



## COUNTY COMMISSION

BALDWIN COUNTY  
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ANU GARY  
Records Manager

MONICA E. TAYLOR  
Assistant Records Manager

November 18, 2016

Mr. Larry Ryland  
City of Evergreen  
303 East Front Street  
Evergreen, Alabama 36401

**RE: Remote User Agreement between Baldwin County Commission and  
City of Evergreen**

Dear Mr. Ryland:

Please find enclosed a **fully executed original** *Remote User Agreement* approved during the August 2, 2016, Baldwin County Commission meeting between the Commission and the City of Evergreen, which establishes the permissions, guidelines, compensation and requirements for connectivity to the Baldwin County Interoperable Radio System Core. This *Agreement* has a three-year term and will be effective on the date of signature.

If you have any questions or need further assistance, please do not hesitate to contact Brian Peacock, Communications & Information Systems Director, at (251) 580-2598.

Sincerely,

ANU GARY, Records Manager  
Baldwin County Commission

AG/met Item BE1

cc: Brian Peacock

ENCLOSURE

**BALDWIN COUNTY COMMISSION  
CITY OF EVERGREEN  
REMOTE USER AGREEMENT**

This Remote User Agreement ("Agreement"), effective on the date of signature, is entered into by and between the City of Evergreen, Alabama, and the Baldwin County Commission.

**RECITALS**

WHEREAS, the BALDWIN COUNTY COMMISSION owns and operates a Motorola Astro25 Communications System ("BALDWIN COUNTY RADIO SYSTEM") which is primarily used for public safety communications; and

WHEREAS, the BALDWIN COUNTY COMMISSION is duly licensed by the Federal Communications Commission ("FCC") to operate certain frequencies and call signs as part of the BALDWIN COUNTY RADIO SYSTEM; and

WHEREAS, the CITY OF EVERGREEN will be licensed by the FCC to operate certain frequencies and call signs as part of the BALDWIN COUNTY RADIO SYSTEM; and

WHEREAS, the CITY OF EVERGREEN desires to utilize the BALDWIN COUNTY RADIO SYSTEM to provide interoperable two-way communications among the various agencies, organizations and jurisdictions in the City of Evergreen, Alabama; and

WHEREAS, the CITY OF EVERGREEN independently owns and operates Communications Sites, which will be connected to and controlled by the Communications System; and

WHEREAS, the CITY OF EVERGREEN will have and maintain binding annual letters of agreement with any and all participating third-party agencies, organizations, jurisdictions and municipalities which intend to utilize the Communications System in City of Evergreen, Alabama; and

WHEREAS, the CITY OF EVERGREEN affirms that such participating third-party agencies, organizations, jurisdictions and municipalities and their employees and personnel, including volunteers, will abide by, comply with and conform to the terms and conditions set forth in this Agreement; and

WHEREAS, the governing body of the CITY OF EVERGREEN has duly authorized this Agreement; and

WHEREAS, this Agreement is made pursuant to the laws of the State of Alabama;

NOW, THEREFORE, for and in consideration of the mutual promises, obligations and benefits hereinafter set forth, the parties hereto, intending to be legally bound, hereby agree as follows:

## I. DEFINITIONS

For the purposes of this Agreement, the following terms shall have the meanings set forth below:

A. Affiliate, Affiliated, Affiliating or Affiliation – These terms apply to the process of authentication with the BALDWIN COUNTY RADIO SYSTEM for permission to access the Communications System. The process is automatically performed by all Subscriber Equipment, whereas radio identification information and selected Talkgroup information is transmitted to the Communications System whenever any device is powered on or a Talkgroup is changed. When a Push -To -Talk (PTT) is received, the Controller will attempt to determine if the User's Subscriber Equipment is authorized and, subsequently, grant or deny the Subscriber access to the Communications System. Any PTT request from an Affiliated Subscriber will result in the granting of the next available channel and, subsequently, a Channel Resource may be assigned. If Affiliation is denied, the Subscriber Equipment may emit an audible indication (or "bonk" sound) whenever a PTT is initiated, and the User will not be able to transmit or receive audio on any Talkgroup.

Communications Sites are configured with secure, high-speed connectivity to allow Affiliation with the Controller by way of point-to-point microwave and/or landline fiber. Subscribers and Communications Sites must successfully Affiliate with the BALDWIN COUNTY RADIO SYSTEM prior to being permitted to use the Communications System.

B. Alias or Alias Identifier – These terms apply to a unique designation that describes a User's Subscriber Equipment. An Alias typically consists of words or numbers that identify the assigned User or location of the Subscriber Equipment. The Alias Identifier is displayed on the dispatch console(s) each time a Subscriber unit communicates on a Talkgroup. The Alias Identifier is also used to identify Users when an emergency button is activated. It is the User's responsibility to maintain and update Alias information.

C. Call – This term refers to voice or data communication that a User attempts to send or receive from the Communications System.

D. Codeplug or Template – These terms apply to the Talkgroups, functionality and capabilities programmed into a Subscriber Equipment. The terms may be used interchangeably.

E. Communications Site(s) – This term applies to facilities that provide radio frequency (RF) transmission, Microwave Network relay and/or system control functionality for the Communications System.

F.      Communications System – This term applies collectively to any and all of the components that establish the Motorola Astro25 Land Mobile Radio (LMR) Communications System owned operated and/or utilized by the Core Owners subject to the Alabama Inter-zone Core Owners Participation Agreement dated and effective April, 2015, as the same may be amended from time to time. The Communications System includes a Trunked System and certain other conventional communications resources, to include 800 MHz “8CALL” and “8TAC” mutual aid channels. The Communications System consists of, but is not limited to, Infrastructure, BALDWIN COUNTY COMMISSION owned Communications Sites, Remote User owned Communications Sites and Subscribers, and/or Remote User owned Communications Sites and Subscribers. Certain components of the Communications System, to include hardware and software, must be of a specific manufacturer, make, model, kind, type or version in order for the equipment to function properly with all the other components of the Communications System, which may be located at other disparate Communications Sites and locations and may be owned or controlled by the BALDWIN COUNTY COMMISSION or the CITY OF EVERGREEN or another Regional User or Remote User. For this reason, the BALDWIN COUNTY COMMISSION must oversee and approve any major repairs and/or replacements of Communications System equipment to ensure its compatibility with the other components of the Communications System. The CITY OF EVERGREEN agrees that it will not intentionally affect changes to the Communications System that would negatively impact the Communications System or its effectiveness in either county.

G.      Core or Controller – This term applies to all of the Electronic equipment, including hardware and software, which is owned and operated by the BALDWIN COUNTY COMMISSION for the purpose of authenticating, routing and controlling all activities on the Communications System. The Controller handles Call processing, mobility and some network management functions. The BALDWIN COUNTY COMMISSION wholly owns and operates the Core for the benefit of all Users and, at the discretion of the BALDWIN COUNTY COMMISSION and to the extent the Service is available, Users may be permitted certain Inter-Zone Roaming capabilities whereby the Core is interconnected to another disparate Core which is not owned or operated by the BALDWIN COUNTY COMMISSION.

H.      Coverage – This term applies to any geographic area or location where a Subscriber can be used reliably to send and receive transmissions on the Communications System.

I.      Credentials – This term applies to the knowledge and experience of an individual or organization which may permit certain access, possession and control of Sensitive Electronic Information.

J.      Electronic or Electronically – This term applies to any information that is created, manipulated, communicated, stored and/or best utilized in a digital form, requiring the use of computer hardware and software. The BALDWIN COUNTY RADIO SYSTEM may permit Electronic information to be exchanged as needed and when authorized, based on the approval of persons, organizations and/or computers which may be required to process such communication(s).

