



COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

The Board of County Commissioners meets the 1st and 3rd Thursday of each month at 5:30 p.m. in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: June 14, 2019

Meeting Date: June 20, 2019

Name: Lawrence Wilson

Department: Communications

Division Manager's Signature: _____

A handwritten signature in blue ink, appearing to read "L. Wilson", written over a horizontal line.

1. Nature and purpose of agenda item:

Excelsior Ambulance wishes to purchase radios and operate on the County radio communications network to improve communications on 911/EMS incidents.

2. Recommended Motion/Action:

To approve Secondary User Agreement with Excelsior Ambulance.

3. Fiscal impact on current budget.

This item has no effect on the current budget.

District No. 1 - Ronald Williams
District No. 2 - Rocky Ford
District No. 3 - Bucky Nash
District No. 4 - Toby Witt
District No. 5 - Tim Murphy



BOARD OF COUNTY COMMISSIONERS • COLUMBIA COUNTY

MEMORANDUM

TO: Columbia County Board of County Commissioners
FR: David Kraus, Assistant County Manager
DATE: June 11, 2019
RE: Agreement – Secondary User Radio Agreement - Excelsior

Excelsior Ambulance is requesting to be a Secondary User to operate on the County's public safety radio network. The County implemented the new 800/700 MHz radio system (ASTRO 25) with the capacity to handle growth and secondary users. Both the County and Excelsior Ambulance recognize the importance of all public safety agencies being able to communicate during incidents. This agreement is similar to the agreement with the City of Lake City.

Under this agreement, the County will own the radio network and all FCC licenses for all radio channels. Excelsior Ambulance will own its own radios and radio equipment which will operate on the County radio network. The County is responsible for all System maintenance costs. Excelsior Ambulance can have up to 10 subscriber units and 15 talk groups. Excelsior Ambulance will not incur an activation fee at the initial set up, but will pay \$15 for each future activation. In addition, Excelsior Ambulance will pay a monthly \$10.00 subscriber fee.

The City of Lake City is considering adopting this agreement at their June 17, 2019 meeting. Staff is requesting that the Columbia County Board of County Commissioners adopt the Agreement Between Columbia County, Florida and Excelsior Ambulance for a Radio System Secondary User Agreement.

BOARD MEETS FIRST AND THIRD THURSDAY AT 5:30 P.M.

**AGREEMENT BETWEEN COLUMBIA COUNTY, FLORIDA
AND THE CITY OF LAKE CITY, FLORIDA FOR A RADIO
SYSTEM SECONDARY USER AGREEMENT**

THIS AGREEMENT is entered into this __ day of June, 2019, between **COLUMBIA COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose mailing address is Post Office Box 1529, Lake City, Florida 32056-1529, (herein the “County” or “System Owner”), and **EXCELSIOR AMBULANCE**, a private company whose mailing address is 324 S Belair Road Martinez, GA 30907- 9337 (herein “Excelsior” or “Secondary User”) (collectively, the “Parties”).

RECITALS

WHEREAS, the System Owner has developed an ASTRO 25 700/800 MHz Trunked Simulcast Radio System (the “System”) to provide improved communications among and within their agencies including, without limitation, public safety communications;

WHEREAS, the System Owner has determined that use of the System by the Secondary User for public safety purposes will result in an enhanced communication system which will better meet the respective needs of the Parties and will improve routine as well as emergency public-safety related communications between and among the Parties;

WHEREAS, for the purpose of efficiently administering this Agreement and those matters arising under it, the Parties wish to establish a Radio Communications Committee; and

WHEREAS, the Parties desire to enter into an Agreement to establish and provide for use of the System by the Secondary User, in accordance with and subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter provided, the County and Excelsior Ambulance agree as follows:

1. RECITALS INCORPORATED

The recitals above are true and correct and are incorporated herein by reference.

