

AGREEMENT

THIS AGREEMENT, made and entered into on _____, 2012, by and between the United States Marshals Service, a law enforcement agency of the federal government, ("USMS") and the City of Fort Lauderdale, a Florida municipality.

WITNESSETH

WHEREAS, the USMS has purchased radios that provide interoperability between the Deputy US Marshals assigned to work in the Fort Lauderdale area and the City of Fort Lauderdale; and

WHEREAS, the USMS and the City of Fort Lauderdale have determined that the ability to provide interoperable communications is critical to the effective and efficient provision of public safety services; and

WHEREAS, it has been determined to be mutually beneficial to both Parties to execute this Agreement which sets forth the parameters under which the USMS can access specific Talkgroups established on the City of Fort Lauderdale's Trunked Radio System to receive the public safety benefit of interoperability; and

WHEREAS, Section 163.01, Florida Statutes, permits public agencies to enter into Agreements to jointly exercise any power, privilege or authority which such agencies share in common and which each might exercise separately;

NOW THEREFORE, in conjunction with the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

SECTION 1: PURPOSE AND DEFINITIONS

- 1.01 The purpose of this Agreement is to set forth the parameters under which the City of Fort Lauderdale will provide access to specific Talkgroups established on the City of Fort Lauderdale Radio System to provide interoperable communications among public safety agencies capable of accessing this feature of the City of Fort Lauderdale Radio System.
- 1.02 Definitions
 - 1.021 Common Talkgroups: Talkgroups established on the City of Fort Lauderdale's communications system that are made available to non-City of Fort Lauderdale agencies for interoperable communications between agencies for the purpose of providing mutual assistance and planning and execution of on-scene operations.
 - 1.022 Operational Talkgroups: Talkgroups established on the City of Fort Lauderdale's communication system that are made available for intra-departmental communications. These Talkgroups are reserved for particular departments/agencies and only available to outside users by specific agreements.

- 1.023 United States Marshals Service (USMS) Equipment: Also known as “agency radios,” are USMS owned 800 MHz handheld and mobile radios and control stations that have the ability to be programmed and used on the City of Fort Lauderdale’s 800 MHz Trunked Radio System.
- 1.024 Radio Alias: The unique name assigned to an operator’s radio that displays on the dispatcher’s console when a radio transmits.
- 1.025 System: The 800 MHz Trunked Radio System funded, purchased, installed, maintained and owned by the City of Fort Lauderdale.
- 1.026 System Manager: An employee within the City of Fort Lauderdale’s Radio Communications Section of the Information Technology Services Department responsible for day-to-day administration and management of the City’s radio systems and the City of Fort Lauderdale’s designated contact person pursuant to various sections of this agreement.

SECTION 2: ADMINISTRATION OF THE CITY OF FORT LAUDERDALE’S 800 MHz SYSTEM AND USAGE PROCEDURES

- 2.01 The City of Fort Lauderdale Information Technology Services Radio Communications Service Division’s 800 MHz Radio System Manager will be the City of Fort Lauderdale’s day-to-day contact and can be reached at 954 828-5762. The Communications Section is staffed from 8:00 am to 4:30 pm, Monday through Friday, excluding City of Fort Lauderdale holidays. After hours emergency contact will be made through the City of Fort Lauderdale’s Police Dispatch Center at 954 828-5700.
- 2.02 The United States Marshals Service (USMS) shall follow all City of Fort Lauderdale policies and standard operating procedures in place at the time of this Agreement as well as those developed in the future and issued to the USMS by the System Manager. The USMS agrees to comply with any enforcement actions required by these policies and procedures for misuse or abuse of the City of Fort Lauderdale System.