K. Encryption – This term applies to a process of encoding data such that it cannot be easily intercepted or understood by unauthorized persons. The data is translated using a secret Encryption key, or algorithm, which determines the parameters for coding and decoding the data. Encryption is often used to protect the confidentiality of Electronic transmissions. Any intelligence or information related to Encryption is considered Sensitive Electronic Information by BALDWIN COUNTY.

L. Enterprise Private Network or Microwave Network – These terms apply to all equipment used for the purpose of providing high-speed connectivity for exchanging data as required to operate the Communications System. The Enterprise Private Network and Microwave Network are components of the Communications System and its Infrastructure, operating primarily on 6 gigahertz (GHz) and 11 GHz frequencies. The equipment may include transmitters, receivers, filters, switches, routers, multiplexers, antennas, cabling, surge and lightning suppression systems, etc. The terms may be used interchangeably, subject to the specific exclusions listed in this paragraph.

M. Infrastructure – This term applies to any and all equipment, including hardware, software and other components, which are physically located at any Communications Site for the purpose of providing Service on the Communications System. The Infrastructure is a component of the Communications System. Certain equipment and apparatus configured as part of the Infrastructure must be of a specific manufacturer, make, model, kind, type or version in order for the equipment and apparatus to function properly with all the other equipment and apparatus of the Infrastructure, which may be located at other disparate Communications Sites and locations and may be owned or controlled by BALDWIN COUNTY COMMISSION or another Remote User or Regional User. For this reason, BALDWIN COUNTY COMMISSION must oversee and approve any major repairs and/or replacements of Communications System equipment to ensure its compatibility with the other components of the Communications System. The CITY OF EVERGREEN agrees that it will not make changes to the Communications System that would negatively impact the Communications System or its effectiveness.

N. Inhibit or Inhibited – These terms apply to Subscriber Equipment that is not permitted to Affiliate with the Communications System. Inhibited Subscribers may be denied access to the Communications System because (1) the Subscriber Equipment is not known to the Controller or (2) the Subscriber Equipment is explicitly disabled in the Controller.

O. Interzone or Inter-Zone - This term applies to the interconnectivity and/or Affiliation of the Communications System to one (1) or more disparate and compatible Motorola P25 Core(s) for the purpose of allowing Users of the Communications System to benefit and make use of any Coverage(s) provided by any other Core which is properly Affiliated with the BALDWIN COUNTY COMMISSION Controller. The Inter-Zone configuration enables Roaming capabilities for Users of the Communications System. The terms may be used interchangeably.

P. Password – This term applies to any secret letter, number, word or phrase, or a combination thereof, which is required to gain authorized access and authentication to restricted data and systems, such as firmware, software and hardware. BALDWIN COUNTY RADIO SYSTEM considers all Passwords to be Sensitive Electronic Information.

Q. Programming or Subscriber Programming – This term applies to the use of specialized hardware and software to send digital instructions to certain electronic devices, to include Subscriber Equipment. In the case of Subscriber Equipment, these instructions provide the device with the information required to properly Affiliate and function as part of the Communications System. BALDWIN COUNTY RADIO SYSTEM considers certain knowledge, skills and information required to administer Programming to be confidential. The terms may be used interchangeably.

R. Push-To-Talk (PTT) – This term applies to any request to access the Communications System, such that the Subscriber Equipment is manually actuated by pressing a physical button and/or virtual icon which allows voice communications to be transmitted as needed and when authorized.

S. Radio Transceiver – This term applies to any apparatus which allows radio signals to be transmitted and received.

T. Roam or Roaming – These terms apply to Affiliation with the Communications System while located in an area other than the User's Primary Jurisdiction of Operation. While located in a geographic area where Coverage is unavailable from User's Home System, a Subscriber may Roam (as permitted) by Affiliating with another Zone (or Core) which is Interconnected to the User's Home System Core. As required to effectively manage the availability of Channel Resources, certain Talkgroups and/or Subscribers may be allowed or disallowed to Roam in certain areas at certain times using certain Communications Sites and/or Zones.

U. Sensitive Electronic Information – This term applies to any knowledge or data of which the compromise with regard to confidentiality, integrity, and/or availability could have an adverse effect on the BALDWIN COUNTY RADIO SYSTEM interests or operations, or the privacy to which any Users may be entitled. It is in the best interest of the BALDWIN COUNTY RADIO SYSTEM and all its Users to safeguard certain data, including any hardware or software which may contain certain data or Electronic information, against unauthorized access and/or usage. Sensitive Electronic Information pertaining to the Communications System is exclusively owned by the BALDWIN COUNTY COMMISSION and may be controlled by any means of limiting physical, virtual and/or Electronic access to hardware, software, equipment or facilities. Sensitive Electronic Information may include, but is not limited to, Passwords, Encryption information, system keys, dongles, Subscriber Equipment Programming procedures, radio identification numbers, Talkgroup decimal or hexadecimal identification numbers, key variable loaders (KVL), network connectivity, Internet Protocol (IP) addresses, recording and logging data, system databases and other confidential information.

V. Service – This term applies to any assistance provided by the BALDWIN COUNTY RADIO SYSTEM, which may incur costs associated with providing labor, parts and equipment related to Affiliation, technical support, equipment maintenance and repair, Subscriber Programming, travel expenses, etc.

W. Service Fee(s) – This term applies to any charges related to professional Service(s) provided by the BALDWIN COUNTY RADIO SYSTEM, such as technical support, equipment maintenance and repair, Subscriber Programming, project management, travel expenses and other assistance.

X. Subscriber(s) or Subscriber Equipment – These terms apply to any transportable or fixed equipment, which may or may not be owned or controlled by the User, for the purpose of allowing the equipment to interconnect and exchange Electronic information with the Communications System. Subscriber Equipment may include various devices and components, such as mobile and portable Radio Transceivers, dispatch consoles, speakers, accessories, power supplies, modems, switches, microwave radios, electrical circuits, emergency power equipment, surge suppression and grounding equipment, antennas, coaxial cabling, towers, etc. For the purposes of this Agreement, a Communications Site and its associated Infrastructure, by their Affiliation to the Communications System, are considered as Subscribers. Subscriber Equipment may be subdivided to include:

- 1) Control Station or Base - These terms apply to two-way Radio Transceiver equipment where the device is located at a fixed geographic location. The transceiver's configuration often consists of a radio, power supply, desktop microphone, external speaker and may have either a magnetic-mount or externally-mounted connectorized antenna. The terms may be used interchangeably.
- 2) Dispatch Console – This term applies to a computer, consisting of hardware, software interfaces and accessories, which is connected to the Communications System to allow operators to communicate with users.
- 3) Hardware - This term applies to the physical components of an Electronic device. All Subscriber Equipment contains hardware. Internal hardware includes motherboards, chips, processors, hard drives, RAM memory, etc. External hardware devices include equipment housing, displays, monitors, buttons, accessories, keypads, keyboards, mice, printers, etc.
- 4) Infrastructure – This term applies to Communications Site equipment and Infrastructure such as repeater stations, site controllers, network links and its associated Affiliation with the Communications System.
- 5) Mobile – This term applies to two-way Radio Transceiver equipment where the device is installed in a vehicle, usually with an externally-mounted antenna. Mobile radio equipment is not assigned to any specific geographic location and can be operated while in motion.
- 6) Modem – This term applies to two-way Radio Transceiver equipment used to exchange digital data.
- 7) Portable – This term applies to two-way Radio Transceiver equipment where the device is transportable. Since portables are easily carried and moved by hand, they are often referred to as “walkie-talkies” or “handhelds”.