2. DEFINITIONS

- a. “ASTRO 25 System” or “System” shall mean the entirety of the certain P25 Phase 2 700/800 MHz Trunked Simulcast Radio System owned by the System Owner, as currently existing and as the same may be expanded or enhanced, to include Backbone Items for voice transmission but excluding all User Specific Items.
- b. “Backbone Items” shall mean those non-user specific elements of the ASTRO 25 System which are owned by the System Owner and which shall be jointly used or shared by the Parties including, but not limited to, the towers and other jointly used equipment installed or constructed at transmitter or receiving sites, and related subsystems, as required for the ASTRO 25 System; equipment storage facilities located at transmitter or receiving sites; base stations; transmitters; receivers; microwave subsystem(s); trunked/simulcast controllers; related software required for operation of the ASTRO 25 System; and any other jointly used or shared items.
- c. “FCC” shall mean the Federal Communications Commission or any successor agency.
- d. “Party” shall mean either a System Owner or the Secondary User, as appropriate, and “Parties” shall mean collectively the System Owner and the System User.
- e. “Subscriber Unit” shall mean a P25 Phase 2 compliant radio or other P25 Phase 2 compliant device with an independent system identification number which is programmed and available for use on the ASTRO 25 System by a Party.

- f. "System Manager" shall mean an employee of the County responsible for the day to day coordination, operation, maintenance, and management of the ASTRO 25 System. The System Manager shall perform the duties assigned under this and any other applicable agreement relating to the ASTRO 25 System.
- g. "Subscriber Fee" shall mean the fee, as set forth in this Agreement, to be paid by the Secondary User for use of the ASTRO 25 System.
- h. "System Owner" shall mean Columbia County.
- i. "Secondary User" shall mean Excelsior Ambulance authorized to use the ASTRO 25 System pursuant to this Agreement.
- j. "Talk Group" shall mean an electronic resource or path, established by the System Manager within the ASTRO 25 System, which permits use of the ASTRO 25 System for two-way communications among particular radios and other related User Specific Equipment.
- k. "User Specific Items" shall mean those elements of the System required for each Party's individual communications system, purchased, installed and/or used individually by each Party, as permitted by the System Manager or by agreement with the System Owner, and shall include, but not limited to, radios, encryption, devices, computer terminals, dispatch consoles, communication path ways, applicable console interface electronics and other communications equipment. Each Party shall be responsible for developing its own requirements for User Specific Items, providing for acquisition of such Items; and providing for, and supervising, the installation, operation, and maintenance of such Items at locations determined by such Party. However, no Party's User Specific Items will be developed, specified, acquired, installed, operated or electronically connected to the ASTRO 25 System without prior review and approval of the System Manager.
- l. "Standard Operating Procedures" shall define the guidelines that each party will be expected to follow, related to the use and operation of the System.

3. LICENSING AND USE OF ASTRO 25 SYSTEM

- a. Licenses. The Parties agree that all FCC licenses for all radio channels included in the System shall be held in the name of the County and shall be licensed as one interoperable P25 Phase 2 700/800 MHz trunked simulcast radio system.
- b. Use of the System. The System shall be configured to provide for use by the Secondary User of up to ten (10) Subscriber Units, as authorized from time to time by the System Manager. The Secondary User may use up to fifteen (15) talk groups and other joint use talk groups with the approval of the System Manager. Additional talk groups or joint use talk groups shall be as permitted from time to time by the System Manager. Provided, however, that all such use shall be consistent with maintaining the maximum efficiency of the System and shall be carried out in accordance with the standard operating procedures for the System together with all other policies, regulations, instructions, and directions issued from time to time by the System Manager.

4. TITLE TO BACKBONE AND USER SPECIFIC ITEMS

- a. Each Party shall have and retain title to its User Specific Items. Title to all Backbone Items shall vest and remain in the purchasing party. Each Party shall have the right to use such Backbone Items as permitted under this Agreement. Notwithstanding the foregoing, title to any proprietary software required for the operation of the ASTRO 25 System shall remain in the owner of such software, subject to licenses to each Party which will permit its independent use by such Party and will include appropriate warranties running directly to each Party.

The System Manager is responsible for programming Excelsior Ambulance radios that are intended for use in relation to the ASTRO 25 System.

