



## **City of Palo Alto**

### **City Council Staff Report**

**(ID # 5811)**

---

**Report Type: Consent Calendar**

**Meeting Date: 6/22/2015**

**Summary Title: SVRIA MOU**

**Title: Approval of a Memorandum of Understanding With the Silicon Valley Regional Interoperability Authority for Participation in the Regional Radio System, and the Associated Budget Amendment Ordinance for \$1 Million**

**From: City Manager**

**Lead Department: Police**

#### **Recommendation**

Staff recommends that the Council authorize the City Manager or his designee to execute the attached agreement which will allow the City of Palo Alto to enter into a Memorandum of Understanding with all the Joint Powers Authority members in the Silicon Valley Regional Interoperability Authority whereby the City will participate in a regional radio system. In addition, staff recommends approval of a Budget Amendment Ordinance to transfer \$1.0 million from the General Fund Budget Stabilization Reserve to the CIP Project TE-05000 – Radio Infrastructure Replacement in the Capital Improvement Fund.

#### **Analysis**

The City of Palo Alto has been participating in a multi-year project with all the Joint Powers Authority members in the Silicon Valley Regional Interoperability Authority (SVRIA) to fund and construct a county-wide radio communications system that will permit all public safety officers across Santa Clara County to communicate with one another. Palo Alto and other municipalities will also use the system for local government radio communication (Public Works, Utilities, etc.)

This effort has culminated in the preparation of the attached Memorandum of Understanding (MOU) incorporating the terms required for the funding and construction of the Silicon Valley Regional Communications System (Attachment A). The document is based upon a County of Santa Clara MOU and one entered into by a similar JPA in Alameda County.

The MOU has been approved by the Working Group of the SVRIA consisting of Gilroy Police Chief Denise Turner, County Communications Director Bert Hildebrand, Morgan Hill City Manager Steve Rymer, Mountain View City Manager Dan Rich, Palo Alto Police Technical Services Director Charlie Cullen, City of Santa Clara Fire Chief Bill, City of San Jose OES Director Ryan Broughton, Santa Clara County Deputy County Executive James Williams, City of San Jose

Deputy Police Chief Jeff Marozick, Sunnyvale DPS Battalion Chief Jeff Hunter, and Los Altos Communications Manager Elizabeth Vargas.

The MOU provides for joint funding for implementing interoperability countywide, and SVRIA selected Motorola to build the radio system after a competitive RFP process. It also provides that SVRIA agrees to hire contractors, the County of Santa Clara, City of San Jose and/or other contractors to operate and maintain the System. The City of Palo Alto agrees to purchase the components it uses with the Silicon Valley Regional Communications System (SVRCS) service from or with the cooperation of SVRIA.

Palo Alto anticipates migrating all of its departments and radio users to the new system within two years. A Palo Alto radio site was financed by phase one project funding, and has been installed at City Hall. The system will provide improved radio coverage, additional talk groups and true radio interoperability throughout Santa Clara County and ultimately the Bay Area.

The License and Asset Transfer Agreement which governs the SVRIA's installation of certain equipment can be found in Attachment B. Many of the SVRIA facilities were grant funded through the City of San Jose or the County of Santa Clara. San Jose is completing an asset transfer of these sites from San Jose to SVRIA. This will allow SVRIA to separately insure each site. Currently all these sites are owned or licensed by San Jose. The City of San Jose is requiring each City who has a site to assign San Jose's rights to SVRIA to complete the transfer.

Also attached is Attachment C, which provides information on participant cost by jurisdiction.

### **Resource Impact**

The MOU obligates the City to participate in the regional radio system and as a result there are three associated cost impacts, infrastructure costs (noted in Attachment C), ongoing maintenance costs (noted in Attachment C) and the costs for radio subscriber units and radio consoles for public safety, public works, utilities and other City users. The costs owed to SVRIA for infrastructure build out and ongoing maintenance are identified in the MOU. The costs for radios and consoles are based on Palo Alto's goal to migrate all of its departments and radio users to the new system within two years. The funding for infrastructure and radios and consoles will be budgeted in the Radio Infrastructure Replacement project (TE-05000), and in accordance with the Palo Alto - Stanford Emergency Communications Agreement, it is expected that Stanford will reimburse the City for a portion of the public-safety related costs associated with this project.

Over the next three years, as the system is built out, it is anticipated that the City's share of the total project will be \$4.0 million, representing a reduction of \$0.2 million from the amount previously estimated and described in the 2016 Proposed Capital Budget. Of the total cost of \$4.0 million, it is estimated that the General Fund is responsible for approximately \$3.0 million, with the Utilities Department responsible for the remaining \$1.0 million.

<b>Investment Type</b>	<b>General Fund</b>	<b>Enterprise Funds</b>	<b>Total Cost</b>
Infrastructure	\$1,370,000	\$560,000	<b>\$1,930,000</b>
Radios and Consoles	\$1,640,000	\$440,000	<b>\$2,080,000</b>
<b>Total Anticipated Project Cost</b>	<b>\$3,010,000</b>	<b>\$1,000,000</b>	<b>\$4,010,000</b>
Available Funding (TE-05000)	\$800,000	\$500,000	<b>\$1,300,000</b>
June 22, 2015 Budget Amendment Ordinance	\$1,000,000		<b>\$1,000,000</b>
<b>Total Available Funding</b> (if recommendation is approved)	<b>\$1,800,000</b>	<b>\$500,000</b>	<b>\$2,300,000</b>
<b>Amount to be funded in Future Years</b>	<b>\$1,210,000</b>	<b>\$500,000</b>	<b>\$1,710,000</b>

As discussed in the Fiscal Year 2016 Proposed Capital Budget, a recommendation to carry over existing funding in Fiscal Year 2015 from the Radio Infrastructure Replacement Project to Fiscal Year 2016 (\$1.3 million) is proposed to fund a portion of the infrastructure and radio replacement costs. This funding, when combined with the recommended \$1.0 million transfer from the General Fund Budget Stabilization Reserve Budget Amendment Ordinance as part of this memorandum, results in a projected General Fund project shortfall of \$1.2 million that will be funded in future years as the costs associated with this project are refined. The \$0.5 million recommended to be carried over from the Utility Funds will leave an unfunded amount of \$0.5 million. As with the General Fund, the remaining share will be funded in future years as the costs associated with this project are further refined.

Annual maintenance costs are anticipated to begin in Fiscal Year 2019 and cost approximately \$0.3 million per year. Maintenance costs are not included in the CIP and will instead be budgeted in each department's operating budget based on the percentage of system usage.

### **Policy Impact**

The agreement will further the City's policies of having updated infrastructure and technology and cooperation with regional partners on public safety matters.

### **Attachments:**

- ATTACHMENT A - SVRIA Memorandum of Understanding (PDF)
- ATTACHMENT B - SVRIA License Agreement (PDF)
- ATTACHMENT C - Cost Per Agency Breakdown (PDF)
- ATTACHMENT D - DRAFT Ordinance Radio Infrastructure Replacement Project (PDF)

**MEMORANDUM OF UNDERSTANDING  
SILICON VALLEY REGIONAL COMMUNICATIONS SYSTEM**

**BETWEEN THE SILICON VALLEY REGIONAL INTEROPERABILITY  
AUTHORITY  
AND THE CITY OF PALO ALTO**

This Memorandum of Understanding ("MOU") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the Silicon Valley Regional Interoperability Authority, a California Joint Powers Authority ("SVRIA"), and the City of Palo Alto, a municipal corporation of the State of California ("AGENCY") (together "Parties").

**RECITALS**

**WHEREAS**, in 2001, the Cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, Santa Clara, San Jose, Saratoga, and Sunnyvale; the Towns of Los Gatos and Los Altos Hills; the South Santa Clara County Fire District; the County of Santa Clara; San Jose State University; and the Santa Clara Valley Water District executed a Joint Funding Agreement ("Joint Funding Agreement") pursuant to the Joint Exercise of Powers Act, Title 1, Division 7, Chapter 5 of the California Government Code, Government Code Section 6500 *et seq.*, to jointly hire consultants to complete the conceptual design and implementation strategy for a regional interoperable communications network, to jointly purchase a radio and data communications system, to integrate this system or network with other nearby regional public safety communications systems, to participate in regional interoperability systems, to jointly fund activities and systems related to interoperability and to jointly apply for grants and funding to facilitate accomplishing these goals;

**WHEREAS**, in 2010, the Cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, Santa Clara, San Jose, Saratoga, and Sunnyvale; the Town of Los Gatos and the County of Santa Clara (collectively "MEMBERS") entered into a joint powers agreement ("JPA Agreement") to form the Silicon Valley Regional Interoperability Authority ("SVRIA"), with similar goals and purpose as commenced under the Joint Funding Agreement;

**WHEREAS**, paying entities, which are not MEMBERS of SVRIA ("PARTICIPANTS") will execute this MOU;

**WHEREAS**, SVRIA continues to plan and develop a regional communications interoperability system that will require the financial commitment of SVRIA MEMBERS and PARTICIPANTS by and through this MOU to fund the construction, operation and maintenance of such system;

**WHEREAS**, grant and local funds have been provided to SVRIA directly or through MEMBERS to improve interoperability through the multi-stage build out of a three cell, multi-site P25 Phase 2 TDMA 700 MHz Trunked Radio Simulcast Communications System, to be known as the Silicon Valley Regional Communications System ("SVRCS");

**WHEREAS**, the County of Santa Clara ("County") is the Fiscal Agent and the Contract Manager for SVRIA and the SVRCS build-out ("System");

**WHEREAS**, in order to facilitate the construction of the SVRCS, the Parties wish to affirm their continued financial support for a regional interoperable communication system as agreed in this MOU;

**WHEREAS**, AGENCY and SVRIA enter into this MOU under which the SVRIA will own and operate the System for the benefit of AGENCY and other MEMBERS and PARTICIPANTS, which other MEMBERS and PARTICIPANTS will execute Memoranda of Understanding similar to this one (collectively, the "MOU's"). MEMBERS and PARTICIPANTS will pay, a portion of the cost of the System, consisting of a buy-in cost based on the number of radios committed for use on the System (the "Construction and Implementation Payments"), and the cost of annual operation (the "Operation and Maintenance Payments"), (all Payments are referred to herein collectively as the "AGENCY Payments");

**WHEREAS**, this MOU is intended to establish a means of requiring the MEMBERS' Payments and PARTICIPANTS' payments ensuring the sound operation and financing of the System, and is not in itself an approval of the System or the grant of any land use entitlement potentially required to develop the System; and

**WHEREAS**, it is anticipated that users of the SVRCS will include entities that enter into a memorandum of understanding similar to this MOU, after the SVRCS is fully functional. ("FUTURE PARTICIPANTS").

**NOW, THEREFORE**, for good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows.

## **SECTION 1. DEFINITIONS**

**AGENCY:** The AGENCY entering into this MOU.

**Construction:** The complete planning, design, construction, acquisition, financing, improvement, repair, modification and installation of the SVRCS .