- 8) Software or Firmware – These terms apply to Programming information designed to direct the Electronic operation of a hardware device. Unlike hardware, software and firmware does not physically exist but, instead, is part of a virtual environment. Subscriber Equipment software or firmware contains Sensitive Electronic Information.

Y. Talkgroup - This term applies to virtual channels designated for specific usage on the Communications System. When a PTT request is received, the Controller automatically assigns all radio Subscribers using a designated Talkgroup to a licensed frequency for each transmission.

Z. Trunked, Trunking or Trunked System – These terms apply to a complex, computer-controlled two-way LMR system, such as the Communications System, that allows sharing of relatively few radio frequency channels among a large number of Users. Unlike conventional repeaters that use a designated frequency for every transmission, a Trunked system takes advantage of a pool of frequencies which are dynamically assigned. By efficiently managing Channel Resources, the system allows all Users to share numerous frequencies as needed and when requested. Talkgroups are identified by certain decimal and hexadecimal numbers, which are considered Sensitive Electronic Information.

AA. User – This term applies to any person, agency, organization or jurisdiction that uses the Communications System pursuant to the terms and conditions of this Agreement. Certain types of Users may pay varying costs (“User Fees”) depending on the circumstances. Generally, Users of the Communications System are categorized as follows:

- 1) Local User - This term applies to any User with a primary jurisdiction of operation and responsibility that is geographically-located in Baldwin County, Alabama.
- 2) Regional User - This term applies to any User with a primary jurisdiction of operation and responsibility that is not geographically-located in Baldwin County, Alabama, but beneficial Coverage is provided by the BALDWIN COUNTY RADIO SYSTEM-owned Communications Sites. A Remote User may operate and maintain its own Communications Sites for primary Coverage, but BALDWIN COUNTY RADIO SYSTEM Communications Sites still provide secondary and/or redundant Coverage in certain geographic areas. In any case, a Regional User’s Subscriber Equipment and Communications Sites must have reliable connectivity with the Controller in order to achieve Wide Area Trunking.
- 3) Remote User – This term applies to any User with a primary jurisdiction of operation and responsibility that is not geographically-located in Baldwin County, Alabama and does not consistently utilize beneficial Coverage provided by the BALDWIN COUNTY RADIO SYSTEM-owned Communications Sites. A Remote User obtains primary Coverage by Affiliating with Communications Sites that are not owned by the BALDWIN COUNTY RADIO SYSTEM. In any case, a Remote User’s Subscriber Equipment and Communications Sites must have reliable connectivity with the Controller in order to achieve Wide Area Trunking.



BB. User Fees – This term applies to any cost(s) or fee(s), as determined by the BALDWIN COUNTY COMMISSION, which is paid in exchange for access to and Affiliation with the Communications System.

CC. Wide Area Trunking – This term refers to the optimal status of any Communications Site Affiliated with the Communications System, such that it is properly connected to the Controller and is available to process activity by receiving inbound Calls which are relayed to the controller and sending outbound Calls which are relayed from the Controller. If a site is not in Wide Area Trunking status, it has lost connectivity with the Controller and is not Affiliated with the Communications System. As a result, the affected Communications Site may still be able to process Calls, but the Call activity cannot be properly relayed to other Communications Sites, Subscribers and Users.

## II. PURPOSE

The BALDWIN COUNTY RADIO SYSTEM is a multi-site communications network dedicated to providing mission-critical communications Services. The Infrastructure is comprised of certain Trunked 700 megahertz (MHz) multicast Communications Sites which allow information to be exchanged wirelessly throughout the Coverage area and allows connectivity with the Communications System.

## III. SYSTEM MANAGEMENT

- A. Talkgroups - Talkgroups are assigned for use by the CITY OF EVERGREEN on an as needed basis. All Users requesting changes, additions or deletions of Talkgroups should notify the BALDWIN COUNTY COMMISSION. Any significant changes (e.g., encryption, deletion or addition of talkgroups, etc.) that affect Talkgroups in City of Evergreen must be approved by the CITY OF EVERGREEN and BALDWIN COUNTY COMMISSION.
- B. System Management – The BALDWIN COUNTY COMMISSION is responsible for providing personnel, management and administration to facilitate operations, maintenance, repairs, upgrades and enhancements for the BALDWIN COUNTY RADIO SYSTEM, which is wholly or partially owned by the BALDWIN COUNTY COMMISSION.
- C. Training – At the request of any User, the BALDWIN COUNTY RADIO SYSTEM may, but is not obligated to, provide User training, such as the education regarding the nomenclature of the Communications System, functionality of Subscriber Equipment, principles of public safety communications, etc.
- D. Technical Support - BALDWIN COUNTY RADIO SYSTEM provides 24-7-365 technical support for major problems related to BALDWIN COUNTY RADIO SYSTEM Infrastructure.

- E. Maintenance of Communications Sites - The BALDWIN COUNTY RADIO SYSTEM provides for all, and in some cases a portion, of the monitoring, inspection, and maintenance for the Communications Sites that provide primary Coverage to Baldwin County.
- F. Fault Management and Monitoring for Integrity – Fault management is a function that allows for the detection, isolation and correction of malfunctions involving the Communications System. This may require services and technical support provided by the BALDWIN COUNTY RADIO SYSTEM and/or Motorola Solutions in order to accept, act on and troubleshoot any error detection notifications, maintain and examine error logs, trace and identify faults, carrying out sequences of diagnostics tests, correction of faults, reporting error conditions, examine and manipulate database information, and compensate for environmental changes. Whenever possible, the Communications System uses automated systems to provide monitoring and diagnostics for fault management services in order to allow for notification and troubleshooting of potential system problems and malfunctions. Fault management for the Communications System occurs locally at the BALDWIN COUNTY RADIO SYSTEM Master Site in Robertsedale, Alabama, and is remotely transmitted to the Motorola System Support Center (SSC) in Schaumburg, Illinois. As allowed and whenever possible, alarms are monitored and reported 24-7-365 for evaluation, troubleshooting and response. Regional and/or Remote Users will be responsible for any and all costs associated with fault management or monitoring for integrity which are related to their Communications Sites, to include monitoring, tracking, reporting and/or dispatching malfunctions associated with the Communications System.
- G. Upgrades and Enhancements – Upgrades are defined as changes made to the Communications System to provide improvements to existing features, provide legal or regulatory compliance, or ensure serviceability of equipment. Enhancements may include any additions or modifications to the Communications System that allow advanced functionality. The BALDWIN COUNTY COMMISSION plans and oversees upgrades and enhancements as needed. The CITY OF EVERGREEN agrees to discuss, cooperate and coordinate with the BALDWIN COUNTY COMMISSION with regard to scheduling for any future upgrades in order to ensure the ongoing compatibility of system components and Infrastructure owned by City of Evergreen.