5. PAYMENTS AND TERM

- a. Payments for Equipment. The Secondary User shall be responsible for purchasing all Secondary User Specific Items required for its communication system and use of the System, and only as permitted by this Agreement. User Specific Items must be approved by the System

Owner for use on the System before any such items will be activated on the System. It is therefore recommended that the Secondary User obtain approval of said items before completing any purchase of equipment the Secondary User intends to use on the System.

- b. Activation Fee. Other than initial activations made at the commencement of the performance of this Agreement, which shall incur no charge, the Secondary User shall pay an Activation Fee to the System Owner for the activation of each Subscriber Unit at the rate of \$15.00 per activation.
- c. Subscriber Fee. The Secondary User shall pay a Subscriber Fee to the System Owner for use of the System as permitted by this Agreement. The Subscriber Fee shall be \$10.00 per month for each Subscriber Unit owned by the Secondary User and programmed for use on the ASTRO 25 System.
- d. The Subscriber Fees for each month, or portion thereof, and all other fees charged hereunder shall be billed to the Secondary User, shall be payable in accordance with Section 215.422, Florida Statutes, and shall be based on the number of Subscriber Units owned by the Secondary User and programmed for use on the System. All payments shall be made in accordance with instructions set forth in the bill and shall be accompanied by such remittance information as may be required by the County.
- e. All fees shall be reviewed on each anniversary date of this Agreement. If an increase in fees are necessary, the increase will be based upon the Consumer Price Index. .
- f. Term. The term of this Agreement ("Term") shall commence on ____ __, 2019 ("Commencement Date") and shall continue thereafter until the earlier of ____ __, 2034, or withdrawal of the Secondary User from the System or other termination of this Agreement by the System Owner as provided herein.

6. ADMINISTRATION AND MANAGEMENT OF THE ASTRO 25 SYSTEM

- a. System Manager. The System Manager shall be responsible for the coordination, operation, maintenance and management of the System, on a day-to-day basis, and for promulgation of, and enforcement of Secondary User compliance with, the standard operating procedures for the System.

7. RESPONSIBILITIES OF THE PARTIES

- a. Each Party shall be responsible for development and design of its User Specific Items and shall be responsible for the costs associated with the purchase and installation of such items. However, all User Specific Items shall be of a Motorola design and fully compatible with system architecture and approved by the System Manager. Each Party also shall be responsible for loss, damage or destruction of its User Specific Items and for maintaining all of its User Specific Items in proper working condition meeting the manufacturer's specifications. Each Party shall timely and completely comply with all standard operating procedures for the System as promulgated from time to time by the System Manager.
- b. The System Owners shall have the following responsibilities:
 - i. Holding in good standing and in the System Owner's name, for the benefit of the Parties, the necessary FCC licenses for the System radio channels with copies of said licenses provided to the Secondary User.
 - ii. Providing for the operation and maintenance of the Backbone Items, subject to payment of fees in accordance with applicable agreements between or among various Parties.
 - iii. Providing for day to day management of the System.
 - iv. Providing not less than a seven (7) day advanced notification of any planned outages.
 - v. Providing a recovery plan for emergency outages.
- c. The Secondary User shall:
 - i. Promptly make payments to the County as provided in this Agreement.
 - ii. Maintain its User Specific Items including, without limitation, portable and mobile radios, accessories, batteries and chargers, mobile data terminals, and dispatch

- console units.
 - iii. Provide all equipment and services that may be required for connection to the System by the Secondary User.
 - iv. All Backbone Items will be covered by such warranties, if any, as may be provided by the manufacturer, Motorola, Inc. which warranties are not transferred, assigned, or extended by this Agreement.
 - v. Use only Motorola Subscriber Devices that support Time Division Multiple Access (“TDMA”) technology, also known as P-25 Phase 2 compatible mobile and portable radios, as well as control stations and consolettes as described in the County’s Countywide Public Safety Wireless Communications System contract with Motorola Solutions Inc.
 - vi. Comply with the applicable laws of the State, the United States of America, as well as the rules of the Federal Communications Commission.
 - vii. Limit all System use to public safety and first responder communications as defined in 47 U.S.C. § 337 (f) (1), the Communications Act of 1934, and all applicable provisions of 47 CFR Part 90, Subpart R.
 - viii. Abide by, and act in accordance with, the decisions, directions, adopted operating protocols, and minimum training standards established and set by the System Manager. Secondary User understands that the addition and removal of Secondary User is governed by the Board of County Commissioners for Columbia County, Florida, and that improper use of the System may result in the suspension or termination of System access privileges. Any conflict between this Agreement and any policy, procedure, standard, or guideline established by the Board of County Commissioners shall be resolved against this Agreement.
 - ix. Ensure the proper use of each device used to access the System. Follow any applicable radio protocol that applies to System use as established by the FCC (e.g., transmission breaks during lengthy traffic, deferral to emergency traffic, etc.). Frequencies and bandwidth supporting the System are at a premium and use of the System is for legitimate criminal justice and public safety purposes only. A telephone should be used for other traffic as appropriate and shall program subscriber devices to employ a time-out-timer to prevent radios from locking up systems resources unnecessarily.
 - x. Any documentation or other information relating to usage of the System, including radio frequencies assigned to or utilized by the Secondary User, code plugs, circuit routing, addressing schemes, talkgroups, fleet maps, encryption, or programming maintained or utilized by law enforcement records are presumed exempt from disclosure under the Freedom Of Information Act (5 U.S.C. § 552), the Privacy Act (5 U.S.C. § 552a) and Department of Homeland Security privacy regulations, 6 C.F.R. Part 5. Such laws shall take precedent over conflicting provisions of Florida Law. The Secondary User shall at all times keep all such information strictly confidential unless release is authorized by law or compelled by an order of a court.
- d. Under this agreement, the County provides access and use of the County owned radio system. The County does not guarantee or warranty coverage but will provide timely response for system maintenance and/or repairs should an outage occur. All costs of operating, maintaining and repairing **EXCELSIOR AMBULANCE** owned equipment will be the responsibility of **EXCELSIOR AMBULANCE**.

8. NOTICES

Any notice permitted or required to be given under the terms of this Agreement shall be in writing, addressed to the Party to whom it is directed, and delivered to it by courier service providing a written record of the date of delivery, or by U.S. certified mail, postage prepaid, return receipt requested, to the address shown below or to such other address as such Party may from time to time designate by written notice.

To System Owners: Columbia County County Manager
135 NE Hernando Ave.
Lake City, FL 32055

With a copy to: System Manager
135 NE Hernando Ave.
Lake City, FL 32055

To Secondary User: Excelsior Ambulance
324 S Belair Road
Martinez, GA 30907- 9337

9. IDEMNIFICATION

To the extent permitted by law and without waiving any defense of sovereign immunity, the Secondary User shall indemnify the System Owner, their officials, officers, and employees, from and against all liabilities, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and litigation costs), resulting from or arising out of any acts or omissions of the Secondary User, or its officials, officers, or employees, relating in any way to this Agreement or to use of the System by the Secondary User.

10. WITHDRAWAL FROM SYSTEM

- a. The Secondary User may, upon delivery of a 180-day advance written notice to the System Owner, withdraw from the System without cause if it determines that such withdrawal would be in its best interest. Promptly following the giving of such notice, and prior to the expiration of such 180-day period, the System Manager shall, at no cost to the remaining Party or Parties, develop the plans and specifications needed to make such changes to the System as may be required to delete the Secondary User from the System. In such event, the Secondary User shall not be entitled to any reimbursement or refund from the System Owner or from any other Party related to its costs incurred in acquiring, operating, or maintaining its User Specific Items or associated facilities.
- b. Promptly following notice by the Secondary User that it will withdraw from the System, the Secondary User shall take the necessary steps to acquire new radio channel licenses from the FCC according to its own needs. All channels and talk groups on the System used by the Secondary User, including without limitation any expansion channels which may be added to the System for such use, shall remain the property of the System Owner.
- c. The Secondary User shall reimburse or pay directly all of the System Owner's costs incurred in connection with the Secondary User's withdrawal from the System without cause.
- d. Upon compliance with 10.a. through 10.c. by the Secondary User, this Agreement shall terminate as to the Secondary User. Nothing contained herein shall constitute a waiver of the right of any Party to damages occasioned by any breach of this Agreement by another Party. Should it choose to withdraw from the, the Secondary User shall not be entitled to, nor shall have any claim for, reimbursement or repayment of any amounts paid by or on behalf of such Party to the County or the System Owner pursuant to the requirements of this Agreement.

