

RESOLUTION NO. 16
SERIES 2016

INTRODUCED BY: MIKE GALLAGHER
SECONDED BY: ALEX BROWN

A
RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING AN INTERGOVERNMENTAL AGREEMENT
WITH ARAPAHOE COUNTY REGARDING SHARED USE
OF ARAPAHOE COUNTY'S RADIO COMMUNICATIONS NETWORK SYSTEM
AND CONSOLIDATED COMMUNICATIONS NETWORK OF COLORADO

WHEREAS, C.R.S. Section 30-11-410, as amended, authorizes the governing body of a municipality and the board of county commissioners to contract for the purpose of providing law enforcement services by the Sheriff within the boundaries of the municipality; and

WHEREAS, C.R.S. Section 29-1-203 further authorizes governments to cooperate or contract with one another to provide any function, service, or facility; and

WHEREAS, Section 13.6 of the Cherry Hills Village Home Rule Charter authorizes the City Council, by resolution or by ordinance, to enter into contracts or agreements with other governmental units for receiving services; and

WHEREAS, Arapahoe County ("the County") has shared use of their Digital Trunked Radio System (DTRS) through the Arapahoe County Sheriff's Office with the City for decades; and

WHEREAS, the City and the County agree that such intergovernmental cooperation creates efficiencies in operation, resources and cost, and thus furthers the public health, safety and welfare of the residents of the City and County; and

WHEREAS, the City and County desire to enter into the attached updated Intergovernmental Agreement ("Agreement") in accordance with the terms and conditions set forth therein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cherry Hills Village, Colorado that:

Section 1. The City Council hereby approves the attached Agreement between the City of Cherry Hills Village and the Board of County Commissioners of the County of Arapahoe, and authorizes the Mayor to execute said Agreement.

Section 2. This Resolution shall be effective immediately.

Introduced, passed and adopted at the
regular meeting of City Council this 15th day
of November, 2016, by a vote of 6 yes 0 no.

(SEAL)



Laura Christman, Mayor

ATTEST:



Laura Smith, City Clerk

APPROVED AS TO FORM:



Linda C. Michow, City Attorney

**ATTACHMENT TO RESOLUTION 16, SERIES 2016:
INTERGOVERNMENTAL AGREEMENT
WITH ARAPAHOE COUNTY REGARDING SHARED USE
OF ARAPAHOE COUNTY'S RADIO COMMUNICATIONS NETWORK SYSTEM
AND CONSOLIDATED COMMUNICATIONS NETWORK OF COLORADO**

**INTERGOVERNMENTAL AGREEMENT REGARDING SHARED USE OF ARAPAHOE
COUNTY'S RADIO COMMUNICATIONS NETWORK SYSTEM
[And Consolidated Communications Network of Colorado (CCNC)]**

This Intergovernmental Agreement entered into this 15th day of November, 2016, by and between Arapahoe County, Colorado, (hereinafter the "County") and City of Cherry Hills Village, hereinafter referred to as "Subscriber", hereinafter collectively referred to the parties.

WHEREAS, pursuant to the provisions of Sections 29-1-203 C.R.S., and Section 18(2)(a) of Article XIV of the Colorado Constitution, Governmental entities are authorized to cooperate and contract with each other for the purpose of intergovernmentally providing any function, service, or facility authorized to it, and further including authority to provide for the joint exercise of such function, service, or facilities; and

WHEREAS, in the performance of its governmental functions, the County has obtained a Digital Trunked Radio System (hereinafter sometimes referred to as "DTRS") presently consisting of radio sites containing trunked radio repeaters, related electronic hardware equipment, software, and towers/antennas; and

WHEREAS, the County operates and maintains the DTRS for an improved radio communications function for its various governmental functions including law enforcement, road and bridge, animal control, building inspection, public safety and general governmental radio communications; and

WHEREAS, the County has integrated their DTRS with the statewide DTRS, which is managed by the Consolidated Communications Network of Colorado (CCNC), and migrated all public safety to digital communications for the mutual benefit of all users and automatic interoperability; and

WHEREAS, the County and Subscriber are each authorized to utilize radio communications in the performance of their various governmental functions; and

WHEREAS, the parties wish to cooperate in providing such services and equipment now separately operated by the parties; and

WHEREAS, the parties have determined that this Agreement is necessary, proper and convenient for the continued fostering and preservation of the public peace, health and safety, and for providing a more cost effective and efficient use of governmental resources;

NOW, THEREFORE, IT IS AGREED by and between the County and the Subscriber as follows:

1. The County agrees to permit the Subscriber to utilize the County's portion of the statewide DTRS pursuant to the terms and conditions of this Agreement. As a partial reimbursement for the County's cost in obtaining and maintaining the DTRS, Subscriber shall pay to the County a one-time user fee in the sum of \$325.00 for each serialized

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device added after January 1, 2017, and shall be entitled to use a portion of the DTRS needed by Subscriber for its law enforcement, fire, public works and other governmental purposes, subject to the terms and conditions of this Agreement. Subscriber shall pay such fee to the County no later than thirty (30) days after Subscriber's receipt of the annual billing invoiced in February of the following year. This fee is applicable to each additional serialized device that is placed on the County's portion of the DTRS. Replacement devices are not subject to this user fee. Said payment shall be made to Arapahoe County for deposit in the County's DTRS Development ("DTRSD") account for use as set forth in paragraph 12.

