tests. Buyer and Seller shall jointly commence the Acceptance Tests on the date specified in Seller's notice (or other mutually agreeable date) and a representative of Seller and a representative of Buyer shall sign off on the form provided as part of the test procedure whether each item of the test was passed or failed. If the System does not fulfill the requirements of the Acceptance Tests, Seller shall correct the defects at no additional cost to Buyer as soon as practicable. Upon correction of the defects the Acceptance Tests for the applicable part of the System shall be repeated in accordance with the procedures set forth in this Section. Successful completion of the Acceptance Test is the sole criterion for technical system acceptance and the initiation of the warranty period. Final system acceptance shall occur when the Hardware and

Software for the System, Documentation Deliverables and Services have been furnished, delivered, installed and the Acceptance Tests have been passed.

- B.** Notwithstanding the acceptance testing of the System set forth in subsection A above, if Buyer commences use of any portion of the System for its intended purpose, other than for the express purpose of training or testing as mutually agreed upon by Seller and Buyer in writing, prior to System Acceptance, the applicable portion of the System shall be deemed accepted by Buyer. The final payment for the applicable portion of the System shall be due and payable upon such acceptance. The Warranty Period for the applicable portion of the System put into use together with the associated installation Services shall be deemed to have commenced concurrently with the use of the applicable portion of the System for its intended purpose. The use of the applicable portion of the System for its intended purpose shall be deemed to have occurred when Buyer commences to use and rely primarily on the applicable portion of the System for its communications.
- C.** As used in the Agreement, the term "Acceptance Date" shall mean and "Acceptance" of the System shall be deemed to occur upon the earlier of: (1) the date on which the System is deemed accepted pursuant to subsection (A) above, or (2) the date on which the System is deemed accepted pursuant to subsection (B) above.
- D.** Buyer and Seller agree that in the process of completing the Acceptance Tests, most if not all of the Acceptance Tests can be successfully completed with only a minor number of punch list items remaining to be completed. In such event, Buyer and Seller shall mutually (and reasonably) agree upon the punch list items to be completed, the value of those items and that "conditional acceptance" of the System has occurred. For the purpose of initiating the Warranty Period, satisfying the Project Schedule requirements and the release of any retained funds (other than the value of the punch list items) conditional acceptance shall constitute "Acceptance" of the specific portion or phase of the System. This conditional acceptance shall not, however, release Seller from its obligations to complete the remaining punch list items by the dates set forth on the punch list schedule.
- E.** Terminal Hardware shall be deemed accepted upon Buyer's receipt of delivery at a Buyer-controlled facility, together with a bill of sale or other reasonably requested evidence of title.

SECTION 14. SOFTWARE LICENSE, SOFTWARE MAINTENANCE SERVICES

- A.** Subject to the terms and conditions of the Software License Agreement attached hereto as an exhibit to this Agreement, Buyer is granted a license to use the Software only in conjunction with the System purchased under this Agreement. "Software" means the "Licensed Programs" as defined in the Software License Agreement.
- B.** Seller shall furnish at no charge to Buyer Software maintenance services beginning at System Acceptance subject to the terms and conditions of the Software FX Agreement executed between Harris and the State of Oregon. There shall be no charge for this service so long as the State of Oregon has a current Software FX Agreement with Harris Corporation.

SECTION 15. COVERAGE:

Seller's representations concerning the distance at which usable radio signals will be transmitted and received by Hardware supplied hereunder are set forth in the Statement of Work. Coverage for the System shall be measured as provided in the Testing and Acceptance section of this Agreement.

SECTION 16. WARRANTIES:

A. Hardware and Services

Seller warrants for the following periods of time from the Acceptance Date (hereinafter referred to as the "Warranty Period"), that the Hardware and installation Services furnished by Seller under this Agreement shall be free from defects in material and workmanship and shall conform to the Agreement specifications. Any and all claims for breach of this warranty are conclusively deemed waived unless made within the Warranty Period. The warranty period for additional Hardware purchased by Buyer from Seller after System Acceptance shall be warranted for the following periods of time from the date the Hardware is delivered to Buyer:

1. for mobile and portable radios ("Subscriber Units"), twenty-four (24) months.
2. for Unity[®] model Subscriber Units, thirty-six (36) months.
3. for all other Hardware, one (1) year.

B. For purposes of this Warranty the batteries supplied by Seller shall be deemed defective if: (1) the battery capacity is less than 80% of rated capacity, or (2) the battery develops leakage. Replacement batteries shall be warranted only for the remaining unexpired portion of the Warranty Period. This warranty becomes void if: (1) the battery has been subjected to any kind of misuse, detrimental exposure, or has been involved in an accident, or (2) the battery is used in equipment or service other than the Hardware for which it is specified.

C. During the Warranty Period if any component of the Hardware or portion of the installation Services fails to meet the foregoing warranties, Seller's sole obligation and Buyer's exclusive remedy under this warranty shall be the correction by Seller of the failure at Seller's option: (1) by repairing any defective component of the Hardware, or (2) by furnishing any necessary repaired or replacement parts, or (3) by the redoing of the faulty installation. Any such failure, or the repair or replacement of the defective component or the redoing of any installation, shall not extend the Warranty Period. Where such failure cannot be corrected by Seller's reasonable efforts, the parties will negotiate an equitable adjustment in price. Seller will be responsible for all charges incurred in returning defective parts to Seller's plant and shipping repaired or replacement parts to Buyer. All warranty labor must be performed by an authorized service group approved by Seller either at its place of business, for mobile or portable equipment, or at the Buyer's location for fixed location equipment should Seller determine that it is not feasible to return the fixed location equipment to Seller's authorized service group.

D. Any additional purchases of equipment, including radios, and installation services which may be purchased by Buyer and delivered or performed by Seller after System Acceptance, shall be warranted on the same terms, limitations, and exclusions as are set forth herein, except that the warranty on the equipment and installation services shall be for a period of two (2) years for additional Terminal Hardware items from the date of delivery of that item of equipment, one (1) year for additional Infrastructure Hardware items from the date of delivery of that item of equipment, and one (1) year from the date of completion of that installation service.

E. Seller's obligations shall not apply to: (1) Hardware or components thereof which are normally consumed in operation, or, or (2) defects which are the result of improper storage, use, or installation performed by other than Seller, maintenance performed by other than Seller, or repair performed by other than Seller, or (3) Hardware which has been subjected to any other kind of misuse or detrimental exposure or has been involved in an accident, or (4) Hardware or installations altered or repaired by any party other than Seller without Seller's prior written consent.

F. Coverage Warranty. Notwithstanding the other provisions of this Section Warranties, Seller's only Warranty as to radio coverage is that the System, prior to Acceptance, shall have successfully passed the coverage tests in the Acceptance Test Plan.

G. Software

The warranty for the Software is set forth in the Software License Agreement.

H. THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION AND IN THE SOFTWARE LICENSE AGREEMENT CONSTITUTE THE ONLY WARRANTIES WITH RESPECT TO THE HARDWARE, SOFTWARE AND SERVICES AND THE BUYER'S EXCLUSIVE REMEDIES IN THE EVENT SUCH WARRANTIES ARE BREACHED. THEY ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, OR STATUTORY INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES.

SECTION 17. INTERFERENCE:

Radio system coverage and performance are subject to degradation due to anomalous propagation and interference beyond the reasonable control of Seller. Seller cannot be responsible for degradation or disruption of Service caused by operation of other radio systems or by natural phenomena or other interference over which the Seller has no reasonable control. In the event of a case of degradation due to interference by an outside party, Seller will provide engineering support to Buyer at Buyer's expense to support Buyer's efforts in resolving the interference issue with the outside party.

