

INTERLOCAL AGREEMENT BETWEEN TARRANT COUNTY AND THE CITY OF FORT WORTH FOR THE NORTHWEST TOWER PROJECT

This Interlocal Agreement (“Agreement”) is between Tarrant County (the “County”), a political subdivision of the State of Texas, and the City of Fort Worth, a unit of local government(collectively, the “Parties”), and shall be effective on January 1, 2022 (“Effective Date”). The Parties have reviewed this Agreement and agree to the following:

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic;

WHEREAS, on March 11, 2021, President Joseph Biden signed the American Rescue Plan Act (“ARPA”) to provide support to State and local governments to respond to the financial impacts of the COVID-19 pandemic;

WHEREAS, the State and Local Fiscal Recovery Funds (“FRF”) authorized in ARPA (C.F.D.A #21.027) are to be used to mitigate the ongoing effects of COVID-19 and support the nation’s pandemic recovery;

WHEREAS, the County has received FRF funds to respond to the continuous impact of COVID-19 as outlined in the Interim Final Rule promulgated by the Department of Treasury (“Treasury”);

WHEREAS, Treasury has issued guidance for the use of FRF funds in the form of Frequently Asked Questions, last updated on July 19, 2021, and will continue to issue guidance and clarification on the appropriate use of these funds;

WHEREAS, the County and the City of Fort Worth both find the purchase of equipment to better serve the increased need of operable communications within Northwest Tarrant County especially for those who are most vulnerable to the impacts of the COVID-19 pandemic, is an eligible use of FRF FUNDS;

WHEREAS, the County and City of Fort Worth find that the project and related expenditures outlined in this Agreement is/are eligible under current FRF FUNDS guidance and rules promulgated by the U.S. Treasury and find that the project outlined herein will mitigate the ongoing effects of COVID-19 and support pandemic recovery in Tarrant County;

WHEREAS, the County and City of Fort Worth find that this project will provide services related to enhancing and improving the first responder capabilities and response times including that of emergency medical personnel, fire and rescue services, and law enforcement;

WHEREAS, any payments or performance required by this Agreement shall come from current revenues legally available to the Parties;

WHEREAS, studies show that mitigating disaster and emergency response burdens requires development and upgrade of technology to better meet the needs of individuals and key emergency response personnel;

WHEREAS, the lack of radio coverage in the target area creates public safety concerns;

WHEREAS, the appropriate equipment necessary will ensure coverage is maintained during commercial power outages and during severe weather and / or technical failures;

WHEREAS, County seeks to ensure equitable access to essential government services;

WHEREAS, this Agreement is made pursuant to the authority of Section 791.001 of the Texas Government Code; and

WHEREAS, the subject of this contract is necessary for the benefit of the public and each party has the legal authority to perform and to provide the governmental function or service which is the subject matter of this contract.

NOW, THEREFORE, for and in consideration of the mutual undertaking hereinafter set forth and for adequate consideration given, the Parties agree to the following:

I.
DISTRIBUTION OF FUNDS

The County shall make available an amount of \$2,000,000 (TWO MILLION DOLLARS) to the City of Fort Worth from the County's FRF funds to reimburse the City of Fort Worth for expenses related to the Northwest Radio Tower Project, an FRF eligible use, as outlined in the U.S. Department of the Treasury Final Rule.

II.
AUDIT CLAUSE

The City of Fort Worth must agree that County will, until the expiration of the federal retention period as referenced in 2 CFR 200.334, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records (hard copy, as well as computer generated data) of the City of Fort Worth involving transactions related to this agreement. This right to audit also extends to any obligations assigned to any subcontracts or agreements formed between the City of Fort Worth and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the City of Fort Worth's obligations to County under this agreement. The City of Fort Worth must agree that County will have access during normal working hours to all necessary facilities, staff and workspace in order to conduct audits. County will provide the City of Fort Worth with reasonable advance notice of intended audits. The City of Fort Worth must provide records within ten (10) business days or a mutually agreed upon timeline.

III.
PAYMENT

Upon execution of the Agreement, the County shall make available for reimbursement the amount of \$2,000,000 (TWO MILLION DOLLARS) to the City of Fort Worth from the

County's FRF funds to reimburse the City of Fort Worth for expenses related to FRF eligible uses as outlined in the U.S. Treasury Final Rule and Appendix A.

The City of Fort Worth acknowledges that it is a Sub-recipient of the County's FRF FUNDS and shall follow all guidance issued by the U.S. Treasury pertaining to the proper use of FRF FUNDS.