SECTION 3: CITY OF FORT LAUDERDALE EQUIPMENT & RESPONSIBILITIES

- 3.01 The City of Fort Lauderdale 800 MHz System consists of 26 channels, three (3) transmit and receive sites with co-located microwave equipment, and one (1) microwave/receive only sites that provide network connectivity.
- 3.02 The City of Fort Lauderdale System provides seamless city-wide portable and mobile radio coverage for the Common Talkgroups. The radio coverage for the Common Talkgroups is identical to that of most other City of Fort Lauderdale Talkgroups that reside on the City of Fort Lauderdale 800 MHz Trunked Radio System. Certain of the Talkgroups are capable of roaming onto the Broward County portion of the SmartZone network. Subject to approval for use on the SmartZone network, USMS radios authorized to access these talkgroups may be

programmed to utilize the SmartZone roaming capabilities to the same extent as City of Fort Lauderdale radios.

- 3.03 The City of Fort Lauderdale shall be responsible for the maintenance and operation of the City of Fort Lauderdale Radio System, including all costs associated with permitting and licensing.
- 3.04 The City of Fort Lauderdale shall maintain the coverage within the City of Fort Lauderdale municipal boundaries as described throughout the term of this Agreement except for times of scheduled preventive maintenance, when it will be necessary to disable portions of the network for a pre-determined length of time or during times of system failures.
- 3.05 The City of Fort Lauderdale shall be responsible for talk group and fleet mapping management. However, the USMS reserves the right to program the approved Fort Lauderdale talkgroups in any position in USMS-owned radios.

SECTION 4: UNITED STATES MARSHALS SERVICE (USMS) EQUIPMENT AND RESPONSIBILITIES

- 4.01 The USMS equipment will be multi-band VHF, 700/800 MHz mobile, portable, and control station equipment programmed to be used on the City of Fort Lauderdale's 800 MHz Trunked Radio System. The equipment used will be compatible with Motorola 800 MHz SmartNet and SmartZone communication systems as well as APCO Standards P25 trunking systems. The USMS will be required to keep its equipment in proper operating condition and the USMS is responsible for maintenance of its owned or operated radio equipment.
- 4.02 The USMS will only program the Talkgroups specifically listed in ATTACHMENT A and the individual unit ID numbers assigned by the System Administrator as part of this Agreement. The USMS will not program into its radios the City of Fort Lauderdale operational Talkgroups without a letter of authorization from the City of Fort Lauderdale Radio Systems Manager.
- 4.03 The USMS shall provide the City of Fort Lauderdale with a list of persons/positions, which are authorized to request activating/deactivating existing units or new units. No programming will be undertaken by the USMS or its service provider until requested and approved in writing by the System Manager.
- 4.04 The USMS shall receive certain access codes (System Key or Advanced System Key) and Talk Group ID codes to the City of Fort Lauderdale's System to enable the authorized Talkgroups to be programmed into their equipment. The USMS shall treat these codes as confidential information. The USMS is responsible to safeguard the code information from release to unauthorized parties. All written and oral information not in the public domain or not previously known and all information and data obtained, developed, or supplied by the City of Fort Lauderdale will be kept confidential by the USMS and will not be disclosed to any other party, directly or indirectly, without the City of Fort Lauderdale's prior written consent, unless required by law or lawful order. All system parameters shall be and remain the City of Fort Lauderdale's property and may only be reproduced or

distributed with the written permission of the City of Fort Lauderdale. The USMS agrees that the City of Fort Lauderdale has sole and exclusive ownership of all right, title and interest to the confidential information and that such information may be recalled at any time.

- 4.05 Access and programming codes will only be released to: 1) service staff employed by the USMS, 2) commercial service providers under contract with the USMS.
- 4.06 All of the USMS's commercial service providers are subject to the City of Fort Lauderdale's approval upon the City of Fort Lauderdale's review of whether the contract terms between the USMS and the commercial service provider are adequate to protect the City of Fort Lauderdale's Radio System from misuse, harm or release of access and programming codes to unauthorized persons.
- 4.07 The USMS will be responsible for ensuring that any and all USMS-contracted commercial service providers adhere to the terms of this Agreement pertaining to the proper use of access/programming codes and radio use.
- 4.08 The USMS is solely responsible for the performance and the operation of the USMS equipment and any damages or liability resulting from the USMS's use thereof. Should the City of Fort Lauderdale identify malfunctioning USMS-owned or operated equipment, the City of Fort Lauderdale will request that the USMS discontinue use of the specific device until repairs are completed. The City of Fort Lauderdale may, in the City of Fort Lauderdale's sole discretion, disable the equipment from the System after properly notifying the USMS in writing if the device is causing interference to the System. If the device is causing interference that jeopardizes the integrity of the System, or creates an officer safety issue, the City of Fort Lauderdale may disable the device immediately, with notification to follow.
- 4.09 In the case of lost or stolen equipment, the USMS will notify the Radio System Manager via e-mail or fax and request the disablement of said equipment. The request shall include the City of Fort Lauderdale-issued individual unit ID number and the serial number of the radio(s). The Radio System Manager will then advise via e-mail when the lost or stolen equipment has been disabled. A request by the USMS to re-activate a disabled unit will be required *via* an in-person visit with the disabled radio to the System Manager.

