

BILL NO. 497

ORDINANCE NO. 497

AN ORDINANCE AUTHORIZING A USER AGREEMENT BETWEEN THE VILLAGE OF UPLANDS PARK AND ST. LOUIS COUNTY FOR SUBSCRIBER RADIOS AS PART OF COUNTYWIDE INTEROPERABLE RADIO SYSTEM:

WHEREAS, in November 2009 voters of St. Louis County passed Proposition E-911, which authorized a bond issue by St. Louis County to fund the replacement of individual police, fire and emergency medical service agency radio systems with a countywide interoperable radio system for all public safety agencies; and

WHEREAS, an interoperable radio system will enhance the ability of the many different public safety agencies in St. Louis County to communicate for both routine and emergency operations anywhere within the region;

WHEREAS, St. Louis County, through an Emergency Communications Commission (the "ECC") comprised of representatives from the public safety agencies in the County, has entered into a contract with Motorola Solutions, Inc. to design, deliver, install, test, and maintain a countywide interoperable P-25 800 MHZ digital radio system; and

WHEREAS, the ECC will provide radios to all public safety agencies in the County, including the Village of Uplands Park Police Department, subject to the rules, regulations, policies and standards established by the ECC as provided for in a User Agreement for Subscriber Radios (the "User Agreement"); and

WHEREAS, the Village of Uplands Park desires to receive radio equipment to allow it to fully benefit from the countywide interoperable P-25 800 MHZ digital radio system, and therefore wishes to enter into the User Agreement with St. Louis County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF UPLANDS PARK, MISSOURI AS FOLLOWS:

SECTION ONE: The Chairman of the Board of Trustees of the Village of Uplands Park shall hereby be authorized to enter into an agreement, in the form of the attached User Agreement for Subscriber Radios with St. Louis County.

SECTION TWO: In the event any word, words, phrase, phrases, sentence, sentences, paragraph, paragraphs, section, sections contained and appearing in this ordinance, shall be held or declared invalid, unlawful or unconstitutional for any cause or reason, then it is hereby

declared that the remaining such portions and provisions of this ordinance shall be and remain unaffected thereby and shall remain in full force and effect.

SECTION THREE: This Ordinance shall be in full force and effect immediately upon its passage and approval.

This Ordinance Passed and Approved this 16th day of July 2012.

Henry Iwenofu
Chairman

ATTEST:

Shirley Watkins
Village Clerk

USER AGREEMENT FOR SUBSCRIBER RADIOS
INTEROPERABLE RADIO SYSTEM

THIS AGREEMENT, Made and entered into this _____ day of _____, 2012, by and between ST. LOUIS COUNTY, MISSOURI, hereinafter referred to as "ECC"; and VILLAGE OF UPLANDS PARK, hereinafter referred to as "Agency";

WITNESSETH:

WHEREAS, ECC has entered into a contract with Motorola Solutions, Inc. ("Motorola") whereby Motorola is obligated to design, deliver, install, test, and maintain a county-wide emergency communications radio system and associated commercial items, commercial computer software, equipment, subsystems and services (the "System");

WHEREAS, ECC intends to provide radios to Agency to enhance its ability to communicate for both routine and emergency operations anywhere within the Region and to permit Agency to use the System, subject to the rules, regulations, policies and standards established by the ECC;

WHEREAS, Agency is authorized to enter into this Contract by Ordinance No. _____, and ECC is authorized to enter into this Contract by Ordinance No. _____;

NOW THEREFORE, the parties agree as follows:

1. **Definitions.** The following definitions apply to these terms, as used in this Contract:

Infrastructure –all fixed electronic and civil components that make up the System. This includes owned or leased radio towers, monopoles, and rooftop installations; RF transmitters, microwave components, combiners, antenna systems, controllers, comparators, routers, GPS time standards, and other network hardware; environmental equipment shelters and HVAC subsystems; UPS and emergency power generator systems; and countywide recording systems.

Subscriber Radios –mobile (vehicle-mounted) and portable (handheld) radios; desktop control stations and desksets; digital vehicular repeater systems; RF modems used for mobile data; and associated accessories (batteries, battery chargers, shoulder microphones, holsters, etc.).

System – the county-wide emergency communications radio system and associated commercial items, commercial computer software, equipment, subsystems and services.

Motorola Contract – the contract dated December 15, 2011 between ECC and Motorola for the P-25 800 MHZ Digital Trunked Radio/Microwave System Project (RFP No. 2010-07-RH).