SECTION 18. INDEMNIFICATION:

A. Seller shall be responsible for and agrees to indemnify, hold harmless and defend the Buyer and its boards, commissions, agencies, officers and employees from and against all liability, losses, damages, costs or expenses which the Buyer and its boards, commissions, agencies and employees may sustain, incur or be required to pay by reason of third party claims, demands and causes of action for damages resulting from personal injuries, loss of life or damage to tangible property to the extent resulting from the willful misconduct or negligent acts or omissions of Seller, Seller's officers, agents, employees, or subcontractors. Buyer agrees to notify Seller in writing as soon as practical of any third party claim, demand or cause of action for which Buyer will request indemnification from Seller. Buyer will provide Seller with the necessary information and assistance to defend or settle such claim, demand or cause of action. The obligations of Seller under this paragraph shall survive the expiration or termination of this Agreement.

B. To the extent permitted by Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, Buyer shall be responsible for and agrees to indemnify, hold harmless and defend the Seller and its board of directors, officers and employees from and against all liability, losses, damages, costs or expenses which the Seller and its board of directors, officers and employees may sustain, incur or be required to pay by reason of third party claims, demands and causes of action for damages resulting from personal injuries, loss of life or damage to tangible property to the extent resulting from the willful misconduct or negligent acts or omissions of

the Buyer and its boards, commissions, agencies, employees and subcontractors. Seller agrees to notify Buyer in writing as soon as practical of any third party claim, demand or cause of action for which Seller will request indemnification from Buyer. Seller will provide Buyer with the necessary information and assistance to defend or settle such claim, demand or cause of action. The obligations of Buyer under this paragraph shall survive the expiration or termination of this Agreement.

SECTION 19. PATENTS:

- A. Seller warrants that the System furnished hereunder shall be delivered free of any rightful claim of any third party for infringement of any United States patent or copyright. If Buyer notifies Seller promptly of the receipt of any claim that the System infringes a United States patent or copyright and gives Seller information, assistance and exclusive authority to settle and defend such claim, Seller at its own expense shall defend, or may settle, any suit or proceeding against Buyer so far as based on a claimed infringement which breaches this warranty. If, in any such suit arising from such claim, the continued use of the System for the purpose intended is enjoined by any court of competent jurisdiction, Seller shall, at its expense and option, either: (1) procure for Buyer the right to continue using the System, or (2) modify the System so that it becomes non-infringing, or (3) replace the System or portions thereof so that it becomes non-infringing, or (4) remove the System and refund the purchase price (less reasonable depreciation for use). The foregoing states the entire liability of Seller for patent or copyright infringement by the System and is subject to any limitation of total liability set forth in this Agreement.
- B. The preceding subsection (A) shall not apply to: (1) any portion of the System which is manufactured to Buyer's design, or (2) the use of the System in conjunction with any other apparatus or material not supplied by Seller to the extent that such conjoined use causes the alleged infringement. As to any portion of the System or use described in the preceding sentence, Seller assumes no liability whatsoever for patent infringement.
- C. THE PATENT AND COPYRIGHT WARRANTY AND INDEMNITY OBLIGATIONS RECITED ABOVE ARE IN LIEU OF ALL OTHER PATENT AND COPYRIGHT WARRANTIES AND INDEMNITIES WHATSOEVER, WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY.

SECTION 20. LIMITATION OF LIABILITY:

- A. Except for Seller's liability to third parties for its willful misconduct or negligent acts or omissions as more particularly described in the Indemnification Section of this Agreement, the total liability of Seller, including its subcontractors or suppliers, for all claims of any kind for any loss or damage, whether in contract, warranty, tort (including negligence or infringement), strict liability or otherwise, arising out of, connected with, or resulting from the performance or non-performance of this Agreement or from the manufacture, sale, delivery, installation, technical direction of installation, resale, repair, replacement, licensing or use of any Hardware, Software or the furnishing of any Service, shall not exceed the total of the amount paid by Buyer allocable to the particular item of Hardware, Software or Service which gives rise to the claim and a liquidated damage allocation of \$10,000. Except as to title, any such liability shall terminate upon the expiration of the Warranty Period.
- B. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF AGREEMENT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR INFRINGEMENT), STRICT LIABILITY OR OTHERWISE, SHALL SELLER, OR ITS SUBCONTRACTORS OR SUPPLIERS, BE LIABLE

FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES, LOSS OF USE OF THE HARDWARE OR ANY OTHER EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR DOWNTIME COSTS.

- C. Any action for any claim of any kind for any loss or damages arising out of, connected with, or resulting from the performance, non-performance or breach of the Agreement, or from the manufacture, sale, delivery, installation, technical direction of installation, resale, repair, replacement, licensing or use of any Hardware, Software or the furnishing of any Services, shall be commenced within one (1) year after the cause of action accrued or it shall be deemed waived or barred.
- D. The provisions of this Section, LIMITATION OF LIABILITY, shall apply notwithstanding any other provisions of this Agreement or any other agreement.
- E. The provisions of this Section, LIMITATION OF LIABILITY, shall survive the expiration or termination of this Agreement.

SECTION 21. REMEDIES:

- A. In the event of a material breach of this Agreement by Seller which shall continue for sixty (60) or more days after written notice of such breach (including a reasonably detailed statement of the nature of such breach) shall have been given to Seller by Buyer, Buyer shall be entitled to avail itself cumulatively of any and all remedies available at law or in equity (provided such remedies are not otherwise limited under the terms of this Agreement) and either: (1) suspend performance of its payment obligations under the Agreement for as long as the breach continues uncorrected; or (2) terminate this Agreement by written notice to Seller if the breach remains uncorrected. The following shall constitute material breaches of this Agreement:
 - 1. violation by Seller of any State, Federal or local law, or failure by Seller to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
 - 2. failure by Seller to carry applicable licenses or certifications as required by law.
 - 3. failure of Seller to comply with reporting requirements contained herein.
 - 4. inability of Seller to perform the Work provided for herein.
- B. In the event of: (1) any failure by Buyer for thirty (30) or more days to make any payment when due, or (2) any other material breach of this Agreement by Buyer which shall continue for one hundred twenty (120) or more days after written notice of such breach (including a reasonably detailed statement of the nature of such breach) shall have been given to Buyer by Seller, Seller shall be entitled to avail itself cumulatively of any and all remedies available at law or in equity (provided such remedies are not otherwise limited under the terms of this Agreement) and either: (1) suspend performance of its obligations under this Agreement for as long as the breach remains uncorrected; or (2) terminate this Agreement by written notice to Buyer if the breach remains uncorrected.
- C. In the event Buyer terminates this Agreement as provided herein, all finished and unfinished Hardware and Documentation Deliverables produced or made by Seller for Buyer under this Agreement shall become the property of Buyer and Seller shall be entitled to receive compensation

in accordance with the terms of this Agreement for any such Hardware and Documentation Deliverables. Notwithstanding the above, Seller shall not be relieved of liability to Buyer for damages sustained by Buyer by virtue of any breach of this Agreement by Seller described in subsection A above and, after providing Seller with written notice of breach as set forth in subsection A, Buyer may withhold any payments to Seller for the purpose of set-off of any damages, as agreed upon or finally adjudicated, against such payment.