**Construction and Implementation Payments:** Payments made under this MOU for the purpose of building the SVRCS.

**County:** The County of Santa Clara.

**FUTURE PARTICIPANTS 1:** Entities who enter into a MOU and make their payment after June 30, 2016, but on or before July 1, 2017.

**FUTURE PARTICIPANTS 2:** Entities who enter into this MOU after July 1, 2017.

**Joint Funding Agreement:** Joint Funding Agreement is the agreement entered into by the predecessors to SVRIA in 2001 for the purposes of funding and implementing interoperability countywide.

**JPA Agreement:** The original agreement entered into by Members of the SVRIA in order to form the JPA.

**Operations and Maintenance Payments:** Payments made based upon this MOU for the ongoing operations and maintenance of the SVRCS.

**MEMBERS:** The members of the SVRIA under the Joint Powers Agreement.

**MOU:** This Memorandum of Understanding.

**PARTICIPANTS:** Parties to a memorandum of understanding similar to this MOU that are not members of SVRIA and enter into a MOU on or before June 30, 2016. .

**SVRCS or System:** The three cell, multi-site System P25 Phase 2 TDMA 700 MHz Trunked Radio Simulcast Communications System, to be known as the Silicon Valley Regional Communications System. This includes the entire build out interoperable communications system envisioned by SVRIA.

**SVRIA:** The Silicon Valley Regional Interoperability Authority, formed in 2010 for the purposes of funding and implementing interoperability countywide and as a successor entity to the entity created under the Joint Funding Agreement.

**Termination Date:** December 31, 2029, unless earlier terminated by the Parties.

**User Count:** Radio Subscriber count as provided by the Members or Participants as of April 13, 2015 and reflected in Exhibit "A".

## **SECTION 2. PURPOSES OF THE MOU**

The purposes of this MOU are to:

2.1 Require payment by the AGENCY for its share of the regional SVRCS costs; and

2.2 Set forth the MEMBERS, PARTICIPANTS and the SVRIA's responsibilities for completion of the SVRCS build out.

2.3 Set forth SVRIA's obligations to maintain and operate the SVRCS.

## **SECTION 3. OPERATION OF THE SYSTEM**

3.1 SVRIA has entered or will enter into purchase orders and contracts to supervise and

provide for, or cause to be supervised and provided for, the complete planning, design, construction, acquisition, financing, improvement, repair, modification and installation of the SVRCS (collectively, "Construction"). SVRIA will cause the Construction to be diligently performed in accordance with the specifications approved by the SVRIA.

3.2 SVRIA shall operate the System in conjunction with the MEMBERS for the duration of this MOU.

3.3 AGENCY shall have the right to use the System during the term of the MOU, unless AGENCY is in default on AGENCY Payments required hereunder after the applicable cure period set forth in Section 20.

3.4 The SVRCS shall only be used for public safety communications and other governmental uses for the MEMBERS' and PARTICIPANTS' benefit and convenience. SVRIA agrees to maintain and preserve the System in good repair and working order at all times, to operate the System in an efficient and economical manner, and to pay all the System's maintenance and operation costs as they become due. AGENCY acknowledges that SVRIA has complete ownership and the sole discretion to operate, control and manage the System. Nothing in this MOU shall be construed to limit SVRIA's discretion in the System's operation, control and management.

3.5 SVRIA agrees to use commercially reasonable efforts to hire the County of Santa Clara, City of San Jose and/or other contractors to operate and maintain the System.

3.6 AGENCY agrees to purchase the components it uses with the SVRCS service from or with the cooperation of SVRIA. AGENCY shall not use any components with the SVRCS service which SVRIA has not authorized for its use. AGENCY shall not use the SVRCS in any manner which may adversely affect the service provided by the System.

3.7 SVRIA shall attempt to obtain the land use permits, if any, that are required for Construction. In the event a particular permit cannot be reasonably obtained for a particular site, SVRIA will seek one or more reasonable alternate sites.

#### **SECTION 4. MODIFICATION OF SYSTEM**

SVRIA shall have the right to make additions, modifications and improvements to the System or any portion thereof. All additions, modifications and improvements to the System shall thereafter comprise part of the System and become subject to the MOU's provisions. Such additions, modifications and improvements shall not in any way damage the System, or cause the System to be used for purposes other than those authorized under the MOU's provisions, state and federal law. The System, upon completion of any additions, modifications and improvements made thereto pursuant to this Section, shall be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements.

## **SECTION 5. PAYMENT OF THE INITIAL PAYMENT AND AGENCY PAYMENTS**

5.1 AGENCY shall make Construction and Implementation Payments on the dates in Section 22.1 and in the amounts shown in Exhibit "A". AGENCY shall make annual Operations and Maintenance Payments on the dates and in the amounts as calculated by the formula listed in Exhibit "B" or the amounts listed in Exhibit "B"

5.2 AGENCY provided User Counts are contained in Exhibit "A". Agencies may increase its User Count after entering into this MOU by the payment of user charge based upon the following formula: Total User Count as shown on Exhibit "A" divided by the total Infrastructure Cost = New User Count Charge. Effective January 1, 2016 and each year thereafter the New User Count Charge shall be increased by an amount equivalent to the then-current User Count Charge multiplied by the percentage increase in the Consumer Price Index – Consolidated Metropolitan Statistical Area (CPI) covering San Francisco - Oakland - San Jose, as published by the Bureau of Labor Statistics, U.S. Department of Labor, between the most recent October and the preceding October. The increase in New User Charge shall be compounded. Agency Operations and Maintenance Costs shall be increased commensurate with the increase in User Counts. Should the Agency User Count decrease in any year Operations and Maintenance Payments will not be reduced except as described in Section 24.

## **SECTION 6. PARTICIPANTS AND FUTURE PARTICIPANTS**

6.1 PARTICIPANTS as listed in Exhibit "A" shall pay their pro rata share of the System costs in a timely fashion at the same time MEMBERS make their Payments on or before September 30, 2015. PARTICIPANTS, not listed in Exhibit "A" and join on or before June 30, 2016 shall pay their pro rata share at the time of execution.

6.2 FUTURE PARTICIPANTS 1 who enter into a MOU after June 30, 2016, but on or before July 1, 2017 shall make a special Construction and Implementation Payment to cover previously expended costs by MEMBERS and PARTICIPANTS as well as periodic payments at the times required of other MEMBERS and PARTICIPANTS during the term of this MOU. These special Construction and Implementation payments shall be utilized in part to recalculate payments for Construction and Implementation payments for all MEMBERS, PARTICIPANTS and FUTURE PARTICIPANTS 1 and for additional capacity or system enhancements or held in reserve for the same purpose.

6.3 FUTURE PARTICIPANTS 2 who enter into a MOU after July 1, 2017 shall make a special Construction and Implementation Payment as well as periodic payments at the times required of other MEMBERS and PARTICIPANTS and FUTURE PARTICIPANTS 1 during the term of this MOU. These special Construction and Implementation payments shall be utilized in part to recalculate Operations and Maintenance payments for all MEMBERS, PARTICIPANTS and FUTURE PARTICIPANTS 1 and FUTURE PARTICIPANTS 2 and for additional capacity or system enhancements or held in reserve for the same purpose.



## **SECTION 7. SOURCE OF PAYMENTS: BUDGET AND APPROPRIATION**

7.1 AGENCY shall make the AGENCY Payments from any source of legally available AGENCY funds. AGENCY agrees to include all AGENCY Payments in each proposed annual AGENCY budget during the term of this MOU. AGENCY shall make the necessary annual appropriations for Construction and Implementation payments in FY 2015 – 2016, 2016 – 2017 and 2017 – 2018. AGENCY Payments may be made at any time prior to the deadline for such Payment; there are no prepayment penalties under this MOU.

7.2 Notwithstanding paragraph 7.1, in accordance with Article XVI, Section 18 of the California Constitution, if in any fiscal year subsequent to the execution of this MOU the AGENCY fails to appropriate money for the purpose of funding this MOU, this MOU shall terminate, without penalty effective upon the close of business on the last day of the fiscal year for which funding has been appropriated.

## **SECTION 8. OPERATION AND MAINTENANCE PAYMENTS**

In addition the Payments required in this MOU, AGENCY shall continue to make MEMBER Assessment payments as required under the JPA Agreement through the end of fiscal year 2017 – 2018. At the start of fiscal year 2018 – 2019, AGENCY shall begin to make Operation and Maintenance Payments as listed in Exhibit “B”, in lieu of Member Assessments so long as the SVRCS is operating.

## **SECTION 9. ROLE OF GRANT FUNDING**

In the event that grant funding can be utilized to reduce the overall System costs, the cost reduction will be apportioned to the SVRCS on behalf of all MEMBERS and PARTICIPANTS in a pro rata fashion for the benefit of the System.

## **SECTION 10. CONSTRUCTION BUDGET CONTINGENCY**

SVRIA has established a 20% construction budget contingency within the System budget. SVRIA shall use these funds for the SVRCS, if unexpected construction costs or increased costs occur. If at the conclusion of System Construction, contingency funds remain, such funds shall be transferred to SVRIA for use as a reserve for Operations and Maintenance costs.

## **SECTION 11. RECEIPT AND DEPOSIT OF AGENCY PAYMENTS**

SVRIA agrees that it will deposit the AGENCY Payments with the SVRIA’s fiscal agent, the County, for the benefit of the SVRCS.

## **SECTION 12. COMPLIANCE WITH MOU**

Time is of the essence with respect to the AGENCY Payments and the performance of SVRIA under this MOU. AGENCY shall observe and perform all the agreements,

conditions, covenants and terms contained herein. SVRIA shall observe and perform all the agreements, conditions, covenants and terms contained herein. It is expressly understood and agreed by the Parties that each of the agreements, conditions, covenants and terms contained herein is an essential and material term of the MOU and the operation of the System by SVRIA.

### **SECTION 13. ACCESS TO SYSTEM**

Upon reasonable notice to SVRIA, AGENCY or its authorized representative shall have the right at all reasonable times to enter, examine and inspect the System or any part thereof. AGENCY, any Authorized Representative of AGENCY and AGENCY's successors or assigns shall further have such rights of access to the System or any component thereof as may be reasonably necessary to cause the proper maintenance of the System in the event of failure by the SVRIA to perform its obligations hereunder; provided, however, that neither AGENCY nor any of their assigns shall have any obligation to cause such proper maintenance.

### **SECTION 14. INSURANCE**

14.1 SVRIA shall procure and maintain, or cause to be procured and maintained, throughout the term of this MOU, casualty insurance against loss or damage to the System. This insurance shall, as nearly as practicable, cover loss or damage that is normally covered by such insurance with extended coverage. This insurance shall not be required to cover loss or damage caused by seismic activity. This insurance shall be subject to deductibles as are customarily maintained by public agencies with respect to works and properties of a like character. The insurance may be maintained as part of or in conjunction with any other insurance coverage carried by SVRIA, and may be maintained in whole or in part in the form of the participation by SVRIA in a joint powers authority or other program providing pooled insurance. MEMBERS, PARTICIPANTS, FUTURE PARTICIPANTS 1 and FUTURE PARTICIPANTS 2 as each approves the MOU and makes their payment shall be named as additional insured on SVRIA's liability coverage insurance.