Tarrant County approves and pays reimbursement requests within thirty (30) days of receipt of a complete request. Errors in the reimbursement request, including insufficient documentation, may result in payment delays. City of Fort Worth is responsible for submitting a complete and accurate reimbursement request. Payment is considered made on the date postmarked. Each reimbursement request must contain the following supporting documentation:

- i. Signed Request for Reimbursement (RFR) form
- ii. General Ledger (monthly, generated from City of Fort Worth's accounting system) coinciding with RFR
- iii. Timesheets and Payroll Reports (monthly, generated from City of Fort Worth's payroll system) if budget included personnel
- iv. Invoices of all other expenditures
- v. Proof of payment of all expenditures

IV. DOCUMENTATION

The City of Fort Worth shall keep and maintain, for a period not less than five (5) years after December 31, 2026, any and all records relating to the Distributed Funds.

V. STANDARDS FOR FINANCIAL MANAGEMENT

In accordance with 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, City will develop, implement and maintain financial management and control systems, which include at a minimum accurate payroll, accounting and financial reporting records, cost source documentation, effective internal and budgetary controls, and determination of reasonableness, allowability and allocability of costs, and timely and appropriate audits and resolution findings.

City shall maintain an effective accounting system, which will:

- i. Identify and record valid transactions,
- ii. Record transactions to the proper accounting period in which transactions occurred,
- iii. Describe transactions in sufficient detail to permit proper classification,
- iv. Maintain records that permit the tracing of funds to a level of detail that establishes that the funds have been used in compliance with contract requirements,
- v. Adequately identify the source and application of funds of each grant contract, and
- vi. Generate current and accurate financial reports in accordance with contract requirements.

VI. TERM

The term of this Agreement shall commence upon execution by both Parties and shall continue and remain in full force and effect until December 31st, 2024, unless terminated earlier in accordance with this Agreement.

VII. TERMINATION

If at any time the City of Fort Worth's state contract is suspended or revoked, or if the City of Fort Worth becomes excluded, debarred, or suspended from any federal program, this Agreement automatically terminates effective on the date of the suspension, revocation, or exclusion, and the City of Fort Worth must submit a final, formal statement in the manner set out above and below requesting payment. The City of Fort Worth is not entitled to receive payment under this Agreement for services performed by any personnel who have been excluded, debarred, or suspended under a federal program, unless given explicit permission by the County.

The County may immediately terminate this Agreement, without prior notice, if the City of Fort Worth fails to perform any obligation found herein and the failure:

- i. creates a potential threat to health or safety; or
- ii. violated a law, ordinance, or regulation designed to protect health or safety.

Either party may terminate this Agreement without cause by giving ninety (90) days written notice to the other party.

Upon receipt of notice to terminate, the City of Fort Worth shall no longer submit requests for reimbursement, including monthly reports described in Section III of this Agreement. The City of Fort Worth may continue all services associated with the Northwest Radio Tower Project, but shall not be entitled to reimbursement from the County. The ownership of all assets and services acquired under the Agreement shall be retained by the City of Fort Worth.

Within thirty (30) days after receipt of a notice of termination, the City of Fort Worth agrees to submit an invoice showing, in detail, the services performed under this Agreement up to and including the date of termination.

Force Majeure: In the event that either Party is unable to perform any of its obligation under the Agreement or to enjoy any of the benefits because of natural disaster, global pandemic, actions or decrees of governmental bodies or communication line failure not the fault of the affected party (referred to as a "Force Majeure Event"), the party who has been so affected immediately agrees to give notice to the other part and agrees to do everything possible to resume performance. Upon receipt of such notice, the Agreement is immediately suspended. If the period of nonperformance exceeds ten (10) calendar days from the receipt of notice of the Force

Majeure Event, the Party whose ability to perform has not been affected may terminate the Agreement immediately by giving written notice to the other Party.

VII. INDEPENDENT SINGLE OR PROGRAM SPECIFIC AUDIT

If City of Fort Worth, within City of Fort Worth's fiscal year, expends a total amount of at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, City of Fort Worth shall have a single audit or program-specific audit in accordance with the 2 CFR 200. The \$750,000 federal threshold amount includes federal funds passed through by way of State and local agency awards.

VIII. EQUIPMENT

Any purchase of equipment must be consistent with the Uniform Guidance at 2 CFR Part 200 Subpart D. Equipment acquired under this Agreement must be used for the originally authorized purpose. Consistent with 2 CFR 200.313, any equipment acquired using federal funds shall vest in the non-Federal entity.

Procedures for managing equipment must meet the following requirements:

- i. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property, name of title holder, acquisition date, cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- ii. A physical inventory of the property must be taken, and the results reconciled with the property records at least once every two years.
- iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
- iv. Adequate maintenance procedures must be developed to keep the property in good condition.
- v. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

Disposition. When original or replacement equipment acquired under this Agreement is no longer needed or in use for the project or program outlined herein, City of Fort Worth must request disposition instructions from the COUNTY.