SECTION 22. CONFIDENTIALITY:

- A.** During the term of this Agreement, it is anticipated that one party (hereafter the "Disclosing Party") may disclose to the other party (hereafter the "Receiving Party") information which the Disclosing Party considers proprietary and confidential. Accordingly, with respect to any specification, drawings, sketches, models, samples, tools, technical information, confidential business information or data, in written or other tangible form which: (1) has been designated in writing by the Disclosing Party as confidential or proprietary, or (2) is of the type that the Receiving Party customarily treats as confidential or proprietary, and which is furnished by the Disclosing Party to the Receiving party in contemplation of or under this Agreement (hereinafter "Information"), the Receiving Party shall treat such Information, for a period of five (5) years after the Effective Date of this Agreement, as confidential information with the same degree of care as the Receiving Party affords to confidential information of its own of a similar nature and shall not reproduce any such Information, in whole or in part, except as specifically authorized in writing by the Disclosing Party or as required by Oregon law.
- B.** The provisions of the preceding subsection shall not apply to any Information which:
1. is or shall become publicly available without breach of this Section Confidentiality, on the part of the Receiving Party;
 2. is already known by the Receiving Party prior to receipt from the Disclosing Party;
 3. is independently developed by the Receiving Party;
 4. is rightfully obtained by the Receiving Party from third parties without restriction; or
 5. is required to be disclosed by appropriate governmental or judicial order provided that Receiving Party gives Disclosing Party prior written notice of such order.
- C.** The provisions of this Section, Confidentiality, shall survive the expiration or termination of this Agreement.
- D.** The confidentiality obligations of this Section, Confidentiality, shall not apply to Software, the confidentiality and other rights and obligations with respect to which are set forth in the Software License Agreement.

SECTION 23. COMPLIANCE:

Seller agrees to comply with all federal, state and local laws, ordinances, codes, rules and regulations in effect as of the Effective Date of this Agreement that may in any way affect the Work by Seller hereunder. Any Hardware or Software furnished by Seller under this Agreement shall comply in all material respects with

federal, state and local laws and regulations applicable to the manufacture, packing, sale and shipment of such Hardware or Software as of the Effective Date of this Agreement and shall comply with any amendments thereto which may have come into effect prior to the time such Hardware or Software are delivered provided that the price and, if necessary, delivery of such Hardware or Software shall be equitably adjusted to compensate Seller for the effect of compliance with any such amendments.

SECTION 24. NOTICES:

Notices and other communications between the parties shall be transmitted in writing by certified mail or nationally recognized overnight courier service to the parties at the addresses set forth below and shall be deemed effective upon receipt by the receiving party. Either party may change its address by giving notice in writing thereof to the other party.

IF TO BUYER:

Mr. Steve Reinke
Director, Deschutes County 911
PO Box 6005
Bend, Oregon 97708

WITH A COPY TO:

Tom Anderson
Deschutes County Administrator
PO Box 6005
Bend, Oregon 97708

IF TO SELLER:

Harris Corporation
221 Jefferson Ridge Parkway
Lynchburg, Virginia 24501
Attn: Scott Tangeman

WITH A COPY TO:

Harris Corporation
221 Jefferson Ridge Parkway
Lynchburg, Virginia 24501
Attn: Thomas Clair

SECTION 25. ORDER OF PRECEDENCE:

The Statement of Work and the following Exhibits are expressly incorporated herein by reference and, together with this Agreement, constitute the Agreement Documents. In the event of a conflict among or between the Agreement Documents, the documents shall control in the order of precedence set forth below:

1. Amendments to this Agreement
2. This Agreement (not including the Exhibits and documents listed below)
3. Detailed Design Documents
4. **Exhibit A** - Statement of Work, with Attachments
5. **Exhibit B** - Software License Agreement
6. **Exhibit C** – BeOn End User License Agreement

SECTION 26. TERM:

The term of this Agreement shall commence upon the Effective Date of this Agreement and shall run through the Expiration Date. The term of the Software license is set forth in the Software License Agreement.

SECTION 27. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof.

SECTION 28. AMENDMENT:

The parties expressly agree that this Agreement shall not be amended in any fashion except in a writing(s) executed by authorized representatives of both parties.

SECTION 29. SEVERABILITY:

The invalidity, in whole or in part, of any Section or part of any Section of this Agreement shall not affect the validity of the remainder of such Section or the Agreement.

SECTION 30. WAIVER:

No term of this Agreement may be waived except in a writing signed by the party waiving enforcement. No term of this Agreement shall be deemed to be waived by reason of any failure to previously enforce such term. In no event shall the making of any payment required by this Agreement constitute or be construed as a waiver by Buyer of any breach of the covenants of this Agreement or a waiver of any default of Seller and the making of any such payment by Buyer while any such default or breach shall exist shall in no way impair or prejudice the right of Buyer with respect to recovery of damages or other remedy as a result of such breach or default.

SECTION 31. HEADINGS:

Section headings are inserted for convenience only and shall not be used in any way to construe the meaning of terms used in this Agreement.

SECTION 32. GOVERNING LAW:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Oregon law shall be controlling. Venue for any legal proceedings shall be in the Circuit Court for Deschutes County, or the federal district court for the State of Oregon.

SECTION 33. ASSIGNMENT; SUCCESSORS AND ASSIGNS:

This Agreement shall not be assigned nor any interest or obligation in this Agreement transferred by either Party without the written consent of the other Party, which shall not be unreasonably withheld or delayed. Notwithstanding the above, Seller may assign this Agreement, without consent, (a) in whole or

in part, to an affiliate or subsidiary or (b) in the event of a change of controlling ownership interest (either directly or indirectly) in Seller or in the event of merger, recapitalization, consolidation, other business combination or sale of all or substantially all of the assets of Seller. In addition, Seller may also assign or transfer, without consent, claims for money due or to become due Seller from Buyer under this Agreement to a bank, trust company or other financial institution if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to Seller shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Agreement. Seller shall promptly provide to Buyer notice of any such permitted assignment or transfer without consent.

[End of Text This Page]

IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement.

BUYER

WITNESS:

By: _____

Name: **Tom Anderson**

Witness Name: **Steve Reinke**

Title: **Deschutes County Administrator, as authorized by the Deschutes County Board of Commissioners, acting as the Governing Board for the Deschutes County 9-1-1 Service District.**

Date: March 2, 2016

SELLER

**HARRIS CORPORATION,
COMMUNICATIONS SYSTEMS SEGMENT**

WITNESS:

By: _____

Name: **Thomas Clair**

Witness Name: _____

Title: **Contracts Manger**

Date: _____

LIST OF EXHIBITS

- Exhibit A - STATEMENT OF WORK (with Attachments)
- Exhibit B - SOFTWARE LICENSE AGREEMENT
- Exhibit C - BEON END USER LICENSE AGREEMENT

EXHIBIT A

STATEMENT OF WORK

TABLE OF CONTENTS

Attachments to Exhibit A

1. System Description
2. System Drawings
3. Responsibilities Matrix
4. Project Schedule
5. Equipment List
6. Price Schedule
7. Coverage Maps (e.g., UHF, VHF, 800 MHz, 700MHz, etc.)
8. Functional Acceptance Test Procedures
9. Coverage Acceptance Test Procedures
10. Project Management Plan
11. Training Program

EXHIBIT B

SOFTWARE LICENSE AGREEMENT

This License Agreement (“License Agreement”) is made upon the Effective Date of the Primary Agreement (the “Effective Date”) between Harris Corporation, a Delaware Corporation, through its Communications Systems Segment, (“LICENSOR”) with offices at 221 Jefferson Ridge Parkway, Lynchburg, VA 24501 and _____ (“LICENSEE”). LICENSOR is the owner of certain wireless communications software programs and LICENSEE desires to obtain a license from LICENSOR to use such wireless communications programs.