14.2 SVRIA shall maintain or cause to be maintained throughout the MOU's term, a standard comprehensive general insurance policy or policies whose minimums are at least one million (\$1,000,000) dollars per occurrence to protect SVRIA, AGENCY, and their respective members, officers, agents, employees, designated volunteers and assigns. The policy or policies shall provide for indemnification of said Parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of operating the System as required by the JPA Agreement. Such policy or policies shall provide coverage in such liability limits and be subject to such deductibles as SVRIA shall deem adequate and prudent. This insurance may be maintained as part of or in conjunction with any other insurance coverage carried by SVRIA. Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth in this Agreement shall be deemed to be the minimum amount of insurance required under this Agreement and shall be available to the Parties.

14.3 Insurance required to be maintained by subparagraphs 14.1 or 14.2 above, may be obtained under a self-insurance program. SVRIA's coverage shall be primary insurance with respect to the Agency; and Agency's insurance shall be excess of SVRIA's insurance and shall not contribute with it.

14.4 INSURANCE: AGENCY shall, at its own expense maintain in effect, a program of self-insurance and/or insurance of general liability coverage, including automobile liability, in the amount of at least one million (\$1,000,000) dollars per occurrence and in the aggregate as well as statutory California Workers' Compensation coverage. The coverage shall remain in effect during the entire term of this MOU. AGENCY shall provide evidence upon the request of SVRIA that the required insurance coverage is in effect.

14.5 SVRIA shall require that errors and omissions insurance in the amount of at least one million (\$1,000,000) dollars per claim for any architects or engineers retained for the design and construction of the system.

## **SECTION 15. BOOKS AND ACCOUNTS**

15.1 SVRIA will keep complete and accurate financial records for the System. SVRIA shall keep such records separate from all other SVRIA financial records. Upon reasonable notice to SVRIA, AGENCY may inspect the SVRIA's System financial records.

15.2 Not more than two hundred and ten (210) days after the close of each fiscal year, SVRIA will prepare:

15.2.1 System financial statements in accordance with Generally Accepted Accounting Principles.

15.2.2 An Accountant's Report based thereon, prepared by an Independent Certified Public Accountant who examined such financial statements.

15.2.3 A summary statement of the System's financial condition. SVRIA shall furnish a copy of the summary statement to AGENCY.

15.3 Not more than two hundred and ten (210) days after the completion of all work associated with SVRCS Construction, the SVRIA shall prepare and submit a final report to AGENCY disclosing SVRIA's disbursements of the funds provided by all MEMBERS, PARTICIPANTS and FUTURE PARTICIPANTS.

## **SECTION 16. PAYMENT OF TAXES AND COMPLIANCE WITH GOVERNMENTAL REGULATIONS**

SVRIA will pay and discharge all taxes, assessments and other governmental charges, if any, which may hereafter be lawfully imposed upon the System when due. SVRIA will conform to the valid requirements of any governmental agency with authority relative to the Construction or the System. Without limiting the foregoing, SVRIA shall comply with

all applicable laws and written policies and regulations of the federal, state and local governments in the construction and operation of the SVRCS and the performance of SVRIA under this MOU.

#### **SECTION 17. FURTHER ASSURANCES**

SVRIA and AGENCY will each adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the Parties' performance of this MOU.

#### **SECTION 18. SVRIA REPRESENTATIONS AND WARRANTIES**

SVRIA represents and warrants to AGENCY as follows:

18.1 Due Organization and Existence. SVRIA is a joint exercise of powers authority duly organized and validly existing under the JPA Agreement and the laws of the State of California. SVRIA has the full legal right, power and authority under the laws of the State of California to enter into this MOU and to carry out all of its obligations herein.

18.2 Due Execution. SVRIA's representatives, who sign this MOU, are authorized to sign pursuant to a resolution adopted by the SVRIA's Board of Directors.

18.3 Valid, Binding and Enforceable Obligations. This MOU has been authorized and executed by SVRIA and constitutes the legal, valid and binding agreement of SVRIA, enforceable against SVRIA in accordance with its terms.

#### **SECTION 19. AGENCY REPRESENTATIONS AND WARRANTIES**

AGENCY represents covenants and warrants to SVRIA as follows:

19.1 Due Organization and Existence. AGENCY is a public body, corporate and politic, duly organized and validly existing under the laws of the State of California. It has full legal right, power and authority to enter into this MOU and to carry out all of its obligations herein.

19.2 Due Execution. AGENCY's representatives, who sign this MOU, are authorized to sign pursuant to an official action taken by AGENCY's governing body.

19.3 Valid, Binding and Enforceable Obligation. This MOU has been authorized and executed by AGENCY and constitutes the legal, valid and binding agreement of AGENCY, enforceable against AGENCY in accordance with its terms.

#### **SECTION 20. EVENTS OF DEFAULT**

The following events are Events of Default hereunder:

20.1 Failure by AGENCY to abide by or perform any of its obligations in this MOU within the thirty (30) day period from the date of AGENCY's receipt of SVRIA's written notice

specifying such failure and requesting that it be remedied. Such failure shall not constitute an Event of Default if AGENCY diligently and in good faith, commences to cure the failure within such thirty (30) day period and thereafter completes the cure of such failure within a reasonable period of time. If AGENCY does not complete the cure of the Event of Default in a reasonable time or fails to diligently attempt such cure, SVRIA may terminate this MOU.

20.2 Failure by SVRIA to abide by or perform any of its obligations in this MOU within the thirty (30) day period from the date of SVRIA's receipt of AGENCY's written notice specifying such failure and requesting that it be remedied. Such failure shall not constitute an Event of Default if SVRIA diligently and in good faith, commences to cure the failure within such thirty (30) day period and thereafter completes the cure of such failure within a reasonable period of time. If SVRIA does not complete the cure of the Event of Default in a reasonable time or fails to diligently attempt such cure, AGENCY may terminate this MOU.

20.3 AGENCY files a petition seeking arrangement or reorganization under federal bankruptcy laws or similar state law, or if a court of competent jurisdiction shall approve a petition filed against AGENCY seeking arrangement or reorganization under the federal bankruptcy laws or similar state law, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of such AGENCY or of the whole or a substantial part of its property. Notwithstanding the foregoing, such filing shall not constitute an Event of Default if AGENCY continues to pay its AGENCY Payments on time.

20.4 SVRIA files a petition seeking arrangement or reorganization under federal bankruptcy laws or similar state law, or if a court of competent jurisdiction shall approve a petition filed against SVRIA seeking arrangement or reorganization under the federal bankruptcy laws or similar state law, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of SVRIA.

## **SECTION 21. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved in this MOU is exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise, and all such remedies may be exercised without exhausting and without regard to any other remedy.

## **SECTION 22. AGENCY'S OBLIGATIONS**

22.1 AGENCY's Payment. AGENCY shall pay to the SVRIA money in the amount stated on the SVRIA invoice in an approximate amount as specified in Exhibit "A" to the SVRIA to fully offset the AGENCY's portion of the regional SVRCS cost. Payments shall commence in fiscal year 2015 – 2016 unless otherwise designated in Exhibit "A". These payments shall be made by September 30, 2015 and by each succeeding September 30 and shall

last for a minimum of three fiscal years as delineated in Exhibit A. Operation and Maintenance Payments, as shown in Exhibit "B", shall commence on September 30, 2018 and continue throughout the term of the MOU. AGENCY shall make these payments on or before September 30 of each successive fiscal year. Operations and Maintenance costs for future years may increase, but such increase will be limited to actual costs and reserve requirements.

**22.2 AGENCY's Role in SVRCS.** During the Construction and Operation of the SVRCS:

22.2.1 AGENCY shall provide technical support including testing during the System Construction and delivery.

22.2.2 AGENCY shall participate in System meetings with SVRIA and its contractor(s).

22.2.3. AGENCY shall coordinate with SVRIA for the System upgrade and maintenance work at all AGENCY facilities.

22.2.4 AGENCY shall assist SVRIA with the final acceptance of the SVRCS by testing System performance, evaluating workmanship and verifying installed equipment inventories.

22.2.5 AGENCY's costs to administer and participate in usage of the SVRCS will not be reimbursed through the SVRCS grant funds, the JPA Agreement or by SVRIA.

**SECTION 23. SVRIA'S OBLIGATIONS**

In consideration of AGENCY's Payment, SVRIA shall fulfill the obligations listed below:

23.1 Tasks. SVRIA shall perform and be responsible for the following tasks for completing the SVRCS , including, but not limited to:

23.2.1 Serve as System Manager for the SVRCS, or retain a qualified contractor(s) to serve as System Manager for the SVRCS,

23.2.2 Fulfill CEQA requirements, if any.

23.2.3 Implement Construction in accordance with UASI and SHSGP Grant guidelines.

**SECTION 24. TERM OF MOU**

24.1 This MOU commences upon the full execution of the MOU ("Effective Date") and shall expire on December 31, 2029. The MOU shall be automatically extended for two (2) additional three-year periods. One year prior to each expiration date, SVRIA shall inform each Member or Participant of the approaching automatic extension of the term of the MOU. Any Member or Participant may notify the SVRIA in writing within one

hundred and eighty (180) days of such notice, that it does not agree to the extension of the term of the MOU. The Operations and Maintenance payments for the remaining MEMBERS or PARTICIPANTS shall be adjusted based upon actual User Count as of June 30 of the year in which the MOU terminates starting in, 2029, and at the expiration of the first three year extension period. All financial commitments of AGENCY for Payments while AGENCY is a MEMBER and/or while this MOU applies to AGENCY shall extend past the termination date unless the commitments have been satisfied prior to that date.

24.2 This MOU shall not commence unless and until the City of San Jose and the County of Santa Clara have approved this MOU and budgeted funding for the first year of the MOU. If the any Member or Participant terminates this MOU then the SVRIA shall meet and confer in good faith concerning the continued operation of SVRCS and possible amendment to this Agreement.

## **SECTION 25. OWNERSHIP, MAINTENANCE, INSURANCE AND MANAGEMENT**

County, as Fiscal Agent for the UASI and SHSGP Grants, shall own, maintain, insure, and manage all infrastructure equipment and upgrades installed as part of the SVRCS upon the System's final acceptance by the County, until such time as SVRIA assumes ownership, maintenance, insurance, and management responsibilities. If the SVRIA purchases dispatch consoles, subscriber radios and other related equipment and/or accessories on AGENCY's behalf, such equipment shall be transferred from the SVRIA to AGENCY following SVRIA's receipt of AGENCY's full reimbursement of costs.