IX. NOTICE

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been personally delivered to the address below, or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or the City of Fort Worth at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

TO THE COUNTY:

c/o County Administrator
100 E. Weatherford
Fort Worth, Texas 76196

TO THE CITY OF FORT WORTH

c/o Director-Information Technology
200 Texas Street
Fort Worth, Texas 76102

With Copy to the City Attorney at
same address

Either Party may change addresses by giving the other Party ten (10) days written notice.

X.
APPLICABLE LAW AND VENUE

This Agreement is governed by the laws of the State of Texas.

The exclusive venue for any action arising out of, in connection with, or in any way relating to this Agreement shall be in a state or federal court of competent jurisdiction in Tarrant County, Texas.

XI.
MODIFICATIONS

This instrument contains the entire Agreement between the Parties relating to the rights herein granted and obligations herein assumed.

Any oral or written representations or modifications concerning this instrument shall not be effective excepting a subsequent written modification signed by both Parties.

XII.
CLEAN AIR ACT

The City of Fort Worth agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

The City of Fort Worth agrees to report each violation to County and understands and agrees that County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection

Agency Regional Office.

The City of Fort Worth agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or other Federal funds.

XIII.

FEDERAL WATER POLLUTION CONTROL ACT

The City of Fort Worth agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

The City of Fort Worth agrees to report each violation to County and understands and agrees that County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The City of Fort Worth agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or other Federal funds.

XIV.

PROCUREMENT AND RECOVERED MATERIALS

In the performance of this Agreement, City of Fort Worth will use its best effort to make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired – (i) competitively within a timeframe providing for compliance with the contract performance schedule; (ii) meeting contract performance requirements; or (iii) at a reasonable price.

- a. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- b. City of Fort Worth also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
- c. To the greatest extent practicable, City of Fort Worth shall provide a preference for the purchase, acquisition, or use of good, products, or materials produced in the United States, including but not limited to iron, aluminum, steel, cement, and other manufactured products. The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

1. For purposes of this section:

- A. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial

melting stage through the application of coatings, occurred in the United States.

- B. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

XV.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

City of Fort Worth is prohibited from obligating or expending loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 115-232, section 889, “covered telecommunications equipment” means any of the following:

1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
2. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
3. Telecommunications or video surveillance services provided by such entities or using such equipment; or
4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

XVI.
EXECUTION

Multiple Counterparts: The Agreement may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.

SIGNED AND EXECUTED this _____ day of _____, 2022.

**COUNTY OF TARRANT
STATE OF TEXAS**

B. Glen Whitley
County Judge

APPROVED AS TO FORM:

CERTIFICATION OF

AVAILABLE FUNDS: \$ _____

Criminal District Attorney's Office*

Tarrant County Auditor

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

[signature page follows]

THE CITY OF FORT WORTH

<p>City of Fort Worth</p> <p>By:  Valerie Washington (Jul 22, 2022 15:56 CDT)</p> <p>Name: Valerie Washington Title: Assistant City Manager</p> <p>Date: <u>Jul 22, 2022</u></p> <p>Approval Recommended:</p> <p>By:  Name: Kevin Gunn Title: Director, IT Solutions Department</p> <p>Attest:</p> <p>By:  Jannette S. Goodall (Jul 23, 2022 07:05 CDT)</p> <p>Name: Janette Goodall Title: City Secretary</p>	<p>Contract Compliance Manager: By signing I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.</p> <p>By:  Lawrence Crockett (Jul 5, 2022 16:17 CDT)</p> <p>Name: Lawrence Crockett Title: Senior IT Solutions Manager</p> <p>Approved as to Form and Legality:</p> <p>By:  Name: Taylor Paris Title: Assistant City Attorney</p> <p>Contract Authorization: M&C: 22-0472 Approved: 6/28/2022</p>
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Appendix A

PROGRAM BUDGET

Program Budget: January 1, 2022 - December 31, 2024

Category	Total Program Budget
Personnel	\$
Fringe	\$
Travel	\$
Equipment	\$2,000,000
Supplies	\$
Contractual	\$
Other:	\$
Total	<u>\$2,000,000</u>

APPENDIX B EVALUATION MATRIX/REPORTING

Required Reporting Dates:

Quarterly Report Periods		Report Due
First	July 1- Sept 30	Oct 15
Second	Oct 1- Dec 31	Jan 15
Third	Jan 1- Mar 31	April 15
Fourth	April 1- Jun 30	July 15

Annual Report Periods		Report Due Date
Year 1	July 1- June 30, 2022	July 15, 2022
Year 2	July 1- June 30, 2023	July 15, 2023

Program Reporting Information						
Activity Number	Activity Conducted	Time Frame for Activity	Anticipated Cost of Activity	Expected Number to be Served by each Activity	Expected Outcomes	Intended Benefit
1	Construction and implementation of a new radio site on the Fort Worth public safety radio system	January 1, 2022- December 31, 2023	\$2,000,000	Dependent on population of area served in northwest Tarrant County	Improved coverage compared to pre-implementation	Improved public safety services for residents and visitors in northwest Tarrant County, including but not limited to the ability of EMTs to communicate with hospitals while enroute; fire personnel will communicate with one another during multi-agency operations; law enforcement officers will coordinate more effectively during pursuit and other operations.