1.0 Definitions.

1.1 “Designated Systems”: Means the Harris system(s), products, and Designated Terminals purchased by Buyer and identified in the Primary Agreement for which the Licensed Programs and documentation are intended to be used.

1.2 “Designated Terminals”: Means the LICENSOR’s Terminals purchased by LICENSEE.

1.3 “Licensed Programs”: The term Licensed Programs shall mean the wireless communications computer programs in software or firmware supplied under this License Agreement by LICENSOR in binary object code format to the LICENSEE (stand alone or in conjunction with the purchase of a LICENSOR wireless communications system.) Licensed Programs shall also include all other material related to the Licensed Programs supplied by LICENSOR to LICENSEE hereunder, and which may be in machine readable or printed form, including but not limited to user documentation and/or manuals.

1.4 “Open Source Software”: Means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.5 “Open Source Software License”: The terms or conditions under which the Open Source Software is licensed.

1.6 “Primary Agreement”: The agreement to which this exhibit is attached.

1.7 “Third Party Software Products”: Shall mean programs that are not developed by LICENSOR which are licensed / purchased by LICENSOR for inclusion in its products.

2.0 License Grant for Licensed Programs.

2.1 Subject to the Contract and the performance by Licensee of its obligations hereunder, LICENSOR hereby grants to Licensee, and Licensee hereby accepts from LICENSOR, (a) a personal, non-transferable, non-exclusive, perpetual, limited license to use the Licensed Programs in object code format only and (b) install and execute such Licensed Programs on Licensee’s equipment and (c) are to be used for internal business purposes only. All licensed programs under this License Agreement shall only be used in conjunction with the Designated System. This license does not transfer any right, title, or interest in the Licensed Programs. The license granted authorizes Licensee to use the Licensed Programs in object code format and does not grant any rights to source code.

2.2 LICENSEE will not reproduce, modify, or make derivative works of the Licensed Programs, except that LICENSEE may make one archival, and one inactive backup, copy of the Licensed Programs. In addition, LICENSEE, its agents, consultants and/or its subcontractors will not attempt to reverse engineer, decompile, or reverse-compile any software contained in the Licensed Programs and any attempt to do so shall be a material breach of this License Agreement. With respect to the Licensed Programs, LICENSEE will not alter, deface, discard, or erase any media, documentation, or LICENSOR or Third Party Licensor's trademarks or proprietary rights notices.

2.3 Third Party Software Products may be subject to additional license terms, which, if applicable, are set out in Product Specific License Terms delivered with each product. To the extent applicable, LICENSEE shall comply with any additional Third Party Software Product license terms.

2.4 If the Software licensed under this License Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this License Agreement and, to the extent applicable, LICENSEE will comply with the Open Source Software terms License terms. If there is a conflict between the terms and conditions of this License Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this License Agreement. If requested by Licensee, Harris will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this License Agreement; (ii) identify the Open Source Software and provide Licensee a copy of the applicable Open Source Software License (or specify where that license may be found).

3.0 Protection and Security of Licensed Programs.

LICENSEE acknowledges and agrees that the Licensed Programs and any materials and/or documentation related thereto, and any portion thereof, supplied by LICENSOR hereunder are proprietary and confidential to LICENSOR or applicable third party licensors and are a valuable commercial asset of LICENSOR or their third party owners. LICENSEE also acknowledges and agrees that LICENSOR and/or the third party licensors have and shall retain all proprietary rights in their respective portions of the Licensed Programs and any materials and/or documentation related thereto. LICENSEE (i) shall respect such proprietary rights, (ii) shall protect LICENSOR and any third party licensor's proprietary rights at least to the extent that it protects its own proprietary information, or such (iii) shall not use the Licensed Programs nor any materials or documentation related thereto except for the purposes for which they are being made available as set forth in this License Agreement and (iv) shall not reproduce, print, disclose, or otherwise make said Licensed Programs or materials and/or documentation related thereto available to any third party, in whole or in part, in whatever form, except as permitted in the terms of this License Agreement.

4.0 Warranty

Seller warrants, for the greater of a period of one year or, if a longer warranty period for the product containing the Licensed Program is set forth in a Primary Agreement, the longer warranty period shall apply commencing with the date of Licensee's acceptance of their Designated System, that any Licensed Program furnished to Licensee under this License Agreement shall be capable of successfully operating on the Designated System in accordance with the logic defined in the operator's manuals when the system is supplied with correct input data. If, on the basis of evidence submitted to LICENSOR within the term of this warranty, it is shown that any Licensed Program does not meet this warranty, LICENSOR will, at its option, either correct the defect or error in the Licensed Program, free of charge, or make available to Licensee a substitute program. The foregoing warranty is exclusive and in lieu of all other warranties

whether written, oral, implied or statutory. **NO IMPLIED OR STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, SHALL APPLY, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY LICENSOR.**

Licensed Programs which have been developed or are owned by a third party licensor and which are sublicensed by LICENSOR to LICENSEE hereunder shall be warranted to LICENSEE only to the extent that the licensor of such sublicensed programs warrants such sublicensed programs to LICENSOR.

In the event that the Licensed Programs do not conform to the representation above, LICENSEE's sole remedy and LICENSOR's sole and exclusive liability shall be to replace such Licensed Programs with the then current released version of such Licensed Programs.

5.0 Limitation of Liability.

5.1 THE LIMITATION OF LIABILITY PROVISION IN THE PRIMARY AGREEMENT SHALL GOVERN THIS LICENSE AGREEMENT AND SECTION 5.2 SHALL NOT APPLY. IF THERE IS NO LIMITATION OF LIABILITY PROVISION IN THE PRIMARY AGREEMENT, SECTION 5.2 SHALL APPLY.

5.2 IN NO EVENT WILL LICENSOR AND/OR ANY THIRD PARTY LICENSOR(S) BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO ANY DAMAGES RESULTING FROM LOSS OF USE, LOSS OF DATA, LOSS OF PROFITS OR LOSS OF BUSINESS, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY OR FORM OF ACTION, EVEN IF LICENSOR AND/OR ITS THIRD PARTY LICENSOR(S) HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LICENSOR'S AND THIRD PARTY LICENSORS', LIABILITY IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THIS LICENSE AGREEMENT OR THE USE OF THE LICENSED PROGRAMS SHALL NOT EXCEED THE TOTAL COMPENSATION PAID TO LICENSOR BY LICENSEE FOR THE PRODUCTS CONTAINING THE LICENSED PROGRAMS.

6.0 Term and Termination.

6.1 LICENSOR reserves the right, in addition to any other remedies it may retain in this License Agreement or may be entitled to in law or equity (including immediate injunctive relief and repossession of all non-embedded Licensed Programs and documentation), to terminate this License Agreement at any time prior to the expiration of any Term in the event LICENSEE breaches any material term or condition or fails to perform or observe any obligations or covenants of this License Agreement and such failure and/or breach is not remedied within thirty (30) days of written notice from LICENSOR.

6.2 Within thirty (30) days after termination or expiration of this License Agreement, LICENSEE will return to LICENSOR all confidential material including but not limited to all copies, partial copies, and/or modified copies (if any) of Licensed Programs and any equipment owned by LICENSOR in LICENSEE's possession.

7.0 Assignment/Transfer.

This License Agreement, the licenses granted hereunder and the Licensed Programs provided to LICENSEE under this License Agreement may not be assigned, sub-licensed, or otherwise transferred by LICENSEE to any third party without LICENSOR's prior written consent, except that this license may be assigned if the Products containing the Licensed Programs are transferred but the new owner or user of the Products may only use the Licensed Programs in accordance with terms of this License Agreement. Subject to the foregoing, any assignee hereunder shall be subject to all of the terms, conditions and provisions of this License Agreement. Any attempt by LICENSEE to assign, sub-license, or transfer the Licensed Programs, or any of the rights or duties contained in this License Agreement, without LICENSOR's prior written consent shall be void.