## **SECTION 26. RELATIONSHIP OF THE PARTIES**

Each Party shall perform the work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the other Party. None of the MOU's provisions are intended to create, nor shall be deemed or construed to create, any relationship between the Parties other than that of independent parties contracting with each other for purpose of effecting the MOU's provisions. The Parties are not, and will not be construed to be in a relationship of joint venture, partnership or employer-employee. Neither Party has the authority to make any statements, representations or commitments of any kind on behalf of the other Party, or to use the name of the other Party in any publications or advertisements, except with the written consent of the other Party.

## **SECTION 27. MODIFICATION**

The Parties may modify this MOU only through a written document, signed by both Parties.

## **SECTION 28. SEVERABILITY**

The MOU's provisions are severable, and if for any reason, a Court with proper jurisdiction determines a clause, sentence, or paragraph of this MOU to be invalid such invalidity shall

not affect other provisions of this MOU, which shall be given effect without the invalid provision.

## **SECTION 29. TERMINATION**

29.1 This MOU may be terminated upon six months written notice to SVRIA. Should AGENCY terminate this Agreement AGENCY shall have no interest or claim in the assets of the SVRIA absent an SVRIA approved written agreement which contains express provisions to the contrary. The terminating AGENCY shall be obligated to pay a pro rata share of its payments up to the date of termination.

29.2 If the Agreement is terminated pursuant to Section 29.1 or Section 7.2 then SVRIA may remove any SVRCS equipment and relocate the equipment to support the balance of the system. Should the equipment need to be removed or relocated after termination the costs of relocation or removal shall be borne by the terminating party.

29.3 Nothing contained in this MOU or the JPA Agreement requires that AGENCY remain as a MEMBER, however the JPA Agreement does contain terms for withdrawal from the JPA.

## **SECTION 30. SURVIVAL**

30.1 After the MOU's termination or expiration, those provisions which by their nature or context are intended to survive beyond termination or expiration, and all provisions regarding indemnification and limitations of liability, will survive indefinitely or until the expiration of the time period specified elsewhere in this MOU with respect to the provision in question.

30.2 Upon the MOU's termination or expiration, as between the Parties, the SVRIA retains all right, title and interest in and to the SVRCS.

## **SECTION 31. ASSIGNMENT**

This MOU shall be binding upon and shall inure to the benefit of the successors of the Parties. With the exception of asset transfer to SVRIA, and if applicable, AGENCY as detailed herein, no Party may assign any rights or obligations hereunder without the written consent of the other Party, except as provided herein.

## **SECTION 32. NO WAIVER**

No waiver by either Party of any breach or default of any of the covenants or agreements herein shall be deemed to be a waiver as to any subsequent and/or similar breach or default.



### **SECTION 33. INDEMNIFICATION**

33.1 SVRIA agrees to indemnify, defend and hold harmless the AGENCY, its officers, agents and employees to the fullest extent allowed by law from any and all claims, actions, causes of action, losses, damages, liabilities and costs of every nature, including all claims, actions, causes of action, losses, damages, liabilities for property damage, bodily injury, or death, and all costs of defending any claim, action or cause of action, caused by, arising out of, or resulting from, or alleged to have been caused by, arise out of, or result from, in whole or in part, SVRIA's performance under this Agreement, except for any claims, actions, causes of action, losses, damages, costs or liabilities proximately caused by the sole negligence or willful misconduct of AGENCY.

33.2 The foregoing indemnity provision is intended to fully allocate the parties' risk of liability to third-parties; and there shall be no rights to indemnity or contribution, in law or equity or otherwise between the parties that are not set forth in this section. SVRIA waives all rights to subrogation for any matters covered by this provision. SVRIA's responsibility for such defense and indemnity obligations as set forth in this provision shall survive the termination or completion of this MOU for the full period of time allowed by law.

### **SECTION 34. FORCE MAJEURE**

"Force Majeure Event" means any circumstances or occurrence which is beyond the reasonable control of a Party including, but not limited to, acts of God, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, strike, lock-out or other form of industrial action (other than those relating solely to any Party's own workforce). If a Force Majeure Event affects either Party, that Party shall promptly notify the other Party of the nature and extent of the Event. No Party shall be liable for any loss or damage suffered or incurred by the other Party arising from the first Party's delay in performing or failure to perform its obligations under the MOU to the extent that and for so long as the delay or failure results from any Force Majeure Event, provided the same arises without the fault or negligence of the first Party. Each Party shall use its commercially reasonable efforts to minimize the effects of any Force Majeure Event on the operation of this MOU and the System.

### **SECTION 35. SUCCESSOR IS DEEMED INCLUDED IN ALL REFERENCES TO PREDECESSOR**

Whenever SVRIA or AGENCY is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in SVRIA or AGENCY, and all agreements and covenants required hereby to be performed by or on behalf of SVRIA or AGENCY shall bind and inure to the benefit of the respective successors thereof whether so expressed or not; provided; however, that SVRIA shall not provide service from the System to any successor to AGENCY until such successor accepts in writing, AGENCY's obligations.

### **SECTION 36. WAIVER OF PERSONAL LIABILITY**

No board member, officer, attorney or employee of AGENCY or SVRIA shall be individually or personally liable under the MOU.

### **SECTION 37. NOTICES**

37.1 All deliveries, notices, requests, demands, or other communications provided for or required by this MOU shall be in writing and shall be deemed to have been given when sent by registered or certified mail, return receipt requested or when sent by overnight carrier;.

Notices shall be addressed to:

SVRIA:

Heather Tannehill-Plamondon  
Executive Director, SVRIA  
601 El Camino Real  
Santa Clara, CA 95050

Telephone: 408-615-5571  
Email: hplamondon@svria.org

AGENCY: City of Palo Alto Police  
275 Forest Avenue  
Palo Alto, CA 94301  
Attention: Charles Cullen  
Telephone: 650-329-2331  
Email: Charlie.cullen@cityofpaloalto.org

37.2 A Party may change its Notice contact or Notice address by written Notice to the other Party. Such change becomes effective no sooner than ten (10) days after the date of such Notice.

### **SECTION 38. TITLES AND HEADINGS**

The titles, numbers and headings of paragraphs, sections, subsections, and exhibits are for convenience only and are not intended to affect the MOU's construction or interpretation.

### **SECTION 39. ENTIRE AGREEMENT**

This MOU and attached exhibits incorporate all the agreements, covenants, and understandings between the Parties concerning the subject matter hereof, and all such agreements, covenants, and understandings have been merged into this MOU. No prior

agreement or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this MOU.

**SECTION 40. COUNTERPARTS**

This MOU may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**SECTION 41. GOVERNING LAW**

California law governs the MOU's performance and interpretation.

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

**SECTION 42. VENUE**

If a Party to this MOU brings a lawsuit connected to the System, the Parties agree that venue shall be exclusively vested in the State Courts of the County of Santa Clara.

IN WITNESS OF, the Parties have executed the MOU through their duly authorized representatives as of the last date set forth below.

Signed:

SVRIA

AGENCY

By: \_\_\_\_\_  
Chair of Board of Directors

By: \_\_\_\_\_  
Name, or Designee

Date: \_\_\_\_\_, 2015

Date: \_\_\_\_\_, 2015

Attest:

Approved as to Form and Legality:

By: \_\_\_\_\_

By: \_\_\_\_\_  
Name, or Designee

(title) \_\_\_\_\_

Date: \_\_\_\_\_, 2015

Date: \_\_\_\_\_, 2015

Approved as to Form and Legality:

By: \_\_\_\_\_

Gary M. Baum  
General Counsel, SVRIA

Date: \_\_\_\_\_, 2015

MOU SVRIA SVRCS clean version Palo Alto (26) 4-14-15

# Exhibit A

Cost per agency Breakdown			Infrastructre				
	User Count		FY14/15	FY15/16	FY16/17	FY17/18	Infrastructure Cost
San Jose	2,750	26.63%		\$ 2,562,234	\$ 2,562,234	\$ 2,562,234	\$ 7,686,703
Santa Clara County	2,130	20.62%		\$ 1,984,567	\$ 1,984,567	\$ 1,984,567	\$ 5,953,701
VTa	2,000	19.36%		\$ 1,863,443	\$ 1,863,443	\$ 1,863,443	\$ 5,590,329
Santa Clara	791	7.66%	\$354,639	\$ 618,779	\$ 618,779	\$ 618,779	\$ 2,210,975
Palo Alto	690	6.68%		\$ 642,888	\$ 642,888	\$ 642,888	\$ 1,928,664
Sunnyvale	455	4.41%		\$ 423,933	\$ 423,933	\$ 423,933	\$ 1,271,800
Mountain View	300	2.90%		\$ 279,516	\$ 279,516	\$ 279,516	\$ 838,549
Gilroy	262	2.54%		\$ 244,111	\$ 244,111	\$ 244,111	\$ 732,333
Milpitas	249	2.41%		\$ 231,999	\$ 231,999	\$ 231,999	\$ 695,996
Campbell	189	1.83%		\$ 176,095	\$ 176,095	\$ 176,095	\$ 528,286
Los Gatos	140	1.36%		\$ 130,441	\$ 130,441	\$ 130,441	\$ 391,323
Morgan Hill	135	1.31%		\$ 125,782	\$ 125,782	\$ 125,782	\$ 377,347
Los Altos	90	0.87%		\$ 83,855	\$ 83,855	\$ 83,855	\$ 251,565
SJSU	73	0.71%		\$ 68,016	\$ 68,016	\$ 68,016	\$ 204,047
Community Colleges	43	0.42%		\$ 40,064	\$ 40,064	\$ 40,064	\$ 120,192
South County Fire	31	0.30%		\$ 28,883	\$ 28,883	\$ 28,883	\$ 86,650
	10,328	100.00%					<b>\$ 28,868,460</b>
<i>April 13, 2015</i>	10,328		\$354,639	\$9,504,607	\$ 9,504,607	\$ 9,504,607	<b>\$ 28,868,460</b>

## Exhibit B

	User Count		Operations and Maintenance (FY18/19)	Operations and Maintenance (FY19/20)	Operations and Maintenance (FY20/21)	Operations and Maintenance (FY21/22)	Operations and Maintenance (FY22/23)	Operations and Maintenance (FY23/24)	Operations and Maintenance (FY24/25)	Operations and Maintenance (FY25/26)	Operations and Maintenance (FY26/27)	Operations and Maintenance (FY27/28)	Operations and Maintenance (FY28/29)
San Jose	2,750	26.63%	\$1,008,125	\$1,008,125	\$ 997,406	\$ 1,014,899	\$ 1,033,175	\$ 1,052,376	\$ 1,072,464	\$ 1,093,484	\$ 1,115,525	\$ 1,138,589	\$ 1,159,952
Santa Clara County	2,130	20.62%	\$780,838	\$780,838	\$ 772,536	\$ 786,086	\$ 800,241	\$ 815,113	\$ 830,672	\$ 846,953	\$ 864,025	\$ 881,889	\$ 898,436
VTAs	2,000	19.36%	\$733,182	\$733,182	\$ 725,386	\$ 738,109	\$ 751,400	\$ 765,365	\$ 779,974	\$ 795,261	\$ 811,291	\$ 828,064	\$ 843,601
Santa Clara	791	7.66%	\$289,973	\$289,973	\$ 286,890	\$ 291,922	\$ 297,179	\$ 302,702	\$ 308,480	\$ 314,526	\$ 320,866	\$ 327,500	\$ 333,644
Palo Alto	690	6.68%	\$252,948	\$252,948	\$ 250,258	\$ 254,647	\$ 259,233	\$ 264,051	\$ 269,091	\$ 274,365	\$ 279,895	\$ 285,682	\$ 291,043
Sunnyvale	455	4.41%	\$166,799	\$166,799	\$ 165,025	\$ 167,920	\$ 170,943	\$ 174,120	\$ 177,444	\$ 180,922	\$ 184,569	\$ 188,385	\$ 191,919
Mountain View	300	2.90%	\$109,977	\$109,977	\$ 108,808	\$ 110,716	\$ 112,710	\$ 114,805	\$ 116,996	\$ 119,289	\$ 121,694	\$ 124,210	\$ 126,540
Gilroy	262	2.54%	\$96,047	\$96,047	\$ 95,026	\$ 96,692	\$ 98,433	\$ 100,263	\$ 102,177	\$ 104,179	\$ 106,279	\$ 108,476	\$ 110,512
Milpitas	249	2.41%	\$91,281	\$91,281	\$ 90,311	\$ 91,895	\$ 93,549	\$ 95,288	\$ 97,107	\$ 99,010	\$ 101,006	\$ 103,094	\$ 105,028
Campbell	189	1.83%	\$69,286	\$69,286	\$ 68,549	\$ 69,751	\$ 71,007	\$ 72,327	\$ 73,708	\$ 75,152	\$ 76,667	\$ 78,252	\$ 79,720
Los Gatos	140	1.36%	\$51,323	\$51,323	\$ 50,777	\$ 51,668	\$ 52,598	\$ 53,576	\$ 54,598	\$ 55,668	\$ 56,790	\$ 57,965	\$ 59,052
Morgan Hill	135	1.31%	\$49,490	\$49,490	\$ 48,964	\$ 49,822	\$ 50,719	\$ 51,662	\$ 52,648	\$ 53,680	\$ 54,762	\$ 55,894	\$ 56,943
Los Altos	90	0.87%	\$32,993	\$32,993	\$ 32,642	\$ 33,215	\$ 33,813	\$ 34,441	\$ 35,099	\$ 35,787	\$ 36,508	\$ 37,263	\$ 37,962
San Jose State	73	0.71%	\$26,761	\$26,761	\$ 26,477	\$ 26,941	\$ 27,426	\$ 27,936	\$ 28,469	\$ 29,027	\$ 29,612	\$ 30,224	\$ 30,791
Community Colleges	43	0.42%	\$15,763	\$15,763	\$ 15,596	\$ 15,869	\$ 16,155	\$ 16,455	\$ 16,769	\$ 17,098	\$ 17,443	\$ 17,803	\$ 18,137
South County Fire	31	0.30%	\$11,364	\$11,364	\$ 11,243	\$ 11,441	\$ 11,647	\$ 11,863	\$ 12,090	\$ 12,327	\$ 12,575	\$ 12,835	\$ 13,076
	10,328	100.00%	\$3,786,150	\$3,786,150	\$ 3,745,893	\$ 3,811,593	\$ 3,880,229	\$ 3,952,343	\$ 4,027,786	\$ 4,106,729	\$ 4,189,508	\$ 4,276,125	\$ 4,356,358
April 13, 2015	10,328		\$3,786,150	\$3,786,150	\$ 3,745,893	\$ 3,811,593	\$ 3,880,229	\$ 3,952,343	\$ 4,027,786	\$ 4,106,729	\$ 4,189,508	\$ 4,276,125	\$ 4,356,358

Site Name	PALO ALTO
-----------	-----------

<b>ASSIGNMENT AND ASSUMPTION OF SILICON VALLEY REGIONAL INTEROPERABILITY AUTHORITY ECOMM EQUIPMENT INSTALLATION LICENSE AGREEMENT</b>	
LICENSOR	CITY OF PALO ALTO, CALIFORNIA
LICENSOR's AUTHORIZED REPRESENTATIVE	
ASSIGNOR (LICENSEE)	CITY OF SAN JOSE, CALIFORNIA
ASSIGNEE (NEW LICENSEE)	SILICON VALLEY REGIONAL INTEROPERABILITY AUTHORITY
SITE LOCATION	PALO ALTO CIVIC CENTER 250 Hamilton Avenue Palo Alto, California

This Assignment and Assumption consists of this cover page together with the attached License Agreement including all of its attachments.

### RECITALS

**WHEREAS**, the LICENSOR AND LICENSEE entered into the above referenced License Agreement, a copy of which is attached hereto as Exhibit A; and

**WHEREAS**, ASSIGNOR has transferred its duties to manage and operate the SVRIP ECOMM Project to ASSIGNEE, and it is reasonable and necessary for ASSIGNEE to become the LICENSEE for access to the all of the Project Sites;

NOW, THEREFORE, the undersigned agree as follows:

1. ASSIGNOR hereby assigns all of its rights, interests and obligations in the License Agreement to ASSIGNEE.
2. ASSIGNEE hereby accepts such assignment and agrees to perform all of the obligations of the Licensee as set forth in the License Agreement.
3. In accordance with Section 14 of the License Agreement, by its signature below LICENSOR hereby consents to the foregoing assignment and

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

assumption, and releases ASSIGNOR from further obligations under the License Agreement.

This Assignment and Assumption is entered into as of \_\_\_\_\_, 2015.

ASSIGNOR (Licensee)

**CITY OF SAN JOSE**

By \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_

ASSIGNEE (New Licensee)

**SILICON VALLEY REGIONAL  
 INTEROPERABILITY AUTHORITY**

By  \_\_\_\_\_  
 Name: Heather Plamondon  
 Title: Executive Director  
 Date: \_\_\_\_\_

APPROVED AS TO FORM:

 \_\_\_\_\_  
 Gary M. Baum, General Counsel

Approved and Consented to:  
 LICENSOR

**CITY OF PALO ALTO**

By \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_



Site Name	PALO ALTO
-----------	-----------

## EXHIBIT A

Site Name	PALO ALTO
-----------	-----------

SILICON VALLEY REGIONAL INTEROPERABILITY PROJECT ECOMM EQUIPMENT INSTALLATION LICENSE AGREEMENT			
LICENSOR	CITY OF PALO ALTO, CALIFORNIA		
LICENSOR's AUTHORIZED REPRESENTATIVE	FRANK BENEST, CITY MANAGER		
LICENSEE	CITY OF SAN JOSE, CALIFORNIA		
SITE LOCATION	PALO ALTO CIVIC CENTER 250 Hamilton Avenue, Palo Alto, CA		
TERM	Start Date	End Date	
	APRIL 4, 2008	APRIL 4, 2018	

This License Agreement consists of this cover page together with the attached **Terms and Conditions of SVRIP ECOMM Equipment Installation License Agreement** and the following attachments:

LIST OF ATTACHMENTS	
Exhibit A	Description of Site Location
Exhibit B	Description of ECOMM Equipment Area
Exhibit C	Description of ECOMM Site Design

### RECITALS

**WHEREAS**, the LICENSOR AND LICENSEE have been and are expected to remain parties to previous agreements regarding the installation of an ECOMM microwave network to be deployed for mutual use among them and other public entities (the "SVRIP ECOMM Project" or the "Project"), and recognize the mutual benefits of sharing the interoperable communications to be carried by the ECOMM microwave network; and

**WHEREAS**, LICENSOR is the owner of that certain real property located at the above referenced SITE LOCATION, County of Santa Clara, State of California, as further described in Exhibit "A" (the ECOMM "Description of Site Location") attached hereto and made a part hereof (the entirety of LICENSOR's property is referred to hereinafter as the "Property"), and LICENSOR is authorized to enter into this License Agreement.

**WHEREAS**, LICENSEE desires to license a portion of said Property (hereinafter referred to as the "ECOMM Equipment Area") with access rights thereto, containing approximately 10 square feet of floor space and approximately 50 square feet of ground space located upon the Property as substantially shown on Exhibit "B" attached hereto and made a part hereof.

**WHEREAS**, on behalf of the Project LICENSEE will furnish and install certain ECOMM Equipment, which is more particularly defined and described in the attached Exhibit C (the "ECOMM Site Design"), on the LICENSOR's property (the "Property"); and

Site Name	PALO ALTO
-----------	-----------

Site Name	PALO ALTO
-----------	-----------

WHEREAS, LICENSOR finds that a grant of this right to LICENSEE will be in the public interest and will not substantially conflict or interfere with the LICENSOR's use of the Property.

NOW THEREFORE LICENSOR AND LICENSEE AGREE AS FOLLOWS:

**1. Grant**

Subject to the terms and conditions of this Agreement, LICENSOR hereby grants to LICENSEE a non-exclusive license during the Term (as defined below) to access and use the portions of the Property described in Exhibit B (hereinafter referred to as the "**ECOMM Equipment Area**").

**2. Use**

LICENSEE shall have the right to enter the Property and to use the ECOMM Equipment Area solely for the installation, operation, repair, replacement and maintenance of the ECOMM Equipment. All ECOMM Equipment shall be installed in accordance with the site plans and specifications for such ECOMM Equipment, described in Exhibit C (hereinafter referred to as the "**Site Designs**"), and in accordance with the following construction standards:

- a) The ECOMM Equipment shall be affixed and braced to the existing LICENSOR racks and any other relevant structures, if any, by a means and in a manner acceptable to LICENSOR's Authorized Representative, or designee.
- b) LICENSEE's installation, maintenance, repair, replacement and operation of its radio, electronic and related ECOMM Equipment shall be performed by a qualified technical person. All work shall be done in a workmanlike manner and in compliance with all applicable statutes, ordinances, regulations and other laws and in compliance with the *Quality Standards for Fixed Network Equipment Installation R-56* published by Motorola, Inc.

LICENSEE recognizes the pre-existing right of LICENSOR to reserve and utilize, separate and independent from, and without harmful interference from, any other user of the Property or the ECOMM Equipment Area, a portion of the Property or ECOMM Equipment Area for LICENSOR's communication operations. LICENSEE agrees to design, construct, install and modify, as appropriate, its ECOMM Equipment and communication operations so as to avoid interference with the signals of LICENSOR and any existing licensee. If LICENSEE's installation, or operation, in any way hinders, obstructs, or through testing described below is shown to interfere with the communications existing at the time of this agreement or other ECOMM Equipment of LICENSOR, or any licensee at the Property or ECOMM Equipment Area, LICENSEE shall, at its sole cost and expense, upon receipt of written notification (by e-mail, fax or otherwise from the LICENSOR's Authorized Representative or designee), forthwith cease the interfering installation or operation. If such hindrance, interference or obstruction is not eliminated or does not fully cease within seventy-two (72) hours after receipt by LICENSEE from LICENSOR of written notification of the existence thereof, LICENSOR may order LICENSEE to cease, and upon receipt of such order Licensee shall

Site Name	PALO ALTO
-----------	-----------

Site Name	PALO ALTO
-----------	-----------

cease, operation of the offending ECOMM Equipment as may be necessary to continuously eliminate said interference. In the event of LICENSEE's inability or refusal to eliminate such interference, LICENSOR may at its option, immediately seek intervention of the Court.

LICENSEE's ECOMM Equipment and operations will be configured so that LICENSOR shall at all times have access to the main power supply for LICENSEE's ECOMM Equipment so that it can be disconnected by LICENSOR in the event of an emergency. LICENSOR may immediately terminate power supply to LICENSEE's ECOMM Equipment in the event of an emergency and in such an event, will provide notice to LICENSEE as soon as practicable of the power supply termination.

Any interference and incompatibility testing required to determine radio interference with other ECOMM Equipment at the Property or ECOMM Equipment Area shall, at LICENSEE's expense, be made by a qualified technician representing LICENSEE and a representative designated by LICENSOR. If the test is satisfactory to both the technician and the LICENSOR representative, a certification of such test signed by both the technician and the LICENSOR representative shall be forwarded to LICENSOR at the location for notices indicated in this Agreement.

LICENSOR reserves the right to otherwise use the Property and ECOMM Equipment Area involved in any manner (including the right to alter, replace, improve or otherwise modify the Property) so long as such use does not unreasonably interfere with LICENSEE's rights hereunder.

### 3. Term

This Agreement shall have a term from the Start Date until the End Date indicated on the cover page of this Agreement ("**Term**"). The Parties have an option to extend the Term for up to two additional, consecutive five (5) year periods upon the same terms, covenants and conditions as are contained in this Agreement ("**Options**"). LICENSEE shall exercise the Options by giving written notice of exercise to LICENSOR not less than one hundred twenty (120) days prior to the expiration of the current Term. Notwithstanding anything to the contrary herein, in the event that the governing body of the LICENSOR elect during the Term to transfer the Property (or portion thereof) or otherwise discontinue LICENSOR operations at the Property or ECOMM Equipment Area, LICENSOR may terminate this Agreement by providing LICENSEE with one hundred-eighty (180) days advance written notice of such termination.

### 4. Consideration

In addition to the mutual covenants and obligations of the parties hereunder, the Parties acknowledge that in return for this Agreement the LICENSEE has given, and the LICENSOR has received, good and valuable consideration in the form of the interoperable communications channels provided by the ECOMM Equipment installed on LICENSOR's site.

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

## **5. Condition of ECOMM Equipment Area**

LICENSEE agrees to take the ECOMM Equipment Area and Property "as is." LICENSOR does not warrant or represent that the ECOMM Equipment Area or Property is suitable for LICENSEE's purposes, LICENSEE having made its own investigation and independent determination of the satisfactory condition of the ECOMM Equipment Area and Property and its suitability for its use. LICENSEE assumes for itself, its employees, agents and contractors, all risks associated with its entry into the ECOMM Equipment Area and Property. LICENSEE waives any claim against LICENSOR, its employees and agents for injuries sustained by LICENSEE, its employees, agents and contractors in the ECOMM Equipment Area and surrounding property and for any damage to LICENSEE's property, except to the extent of liability for injuries or damage caused by LICENSOR's negligence or willful misconduct.

## **6. Maintenance and Repair:**

LICENSEE shall be responsible for maintaining, repairing and replacing its ECOMM Equipment. LICENSEE shall perform preventive maintenance on its ECOMM Equipment on a regular schedule or as recommended by the manufacturer of the specific ECOMM Equipment. In order to accomplish the required maintenance, LICENSEE will be allowed access to its ECOMM Equipment 24 hours a day, seven days a week, subject to compliance with Section 14.

LICENSOR, at LICENSOR's expense, shall maintain the ECOMM Equipment Area (other than the ECOMM Equipment) in good order, condition and repair; provided, however, any damage in or to the ECOMM Equipment Area or Property or systems caused by LICENSEE or any agent, officer, employee, or contractor of LICENSEE, shall be promptly repaired by LICENSEE at its expense. LICENSEE shall immediately notify LICENSOR of such damage and obtain LICENSOR's written consent before proceeding with such repairs.

Upon expiration or earlier termination of this Agreement, LICENSEE shall remove all of its ECOMM Equipment and shall return the ECOMM Equipment Area to its original condition, less reasonable wear and tear, or as otherwise agreed by the parties.

## **7. Utilities and Services**

LICENSOR agrees to furnish to the ECOMM Equipment Area (subject to interruption as provided in this Agreement) all utilities reasonably required for LICENSEE's intended use.

LICENSOR shall not be liable for any damage or loss directly or indirectly resulting from any interruption, limitation, curtailment, rationing or restriction on use of electricity, water or any resource or form of energy serving the ECOMM Equipment Area or the Property, whether such results from mandatory restrictions or voluntary compliance with guidelines, or from any other cause other than willful misconduct by the LICENSOR or its employees. Subject to LICENSOR's right to temporarily interrupt power and other services in connection with the making of repairs or improvements in or around the ECOMM Equipment Area, LICENSOR shall use reasonable efforts promptly to correct any interruption in the furnishing of services.

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

LICENSEE shall be responsible for providing the battery power to operate its ECOMM Equipment.

#### **8. Damage and Destruction:**

If the Property, ECOMM Equipment Area, or any portion thereof is destroyed or made unusable by fire, flood, vandalism, earthquake or any other causes ("Destruction") so as to make it impossible or impracticable to carry on business in substantially the same manner it was conducted before the Destruction, then LICENSEE understands and agrees that any restoration of the Property, ECOMM Equipment Area, or portions thereof, shall be at the sole discretion of the LICENSOR. If the Property, ECOMM Equipment Area, or portion thereof cannot be restored within ninety (90) calendar days of the damage or destruction at a commercially reasonable cost or LICENSOR determines that it does not have available funds and authority, (in its sole discretion), this Agreement and its provisions may be terminated by election of either party. In the event of the termination of this Agreement, LICENSEE shall remove its ECOMM Equipment, except as otherwise agreed to by LICENSOR.

#### **9. Default**

The following shall constitute Events of Default:

(i) The failure of either Party to perform any of its obligations, exclusive of the noninterference requirements of Section 2 of this Agreement, hereunder which remains uncured for 15 days after written notice to it by the non-defaulting party will constitute an Event of Default. Notwithstanding the foregoing, if the Event of Default is such that it will reasonably require more than 15 days to cure, then the Defaulting Party shall not be in default hereunder if it commences the cure within 15 days after written notice and thereafter proceeds diligently to complete the cure, but in no case shall such Event of Default continue for more than 60 days; or

(ii) The failure of LICENSEE to comply with the noninterference requirements of this Agreement as provided in Section 2.

In an Event of Default, the non-defaulting party may, without waiving any other rights or remedies, immediately terminate this Agreement. Upon the expiration or termination of this Agreement, all rights and obligations of the Parties under this Agreement terminate upon the effective date of such expiration or termination.

Without limiting the Parties rights or remedies at law or equity, if this Agreement is terminated, LICENSEE shall (i) immediately remove all ECOMM Equipment from the ECOMM Equipment Area and any related LICENSOR Property; and (ii) leave the ECOMM Equipment Area and LICENSOR's Property in a clean, neat and safe condition.

#### **10. Indemnification**

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to California Government Code § 895.6, LICENSEE shall

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

indemnify, defend, reimburse and hold harmless LICENSOR, its officers, employees and agents, against any claim, suit, liability, loss, expense or damage, including reasonable attorney's fees and costs, with respect to injury or death to any person or damage to any property to the extent such arises from or is related to the use of the Property and ECOMM Equipment Area by LICENSEE, its officers, employees or agents. LICENSOR shall indemnify, defend and hold harmless LICENSEE, its officers, employees and agents, against any claim, liability, loss, expense or damage, including reasonable attorney's fees and costs, with respect to injury or death to any person or damage to any property to the extent such arises from the negligence or willful misconduct of LICENSOR, its officers, employees or agents in connection with this Agreement. This mutual indemnity shall survive the termination or expiration of this Agreement. Notwithstanding the foregoing, neither party shall be liable to the other party for any special or consequential damages.

#### **11. Limited License Only**

This Agreement provides, subject to the terms and conditions herein, only a non-exclusive License in the ECOMM Equipment Area and does not in any way confer on LICENSEE any other interest, whether implied or expressed, in any real property. As between LICENSEE and LICENSOR, LICENSEE retains all right, title and interest in the ECOMM Equipment.

#### **12. Insurance**

LICENSEE represents and warrants that, at LICENSEE'S sole cost and expense, it will maintain for the duration of this AGREEMENT self-insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance by LICENSEE of its obligations under the Agreement and that of its agents, representatives, employees or subcontractors and the indemnity provisions of this agreement.

#### **13. Alterations/Security System**

LICENSEE shall not make any alterations to the ECOMM Equipment Area without LICENSOR's prior written consent and approval of any proposed plans and specifications. LICENSEE may install a security system in the ECOMM Equipment Area for its own ECOMM Equipment, provided LICENSEE submit its plans for same to LICENSOR for LICENSOR's prior written approval, which approval shall not be unreasonably withheld. LICENSEE shall comply with all security requirements associated with this secured facility including, for example, requiring all of its employees, agents and contractors to provide evidence of proper identification before entry, keeping any keys to the Building provided to LICENSEE in a safe and secure place and otherwise cooperating with LICENSOR's security requirements.

#### **14. Assignment and Transfer**

The rights granted to LICENSEE shall not be assigned, sold, encumbered or transferred by LICENSEE, in whole or in part, without the prior written consent of the LICENSOR. Notwithstanding the foregoing, nothing herein shall preclude LICENSEE from altering,

Site Name	PALO ALTO
-----------	-----------

Site Name	PALO ALTO
-----------	-----------

transferring or moving the ECOMM Equipment to another site or entering into another license agreement to relocate the ECOMM Equipment.

#### 15. Notices:

All notices required to be given hereunder, or which either party may wish to give, shall be in writing and shall be served either by personal delivery, rapid courier (such as Federal Express or United Parcel Service) or by regular mail, postage prepaid, addressed as follows:

To LICENSOR: City of Palo Alto  
City Manager  
250 Hamilton Avenue  
Palo Alto, CA 94303  
Telephone: (650) 329-2563  
Facsimile: (650) 325-5025

or to such place as LICENSOR may designate by written notice.

To LICENSEE: City of San Jose  
City Manager  
New City Hall, 17<sup>th</sup> Floor  
200 E. Santa Clara Street  
San Jose, CA 95113

or to such other place as LICENSEE may designate by written notice.

#### 16. Non-Discrimination

A. Requirements. The Parties shall comply with all applicable Federal, State, and local laws and regulations. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900, *et seq.*) and California Labor Code sections 1101 and 1102. LICENSEE shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation, nor shall LICENSEE discriminate in provision of services provided under this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations or marital status.

B. Failure to Comply. Failure to comply with the requirements set forth herein shall be deemed cause for cancellation, termination, or suspension of this Agreement.

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

#### **17. Permits**

LICENSEE shall, at LICENSEE's sole cost and expense and prior to the commencement of activities permitted hereunder, comply with all laws, orders, and obtain all permits which may be required by public agencies including, without limitation, the Federal Communications Commission, CAL-OSHA and other relevant agencies and local jurisdictions to the extent they have jurisdiction over the activities of LICENSEE at LICENSOR's Site Location and shall comply with all conditions and requirements set forth in the permits issued by such agencies. During the term of this Agreement, LICENSEE shall maintain, to the extent relevant, an FCC license in full force and attach a copy of such license to each transmitter.

#### **18. Governing Law and Jurisdiction**

This Agreement will be deemed accepted by the Parties in, and governed by and construed in accordance with, the laws of the State of California without giving effect to its conflicts of laws provisions. All actions with respect of this Agreement shall be brought in state courts having jurisdiction within Santa Clara County, California and the parties expressly consent to the personal jurisdiction of such courts.

#### **19. Entire Agreement**

This Agreement represents the entire Agreement by and between the parties relative to the use of the subject site. Any prior or contemporaneous oral or written agreements by and between the parties and/or their agents and representatives relative to such use are revoked and extinguished by this Agreement.

#### **20. Representations and Warranties**

The Parties represent and warrant that (i) they are not currently bound by any other agreements, restrictions or obligations, nor will they assume any such obligations or restrictions which do or would in any way interfere or be inconsistent with this Agreement; and (ii) the signatories to this Agreement possess all necessary authority to enter into this Agreement in all respects and render it effective.

#### **21. Amendments**

This Agreement may not be modified except in writing signed by duly authorized representative(s) of the Parties.

#### **22. Waiver**

Waiver by the Parties of any breach of any term, covenant or condition of this Agreement shall not be deemed to waive the same or any other term, covenant or condition of this Agreement or the right to subsequently enforce such term or condition in the future.



Site Name	PALO ALTO
-----------	-----------

Site Name	PALO ALTO
-----------	-----------

### 23. Severability

In the event that any provision of this Agreement is held or construed to be invalid by any arbitrator or court having jurisdiction over disputes related to this Agreement, such provision will, if reasonable to do so, be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, or, if not reasonable to do so, be deemed to be excluded from this Agreement. In any event, all other provisions of this Agreement will remain in full force and effect.

### 24. Counterparts

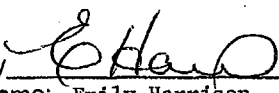
This Agreement may be signed in multiple counterparts, each of which will be considered an original, and all of which will be considered one and the same document. This Agreement may be executed by facsimile signature.

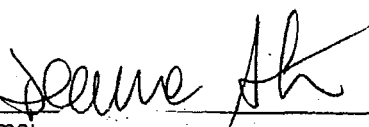
This License Agreement is entered into the date set forth below by and between LICENSOR and LICENSEE.

DATE

LICENSOR  
City of Palo Alto

LICENSEE  
City of San Jose


By   
Name: Emily Harrison  
Title: Assistant City Manager

By   
Name: Deanna Santana  
Title: Deputy City Manager

APPROVED AS TO FORM:



APPROVED AS TO FORM:

APPROVED AS TO FORM  
  
Brian Doyle  
Senior Deputy City Attorney  
City of San Jose

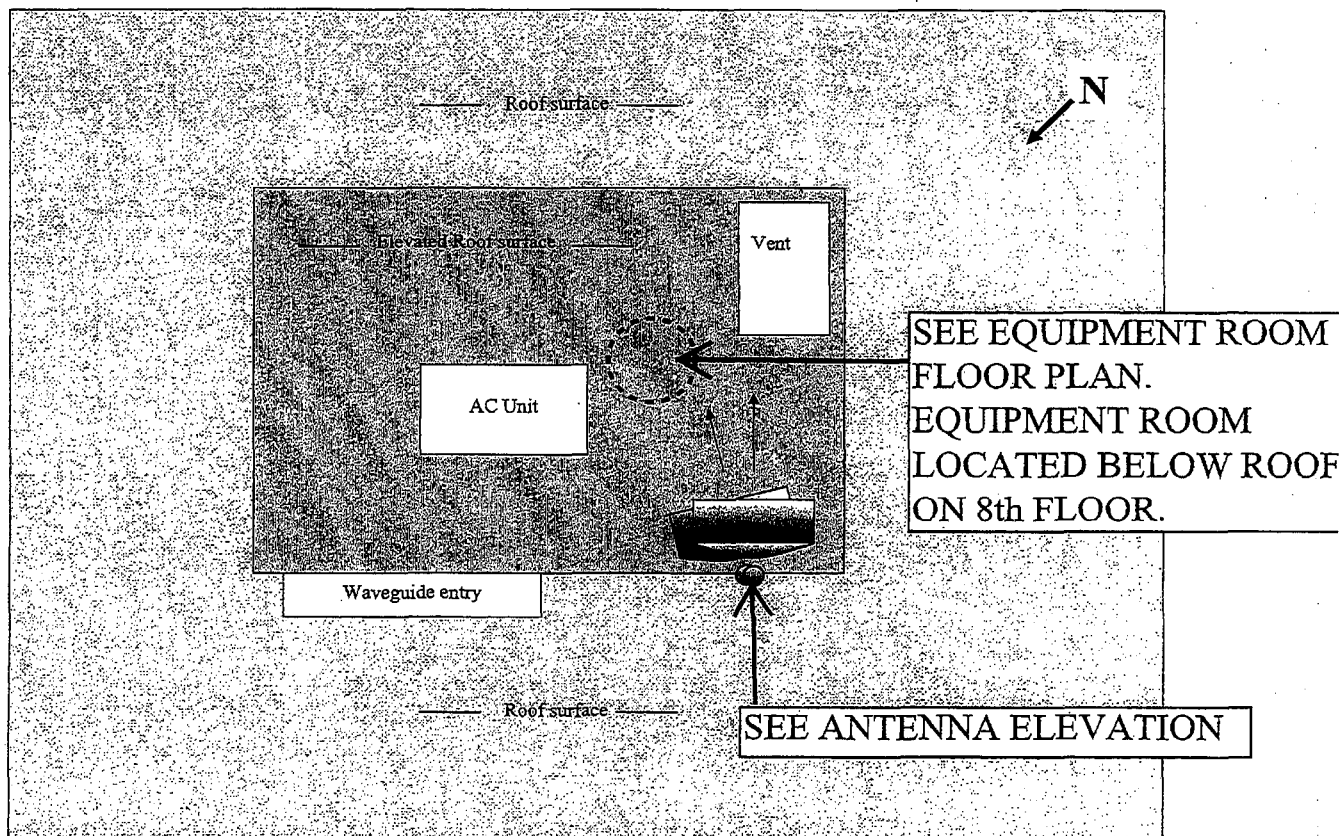
Site Name

PALO ALTO

ECOMM LICENSE

EXHIBIT B

EQUIPMENT AREA



Palo Alto Civic Center Roof: ECOMM Equipment Area  
The ECOMM microwave dishes toward Mountain View and Los Altos mount at the former location of the satellite antenna

250 HAMILTON AVENUE, PALO ALTO, CA



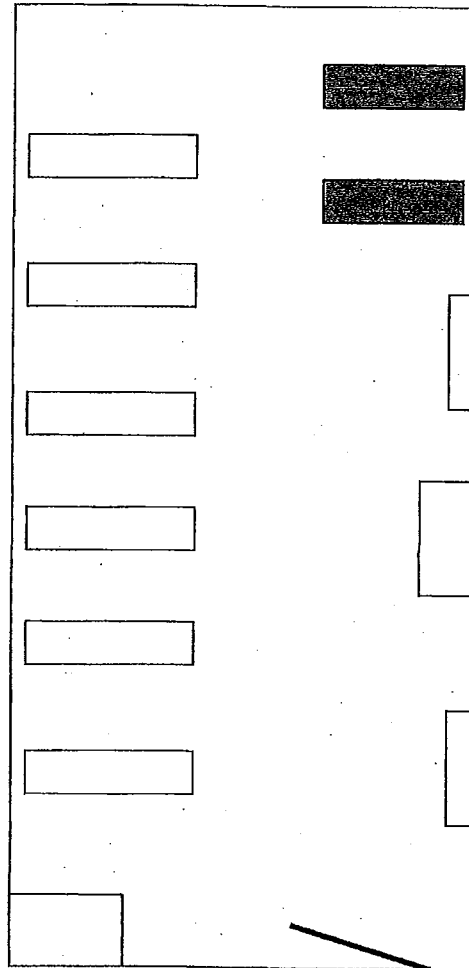
**Site Name**

**PALO ALTO**

**ECOMM LICENSE**

**EXHIBIT B**

**EQUIPMENT ROOM  
FLOOR PLAN**



Palo Alto Equipment Room Floor Plan  
8<sup>th</sup> Floor, Civic Center Building

**250 HAMILTON AVENUE, PALO ALTO, CA**

<b>Site Name</b>	<b>PALO ALTO</b>
------------------	------------------

## ECOMM LICENSE      EXHIBIT C      SITE DESIGN

### ECOMM Site Design at Palo Alto Civic Center

- 1) LICENSEE shall furnish & install the following ECOMM components:
  - a) One rooftop antenna mount that meets the requirements of the ECOMM structural analysis, at the location shown in Exhibit B.
  - b) Two 3foot microwave antennas on the new rooftop antenna mount facing Los Altos and Mountain View.
  - c) A rooftop penetration above the existing equipment room location, installed by a licensed roofer.
  - d) A waveguide entry port, core drilled into the equipment room by a licensed concrete worker.
  - e) Two waveguide runs from the two new microwave antennas to the microwave radio location in the existing equipment room through the new waveguide entry port.
  - f) One equipment rack containing two new microwave radios and multiplex equipment facing Los Altos and Mountain View.
  - g) One equipment rack containing new DC chargers, batteries and dehydrator.
  - h) An extension of LICENSOR's 220VAC electrical power to the new ECOMM DC rectifier.
  
- 2) All LICENSEE work to be performed, tested and accepted per the design documents contained in the LICENSEE contract with Harris Stratex Networks, Inc., dated December 11, 2007, and as amended.
  
- 3) Final location and configuration of equipment may be adjusted by mutual agreement of LICENSEE and LICENSOR to achieve ECOMM system performance objectives and to avoid conflict with existing LICENSOR structures, equipment and utilities encountered during installation.