SECTION 5: SUBSCRIBER UNIT INFORMATION TO BE PROVIDED BY UNITED STATES MARSHALS SERVICE (USMS)

- 5.01 The USMS will be required to provide to the City of Fort Lauderdale an initial inventory of the radios that are proposed to be programmed for use of the authorized Talkgroups. The USMS will provide the following information to the City of Fort Lauderdale:
 1. Radio manufacturer and model numbers
 2. Radio serial numbers
 3. Requested aliases to be programmed

The Radio System Manager will then compile this information and transmit back to the USMS a matrix of the City of Fort Lauderdale Talkgroups, aliases, and radio ID numbers prior to the USMS's radios being activated on the City of Fort Lauderdale's 800 MHz system. The USMS is responsible for adhering to the Talk-Group and Radio ID allocations established by the City of Fort Lauderdale.

SECTION 6: UTILIZATION AND MONITORING OF COMMON TALKGROUPS

- 6.01 The Common Talkgroups were implemented specifically for inter-agency communication among multiple agencies, regardless of their specific discipline or affiliation. They were also created to allow communications between agencies without requiring cross-programming operational Talkgroups in each agency's radios. Usage of the Common Talkgroups is authorized to coordinate multi-jurisdictional fire/law enforcement/disaster recovery operations such as fires requiring multi-agency responses, police pursuit through multiple jurisdictions and coordination and response to local emergencies and disasters. Other authorized uses include undercover operations, investigations, perimeter communications, fire ground coordination, scene security and landing zone communications requiring participation of multiple agencies and disciplines.

In addition, the Common Talkgroups can be used by any agency experiencing catastrophic failures of their own communication system for a limited and pre-determined amount of time. A request to utilize the Common Talkgroups for this situation requires permission of the Radio System Manager. Once approved by the Radio System Manager, the Common Talkgroups can be temporarily utilized until repair of the agency's communication system is complete.

- 6.02 The Common Talkgroups shall not be used for every-day routine communications or as an extra talk group for agencies that have cross programming agreements and duplicated Talkgroups programmed into their radios. Other prohibited uses include communications for special events and operations, use as an additional dispatch, administrative use or as a car-to-car talk group for a single agency.

SECTION 7: INDEMNIFICATION AND LIABILITY

The City of Fort Lauderdale makes no representations about the design or coverage capabilities of the City of Fort Lauderdale System. The United States Marshals Service has decided to enter into this Agreement and use the City of Fort Lauderdale's System on the basis of having interoperability with the City of Fort Lauderdale and/or other municipalities during times of mutual aid and/or joint operations. The System is designed to assist qualified law enforcement, fire, and other emergency service professionals. It is not intended to be a substitute for the exercise of judgment or supervision of these professionals. Both parties acknowledge that the responsibility for providing law enforcement, fire, or other emergency services within the geographic bounds of the City of Fort Lauderdale rests with the City of Fort Lauderdale, which is providing such service, and not with the other party to the Interoperability Agreement.

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, the United States Marshals Service (USMS) shall indemnify, defend and hold harmless the City of Fort Lauderdale against any actions, claims or damages arising out of the USMS's negligence in connection with this Agreement, and the City of Fort Lauderdale shall indemnify, defend and hold harmless the USMS against any actions, claims, or damages arising out of the City of Fort Lauderdale's negligence in connection with this Agreement. The foregoing indemnification by the City of Fort Lauderdale in favor of the USMS shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes (2012), as may be amended or revised, nor shall the same be construed to constitute agreement by either party to indemnify the other for such other party's negligent, willful or intentional acts or omissions.