8.0 Severability.

If any term or provision of the License Agreement is determined by a court or government agency of competent jurisdiction to be invalid under any applicable statute or rule of law, such provision(s) are, to that extent, deemed omitted, but this License Agreement and the remainder of its provision shall otherwise remain in full force and effect.

9.0 Waiver.

No waiver will be implied from conduct or failure to enforce rights. No waiver will be effective unless in writing signed on behalf of the party against whom the waiver is asserted.

10.0 Compliance with Laws.

Licensee acknowledges that the Licensed Programs are subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Harris and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this License Agreement.

11.0 Governing Law.

This License Agreement will be governed by the laws of the United States to extent that they apply and otherwise to the laws of the State of Oregon. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. The parties expressly agree that the Uniform Computer Information Transactions Act ("UCITA") applicable in any jurisdiction shall not apply to this License Agreement.

12.0 U.S. Government.

If Licensee is the U.S. Government, the Licensed Programs and documentation qualify as "commercial items," as that term is defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.212, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which the License Agreement may be incorporated, Customer may provide to Government end user or, if the License Agreement is direct,

Government end user will acquire, the software and documentation with only those rights set forth in the License Agreement. Use of either the software or documentation or both constitutes agreement by the Government that the software and documentation are "commercial computer software" and "commercial computer software documentation," and constitutes acceptance of the rights and restrictions herein.

13.0 Agreement.

This License Agreement may be part of a Primary Agreement between LICENSOR and LICENSEE for the purchased products by LICENSEE from LICENSOR. The Primary Agreement and this License Agreement contain the full understanding of the parties with respect to the subject matter hereof and which supersede all prior understandings and writings relating thereto and which shall become binding on the Effective Date of this License Agreement. No waiver, consent, modification, amendment, or change to the terms of this License Agreement shall be binding unless agreed to in a writing signed by LICENSEE and LICENSOR. If there is any conflict between the terms of the Primary Agreement and this License Agreement as to the Licensed Programs, the terms of this License Agreement will prevail.

14.0 Notices.

Notices shall be provided as set forth in the Primary Agreement. In the event there is no notice provision in the Primary Agreement, notices and other communications between the parties shall be transmitted in writing by certified mail or nationally recognized overnight courier service.

15.0 Survival.

Sections 2.2, 2.5, 3, 5, 6, 8, 9, 11, and 13 of this License Agreement shall survive termination of this agreement.

EXHIBIT C

**END USER LICENSE AGREEMENT
FOR
HARRIS BEON SOFTWARE APPLICATION**

IMPORTANT - READ CAREFULLY:

THIS HARRIS END-USER LICENSE AGREEMENT ("AGREEMENT") IS A LEGAL AGREEMENT BETWEEN YOU (EITHER AN INDIVIDUAL OR A GOVERNMENTAL OR CORPORATE ENTITY HEREINAFTER REFERRED TO AS "BUYER") AND HARRIS CORPORATION ("SELLER") FOR THE HARRIS SOFTWARE PRODUCTS IDENTIFIED BELOW (THE "LICENSED PROGRAMS"). BY DOWNLOADING, INSTALLING, COPYING, OR OTHERWISE USING THE LICENSED PROGRAMS OR BY CLICKING THE "ACCEPT" BUTTON AND AGREEING TO THESE TERMS AND CONDITIONS, YOU AS AN INDIVIDUAL AND, AS APPLICABLE, ON BEHALF OF THE BUYER ENTITY AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THIS AGREEMENT SHALL BE EFFECTIVE AS OF THE DATE OF YOUR FIRST INSTALLATION, COPYING OR USE OF THE LICENSED PROGRAMS OR THE DATE OF THE "ACCEPT" CLICK THROUGH. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU SHOULD NOT CLICK THE "ACCEPT" BUTTON AND YOU ARE NOT AUTHORIZED TO DOWNLOAD, INSTALL OR USE THE LICENSED PROGRAMS AND YOU MUST IMMEDIATELY DELETE ANY LICENSED PROGRAMS THAT YOU MAY HAVE.

Buyer and Seller agree as follows:

1. Definitions

1.1 "Buyer" means:

1.1.1 If Buyer is an individual, that individual;

1.1.2 If Buyer is a government entity, all agencies, branches, departments and divisions that are legally part of that government entity; and

1.1.3 If Buyer is a corporation, the legal entity that is the named Buyer plus all other legal entities that are wholly owned by the named Buyer.

1.2 "Contract(s)" means the separate written contract(s) or agreement(s), if any, between Buyer and either Seller or another party authorized by Seller to provide the Licensed Programs to Buyer. Each Contract will include the required execution of this End User License Agreement by the Buyer and the Buyer users prior to the installation and use of the Licensed Programs.

1.3 "Device" means the products used by Buyer to run the Licensed Programs.

1.4 "Licensed Programs" means the object code version of the software programs including, without limitation, any scripts, interfaces, graphics, displays, text, images, artwork, drivers, photographs, animations, video, audio, music, text, applets, documentation, associated media and other components or content provided as well as any services provided by Seller with the software, if any, together with any Modifications or Enhancements of the above items provided by Seller. This Agreement is limited to the object code programs only. No rights in or access to any source code or program listings are provided.

1.5 "Modifications and Enhancements" shall mean any updates, upgrades, patches, fixes, feature additions, modifications or enhancements of the Licensed Programs.

2. License Grant

2.1 Subject to the terms and conditions contained in this Agreement and the performance by Buyer of its obligations hereunder, Seller hereby grants to Buyer, and Buyer hereby accepts from Seller, a personal, non-transferable, non-exclusive, limited license to use the Licensed Programs in accordance with any documentation that accompanies the Licensed Programs.

2.2 Any Modifications and Enhancements of the Licensed Programs that Seller chooses to make available to Buyer shall be subject to the terms and conditions of this Agreement as well as any additional terms and conditions that may apply to the Modifications and Enhancements. This Agreement does not entitle Buyer to receive any Modifications and Enhancements and any Modifications and Enhancements may be provided by Seller at its discretion.

3. Buyer Obligations

3.1 Buyer hereby accepts the Licensed Programs "AS IS" and shall determine the applicability of the Licensed Programs for Buyer's desired use on Buyer's Devices. Except as expressly set forth in the Contract, all installation, training and maintenance is the sole responsibility of Buyer.

3.2 Nothing in this Agreement shall be construed as giving Buyer any right to sell, assign, lease, or in any other manner transfer or encumber Seller's ownership of the Licensed Programs.

3.3 Buyer shall not duplicate the Licensed Programs, or any portion thereof, except Buyer may make archival copies of the Licensed Programs in accordance with Buyer's documented standard computer software back-up procedures. The media containing such authorized copies shall have prominently placed thereon, without change or alteration, the same copyright notices and proprietary legends and markings that are on the delivered Licensed Programs media.

3.4 The techniques, algorithms, and processes contained in the Licensed Product constitute trade secrets of Seller. Buyer agrees to take all measures reasonable and necessary to protect the confidentiality of the Licensed Product and Seller's rights therein. Except as expressly provided in the Contract between Seller and Buyer, Buyer may not rent, lease, network, display, or distribute the Licensed Programs to any third party without Seller's prior written consent. Furthermore, Buyer may not reverse engineer, disassemble, decompile, modify, alter, translate, or adapt the

Licensed Programs or create any derivative thereof. The obligations set forth in this Subsection shall survive termination or expiration of this Agreement

3.5 The Licensed Programs are licensed as a single product and neither the individual programs comprising the Licensed Programs nor any Modifications or Enhancements may be separated for use by more than one concurrent user.