EXHIBIT A  
Construction and Implementation Payments

<b>Cost per agency Breakdown</b>							
	<b>User Count</b>		<b>FY14/15</b>	<b>FY15/16</b>	<b>FY16/17</b>	<b>FY17/18</b>	<b>Infrastructure Cost</b>
San Jose	2,750	26.46%		\$ 2,545,720	\$ 2,545,720	\$ 2,545,720	\$ 7,637,159
Santa Clara County	2,130	20.49%		\$ 1,971,776	\$ 1,971,776	\$ 1,971,776	\$ 5,915,327
MTA	2,000	19.24%		\$ 1,851,432	\$ 1,851,432	\$ 1,851,432	\$ 5,554,297
Santa Clara	791	7.61%	\$354,639	\$ 614,029	\$ 614,029	\$ 614,029	\$ 2,196,725
Palo Alto	690	6.64%		\$ 638,744	\$ 638,744	\$ 638,744	\$ 1,916,233
Sunnyvale	455	4.38%		\$ 421,201	\$ 421,201	\$ 421,201	\$ 1,263,603
Mountain View	310	2.98%		\$ 286,972	\$ 286,972	\$ 286,972	\$ 860,916
Gilroy	304	2.92%		\$ 281,418	\$ 281,418	\$ 281,418	\$ 844,253
Milpitas	249	2.40%		\$ 230,503	\$ 230,503	\$ 230,503	\$ 691,510
Campbell	189	1.82%		\$ 174,960	\$ 174,960	\$ 174,960	\$ 524,881
Los Gatos	140	1.35%		\$ 129,600	\$ 129,600	\$ 129,600	\$ 388,801
Morgan Hill	135	1.30%		\$ 124,972	\$ 124,972	\$ 124,972	\$ 374,915
Los Altos	90	0.87%		\$ 83,314	\$ 83,314	\$ 83,314	\$ 249,943
SJSU	86	0.83%		\$ 79,612	\$ 79,612	\$ 79,612	\$ 238,835
South County Fire	31	0.30%		\$ 28,697	\$ 28,697	\$ 28,697	\$ 86,092
Foothill/DeAnza	23	0.22%		\$ 21,291	\$ 21,291	\$ 21,291	\$ 63,874
West Valley/Mission	22	0.21%		\$ 20,366	\$ 20,366	\$ 20,366	\$ 61,097
	10,395	100.00%					<b>\$ 28,868,460</b>
<i>4/30/2015 FINAL</i>	10,395		\$354,639	\$9,504,607	\$ 9,504,607	\$9,504,607	<b>\$ 28,868,460</b>

EXHIBIT B

Operations and Maintenance Projected Costs

	User Count		Operations and Maintenance (FY18/19)	Operations and Maintenance (FY19/20)	Operations and Maintenance (FY20/21)	Operations and Maintenance (FY21/22)	Operations and Maintenance (FY22/23)	Operations and Maintenance (FY23/24)	Operations and Maintenance (FY24/25)	Operations and Maintenance (FY25/26)	Operations and Maintenance (FY26/27)	Operations and Maintenance (FY27/28)	Operations and Maintenance (FY28/29)
San Jose	2,750	26.46%	\$1,001,627	\$1,001,627	\$ 990,977	\$1,008,358	\$ 1,026,516	\$ 1,045,593	\$1,065,552	\$ 1,086,436	\$ 1,108,335	\$ 1,131,250	\$ 1,152,476
Santa Clara County	2,130	20.49%	\$775,806	\$775,806	\$ 767,557	\$ 781,019	\$ 795,083	\$ 809,860	\$ 825,318	\$ 841,494	\$ 858,456	\$ 876,205	\$ 892,645
MTA	2,000	19.24%	\$728,456	\$728,456	\$ 720,711	\$ 733,351	\$ 746,557	\$ 760,432	\$ 774,947	\$ 790,135	\$ 806,062	\$ 822,727	\$ 838,164
Santa Clara	791	7.61%	\$288,104	\$288,104	\$ 285,041	\$ 290,040	\$ 295,263	\$ 300,751	\$ 306,491	\$ 312,499	\$ 318,798	\$ 325,389	\$ 331,494
Palo Alto	690	6.64%	\$251,317	\$251,317	\$ 248,645	\$ 253,006	\$ 257,562	\$ 262,349	\$ 267,357	\$ 272,597	\$ 278,091	\$ 283,841	\$ 289,167
Sunnyvale	455	4.38%	\$165,724	\$165,724	\$ 163,962	\$ 166,837	\$ 169,842	\$ 172,998	\$ 176,300	\$ 179,756	\$ 183,379	\$ 187,170	\$ 190,682
Mountain View	310	2.98%	\$112,911	\$112,911	\$ 111,710	\$ 113,669	\$ 115,716	\$ 117,867	\$ 120,117	\$ 122,471	\$ 124,940	\$ 127,523	\$ 129,915
Gilroy	304	2.92%	\$110,725	\$110,725	\$ 109,548	\$ 111,469	\$ 113,477	\$ 115,586	\$ 117,792	\$ 120,101	\$ 122,521	\$ 125,055	\$ 127,401
Milpitas	249	2.40%	\$90,693	\$90,693	\$ 89,728	\$ 91,302	\$ 92,946	\$ 94,674	\$ 96,481	\$ 98,372	\$ 100,355	\$ 102,430	\$ 104,351
Campbell	189	1.82%	\$68,839	\$68,839	\$ 68,107	\$ 69,302	\$ 70,550	\$ 71,861	\$ 73,232	\$ 74,668	\$ 76,173	\$ 77,748	\$ 79,207
Los Gatos	140	1.35%	\$50,992	\$50,992	\$ 50,450	\$ 51,335	\$ 52,259	\$ 53,230	\$ 54,246	\$ 55,309	\$ 56,424	\$ 57,591	\$ 58,671
Morgan Hill	135	1.30%	\$49,171	\$49,171	\$ 48,648	\$ 49,501	\$ 50,393	\$ 51,329	\$ 52,309	\$ 53,334	\$ 54,409	\$ 55,534	\$ 56,576
Los Altos	90	0.87%	\$32,781	\$32,781	\$ 32,432	\$ 33,001	\$ 33,595	\$ 34,219	\$ 34,873	\$ 35,556	\$ 36,273	\$ 37,023	\$ 37,717
San Jose State	86	0.83%	\$31,324	\$31,324	\$ 30,991	\$ 31,534	\$ 32,102	\$ 32,699	\$ 33,323	\$ 33,976	\$ 34,661	\$ 35,377	\$ 36,041
South County Fire	31	0.30%	\$11,291	\$11,291	\$ 11,171	\$ 11,367	\$ 11,572	\$ 11,787	\$ 12,012	\$ 12,247	\$ 12,494	\$ 12,752	\$ 12,992
Foothill/DeAnza	23	0.22%	\$8,377	\$8,377	\$ 8,288	\$ 8,434	\$ 8,585	\$ 8,745	\$ 8,912	\$ 9,087	\$ 9,270	\$ 9,461	\$ 9,639
West Valley /Mission	22	0.21%	\$8,013	\$8,013	\$ 7,928	\$ 8,067	\$ 8,212	\$ 8,365	\$ 8,524	\$ 8,691	\$ 8,867	\$ 9,050	\$ 9,220
	10,395	100.00%	\$3,786,150	\$3,786,150	\$ 3,745,893	\$3,811,593	\$ 3,880,229	\$ 3,952,343	\$4,027,786	\$ 4,106,729	\$ 4,189,508	\$ 4,276,125	\$ 4,356,358
April 30, 2015	10,395		\$3,786,150	\$3,786,150	\$ 3,745,893	\$3,811,593	\$ 3,880,229	\$ 3,952,343	\$4,027,786	\$ 4,106,729	\$ 4,189,508	\$ 4,276,125	\$ 4,356,358

**NOT YET APPROVED**

Ordinance No. \_\_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending the Budget for Fiscal Year 2015 in the Technology Fund to Increase the Radio Infrastructure Replacement Project (Te-0500) by \$1,000,000, Offset by an Increased Transfer from the General Fund to Fund the City's Portion of the County-Wide Radio Infrastructure Project Administered by the Silicon Valley Regional Interoperability Authority. In the General Fund, the Transfer to the Technology Fund is Increased by \$1,000,000 Offset by a Reduction to the Budget Stabilization Reserve

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. The Council of the City of Palo Alto finds and determines as follows:

A. Pursuant to the provisions of Section 12 of Article III of the Charter of the City of Palo Alto, the Council on June 16, 2014 did adopt a budget for fiscal year 2015; and

B. The City of Palo Alto has been participating in a multi-year project with all the Joint Powers Authority members in the Silicon Valley Regional Interoperability Authority (SVRIA) to fund and construct a county-wide radio communications system that will permit all public safety officers across Santa Clara County to communicate with one another. Palo Alto and other municipalities will also use the system for local government radio communication (Public Works, Utilities, etc.); and

C. The City's capital costs related to this project are anticipated to be \$4.0 million; \$2.1 million for replacement of the City's radios and consoles (split between the General Fund, \$1.65 million and the Public Works and Utilities enterprise funds, \$0.45 million); and \$1.9 million for the City's share of the Countywide total \$28.9 million infrastructure build out (split between the General Fund, \$1.4 million and the Public Works and Utilities enterprise Funds, \$0.5 million); and

D. As discussed in the Fiscal Year 2016 Proposed Capital Budget for CIP TE-05000, a recommendation to carry over existing funding in Fiscal Year 2015 (\$1.3 million; \$0.8 million from the General Fund and \$0.5 million from the Utility Funds) to Fiscal Year 2016 is proposed to fund a portion of the \$4.0 million infrastructure and radio replacement costs; and

E. The Fiscal Year 2016 Proposed Capital Budget for CIP TE-05000 also recommends a \$1.0 million transfer from the General Fund Budget Stabilization Reserve to fund \$1.8 million of the General Fund's \$3.0 million projected share of the project. The remaining \$1.2 million General Fund share will be funded in future years as the costs associated with the project are refined; and

F. City Council authorization is needed to amend the 2015 budget as hereinafter set forth.



**NOT YET APPROVED**

SECTION 2. The ending fund balance in the General Fund Budget Stabilization Reserve is hereby reduced by One Million dollars (\$1,000,000) and the transfer-out to the Technology Fund is increased by One Million dollars (\$1,000,000). The transfer-in to the Technology Fund is increased by One Million dollars (\$1,000,000) and One Million dollars (\$1,000,000) is appropriated to the Radio Infrastructure Replacement Capital Improvement Project (TE-05000).

SECTION 3. The Council of the City of Palo Alto hereby finds that this is not a project under the California Environmental Quality Act and, therefore, no environmental impact assessment is necessary.

SECTION 4. As provided in Section 2.04.330 of the Palo Alto Municipal Code, this ordinance shall become effective upon adoption.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Administrative Services

\_\_\_\_\_  
Chief Information Officer