2. **Use of the System.** ECC hereby grants Agency permission to use the System, after it is installed, tested and accepted, subject to the following:

- a. Agency shall comply with the rules, regulations, policies and standards established by the ECC.
- b. Agency shall comply with all laws, rules and regulations relating to use of the System, including but not limited to FCC regulations.
- c. Agency shall commit to transitioning its operations to the System and, upon so doing, relinquishing unused VHF/UHF frequencies and associated licenses within its control. Agency shall cooperate with the ECC to develop a list of such frequencies, in compliance with the FCC Order dated February 21, 2012, DA 12-245, WT Docket 99-87.

3. **Title and Ownership of Subscriber Radios.** ECC agrees to transfer ownership of the Subscriber Radios specified in Exhibit A (Radios) which is appended hereto and made a part of this Agreement, to Agency to enhance its ability to communicate during routine and emergency operations anywhere within St. Louis County and beyond. Agency agrees to accept ownership of the specified Radios upon receipt and comply with all provisions of this Agreement. Agency shall not transfer, sell, give or otherwise dispose of any of the Radios without the consent of the ECC. During the term of this Agreement, ECC may purchase and transfer to Agency additional radios. ECC and Agency agree that the provisions of this Agreement will apply to all such additional transfers of radios. ECC shall upon each additional transfer provide Agency with an updated Exhibit A which the parties agree may be added to this Agreement as an amendment signed by both parties. The Agency agrees to accept title to the Radios if such title is required.

4. **Programming, Data Conversion, Fleetmapping & Interoperability Template Design.** The ECC will be responsible for programming the Radios. Costs for conversion of GPS data and/or interface to CAD or other computer management systems will be the responsibility of individual user agencies. The ECC will be responsible for initial and ongoing fleetmapping and interoperability template design and codeplug provision for user agencies. This will include design of specific talkgroups to meet the routine needs of individual agency operations.

5. **Radio Inventory Control.** Agency shall inspect each of the Radios upon receipt to make sure it is in good working order and free from defects and malfunctions. If each of the Radios is found free from defects/malfunctions Agency shall indicate its acceptance of each of the Radios on the Inventory Control Form, a sample of which is attached to this Agreement as Exhibit C. If any of the Radios is found to be defective and/or malfunctioning Agency shall describe the defects/malfunctions on the Inventory Control Form and promptly provide the form to the Director of Emergency Communications by fax or e-mail. Upon request, Agency will provide a written inventory of each of the Radios to the Emergency Communications Director. The report shall be in a format approved by the ECC.

6. **Property and Casualty Insurance.** Agency agrees to maintain such property and casualty insurance as it deems appropriate on each of the Radios. Although the ECC will pay for depot maintenance coverage (see Section 8) for malfunctions due to manufacturing

responsibility of the Agency.

7. **Infrastructure.**

- a. System Design & Construction – The ECC will be responsible for all system design, site acquisition, construction, testing, cutover, and acceptance activities for the Infrastructure. Concentration will given to outdoor coverage and building penetration, inter-agency interoperability, system redundancy, and network survivability.
- b. Maintenance & Support – The ECC will be responsible for the operation, technical performance, preventative maintenance, modifications/additions, hardware/software upgrades, routine corrective repairs, and emergency restoration of the Infrastructure. The ECC will oversee and manage contractors authorized to maintain and support the Infrastructure.
- c. Physical Security – The ECC will ensure that reasonable physical security measures are taken to protect the remote (unstaffed) equipment sites of the Infrastructure.
- d. Critical System Data – the ECC will ensure that all system data, custom configurations, and interoperability & fleetmapping templates are regularly backed up and secured in an off-site protected location, in accordance with St Louis County standards and Best Practices.
- e. Backup Network Testing – The ECC will schedule, coordinate, and conduct tests of backup systems, including countywide, all-agency FailSofI drills.
- f. Radio Licenses – The ECC shall be the named licensee, and will be responsible to acquire and maintain all licenses required by the Federal Communications Commission (FCC) for the operation of the countywide radio system. The ECC will investigate and remediate any complaints of interference or substandard performance of the system.
- g. System Funding – The ECC shall, on an annual basis, submit a budget request to County Council for sufficient funds to handle the insurance and ongoing maintenance and upgrade costs for the Infrastructure, including contingency funding to address unforeseen emergency requirements.