3.6 The act of copying any portion of the Licensed Programs as authorized hereunder shall not cause, or be construed as causing, any portion thereof to be considered as being in the public domain or generally available on a nonproprietary basis. All such copies shall be treated as confidential as required for original information under Section 3.3.

3.7 To the extent applicable, Buyer must comply with all applicable privacy, consumer data and protection laws and all laws that apply to collecting, accessing, storing, processing, using, disclosing and securing user data, including any obligations to notify and obtain consents of users regarding Buyer's access to users' personal information.

3.8 In addition to any license fees and other compensation paid for the use of the Licensed Programs, Buyer shall pay the gross amount of any present or future sales, use, excise, value-added, or other similar tax applicable to the price, sale or any Products or services furnished hereunder or to their use by Seller or Buyer, or Buyer shall otherwise furnish Seller with tax exemption certificates acceptable to all applicable taxing authorities.

4. Ownership

Buyer is given possession of a copy of the Licensed Programs but Seller shall at all times retain title or full ownership interest in such Licensed Programs and all Modifications and Enhancements thereof, regardless of the form or media in or on which the original and other copies thereof may subsequently exist. All rights, title and copyrights in and to the Licensed Programs (including, but not limited, to any images, photographs, animations, video, audio, music, text, and applets incorporated into the Licensed Programs), the accompanying printed materials, and any copies of the Licensed Programs are owned by Seller and/or its licensors. Nothing contained herein shall be deemed to convey any title or ownership interest in the Licensed Programs to Buyer.

5. Warranty

5.1 Provided: (a) that connectivity and interoperability of the Buyer's Device with the cellular commercial carrier network or other third party network being used by the Buyer is fully available and fully functioning; and (b) that the Licensed Programs are used on a Device designated by Seller as acceptable for Licensed Programs' use, and (c) correct input data is supplied to Buyer's Device, Seller warrants, for a period of ninety (90) days from the download of the Licensed Programs onto the Buyer's Device, that the Licensed Programs furnished to Buyer by Seller shall be capable of successfully operating on the Buyer's Device in accordance with the logic defined in the Licensed Programs' operator manuals or other official supporting documentation designated by Seller for the Licensed Programs. If, on the basis of evidence

submitted to Seller within the 90 day term of this warranty, it is shown that any Licensed Program does not meet this warranty, Seller, at its option, will either: (i) correct the defect or error in the Licensed Program free of charge and provide a corrected Licensed Program, or (ii) make available to Buyer free of charge a satisfactory substitute Licensed Program.

5.2 Seller is unable to and cannot guarantee either the extent or consistency of the wireless coverage and communications of a cellular commercial carrier's network or other third party network nor can Seller guarantee the quality of the data service provided. Given the dependency on commercial cellular and third party networks, the use of the Licensed Programs, including location information, is not intended for mission critical communications but rather for administrative and other communications.

IN PARTICULAR, SINCE THE LICENSED PROGRAMS' PERFORMANCE, FEATURES AND FUNCTIONALITY MAY BE UNAVAILABLE, IMPRECISE OR INACCURATE DEPENDING ON SYSTEM, NETWORK, CAPACITY, ENVIRONMENTAL, TERRAIN, COMPATIBILITY, INTEROPERABILITY AND OTHER CONDITIONS, SELLER AND ITS THIRD PARTY SUPPLIERS AND SUBCONTRACTORS HEREBY DISCLAIM, EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN SECTION 5.1 ABOVE, ALL OTHER EXPRESS OR IMPLIED WARRANTIES AND CONDITIONS, WHETHER ORAL, EXPRESS, OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY, AND NONINFRINGEMENT, WHETHER SUCH WARRANTIES OR CONDITIONS MAY BE IMPLIED BY STATUTE, CUSTOM, COURSE OF DEALING BETWEEN THE PARTIES, TRADE USAGE OR COMMON LAW. FURTHERMORE, EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN SECTION 5.1 ABOVE, SELLER AND ITS THIRD PARTY SUPPLIERS AND SUBCONTRACTORS MAKE NO OTHER WARRANTY THAT THE LICENSED PROGRAMS OR THIRD PARTY CONTENT AND SERVICES PROVIDED AS PART OF THE LICENSED PROGRAMS (INCLUDING, WITHOUT LIMITATION, LOCATION DATA) WILL BE UNINTERRUPTED, ACCURATE, RELIABLE, TIMELY, SECURE, FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS OR ERROR-FREE.

5.3 THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION 5 CONSTITUTE THE ONLY WARRANTIES WITH RESPECT TO THE LICENSED PROGRAMS AND ANY MODIFICATIONS OR ENHANCEMENTS TO THE LICENSED PROGRAMS PROVIDED BY SELLER. THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION 5 CONSTITUTE THE BUYER'S EXCLUSIVE REMEDIES IN THE EVENT SUCH WARRANTIES ARE BREACHED. THEY ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, OR STATUTORY INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES.

6. HIGH RISK ACTIVITIES; LOCATION DATA

6.1 THE LICENSED PROGRAMS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR ANY USE REQUIRING FAIL-SAFE, EMERGENCY OR MISSION CRITICAL PERFORMANCE IN WHICH THE FAILURE OF A LICENSED PROGRAM COULD LEAD TO DEATH, PERSONAL INJURY, PHYSICAL OR ENVIRONMENTAL DAMAGE. THIS USE RESTRICTION INCLUDES, WITHOUT LIMITATION, THE OPERATION OF AIRCRAFT AND THE DESIGN, CONSTRUCTION, OPERATION AND MAINTENANCE OF NUCLEAR FACILITIES.

6.2 ANY LOCATION DATA INCLUDED IN THE LICENSED PROGRAMS IS FOR BASIC INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO BE RELIED UPON IN SITUATIONS WHERE PRECISE LOCATION INFORMATION IS NEEDED OR WHERE ERRONEOUS, INACCURATE OR INCOMPLETE LOCATION DATA MAY LEAD TO DEATH, PERSONAL INJURY, PROPERTY OR ENVIRONMENTAL DAMAGE. NEITHER SELLER NOR ITS SUBCONTRACTORS AND SUPPLIERS CAN GUARANTEE THE AVAILABILITY, ACCURACY, COMPLETENESS AND RELIABILITY OF THE LOCATION DATA INCLUDED IN THE LICENSED PROGRAMS.

7. LIMITATION OF LIABILITY

7.1 The total liability of Seller, including its third party subcontractors and suppliers, for all claims of any kind for any loss or damage, whether in contract, warranty, tort (including negligence or infringement), strict liability or otherwise, arising out of, connected with, or resulting from the performance or non-performance of this Agreement or from the use of the Licensed Programs shall not exceed the total amount of license fees and other amounts paid by Buyer to Seller for the purchase and use of the Licensed Programs.

7.2 IN NO EVENT, WHETHER AS A RESULT OF BREACH OF AGREEMENT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR INFRINGEMENT), STRICT LIABILITY OR OTHERWISE, SHALL SELLER, OR ITS SUBCONTRACTORS OR SUPPLIERS, BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES, LOSS OF USE OF A DEVICE OR ANY OTHER HARDWARE OR EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR DOWNTIME COSTS.

7.3 The provisions of this Section, LIMITATION OF LIABILITY, shall apply notwithstanding any other provisions of this Agreement or any other agreement and shall survive the expiration or termination of this Agreement.