The terms and conditions of this Interoperability Agreement incorporate all the rights, responsibilities, and obligations of the parties to each other. The remedies provided herein are exclusive. The City of Fort Lauderdale and the USMS waive all other remedies with respect to each other, including, but not limited to, consequential and incidental damages. The City of Fort Lauderdale agrees to use its best reasonable efforts to provide the USMS with full use of the Common Talkgroups but makes no guarantee as to the continual, uninterrupted use of the radio communication system, or its fitness for the communication needs of the USMS.

SECTION 8: OWNERSHIP OF ASSETS

All assets maintained under this Agreement will remain assets of the respective party.

SECTION 9: TERM OF AGREEMENT

The initial term of this Agreement is for five (5) years and shall commence immediately upon full execution of this Agreement. The Agreement may be renewed for three (3) five-year terms thereafter. At least six months prior to the expiration of this Agreement's term, the USMS may provide the City of Fort Lauderdale with a request to renew this Agreement. Such renewal will require approval of both parties.

SECTION 10: AMENDMENTS TO THIS AGREEMENT

This Agreement may be amended from time to time by written amendment as agreed to by all parties.

SECTION 11: TERMINATION

This Agreement may be terminated by either party with or without cause upon ten (10) days' written notice to the other party. Upon request of termination by the USMS, the System Manager will proceed to disable the USMS's radios from the City of Fort Lauderdale's System. It will be the responsibility of the USMS to reprogram the USMS's radios removing the City of Fort Lauderdale's System information from the radios. The USMS will complete reprogramming the

USMS's radios within sixty (60) days of the date of termination unless the USMS has greater than one hundred (100) radios, in which case the USMS shall have ninety (90) days to re-program its radios.

SECTION 12: NOTICES

Any notice given pursuant to the terms of this Agreement shall be in writing and be delivered by Certified Mail, Return Receipt Requested. The effective date of such notice shall be the date of receipt, as evidenced by the Return Receipt. All notices shall be addressed to the following:

As to the United States Marshals Service:

Bryan Bailey,
Deputy U.S. Marshall
400 North Miami Ave. 6th Floor
Miami, FL 33128-7715

As to the City of Fort Lauderdale:

City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

City Telecommunications Manager
City of Fort Lauderdale Communications Shop
100 North Andrews Avenue
Fort Lauderdale, FL 33301

With a copy to:

Assistant Telecommunications Manager/
Radio Systems Manager
City of Fort Lauderdale Communications Shop
100 North Andrews Avenue
Fort Lauderdale, FL 33301

SECTION 13: APPLICABLE LAW

This agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 14: FILING

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Broward County, Florida

SECTION 15: ENTIRE AGREEMENT

This Agreement and any Attachments attached hereto and forming a part thereof as if fully set forth herein, constitute all agreements, conditions and understandings between the City of Fort Lauderdale and the United States Marshals Service (USMS) concerning access to the Talkgroups on the Fort Lauderdale Radio System. All representations, either oral or written, shall be deemed to be merged into this Agreement, except as herein otherwise provided. No subsequent alteration, waiver, change or addition to this Agreement shall be binding upon the City of Fort Lauderdale or the USMS unless reduced to writing and signed by them.

SECTION 16: DELEGATION OF DUTY

Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of the City of Fort Lauderdale or the USMS officers.

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

ATTEST:

United States Marshals Service

By _____
Bryan Bailey, Deputy U.S. Marshal

APPROVED AS TO FORM AND
CORRECTNESS:

??????? U.S.M.S. Attorney

CITY OF FORT LAUDERDALE

By _____
John P. "Jack" Seiler, Mayor

By _____
Lee R. Feldman, City Manager

(CORPORATE SEAL)

ATTEST:

Jonda K. Joseph, City Clerk

APPROVED AS TO FORM:

City Attorney