#### IV. BALDWIN COUNTY COMMISSION RESPONSIBILITIES

- A. The BALDWIN COUNTY COMMISSION shall, in its discretion, provide or commission repairs, maintenance, technical support and administration for certain portions of the BALDWIN COUNTY RADIO SYSTEM, such that more critical problems or issues are prioritized, which includes:
  - 1) Communications Sites wholly-owned by BALDWIN COUNTY COMMISSION; and
  - 2) Enterprise Private Network equipment located in Baldwin County, Alabama and/or owned by BALDWIN COUNTY COMMISSION

- B. The BALDWIN COUNTY COMMISSION shall be responsible for configuration and modification of the Infrastructure and related system applications of the BALDWIN COUNTY RADIO SYSTEM.
- C. The BALDWIN COUNTY COMMISSION shall perform ongoing preventive maintenance for the Infrastructure for the BALDWIN COUNTY RADIO SYSTEM to the extent it deems necessary.
- D. The BALDWIN COUNTY COMMISSION shall be responsible for management and control of any system Channel Resources configured on the BALDWIN COUNTY RADIO SYSTEM.
- E. The BALDWIN COUNTY COMMISSION shall be responsible for management and control of Talkgroup allocations and Subscriber Equipment Affiliation on the Communications System.
- F. The BALDWIN COUNTY COMMISSION shall be responsible for management and control of the Enterprise Private Network which serves the Communications System. The BALDWIN COUNTY RADIO SYSTEM expressly reserves all rights associated with usage of the Communications System's Microwave Network and its aggregate bandwidth consumption. Any changes or modifications to the Microwave Network must be reviewed and approved by BALDWIN COUNTY COMMISSION. The BALDWIN COUNTY COMMISSION shall have the exclusive right to undertake any modifications, additions and/or deletions to any current or future equipment, configuration(s) and/or tower appurtenances, to include hardware and software, associated with the Enterprise Private Network and/or Microwave Network. The BALDWIN COUNTY COMMISSION and CITY OF EVERGREEN agree that the responsibility for operating and maintaining the network connection between the Baldwin County Core and City of Evergreen Communications Sites, which is required to allow any City of Evergreen Communications Site(s) and/or Users to Affiliate with the Communications System, will be solely City of Evergreen's responsibility and will remain in place for the duration of this Agreement.
- G. The BALDWIN COUNTY COMMISSION shall be responsible for securing and controlling physical and/or virtual access to any and all Sensitive Electronic Information. To the extent deemed necessary, this may include certain restrictions such as access to facilities, information, operations and/or utilization of the Communications System.
- H. The BALDWIN COUNTY COMMISSION shall determine the User Fee(s) and Service Fee(s) applicable to Local Users, Regional Users and Remote Users of the BALDWIN COUNTY RADIO SYSTEM. As needed and whenever necessary, the BALDWIN COUNTY COMMISSION may adjust the costs of fees which are applicable to such Users. When a fee adjustment is enacted, the BALDWIN COUNTY COMMISSION will notify the CITY OF EVERGREEN prior to the first day of July of any applicable calendar year. The CITY OF EVERGREEN shall be entitled to determine the amount

of fees applicable to the local users within City of Evergreen and other City of Evergreen owned RF sites approved by the BALDWIN COUNTY COMMISSION, and City of Evergreen shall be entitled to retain those local user fees. Unless approved by the BALDWIN COUNTY COMMISSION, the CITY OF EVERGREEN shall not expand its coverage area to provide service to users outside of City of Evergreen or the coverage area for the approved RF sites.

- I. The BALDWIN COUNTY COMMISSION shall designate one or more Authorized Service Providers (ASP) for the purpose of limiting the number of persons and organizations with knowledge and possession of the tools and/or Credentials which are necessary to affect changes that could compromise the integrity and security of the Communications System. The BALDWIN COUNTY COMMISSION exclusively reserves the right to maintain control of Sensitive Electronic Information contained within any hardware, software and/or devices used as part of the Communications System, which includes, but is not limited to, Passwords, Encryption information, system keys, dongles, Subscriber Equipment Programming, radio identification numbers, Talkgroup decimal or hexadecimal identification numbers, key variable loaders (KVL), network connectivity, Internet Protocol (IP) addresses, recording and logging data, system databases and other confidential information as required to prevent unauthorized access. At the discretion of the BALDWIN COUNTY COMMISSION, an ASP may be permitted to use certain Sensitive Electronic Information as required to program and configure Subscriber Equipment or Infrastructure. An ASP will be required to provide and/or maintain certain information, and to electronically report the same to BALDWIN COUNTY RADIO SYSTEM, regarding its activities involving or related to the Communications System and/or Subscriber Programming. Prior to approving or denying any ASP, the BALDWIN COUNTY COMMISSION will evaluate the proposed Service provider based on certain criteria. The criteria may include, but is not limited to, the following:
  - 1) Evaluation of need to permit ASP Services;
  - 2) Credentials and/or qualifications, to include designations such as Motorola System Technologist and Motorola Premier Service Provider;
  - 3) Familiarity with the Communication System;
  - 4) Reputation;
  - 5) Professional education and training of its employees;
  - 6) Certifications, accreditations and/or professional designations;
  - 7) Experience, stability and/or years of operation;
  - 8) Geographic proximity to BALDWIN COUNTY RADIO SYSTEM Users;
  - 9) Ability and willingness to comply with BALDWIN COUNTY RADIO SYSTEM standards, requirements, guidelines and protocols;
  - 10) Recommendation of the BALDWIN COUNTY COMMISSION.
- J. The BALDWIN COUNTY COMMISSION will promptly notify Users, to the best of its ability, of both emergency and non-emergency situations that may require one or more of the User's applications or functions to be disabled or unavailable for any period of time.

- K. The BALDWIN COUNTY COMMISSION shall, whenever possible, provide advanced notification via Electronic mail to a designated point-of-contact as determined by the CITY OF EVERGREEN whenever system maintenance outages are scheduled. Maintenance tasks will be scheduled during non-peak periods whenever possible. The BALDWIN COUNTY COMMISSION will notify Users concerning outages as far in advance as possible.
- L. In the event of a catastrophic incident or emergency that negatively impacts the performance or operations of the Communications System, the BALDWIN COUNTY COMMISSION expressly reserves all rights to perform any action as deemed necessary to restore the Communications System and/or lessen the potential severity of the event.
- M. The BALDWIN COUNTY COMMISSION and CITY OF EVERGREEN mutually agree to participate in meetings and/or discussions as needed to review the requirements, terms and conditions of this Agreement. The BALDWIN COUNTY COMMISSION and CITY OF EVERGREEN will meet as needed to review compliance with the Agreement and to discuss any outstanding issues related usage of the Communications System. The BALDWIN COUNTY COMMISSION will be responsible for scheduling the meetings at appropriate and mutually agreeable times and places, and CITY OF EVERGREEN will be responsible for attending such meetings.

#### V. CITY OF EVERGREEN OBLIGATIONS

- A. User Fees – CITY OF EVERGREEN will remit and pay, in advance as set forth below, User Fees associated with all Subscriber Equipment which is in use or capable of Affiliating with the Communications System during the applicable year. The amount of such User Fees shall be determined by the BALDWIN COUNTY COMMISSION.
  - 1) The annual costs of User Fees for the Affiliation of any equipment, Communication Site(s), radio channels, subscribers and dispatch consoles associated with City of Evergreen, Alabama and/or the CITY OF EVERGREEN, as the case may be, will be as follows:
    - a) Radio transceiver(s) configured in a multicast configuration for each licensed channel (with one transmit frequency and one receive frequency): \$173.61 per unit channel per month for the first 24 channels;
    - b) Dispatch Consoles: \$1,200.00 per unit per year.
- B. Remittance of User Fees – The CITY OF EVERGREEN will pay the total annual costs of all applicable User Fees, in full, no later than October 1 of each year for the fees anticipated to be incurred between October 1 and September 30 of each year this Agreement is in effect. In the event the User Fees increase or decrease during a given year based on usage, the changes in applicable User Fees will be required to be approved in writing or addendum signed by both parties. In the event services are provided for a partial month or year, the User Fees payable hereunder shall be prorated based on the services provided. User Fees will be paid in advance of the rendering of any services. The first payment of applicable User Fees by the CITY OF EVERGREEN shall be made on or before the date the first channel is used by and through the BALDWIN COUNTY

RADIO SYSTEM, and all subsequent payments shall be made on or before October 1 of each year as set forth above.