11. TERMINATION

The System Owner shall have the right to terminate this Agreement for default if the Secondary User breaches any material term or condition of this Agreement. Provided, however, that the System Manager shall first give written notice of such breach to the Secondary User and the Secondary User shall have the opportunity to cure such default within one hundred eighty (180) days following the

delivery of such written notice.

12. MISCELLANEOUS

- a. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any action to enforce any of the provisions of this Agreement must be maintained in Lake City, Columbia County, Florida.
- b. **Waiver.** Failure to insist upon strict compliance with any term, covenant or condition of this Agreement shall not be deemed a waiver of it. No waiver or relinquishment of a right or power under this Agreement shall be deemed a waiver of that right or power at any other time.
- c. **Modification.** Agreement shall not be extended, changed or modified, except in writing duly executed by the Parties hereto.
- d. **Binding Effect.** This Agreement shall be binding upon the successors and, subject to below, assigns of the Parties hereto.
- e. **Assignment.** Because of the unique nature of the relationship between the Parties hereto and the terms of this Agreement, no Party hereto shall have the right to assign this Agreement or any of its rights or responsibilities hereunder to any third party without the express written consent of the other Parties to this Agreement.
- f. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties hereto with respect to the matters contained herein, and all prior agreements or agreements or arrangements between them with respect to such matters are superseded by this Agreement.
- g. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.
- h. **Ambiguity.** This Agreement has been negotiated by the Parties hereto with the advice of counsel and, in the event of an ambiguity herein, such ambiguity shall not be construed against any such Party as the author hereof.
- i. **Public Bodies.** It is expressly understood that the Parties to this Agreement are subdivisions or agencies of the State of Florida. Nothing contained herein shall be construed as a waiver or relinquishment by any Party to any right it may otherwise have to claim such exemptions, privileges and immunities as may be provided to that Party by law.
- j. **Force Majeure.** A Party to this Agreement shall be excused from performance of an obligation under this Agreement to the extent, and only to the extent, that such performance is affected by a "Force Majeure Event" which term shall mean any cause beyond the reasonable control of the Party affected, except where such Party could have reasonably foreseen and reasonably avoided the occurrence, which materially and adversely affects the performance by such Party of its obligations under this Agreement. Such events shall include, but not limited to, an act of God; disturbance, hostility, war, or revolution; strike or lockout; epidemic; accident; fire; storm, flood, or other unusually severe weather or act of nature; or any requirements of law.
- k. **Authorized Representatives.** Each Party hereto hereby represents that its execution, delivery, and performance of this Agreement have been duly authorized by all requisite action, that the Agreement has been duly and validly executed and delivered by that Party, and that the Agreement constitutes the legal, valid, and binding obligation of that Party enforceable in accordance with its terms.

13. RECORDING OF AGREEMENT, EFFECTIVE DATE

The County, upon execution of this agreement by all the parties, shall record this Interlocal Agreement in the Public Records of Columbia County, Florida. Pursuant to Section 163.01 (11), Florida Statutes, this Agreement, executed by the parties hereto, shall be effective immediately upon filing with the Clerk of the Circuit Court of Columbia County.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective the day and year first above written.

~~CITY COUNCIL FOR THE
CITY OF LAKE CITY, FLORIDA~~

~~Stephen M. Witt, Mayor~~

Attest:

~~Audrey Sikes, Town Clerk~~

Approved as to Form:

~~Fred Koberlein, City Attorney~~

THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, FLORIDA

Ron Williams, Chair

Attest:

~~P. DeWitt Cason, Clerk of Courts~~

Approved as to Form:

Joel Foreman, County Attorney