CITY COUNCIL AGENDA

Create New From This M&C

DATE:	6/28/2022	REFERENCE NO.:	**M&C 22-0472	LOG NAME:	04TARRANT COUNTY RADIO TOWER FUNDING AGREEMENT ARPA
CODE:	C	TYPE:	CONSENT	PUBLIC HEARING:	NO
SUBJECT:	(ALL) Authorize Execution of an Interlocal Agreement with Tarrant County for the City's Implementation of a Radio Transmitter Site to Expand Coverage in North Fort Worth and Tarrant County, Authorize Acceptance of American Rescue Plan Act, Subtitle M (State and Local Fiscal Recovery Funds) Funds from Tarrant County in the Amount of \$2,000,000.00, Adopt Attached Appropriation Ordinance, and Amend the Fiscal Years 2022-2026 Capital Improvement Program (This use of ARPA funding was previously discussed and approved by Mayor and Council)				

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the execution of an interlocal agreement with Tarrant County for the transfer of funds for the City's implementation of a radio transmitter site to expand coverage in north Fort Worth and northwest Tarrant County;
2. Authorize the acceptance of American Rescue Plan Act, Subtitle M (State and Local Fiscal Recovery Funds) funds from Tarrant County in the amount of \$2,000,000.00;
3. Adopt the attached appropriation ordinance increasing estimated receipts and appropriations in the Grants Cap Projects Federal Fund in the amount of \$2,000,000.00 from available funds, for the purpose of funding the ITS Radio Transmit Site ARPA project (City Project No. 104155); and
4. Amend the Fiscal Years 2022-2026 Capital Improvement Program

DISCUSSION:

The Fort Worth Public Safety Radio System was implemented in 2013 to provide reliable radio communications for the City of Fort Worth's (City) public safety and public works departments. The system was designed to provide coverage primarily for use inside the Fort Worth city limits with provisions made to accommodate growth for the next few years.

During the last nine years, considerable City development and expansion has occurred, particularly in north Fort Worth and northwest Tarrant County. To accommodate this growth and to support the expanded City services that have resulted, radio coverage must be extended by the implementation of an additional radio transmission site and tower. Total cost of this site is estimated at just over seven million dollars (\$7,000,000.00).

In addition to expanding coverage for the City, the new tower site will also increase coverage in unincorporated areas of Tarrant County. As a result, the Tarrant County Commissioners Court in February 2022 approved the allocation of two million dollars (\$2,000,000.00) from its American Rescue Plan Act (ARPA) funds to be reimbursed to the City against expenses incurred for the acquisition and construction of the new radio site.

The interlocal agreement provides for the contribution of funds by the County to the City, and commits the City to utilizing the funds prior to December 31, 2026, as required by ARPA. Ownership of any components or services acquired by these funds will be retained by the City.

The purpose of this Mayor & Council Communication is to accept the Tarrant County appropriation and initiate the acquisition phase of the project. Funding for the future phases will be determined at a later date.

Funding for this project was not included in the Fiscal Years 2022-2026 Capital Improvement Program. The action in this M&C will amend the Fiscal Years 2022-2026 Capital Improvement Program as approved in connection with Ordinance 25073-09-2021.

FISCAL INFORMATION/CERTIFICATION:

The Director of Finance certifies that upon approval of the above recommendations, and adoption of the attached appropriation ordinance, funds will be available in the current operating budget, as appropriated, in the Grants Cap Projects Federal Fund. The Information Technology Solutions Department (and Financial Management Services) will be responsible for the collection and deposit of funds due to the City. Prior to an expenditure being incurred, the Information Technology Solutions Department has the responsibility to validate the availability of funds. This is a reimbursement grant.

TO

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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FROM

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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Submitted for City Manager's Office by:

Valerie Washington (6192)

Originating Department Head:

Kevin Gunn (2015)

Additional Information Contact:

Kevin Gunn (2015)

ATTACHMENTS

[04TARRANT COUNTY RADIO TOWER FUNDING AGREEMENT ARPA 31001 AO22\(r3\).docx](#) (Public)

[CFW-Tarrant Co ILA - Northwest Radio Tower Final 050922.docx](#) (Public)

[FID Table Tarrant County ARPA V2.xlsx](#) (CFW Internal)