2. Subject to annual budgeting and appropriation, Subscriber shall also pay an annual operation and maintenance fee of \$25.00 per serialized device. This fee will be billed in February, for the previous year, and each year thereafter, and shall be due and payable within thirty (30) days of Subscriber's receipt of such billing.
3. The CCNC has made available 3 talk groups from the DTRS for use by Subscriber. A talk group is generally defined as a computer designated allocation for the routing of transmitted radio or data messages on a multi-frequency trunked radio system, such as the DTRS.
4. The County shall obtain any and all permits, certificates and licenses required by any rules, regulations and laws for the operation of the DTRS. Subscriber will cooperate with the County, to the extent necessary, in obtaining such permits, certificates and licenses.
5. To the best of its ability, the County shall protect and maintain its portion of the DTRS in proper operating condition in such a manner that the DTRS services shall be efficiently rendered to the parties as and when needed.
6. The County agrees to furnish qualified personnel to provide operational control of the DTRS. Operational control is deemed to include all facets of a communications network, including, but not limited to, program, transmission, reception, usage and allocation of the network. Subscriber shall be responsible for purchasing mobile and portable radios compatible with the DTRS. Subscriber shall also be responsible for the maintenance, repair and insurance of its radios and equipment needed for use of the DTRS. Subscriber and its agent(s) agree to operate on the DTRS in accordance with FCC Rules & Regulations, County Policies and CCNC Standard Operational Procedures (SOP).
7. The County shall pay for all expenses of every kind or nature incurred in the operation of the DTRS. Subscriber shall not be liable for any debts or liabilities contracted or incurred by the County or any other entity that may utilize the DTRS.
8. The County shall, at all times, carry and maintain adequate insurance coverage to protect the properties of the DTRS against fire, loss or other hazards that may impair the operations.

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9. Subscriber is allocated 3 secured communication talk groups. Additional system talk groups may be requested in writing to the Technical Committee of CCNC.
10. The County may allow other Subscribers to use the DTRS provided such entities enter into an agreement similar to this Intergovernmental Agreement and whose membership has been approved by CCNC.
11. Each party to this Agreement and each party to any other agreement with Arapahoe County for the use of the DTRS shall annually certify the number of radios that it uses as part of the DTRS by January 1st of each year.
12. The County hereby agrees to separately account for the user fees received and utilize such monies solely for equipment replacement, enhancements, or the purchase of additional equipment needed for the DTRS. Any proposed expenditure is subject to the review and recommendation of the Arapahoe County Sheriff's Office and approval of the Board of County Commissioners.
13. To the extent allowed by law the Subscriber shall indemnify and hold harmless the County and its elected and appointed officials, officers, employees and agents from and against any and all losses, damages, liabilities, claims, suits, actions or awards, including costs, expenses and attorney's fees, incurred or occasioned as a result of the acts or omissions of the Subscriber, or its principals, employees, agents or subcontractors arising out of or in any way connected with the performance of services under this Agreement. The Subscriber's obligation to indemnify pursuant to this paragraph, and to provide any extended insurance coverage where applicable, shall survive the completion of the scope of services and shall survive the termination of this Agreement.
14. Either party may terminate its participation in the DTRS upon at least one-year's written notice to the other party. In the event of Subscriber's termination of this Agreement under this paragraph, Subscriber shall not be entitled to any distribution from the DTRSD account. In the event of the County's termination of this Agreement as to all user(s), the County shall negotiate with the other user(s) for the purchase of its portion of the DTRS by the other user(s) and for the assignment or transfer of any license, permits, leases and/or related agreements associated with the DTRS. Pursuant to any purchase agreement, the County will transfer the balance of DTRSD account to the purchaser. In the event of mutual termination by all user(s) of the County's portion of the DTRS, the balance of the DTRSD account will be distributed on a pro-rata basis to all users based upon each user's historical contribution to the DTRSD account. Subscribers do not have a vested interest in the DTRSD account.
15. Failure to timely pay the annual operation and maintenance fee, as set forth in paragraph 2, by Subscriber shall be deemed a default of this Agreement and grounds for termination thereof. In such instance, the County may terminate this Agreement upon sixty (60) days' prior written notice to Subscriber and upon the expiration of such sixty days' written notice, the County may eliminate the transmission capability of the Subscriber.

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Subscriber shall not be entitled to any distribution from the DTRSD account.

16. Notices to be provided under the Agreement shall be given in writing either by hand delivery, or deposited in the United States Mail, with sufficient postage, to the following:

COUNTY:

Arapahoe County Sheriff's Office
13101 E. Broncos Parkway
Centennial, CO 80112-4558

SUBSCRIBER:

Police Chief
2460 E. Quincy Ave.
Cherry Hills Village, CO 80113

17. This Agreement constitutes the entire understanding between the parties and shall supersede all prior negotiations, representations, or agreements whether written or oral.
18. This Agreement may not be modified or amended unless mutually agreed upon, in writing, by the parties hereto. Unless otherwise agreed in writing, the Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado.
19. Nothing herein shall be construed or deemed as a waiver of any and all rights and immunities of any Party, officer or employee under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
20. The Parties understand and acknowledge that the Subscriber is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the Subscriber are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the Subscriber's current fiscal period ending upon the next succeeding December 31. Financial obligations of the Subscriber payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the Subscriber, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.

ATTEST:
City Clerk



CHERRY HILLS VILLAGE



Laura Christman, Mayor

Date: 11-15-16

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ATTEST:
Clerk to the Board

Date: _____

ARAPAHOE COUNTY, CO

Chairman,
Board of Commissioners