- C. Approval of RF Sites and Channels. – The CITY OF EVERGREEN plans to construct and/or install the following RF sites, utilizing 3 channels per RF site for a total of 12 channels, which shall be deemed approved by the BALDWIN COUNTY COMMISSION:

	<u>Site Name</u>	<u>FCC ASR Number</u>
1)	Fire Tower	FCC ASR N/A
2)	Conecuh County South	FCC ASR 1037871
3)	APTV East	FCC ASR 1036413
4)	APTV West	FCC ASR 1036414

The CITY OF EVERGREEN shall not add any additional RF sites or channels, unless the BALDWIN COUNTY COMMISSION approves the same, in its discretion.

- D. Cancellation of Annual Service – If, for any reason, the CITY OF EVERGREEN requires the cancellation of any service(s), the CITY OF EVERGREEN shall be required to submit a notification of cancellation to the BALDWIN COUNTY COMMISSION in writing as soon as possible.
- E. Operations, Maintenance and Repair of City of Evergreen Communications Sites – The CITY OF EVERGREEN will provide for the continuous operations, maintenance and repair and associated Services for the Communications Site(s) which are owned, operated or controlled by the CITY OF EVERGREEN, and controlled and utilized by the Communications System to include the following:
- 1) Operation of all Communications Sites at full capacity whenever possible;
  - 2) Roadways which are readily accessible and passable by four-wheeled motor vehicle;
  - 3) Landscaping and grounds keeping such that vehicle and pedestrian access can safely be attained; and
  - 4) Industry standard, professional services once every calendar year for the following Infrastructure:
    - a) Microwave system calibration, tuning and preventative maintenance; and
    - b) Uninterruptible power supplies (UPS) preventative maintenance to include replacement batteries as required;
    - c) Emergency power generator preventative maintenance; and
    - d) Tower structural examination and preventative maintenance.
- F. Configuration, Repair, Optimization and Replacement of Equipment Associated with Communications Sites and Infrastructure – The CITY OF EVERGREEN agrees to consult with BALDWIN COUNTY COMMISSION prior to conducting repairs and/or replacement of any equipment associated with the Communication System and/or its Infrastructure, and to use an Authorized Service Provider (ASP). Prior to performing the

work, the BALDWIN COUNTY COMMISSION must approve any repairs and/or replacements of equipment to ensure its compatibility with the other existing components of the Communications System and Infrastructure. If the CITY OF EVERGREEN desires to add equipment to its towers which is wholly unrelated to the Communication System it may do so, provided such equipment does not cause interference or otherwise impact the Communication System. All repairs, replacements and configurations must be conducted according to Motorola Solutions' certified procedures using only Motorola Solutions' certified parts and/or equipment. The CITY OF EVERGREEN affirms that certain equipment under its control, which may be located at City of Evergreen-owned Communications Sites as part of the Communications System, is specifically designed and configured to operate in cooperation with other components of the Communications System which may be located at other disparate Communications Sites and locations that may or may not be owned or controlled by the CITY OF EVERGREEN. As needed and whenever necessary, the BALDWIN COUNTY COMMISSION may conduct modifications, additions and/or deletions to any current or future equipment, configuration(s) and/or tower appurtenances which are associated with the Communications System and Infrastructure.

- G. Vendor Services – The CITY OF EVERGREEN, at its own expense, agrees to maintain a service agreement with Motorola Solutions to remain in force at all times, which will provide the following services for all the equipment comprising its Dispatch Center(s) and Communications Site(s) and the associated Infrastructure:
- 1) Network Monitoring, which provides real-time 24-7-365 fault monitoring and diagnostics capabilities;
  - 2) Dispatch Services, which provides 24-7-365 prioritization and assignment of trouble calls such that a technician is dispatched for critical failures;
  - 3) Technical Support, which provides assistance from Motorola technologists specializing in the diagnosis and resolution of network performance issues.
  - 4) Network Security Updates and Monitoring, which provides active network vulnerability, computer virus and intrusion prevention protection.
- H. Fault Management - The CITY OF EVERGREEN will be responsible for any and all costs associated with fault management or monitoring for integrity which are related to its Communications Sites, to include monitoring, tracking, reporting and/or providing technical response notification(s) for malfunctions associated with its Communications Site(s) and/or the Communications System.
- I. Future Costs for Communications System Upgrades and/or Software Upgrade Agreements (SUAI) – The CITY OF EVERGREEN acknowledges that the BALDWIN COUNTY COMMISSION may, to the extent it deems necessary, affect upgrades to the Communications System, which Communications Sites and Infrastructure are wholly-owned and operated by the BALDWIN COUNTY COMMISSION. These upgrades may be performed in order to achieve certain standards as required for the Communications System to attain any technological advancements which are available at the time of the upgrade. These Communications System upgrades may be performed

as a capital investment and/or as part of an ongoing contractual arrangement with a vendor, which may also be referred to as a Motorola Software Upgrade Agreement (SUAI). If, at any time, the BALDWIN COUNTY COMMISSION undertakes an upgrade of any part of the Communications System, which Communications Sites and Infrastructure are owned and operated by the BALDWIN COUNTY COMMISSION, the CITY OF EVERGREEN will, at its own expense, pay its portion of the costs associated with any upgrades to its Communications Sites and/or Infrastructure, located within City of Evergreen, as required to continue Affiliation with the Communications System. The CITY OF EVERGREEN's failure to participate in such upgrades may require the CITY OF EVERGREEN to terminate their use of the BALDWIN COUNTY COMMISSION RADIO SYSTEM pursuant to Section IV, below.

- J. Use of Call Signs and Frequencies – The CITY OF EVERGREEN acknowledges that certain City of Evergreen-owned equipment may be configured to operate using frequencies and call signs licensed to the BALDWIN COUNTY COMMISSION by the FCC. The BALDWIN COUNTY COMMISSION reserves any and all rights associated with the usage of any of its FCC-licensed call signs and frequencies. At all times, the BALDWIN COUNTY COMMISSION will maintain full control of any such license or call sign allocated to it by the FCC.
- K. Communications Site Access – The CITY OF EVERGREEN will, as needed and whenever necessary, permit the BALDWIN COUNTY COMMISSION, its employees and contractors, to physically access any and all of the City of Evergreen-owned Communications Sites which are connected to the Controller and operating Federal Communications Commission (FCC) call signs and/or frequencies which are licensed to the BALDWIN COUNTY COMMISSION. Such access is required in order to ensure compliance with FCC rules and regulations listed in the Subpart H “Rules Applicable to All Broadcast Stations” and, more particularly, 47 CFR 73.1350 and 47 CFR 73.1400 which provides for broadcast stations, transmission system operations, monitoring and control. This access is also required to provide troubleshooting and diagnostics related to operation of the Communications System. Because of security measures in place at the Communication Sites within City of Evergreen, the BALDWIN COUNTY COMMISSION agrees (to the best of its ability in order to satisfy requirements imposed by the CFR) to notify the CITY OF EVERGREEN prior to entering any Communication Site located in City of Evergreen.
- L. Subscriber Equipment Programming, Configuration, Maintenance and Repairs - The CITY OF EVERGREEN, at its own expense, is responsible for all Subscriber Equipment Programming, configuration, troubleshooting, maintenance, repair and upgrades/enhancements. The CITY OF EVERGREEN is responsible for ensuring that the BALDWIN COUNTY COMMISSION is notified whenever Subscriber Equipment Programming is modified or reconfigured, pursuant to the terms and conditions of this Agreement.
- M. Authorized Service Provider (ASP) – The CITY OF EVERGREEN agrees that only BALDWIN COUNTY COMMISSION-approved Authorized Service Providers (ASP)



will provide or attempt to provide repair and maintenance of the Communications System, Infrastructure and Subscriber Equipment Programming, configuration, troubleshooting, maintenance, repair, upgrades or enhancements. The CITY OF EVERGREEN shall have access to the spare parts inventory (to the extent such inventory is available and subject to the oversight and approval of the BALDWIN COUNTY COMMISSION) held by the BALDWIN COUNTY COMMISSION for use by the ASP for any repair and/or replacement of any Communications System equipment within City of Evergreen. CITY OF EVERGREEN agrees to pay, in full, any and all costs associated with repair, refurbishment and/or replacement of any damaged parts and equipment returned to the BALDWIN COUNTY COMMISSION following consummation of any item(s) from the BALDWIN COUNTY COMMISSION spare parts and equipment inventory. This may include, but is not limited to, any and all indirect costs, parts, equipment, labor, shipping, freight, etc. An ASP will be required to provide and/or maintain certain information, and to Electronically report the same to the BALDWIN COUNTY COMMISSION, regarding its activities involving or related to the Communications System and/or Subscriber Programming. The CITY OF EVERGREEN, or the ASP acting on behalf of the CITY OF EVERGREEN, is responsible for contacting the BALDWIN COUNTY COMMISSION prior to any Subscriber programming or configuration to request Affiliation authorization and obtain valid radio identification number(s), and, subsequent to any Programming, delivering an Electronic copy of all new or modified Template(s) and Codeplug(s) to the BALDWIN COUNTY COMMISSION.

- N. Restricted Access to Subscriber Equipment Software and Firmware – The CITY OF EVERGREEN agrees that software and firmware contained within any Subscriber Equipment Affiliating with the Communications System is proprietary and contains Sensitive Electronic Information. BALDWIN COUNTY COMMISSION reserves the right to require and/or verify that computerized or Electronic access to any authorized Subscriber Equipment software or firmware is Password-protected and fully compliant with the terms and conditions of this Agreement.
- O. Subscriber Equipment – The CITY OF EVERGREEN agrees that only certain Subscriber Equipment is capable of properly accessing the Communications System. The BALDWIN COUNTY COMMISSION does not guarantee any Subscriber's ability to Affiliate or use certain functionality on the Communications System. Any Subscriber Equipment which Affiliates to the Communications System on behalf of the CITY OF EVERGREEN must be directly associated with the CITY OF EVERGREEN and/or City of Evergreen, Alabama. Any and all unauthorized Subscriber Equipment may be manually or automatically Inhibited without prior notification.
- P. Proper Usage – The CITY OF EVERGREEN (and its participating third-party agencies, organizations, jurisdictions and municipalities) is permitted to use the Communications System for official purposes only, so long as such User and/or designated Subscriber Equipment is authorized by the BALDWIN COUNTY COMMISSION. Proper usage of the Communication System is deemed to be any communications that is critical to the preservation of life or property, or any transmission that is necessary for police, fire,

school board personnel, or other legitimate persons to perform their duties in an official capacity.

- Q. No Personal Business – The CITY OF EVERGREEN, its employees, personnel or volunteers to include any person using the Communications System on behalf of any third-party agencies, organizations, jurisdictions or municipalities, is/are not permitted to conduct personal business using the Communications System.
- R. FCC Compliance – The CITY OF EVERGREEN is responsible for proper maintenance and repair of its radio equipment in accordance with the appropriate FCC requirements.
- S. Radio Affiliation and System Activity Logging – The Communications System is continuously processing system activity for all Subscribers. Because a large number of transactions are continuously occurring throughout the system, Affiliation and system activity logging information is only retained for 24 hours on a rolling basis.
- T. Emergency Activation – At the discretion of the CITY OF EVERGREEN, certain Subscriber Equipment may be configured with the capability for processing and reporting a manual activation of the emergency button by broadcasting an alert without the requirement for voice transmission. The CITY OF EVERGREEN is responsible for proper handling and resolution of Subscriber emergency activations. The BALDWIN COUNTY COMMISSION accepts no responsibility for the handling or resolution of any situation involving any emergency button activation to include the accuracy or proper delivery of any urgent information, Subscriber or User identification, Alias Identifiers, etc., nor does BALDWIN COUNTY COMMISSION guarantee the Electronic delivery, routing or dissemination of any alert or alarm via the Communications System.
- U. Scheduled Maintenance – Whenever maintenance is required by the BALDWIN COUNTY COMMISSION, the CITY OF EVERGREEN may make a written request via Electronic mail for an alternate time for scheduled maintenance to occur at least 48 hours in advance of the proposed time. The request should describe a specific concern that said maintenance has potential to negatively affect the CITY OF EVERGREEN's operations. If no written request to reschedule maintenance is received from the CITY OF EVERGREEN, maintenance will proceed as planned. While the BALDWIN COUNTY COMMISSION will make a reasonable effort to accommodate the CITY OF EVERGREEN's request, the BALDWIN COUNTY COMMISSION reserves the right to perform maintenance whenever it deems it necessary for the continued operation of the Communications System.
- V. Third Party Agreement - If the CITY OF EVERGREEN enters into any verbal or written agreement with any third party for maintenance and/or Services related to Communications System, neither the BALDWIN COUNTY COMMISSION nor the BALDWIN COUNTY RADIO SYSTEM will be parties to that agreement. The CITY OF EVERGREEN does not represent the BALDWIN COUNTY COMMISSION or the BALDWIN COUNTY RADIO SYSTEM and cannot make commitments on behalf of

the BALDWIN COUNTY COMMISSION or the BALDWIN COUNTY RADIO SYSTEM.

- W. Contingency Plan – The CITY OF EVERGREEN is strongly encouraged to implement a contingency plan that permits continuity of operations in the event the Communications System is unavailable for any reason. The contingency plan should provide for one or more alternative means of communications that is completely independent of any part of the Communications System. The BALDWIN COUNTY COMMISSION recommends that such contingency plan be incorporated as a bona fide part of the CITY OF EVERGREEN's standard operating guidelines and procedures, to include proper training and exercise for personnel.
- X. The CITY OF EVERGREEN will comply with any and all reasonable requests of the BALDWIN COUNTY COMMISSION in order to assure the safe, efficient and lawful operation of the Communications System.
- Y. Compliance with Policy and Procedures – User will abide by and comply with all current BALDWIN COUNTY COMMISSION resolutions, rules, policies, guidelines, procedures, and protocols governing the operation and use of the Communications System that are in effect at the time of the execution of this Agreement. User will abide by and comply with all future BALDWIN COUNTY COMMISSION resolutions, rules, policies, guidelines, procedures, and protocols governing the operation and use of the Communications System which shall be provided to the CITY OF EVERGREEN at least 90 days in advance of implementation of said resolutions, rules, policies, guidelines, procedures, and protocols. The CITY OF EVERGREEN will properly attend to and comply with notifications and requirements of BALDWIN COUNTY COMMISSION, including but not limited to, invoicing and bill payment matters, maintenance and Service of the City of Evergreen-owned and operated Communications Sites, improper usage of the Communications System, termination of Services, etc.
- Z. Compliance with Laws, Rules and Regulations – The CITY OF EVERGREEN will comply with all current and future laws, rules, and regulation of the Federal Communications Commission (FCC), the National Telecommunications and Information Administration (NTIA), and the State of Alabama.
- AA. Authorization to Use the Communications System - The CITY OF EVERGREEN is not authorized to use the Communications System until such time as all its employees, personnel or volunteers to include any person using the Communications System on behalf of any third-party agencies, organizations, jurisdictions or municipalities, have formally accepted the terms and conditions of this Agreement.
- BB. Training – The CITY OF EVERGREEN shall provide the appropriate training and oversight for its employees, personnel or volunteers to include any person using the Communications System on behalf of any third-party agencies, organizations, jurisdictions or municipalities, in order to facilitate understanding and compliance with the terms and conditions of this Agreement.