8. Term and Termination.

8.1 Except as expressly set forth in a Contract providing for a shorter term and unless earlier terminated as provided herein, the term of this Agreement shall be perpetual. If a shorter term is set forth in the Contract, the term of this Agreement shall be the shorter term set forth in the Contract.

8.2 This Agreement may be terminated at any time by written mutual agreement of the parties.

8.3 Seller reserves the right, in addition to any other remedies it may retain in this Agreement or may be entitled to in law or equity, to terminate this Agreement at any time prior to the expiration of any Term in the event:

8.3.1 Buyer breaches any material term or condition or fails to perform or observe any obligations or covenants of this Agreement or the Contract and such failure and/or breach is not remedied within thirty (30) days of written notice from Seller; or

8.3.2 Buyer petitions for reorganization, readjustment or rearrangement of its business affairs under any laws or governmental regulations relating to bankruptcy or insolvency, or is adjudicated bankrupt or if a receiver is appointed for Buyer, or if Buyer makes or attempts to make an assignment for the benefit of creditors, or is unable to meet its obligations in the normal course or business as they fall due.

8.4 In the event this Agreement expires or is revoked or terminated by Seller, it is agreed that (a) such termination or revocation shall not affect any provisions of the Agreement which by their nature are inherently intended to survive expiration or termination, and (b) Buyer shall be entitled to a reasonable period of time to wind down its use of the Licensed Programs in an orderly fashion, after which Buyer shall discontinue use of the Licensed Programs. To discontinue the use of the Licensed Programs, Buyer shall un-install and remove the Licensed Programs from the Buyer's Devices and delete all copies of the Licensed Programs in Buyer's possession.

9. U.S. Government Contracts

9.1 Buyer agrees that it will not use the Licensed Programs in the performance of a contract, or subcontract, with the U.S. Government in a manner so as to affect Seller's rights to Licensed Programs. If Buyer desires to use the Licensed Programs in the performance of a contract, or subcontract, with the U.S. Government, prior to such use Buyer shall consult with Seller as to the procedures and use of restrictive markings required to protect the ownership interest of Seller.

9.2 If the Buyer is an agency or department of the U.S. Government, then the following notice applies: The Licensed Programs is Commercial Computer Software as defined in 48 CFR 227.7201 through 227.7202-4 and in 48 CFR 2.101 and 12.212, as appropriate or any equivalent regulations of other governmental agencies, and the rights of the U.S. Government to utilize the Licensed Programs are those expressly set forth in this Agreement. The U.S. Government does not receive unlimited rights to the Licensed Programs. The contractor is Harris Corporation, acting by and through its Communications Systems Segment, 221 Jefferson Ridge Parkway, Lynchburg, Virginia 24501.

10. Export Control

10.1 The export regulations of the United States prohibit, with certain exceptions, the export from the United States or the transfer to foreign persons (non-U.S. citizens or "green card" permanent residents), whether in the U.S. or abroad, of technical data relating to certain commodities unless the exporter has obtained written authorization from the U.S. Government and received written assurance from the foreign importer that the technical data will not be further exported without permission of the exporter and the cognizant U.S. Government agency. Buyer agrees to comply fully with all relevant regulations of the United States to assure that no violation of such regulations occurs.

10.2 Buyer further acknowledges that violations of these laws and regulations include, but are not limited to, exporting or re-exporting, or otherwise supplying or providing access to the Licensed Programs, the accompanying documentation or any other materials provided by Seller, to: (a) any country against which the United States imposes trade sanctions or export controls; (b) persons on the U.S. Commerce Department's Denied Parties List or Entity List, the U.S. Treasury Department's Specially Designated Nationals List, or the U.S. State Department's List of Debarred Parties; (c) end uses related to nuclear weapons, missile technology, or chemical/biological weapons; or (d) any destination for which an export license is required.

10.3 Buyer further acknowledges that the export of the Licensed Programs, documentation and any other materials provided by Seller may be controlled by the U.S. State Department's Office of Defense Trade Controls, through the Arms Export Control Act as implemented in the International Traffic in Arms Regulations, 22 C.F.R. §§ 120-130 ("ITAR"), the U.S. Commerce Department's Bureau of Industry and Security, through the Export Administration Act as implemented in the Export Administration Regulations, 15 C.F.R. §§ 730-774 ("EAR"), and/or the U.S. Treasury Department's Office of Foreign Assets Control, and depending on which agency has jurisdiction over these items different restrictions on export, re-export, and use activities will apply. Buyer agrees that it is Buyer's responsibility to determine which of these U.S. agencies has export control jurisdiction over the Licensed Programs, documentation, and any other materials provided by Seller, and Buyer acknowledges that export jurisdiction over these items may change from time to time.

10.4 Further, Buyer agrees that any violation by Buyer of any of these laws and regulations will also constitute material breach of this Agreement, and Buyer agrees to indemnify Seller against any criminal or civil monetary sanctions, costs, losses or expenses (including but not limited to reasonable attorneys' fees and costs) resulting from Buyer's failure to comply. Buyer agrees to defend, indemnify and hold Seller, and its officers, directors, agents and employees harmless against all criminal and/or civil monetary sanctions, costs, losses or expenses (including but not limited to reasonable attorneys' fees and costs) incurred as a result of any failure on Buyer's part to comply with these laws. Buyer further agrees to notify Buyer's Buyers of, and to use best efforts to ensure their compliance with, the restrictions imposed by these laws and regulations.

11. Maintenance Support

Seller may, from time to time, issue Modifications and Enhancements to the Licensed Programs. If Seller should issue a Modification or Enhancement to the Licensed Programs, Buyer may

obtain such Modification or Enhancement at the current price then charged by Seller or the price set forth in the Contract, as applicable.

12. Intellectual Property Indemnification

12.1 Seller agrees that it shall, at its own expense and at its option, defend or settle any claim, suit, or proceeding brought against Buyer, based on an allegation that the Licensed Program furnished under this Agreement constitutes a direct or a contributory infringement of any claim of any United States patent, mask work, copyright or any other intellectual property right. This obligation shall be effective only if Buyer shall have made all payments then due to Seller for the purchase and/or use of the Licensed Programs and if Seller is notified of said allegation promptly in writing and given authority, information, and assistance for the settlement or defense of said claim, suit, or proceeding. If, in any such suit arising from such claim, the continued use of the Licensed Programs for the purpose intended is enjoined by any court of competent jurisdiction, Seller shall, at its expense and option, either: (a) procure for Buyer the right to continue using the Licensed Programs, or (b) modify the Licensed Programs so that they become non-infringing, or (c) replace the Licensed Programs or portions thereof so that they become non-infringing, or (d) remove the Licensed Programs and refund the license fee paid by Buyer to purchase the Licensed Programs license (less reasonable depreciation for use). The foregoing states the entire liability of Seller for intellectual property infringement by the Licensed Programs and is subject to any limitation of total liability set forth in this Agreement.

12.2 The preceding subsection 12.1 shall not apply to the use of the Licensed Programs in conjunction with any other hardware or software not supplied by Seller to the extent that such conjoined use causes the alleged infringement. As to any portion of the Licensed Programs or use described in the preceding sentence, Seller assumes no liability whatsoever for intellectual property right infringement.

12.3 THE INTELLECTUAL PROPERTY INDEMNITY OBLIGATIONS RECITED ABOVE ARE IN LIEU OF ALL OTHER INTELLECTUAL PROPERTY INDEMNITIES WHATSOEVER, WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY.

