

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY HIDALGO
AND THE CITY OF MCALLEN**

This Memorandum of Understanding is made and between the County of Hidalgo, by and through its Emergency Management Office, hereinafter referred to as "COUNTY", with administrative offices located at 302 W. University Dr., Edinburg, TX 78539 and the City of McAllen, hereinafter referred to as "CITY", located at 1300 Houston Ave. McAllen, TX 78501.

WITNESSETH:

WHEREAS, The CITY is designated as the lawful Purchasing and Fiscal Agent for the purchase of communication equipment for the continued development of the regional radio system extending through Starr, Hidalgo, Cameron, and Willacy counties and the cities within each respective county, under available grant funds from the U.S. Department of Homeland Security (DHS), Federal Emergency Management Program (FEMA) Assistance to Firefighters Grant Program.

WHEREAS, the purpose of the Grant awarded is to provide financial assistance to enhance their ability to protect the public and fire service personnel from fire related hazards, hereinafter referred to as the PROGRAM;

WHEREAS, the COUNTY and the CITY, made an agreement under the "Texas Interlocal Cooperation Act" Chapter 791 Texas Government Code under the authority of Sections 791.001-791.029 of the Texas Government Code to act as Partners to purchase interoperable communications equipment, herein after referred to as the INTERLOCAL, and more particularly described in Exhibit "A" attached hereto.

WHEREAS, under the INTERLOCAL, the CITY, in compliance with the terms and conditions of the PROGRAM, as the Purchasing and Fiscal Agent, shall administer the Federal share portion of eighty percent (80%), and the County shall provide the required local match share portion of twenty percent (20%) for a total cost of in the amount of \$1,135,374.00 for the purchase of a Core Radio Controller, hereinafter referred to as "EQUIPMENT".

WHEREAS, the COUNTY and CITY have agreed to serves as active partners to carry out eligible activities and share equipment pursuant to the INTERLOCAL as described in Exhibit "A", and further described under this Memorandum of Understanding;

NOW THEREFORE, the COUNTY and the CITY, in consideration of the mutual covenants expressed hereinafter, agree as follows:

- A. EQUIPMENT Sharing.** The COUNTY and the CITY agree that the EQUIPMENT will be made readily available, region-wide, for the purpose of communicating between emergency management agencies, as requested, in protecting the public and fire service personnel from fire related hazards
- B. Records and Reports.** The COUNTY and the CITY agree to provide and maintain all necessary inventory and reporting requirements records and reports that may be necessary under this Memorandum of Understanding and the INTERLOCAL.
- C. Assets and Services.** EQUIPMENT acquired under the PROGRAM, in accordance with the terms of the INTERLOCAL, shall be retained by the CITY, for the purposes of PROGRAM inventory and reporting requirements. Additionally, the CITY will serve as

the Purchasing and Fiscal Agent for purposes of the PROGRAM through the period of performance of the PROGRAM from May 17th, 2013 through May 16th, 2014 and for a record retention period of three years after the end of the performance period on May 16th, 2017. Provided however, that the COUNTY shall, by and through the County Auditor's Office include EQUIPMENT on the County's asset and inventory records throughout the performance period and the record retention period of the PROGRAM. Upon completion of the required record retention period the COUNTY shall maintain exclusive ownership of EQUIPMENT, and shall continue to make EQUIPMENT readily available in accordance with the terms of the INTERLOCAL.

D. Insurance Requirements. The COUNTY shall acquire, and maintain proof that it has secured and paid for policies with appropriate limits covering all risks incident to or in connection with the execution, performance, attempted performance or non-performance under this Memorandum of Understanding and the INTERLOCAL.

E. Miscellaneous Provisions.

Conflict with Applicable Law. Nothing in this Memorandum of Understanding shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the COUNTY and the CITY have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Memorandum of Understanding shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflicts exists.

Conflict with PROGRAM and INTERLOCAL. Nothing in this Memorandum of Understand shall be construed so as to require the commission of any act contrary to the terms and conditions of the PROGAM and/or INTERLOCAL. Whenever there is any conflict between any provision of this MOU and any term or condition of the PROGRAM documents and/or INTERLOCAL, the term or condition of the PROGRAM documents and/or INTERLOCAL shall govern and prevail, and in such event the affected provision or provisions of this MOU shall be modified only to the extent necessary to bring them within the requirement of the PROGRAM and INTERLOCAL.

Additional Documents. The COUNTY and the CITY covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Memorandum of Understanding.

Entire Agreement. This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by the COUNTY and the CITY, and not otherwise.

Governing Law. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas.

Dispute Resolution. The dispute resolution process provided for in the Texas Government Code, Subchapter A. Chapter 2009 shall be used by the COUNTY and the CITY to attempt to resolve any claim for breach of contract made by either the COUNTY or the CITY that cannot be resolved in the ordinary course of business.

Notice. Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by electronic mail, or (iii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or (iv) sent by facsimile or at such other addresses to the parties at the addresses set forth below, or (iv) sent by facsimile or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to COUNTY: County of Hidalgo
302 W. University Dr.
Edinburg, TX 78539

If to CITY: City of McAllen
1300 Houston Ave.
McAllen, Texas 78501

Each notice, demand, request or communication which shall be delivered to mail in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

F. Certification.

IN WITNESS WHEREOF, the COUNTY and the CITY have executed this Memorandum of Understanding by the signatures of the duly authorized representatives of each on the dates indicated.

Jim Darling
Mayor - City of McAllen

Date

Ramon Garcia

The Honorable Ramon Garcia
Hidalgo County Judge

Date

ATTEST:

By: *Arturo Guajardo, Jr.*

Arturo Guajardo, Jr.
Hidalgo County Clerk

Approved by Commissioners' Court
on 12/10/13/10