CC. Point-of-Contact (POC) – The CITY OF EVERGREEN will appoint one (1) of its employees to serve as its designated Point-of-Contact (POC). The POC will be responsible for communicating directly with the BALDWIN COUNTY COMMISSION as necessary, particularly for the purpose of coordination and authorization related to usage of the Communications System to include, but not limited to, User Subscriber fleet management and updates, User repair and technical Services, User Alias updates, payment of User Fees, Template modifications, Talkgroup authorizations, matters requiring emergency contact and notification, attendance at User meetings, training as necessary, and any other issue as required for the safe and efficient operation of the Communications System. Notification of any change of the POC shall be submitted in writing to the BALDWIN COUNTY COMMISSION within 30 calendar days.

DD. Corrective Action – In order to protect the integrity, security, safety and efficient operation of the Communications System, the CITY OF EVERGREEN will take appropriate corrective action against any of its employees, personnel or volunteers to include any person using the Communications System on behalf of any third-party agencies, organizations, jurisdictions or municipalities, who violate the terms and conditions of this Agreement.

## VI. DURATION, CANCELLATION AND TERMINATION OF USER

- A. Unpaid User - The BALDWIN COUNTY COMMISSION expressly reserves all rights to permit only authorized Radio transceiver(s) configured in a multicast configuration (with one transmit frequency and one receive frequency) and Subscriber Equipment, where applicable User Fees and Service Fees are paid in full, to Affiliate with the system. Any User or Subscriber Equipment deemed to be unauthorized for any reason may be denied Affiliation with the Communications System at the sole discretion of the BALDWIN COUNTY COMMISSION. This Agreement may be cancelled for nonpayment of User Fees or Service Fees.
- B. Duration and Termination - Agreement will remain in effect for a period of 3 years, unless terminated by either party, with or without cause or reason, upon one year's written notice to the other party.
- C. Cancellation for Violation of Terms and Conditions – Repeated violation of the BALDWIN COUNTY COMMISSION rules, guidelines, procedures and protocols, or violation of the terms and conditions of this Agreement, may result in termination of this Agreement. The CITY OF EVERGREEN shall be given 90 days written notice prior to such termination being brought before the BALDWIN COUNTY COMMISSION. Such termination will be subject to review and recommendation by the BALDWIN COUNTY COMMISSION CIS Director, or the Baldwin County Commission's designee, to the BALDWIN COUNTY COMMISSION, with the BALDWIN COUNTY COMMISSION making such final determination.

- D. Reasonable Assistance - If this Agreement is terminated or cancelled for any reason, the BALDWIN COUNTY COMMISSION will provide reasonable assistance as requested by the CITY OF EVERGREEN to allow for the orderly transition of CITY OF EVERGREEN's communications for up to 90 days following the termination of the Agreement.

## VII. MISCELLANEOUS

- A. Accessibility and Coverage – The BALDWIN COUNTY COMMISSION does not guarantee, under any circumstances, the availability, accessibility or Coverage associated with the Communications System.
- B. Interest(s), Control and Ownership – The BALDWIN COUNTY COMMISSION and the CITY OF EVERGREEN agree that no part of this Agreement is intended or meant to construe that the CITY OF EVERGREEN, nor any of its Users, is entitled to interest(s), control and ownership of that Infrastructure, nor any other part of the Communications System, which is wholly-owned by BALDWIN COUNTY COMMISSION or any other party or Core Owner. The CITY OF EVERGREEN acknowledges that its determination to enter into this Agreement is an exercise of the legislative planning function of the CITY OF EVERGREEN to enhance the P25 Coverage within City of Evergreen, Alabama; and, by doing so, is contributing to the BALDWIN COUNTY COMMISSION's efforts toward inter-zone configuration and participation in the State of Alabama by Affiliating with other Cores; and that, at no time, shall the CITY OF EVERGREEN exercise any specific operational control over the manner in which the BALDWIN COUNTY COMMISSION provides for the ongoing operation and/or interconnection of the Communications System to other Communications Sites and/or Cores.
- C. Waiver - The failure of a party to insist upon strict adherence to any term of this Agreement shall not be considered a waiver or otherwise deprive the party of the right thereafter to insist upon the strict adherence to that term of the Agreement. Either party may delay in enforcing any of the rights under this Agreement without losing them.
- D. Amendments - Either party may request changes in this Agreement. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by and between the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement. Any fully executed amendment will be incorporated as an addendum to this Agreement.
- E. Applicable Law/Venue - The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Alabama. In the event of a conflict with regard to this Agreement, the parties agree to submit to voluntary, non-binding mediation prior to initiating litigation. The parties agree the courts of the State of Alabama shall have exclusive jurisdiction over any legal action arising out of this Agreement and over the parties, and that the venue of any such legal action shall be in Baldwin County, Alabama, according to the doctrine of *lex loci contractus*.

- F. Headings – The headings given to the sections and paragraphs of this Agreement are inserted only for convenience and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular sections or paragraphs to which the heading refers.
- G. Force Majeure - Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, any acts of God, the public enemy or other cause beyond such party's reasonable control, failure to act or delay in acting by any governmental or quasi-governmental entity (including changes in applicable law), network failure, equipment failure, electrical power outage or emergency power failure, epidemics, quarantine restrictions, severe or inclement weather, fire, earthquake, flood, insurrection, riot, act of terrorism, act of war, explosion, embargo, strike (whether legal or illegal), labor or material shortage, transportation interruption of any kind, or work slow-down.
- H. Failure to Supply – Neither the BALDWIN COUNTY COMMISSION nor its employees, contractors, officers or directors, as the case may be, will be liable for delays or failures in performing any services, supplies or other obligations hereunder to the extent arising out of or resulting from failure to supply or perform any services. Although the BALDWIN COUNTY COMMISSION shall endeavor to guard against any loss or damages to the CITY OF EVERGREEN and/or any User as a result of the Failure to Supply, neither the BALDWIN COUNTY COMMISSION nor its employees, contractors, officers or directors will be responsible for any such failure, or other act(s) or omission(s). Notwithstanding the above, the BALDWIN COUNTY COMMISSION will use its best efforts to prevent any unnecessary delays or failures in performing any Services, supplies or other obligations hereunder. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THE PARTIES AGREE THAT THE BALDWIN COUNTY COMMISSION WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY THE BALDWIN COUNTY COMMISSION PURSUANT TO THIS AGREEMENT.** To the extent available under the laws of the State of Alabama, the CITY OF EVERGREEN, its employees, personnel or volunteers to include any person using the Communications System on behalf of any third-party agencies, organizations, jurisdictions or municipalities, agree to indemnify and hold harmless the BALDWIN COUNTY COMMISSION, its employees, contractors, officers and directors, against any claim made by any said individual, agent, employee, contractor or third party, and against all loss, damage, costs and expenses they, or any of them suffer, incur or are put to that is attributable to the supply or the failure to supply any services, connection, signal, transmission or Coverage to the CITY OF EVERGREEN.

- I. Indemnification – To the extent available under the laws of the State of Alabama, the CITY OF EVERGREEN, its employees, personnel or volunteers to include any person using the Communications System on behalf of any third-party agencies, organizations, jurisdictions or municipalities, hereby agree to indemnify, defend and hold harmless the BALDWIN COUNTY COMMISSION, its employees, contractors, officers and directors, against loss or threatened loss or expense by reason of the liability or potential liability of the BALDWIN COUNTY COMMISSION for or arising out of any claims for damages which originate from, within or on behalf of City of Evergreen, Alabama. The benefit of this indemnity extends to any and all parties involved on behalf of the BALDWIN COUNTY COMMISSION, to include its employees, contractors, officers and directors, who may each individually rely on and enforce this indemnity as applicable. The indemnification obligations herein described will survive the expiration or termination of this Agreement.
- J. Applicability of Agreement to All Parties – Every User, its employees, personnel or volunteers to include any person using the Communications System on behalf of any third-party agencies, organizations, jurisdictions or municipalities, agrees that any individual, agent, personnel, employee, volunteer, contractor or third-party accessing or attempting to access any Service provided by the BALDWIN COUNTY COMMISSION, as described herein, is acting in an official capacity on behalf of such User and is, therefore, subject to any and all terms and conditions of this Agreement.
- K. Attorney's Fees - In the event of litigation relating to the subject matter of this Agreement, the non-prevailing party shall reimburse the prevailing party for all reasonable attorney fees and costs resulting therefrom.
- L. Severability - Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.
- M. Third Party Beneficiary Rights - The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement, and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.
- N. Integration - This Agreement, along with any exhibits, appendices, addendums, schedules, and amendments hereto, encompasses the entire agreement of the parties, and supersedes all previous understandings and applicable agreements between the parties, whether oral or written. The parties hereby acknowledge and represent, by affixing their hands and seals hereto, that said parties have not relied on any representation, assertion, guarantee, warranty, collateral contract or other assurance, except those set out in this Agreement, made by or on behalf of any other party or any other person or entity whatsoever, prior to the execution of this Agreement. The parties hereby waive all rights

and remedies, at law or in equity, arising or which may arise as the result of a party's reliance on alleged representation, assertion, guarantee, warranty, collateral contract or other assurance, provided that nothing herein contained shall be construed as a restriction or limitation of said party's right to remedies associated with the gross negligence, willful misconduct or fraud of any person or party taking place prior to, or contemporaneously with, the execution of this Agreement.

- O. Entirety of Agreement - This Agreement, consisting of twenty six (26) pages, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.
- P. Notwithstanding any other provision of this agreement, the CITY OF EVERGREEN will continue to own, or is required to maintain lease agreements and operate, its wholly-owned Communication Sites, which equipment is located in City of Evergreen. The CITY OF EVERGREEN acknowledges that it will be responsible for participation in future upgrades and the necessary funding for any hardware and/or software associated with any such upgrade(s) or improvement(s) to the CITY OF EVERGREEN COMMUNICATIONS INFRASTRUCTURE, such that it is advisable for the CITY OF EVERGREEN to consider participation in Motorola's Software Upgrade Agreement (SUAI) which is recommended by the BALDWIN COUNTY COMMISSION. In the event the CITY OF EVERGREEN fails to perform such upgrades or improvements to the CITY OF EVERGREEN COMMUNICATIONS INFRASTRUCTURE, the CITY OF EVERGREEN hereby acknowledges that the performance of its system and equipment will be affected.
- Q. The CITY OF EVERGREEN and the BALDWIN COUNTY COMMISSION acknowledge and agree that all terms and conditions of this Agreement shall be subject to the Alabama Inter-zone Core Owners Participation Agreement with an effective date of April 1, 2015, as the same may be amended from time to time, to which the Baldwin Commission is a party.
- R. The CITY OF EVERGREEN and the BALDWIN COUNTY COMMISSION acknowledge and agree that this Agreement shall be subject to and conditioned upon all software license agreements, license agreements, user agreements, covenants, conditions, agreements, terms and conditions set forth in any agreements between the BALDWIN COUNTY COMMISSION and any other party, as the same may be amended from time to time, including, but not limited to, all agreements with Motorola.
- S. The CITY OF EVERGREEN and the BALDWIN COUNTY COMMISSION are committed to cooperating and working together in good faith for the benefit of both parties and the State of Alabama, and to ensure the overall reliability and sustainability of the Communications System.



SIGNATURES WILL APPEAR ON NEXT PAGE FOLLOWING

## VIII. SIGNATURES

In witness whereof, the parties to this Agreement, by and through their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement as set forth herein. The effective date of this Agreement is the date of the signature last affixed to this page.

**IN WITNESS WHEREOF**, each of the parties has caused this Agreement to be executed in duplicate originals by their duly authorized representatives on the respective dates entered below.



BALDWIN COUNTY, ALABAMA

BY:

T. Christopher Elliott  
T. Christopher Elliott, Chairman

11/15/2014  
Date

Ronald J. Cink  
Ronald J. Cink, County Administrator/Budget Director /Date

CITY OF EVERGREEN, ALABAMA,  
an Alabama Municipal Corporation

BY:

[Signature]  
Its: [Signature]

11/4/14 /Date

ATTEST:

By: [Signature]  
Its: INTERIM CITY CLERK

STATE OF ALABAMA

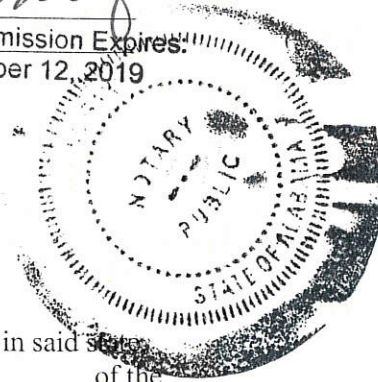
COUNTY OF BALDWIN

I, Anu Gary, a Notary Public in and for said county in said state, hereby certify that T. Christopher Elliott, whose name as Chairman of the Baldwin County Commission, and Ronald J. Cink, whose name as County Administrator/Budget Director of the Baldwin County Commission, a political subdivision of the State of Alabama, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of such instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said commission on the day the same bears date.

Given under my hand and official seal this 15<sup>th</sup> day of November, 2016.

[Notarial Seal]

Notary Public: Anu Gary  
My Commission Expires: My Commission Expires  
October 12, 2019



STATE OF ALABAMA

COUNTY OF CONECUH

I, Came Suth, a Notary Public in and for said county in said state, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of the City of Evergreen, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said commission on the day the same bears date.

Given under my hand and official seal this 4 day of November, 2016.

[Notarial Seal]

Notary Public: [Signature]  
My Commission Expires: My Commission Expires October 7, 2019

November 9, 2016

Mr. Brian Peacock

Baldwin County Commission

175 Courthouse Square

Bay Minette, Al 36507

Dear Brian,

As previously stated, The City of Evergreen is only the administrator of the grant for the P-25 system and can NOT state that it will be financially responsible for any upgrades to the system or maintenance costs. The City of Evergreen is managing the grant that was received by the county fire association, since our fire department is a major department in the county system. The Conecuh County Commission funds the fire departments in the county. Therefore, all future costs should be covered by the Conecuh County Fire Association/Conecuh County Commission.

I just want this to be on the record, if not part of the contract. You may attach to the contract as an additional page if possible. If not, please retain in the contract file; whereby there will be documentation of the facts of the situation.

Larry Ryland

Assets Management/Purchasing

City of Evergreen

P. O. Box 229

Evergreen, Al 36401

251-578-4447 Office

251-369-0839 Cell

251-578-4476 Fax