13. Third-Party Software Licenses

Licensed Programs contain material original to Seller and may contain material provided by third parties either under separate end-user license agreements or under Open Source licenses. Open Source Licensed Programs are provided under license from individual third party sources, identified in the Appendix attached to the end of this license agreement, if any. Each Open Source third party software license is incorporated herein verbatim from the source and the terms and conditions thereof are accepted by Buyer as a condition of use of the Licensed Programs. As used herein, Open Source means any software that is licensed under terms in any license for software which require, as a condition of use, modification and/or distribution of such software or of other software incorporated into, derived from or distributed with such software

(hereinafter referred to as "Work"), any of the following: (a) the making available of source code or design information regarding the Work; (b) the granting of permission for creating derivative works regarding the Work; or (c) the granting of a royalty-free license to any party under intellectual property rights regarding the Work. By means of example and without limitation Open Source includes the following licenses or distribution models: the GNU General Public License (GPL), the GNU Lesser or Library GPL (LGPL), or any similar open source, free software or community licenses. Under no circumstances shall the Buyer combine Licensed Programs with any Open Source Software not supplied by Seller in any way. Third party software products included in the Licensed Programs are only to be used with the Licensed Programs for Buyer's internal business purposes and are not to be used, modified or further developed for other purposes.

14. Assignment/Transfer.

This Agreement, the licenses granted hereunder and the Licensed Programs provided to Buyer under this Agreement may not be assigned, sub-licensed, or otherwise transferred by Buyer to any third party without Seller's express prior written consent. Subject to the foregoing, any assignee hereunder shall be subject to all of the terms, conditions and provisions of this Agreement. Any attempt by Buyer to assign, sub-license, or transfer the Licensed Programs, or any of the rights or duties contained in this Agreement, without Seller's prior written consent shall be void.

15. Severability.

If any term or provision of the Agreement is determined by a court or government agency of competent jurisdiction to be invalid under any applicable statute or rule of law, such provision(s) are, to that extent, deemed omitted, but this Agreement and the remainder of its provision shall otherwise remain in full force and effect.

16. Waiver.

No waiver will be implied from conduct or failure to enforce rights. No waiver will be effective unless in writing signed on behalf of the party against whom the waiver is asserted.

17. General

17.1 This Agreement supersedes all prior agreements, proposals, representations, and communications between Seller and Buyer relating to the Licensed Programs. In the event of a conflict in the terms and provisions of this Agreement and the terms and provisions of a Contract, the terms and provisions of this Agreement shall govern.

17.2 The headings for each section are stated for convenience only and are not to be construed as limiting.

17.3 Under the terms of this Agreement, Buyer is a licensee of Seller. Buyer is not an employee, agent, partner, contractor or representative of Seller. The respective obligations and

rights of Seller and Buyer are specifically limited by the terms of this Agreement. Buyer hereby specifically acknowledges that it does not have authority to incur any obligations or responsibilities on behalf of Seller.

17.4 Buyer acknowledges that any unauthorized use or disclosure of Licensed Programs will cause irreparable damage to Seller and that injunctive relief or other equitable remedies may be necessary to prevent or minimize such damage to Seller. Buyer agrees that it will not contest the applicability of injunctive relief on any grounds other than no unauthorized use or disclosure of Licensed Programs has occurred. In addition, Seller shall not be required to provide a bond or other financial security to obtain injunctive relief.

17.5 Nothing in this Agreement shall limit Seller from using the Licensed Programs and/or licensing the Licensed Programs to other parties.

17.6 Governing Law

17.6.1 It is expressly understood and agreed to by Seller and a Buyer located in the United States that in the event of any disagreement or controversy between the parties, the terms and conditions of this Agreement shall be governed by the laws of the state set forth in the Contract between Seller and Buyer without regard to that state's conflicts of laws principles. In the event that no such governing law state is established in the Contract between Seller and Buyer, then it is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, the terms and conditions of this Agreement shall be governed by the laws of the State of Oregon without regard to its conflicts of laws principles.

17.6.2 If Buyer is located outside of the United States, then, without limiting either party's right to seek injunctive or other equitable relief in court, either party may elect (by written notice given prior to filing a complaint or, in the case of the defendant, prior to answering a complaint) to resolve a dispute by binding arbitration in the English language in London, Great Britain under the International Arbitration Rules of the International Centre for Dispute Resolution; the decision of the arbitrator will be enforceable in any court. The original of this Agreement has been written in the English language and that version will apply if there is any dispute.

17.6.3 Both Seller and Buyer agree to exclude application of the U.N. Convention of Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA) to this Agreement, if either were otherwise applicable.

APPENDIX

Open Source Licensed Programs (See Article 13)

Third Party SW	<u>Licenses</u>	<u>License Location</u>
Android LogBack	GNU LGPL 2.1	https://github.com/twall/jna/blob/master/LGPL2.1
SLF4J	MIT license	http://slf4j.org/license.html
Google Maps	Google	https://developers.google.com/maps/licensing

ADCOMM Engineering Company

Bridging the Gap Between Operations and Technology®

February 16, 2016

Mr. Steve Reinke, Director
Deschutes County 9-1-1
20355 Poe Sholes Drive
Bend, OR 97701

Dear Steve:

The following is a proposal to provide the following engineering and project management deliverables to Deschutes 9-1-1 for the implementation of a new radio system.

Deliverables

1. A preliminary design for a County wide Simulcast System, for Fire communications using three VHF channels, and for Interoperability using three 800MHz channels and one VHF. ADCOMM will determine if county-wide simulcast is technically feasible using the existing available tower sites, and if not, new site locations will be recommended. Once approved, ADCOMM will provided a detailed design and provide project management for implementation.
2. A determination of the availability of additional VHF channels for licensing and used for the fire channel simulcast system, specifically 158.760 and 158.835 MHz that appear to be available. If those or other frequencies are confirmed available, ADCOMM will submit FCC license applications for Deschutes County.
3. All FCC license modifications for the Harris system implementation.
4. Based on the site selection for the simulcast system, ADCOMM will provide a preliminary design for a microwave backhaul network to each of those sites. Once approved, ADCOMM will provided a detailed design and provide project management for implementation.
5. A design for DC power and equipment alarm systems to be compatible with the Oregon Department of Transportation system for the following sites:
 - Awbrey Butte
 - St. Charles Bend
 - Jackpine Ridge
 - Mt Bachelor Pine Marten
 - Wampus
 - Pine Mountain West
 - Five Mile Verizon
 - Cline
 - St Charles Redmond
 - Fairgrounds
 - Gray
 - Hoodoo

The alarm system will be capable of being expanded to monitor equipment at the State Sites. Once approved, ADCOMM will provide project management for implementation. ADCOMM

will provide technical support for the implementation of the Deschutes County Harris system including, design review, acceptance testing support, user device programming support, factory acceptance testing, on site review of system implementation, console replacement engineering assistance, and related work.

7. ADCOMM will provide Project Management for the Deschutes County Harris system implementation, and the VHF simulcast and 800MHz/VHF interoperability simulcast implementation.

Fee Proposal

The proposed fee including labor and expenses for this project assuming up to 44 trips to Bend, is a not-to-exceed amount of \$274,000 including labor and expenses but not including existing system support on an on-call basis. We estimate the work will require approximately 1500 hours of labor to accomplish. ADCOMM will bill Deschutes 9-1-1 throughout the project. The estimated schedule is for the 700 MHz system work to be completed by October 31, 2016. The other work tasks may require additional time depending on final engineering, procurement, equipment delivery and site installation.

In addition, ADCOMM is available to assist with the resolving of any other technical issue, which can be provided to Deschutes at ADCOMM's standard rates.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Blaschka Jr." in a cursive script.

Joe Blaschka Jr, PE