8. **Subscriber Radio Warranty and Maintenance.** The ECC will provide the 1-year warranty as described in the Motorola Contract, subject to the exclusions, limitations, conditions and disclaimers stated therein. To the extent sufficient funds are appropriated each year by the St. Louis County Council, the ECC will fund the annual depot maintenance costs for the Radios for the five year post-warranty period (including Radios that were purchased directly

by the Agency from the Motorola contract), subject to the exclusions, limitations, conditions and disclaimers stated in the depot maintenance contract. In the event that the St. Louis County Council fails to appropriate the funds necessary to cover the annual depot maintenance costs, ECC's obligation to pay for maintenance costs shall be terminated without financial penalty to ECC. ECC shall notify Agency in writing of its inability to provide continued appropriations to pay for the depot maintenance costs. At such time, Agency and ECC will meet to discuss funding options to cover the maintenance costs. Agency agrees to take proper care of each of the Radios as recommended by the manufacturer and standard operating procedures. Agency will be responsible for coordinating repair scheduling and/or drop off with the maintenance contractor. Billable repairs caused by accident and/or misuse will be the responsibility of the Agency.

9. **Loss or Theft.** Agency agrees to notify ECC immediately (or as soon as reasonably possible) upon discovery of the loss or theft of any of the Radios. The ECC will suspend the missing Radio's electronic registration within the System, so that it cannot be used by unauthorized persons.

10. **Training.** Agency agrees to provide and maintain training to personnel in the proper and safe use of the Radios. Motorola will conduct training classes as described in the Motorola Contract, and Agency will be invited to participate in such training.

11. **Emergency Response/Mutual Aid.** ECC agrees understands that the Agency is free to use the Radios for all of their operations, including those which may involve travel outside of the immediate region for special events and emergency/mutual aid response.

12. **Notices.** Any notice, request, complaint, demand or other communication required by this Agreement to be given to or filed with ECC or Agency, shall be in writing and shall be given or filed in the manner and at the addresses specified below.

[*fill in contact info for ECC and Agency]

13. **Liability Protection.** Agency and ECC acknowledge that service disruptions will occur from time to time and agree to hold each other harmless for all such disruptions. ECC assumes no responsibility with respect to the use or storage of the Radios or any accidents or claims arising out of use of the Radios.

14. **Term.** The term of this Agreement shall be from the date set forth above and shall terminate December 31, 2019 unless sooner terminated pursuant to Section 15 or Section

16. In the event that Agency and ECC desire to renew or extend the term beyond December 31, 2019, a supplemental agreement will be negotiated and executed.

15. **Default and Termination for Cause.** Any material violation of this Agreement is a default. In the event of a default, each party shall give the other party written notice of the alleged default, and each party will be afforded an opportunity to cure the default or present their disagreement to a mutually agreeable mediator, all in accordance with the dispute resolution process adopted by the ECC. Failure to cure a default or participate in the dispute resolution process will result in a termination of this agreement, but no such termination shall take effect until 90 days after the governing body of Agency or ECC finds and determines, by resolution or ordinance, that the Agreement should be terminated for cause.

16. **Funding Out.** If the governing body of a party should not appropriate or otherwise make available funds sufficient to fulfill the party's obligations under this Agreement, such party may unilaterally terminate this Agreement, without financial penalty, upon ninety (90) days written notice to the other party.

17. **Return of Radios.** Upon expiration or termination, the ECC may require that all Radios that are less than six years old be returned to the ECC and that Title to Radios be transferred to ECC or to another entity designated by the ECC.

18. **Amendments.** This Agreement may be amended only by written agreement of ECC and Agency.

19. **Venue.** In the event that any actions or proceedings are initiated with respect to this agreement, the parties agree that the venue thereof shall be St. Louis County, Missouri, and that this agreement shall be governed by the laws of the State of Missouri.

Executed by the ECC the _____ day of _____, 2012.

Executed by the Agency the _____ day of _____, 2012.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK. SIGNATURE PAGES FOLLOW.

COUNTY OF ST. LOUIS

Chairman, Emergency Communications
Commission

Approved as to legal form:

County Counselor

Approved:

Risk and Insurance Manager

Approved:

Accounting Officer

AGENCY OF

By: _____
Mayor (or Chairman)

ATTEST:

Approved as to legal form:

Mede a wit
Agency Attorney

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this _____ day of _____, 201____, before me, a Notary Public in and for said state, personally appeared _____ [name], _____ [title] of _____ [agency], known to me to be the person who executed the foregoing agreement in behalf of said Agency and acknowledged to me that he or she executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My commission expires: