

## **AGREEMENT FOR AMATEUR RADIO ASSISTANCE**

This Agreement for Amateur Radio Assistance ("Agreement") is made on this \_\_\_\_ day of \_\_\_\_\_, 2015 ("Effective Date") between the City of Mansfield, a municipal corporation ("City"), and the Mansfield-Johnson Amateur Radio Service, an unincorporated association of amateur radio operators ("MJARS"). For convenience, the City and MJARS may be referred to collectively as "parties" and individually as a "party."

### **RECITALS**

WHEREAS, the City owns three water towers located within the city limits on the property where Fire Station #3 and Fire Station #4 are located and at 1220 E. Debbie Lane ("Water Towers"); and

WHEREAS, MJARS is a not for profit amateur radio group whose purpose is to install and maintain repeater antennas for reliable amateur radio communications during times of emergency and nonemergency; and

WHEREAS, MJARS desires an agreement with the City to install a repeater antenna on the Water Towers as part of the City's amateur radio back-up emergency communications plan; and

WHEREAS, the City recognizes the need for high altitude, amateur radio antennas to support local emergency communications and desires to formally approve MJARS's use of the Water Towers for the purposes stated in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto agree as follows:

1. The City hereby grants to MJARS a nonexclusive license to install and maintain, at its sole cost, one repeater antenna on each of the Water Towers provided that such installation shall not interfere with the use of the Water Towers by any other person or entity. MJARS may utilize the repeater antennas only for radio communication purposes consistent with all state and federal laws. The exact location where the repeater antennas may be placed on the Water Towers shall be determined by the Director of the Water Department.
2. MJARS shall be responsible for providing its own antennas, mounting hardware, coaxial cables and connectors; providing and maintaining the required repeater equipment and housing; and paying all expenses related to the maintenance of its antennas and coaxial cables. All equipment shall be installed and maintained in a good and workmanlike manner in compliance with all applicable federal, state and local laws, rules and regulations.
3. MJARS shall limit access to the Water Towers to authorized MJARS personnel and shall comply with all City security procedures for accessing the Water Towers.

4. MJARS shall coordinate all required maintenance of the repeater antennas with the City and shall only use contractors approved by the City.
5. If in the course of MJARS's use of the Water Towers, the City or its officers, agents and employees become aware of any condition in or about the Water Towers which may be dangerous, MJARS shall immediately correct such condition or cease operations upon being notified so as not to endanger persons or property.
6. MJARS shall not cause damage to the Water Towers and shall immediately repair, with notice to and approval of the City, any damage to the Water Towers caused by MJARS's use of the Water Towers. All repairs to the Water Towers shall be done in a good and workman like manner and with the use of contractors approved by the City.
7. When a disaster or emergency occurs affecting the City which would require the use of amateur radio communications, the City request the assistance of MJARS. This assistance may include, but not limited to the following:
  - (a) Alerting and mobilizing the amateur radio volunteer emergency communications personnel;
  - (b) Establishing and maintaining fixed, mobile and portable station emergency communications facilities for local radio coverage and point-to-point contact between public safety officials and locations, as required, such as point-to-point communications with the Texas EOC in Austin, Texas;
  - (c) Maintaining the continuity of communications for the duration of the emergency period or until normal communications channels are substantially restored; and
  - (d) Using amateur radio to communicate with the public about events such as missing persons, searches, weather, fire, electric outages, floods, public service events and any communication emergency that may occur with the City.
8. For purposes of this Agreement, the term "disaster" shall mean an occurrence such as a hurricane, tornado, storm, flood, high water, wind drive, water, tidal wave, earthquake, volcanic eruption, drought, blizzard, pestilence, famine, fire, explosion, building collapse, transportation accident, or other situation that causes human suffering or creates human needs that the victims cannot alleviate without assistance.
9. To facilitate MJARS's performance under this Agreement, MJARS shall assign an Emergency Coordinator ("EC") as a point of contact for the City. The EC will provide the closest possible coordination and direct operational assistance by MJARS in emergency communication planning and in the coordination of amateur radio communications facilities during disaster operations. The EC will be encouraged to take part in pre-disaster training and planning and to work with the City to provide amateur radio communications equipment and volunteers, and to meet the needs of their disaster response emergency communications.

10. MJARS agrees to supply the City with a list of emergency coordinators on an annual basis. The City agrees to supply MJARS with pertinent information and points of contacts on an annual basis. MJARS's list of initial emergency contacts is as follows:

<b>Name</b>	<b>Phone</b>	<b>Address</b>
Bill Adams – AF4B	817-312-0433	2201 Field Lane, Mansfield, TX 76063
David Kettrick – KD5DK	817-706-5975	305 Trailblazer Ct., Arlington, TX 76002
Jim Erickson – KB0DBJ	817-715-2101	5903 Prairie View Ct., Grand Prairie, TX 75052

In the event the City needs to request assistance from MJARS, the City shall contact MJARS's emergency coordinators starting with the first name on the list and continuing down the list in order in the event the City is unable to establish communication with the first person on the list.

11. **WAIVER AND INDEMNITY.** MJARS HEREBY WAIVES ALL CLAIMS AGAINST THE CITY AND ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES (COLLECTIVELY "INDEMNITEES") FOR DAMAGE TO ANY PROPERTY OR INJURY OR DEATH OF ANY PERSON IN, UPON OR ABOUT THE WATER TOWERS ARISING FROM MJARS'S USE OF THE WATER TOWERS OR FROM MJARS'S BREACH OF THIS AGREEMENT, AND MJARS SHALL INDEMNIFY AND DEFEND THE INDEMNITEES AGAINST, AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL CLAIMS, LIABILITIES, DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING WITHOUT LIMITATION, ATTORNEYS' FEES AND COSTS ARISING OUT OF OR IN ANY WAY CONNECTED WITH: (A) ANY INJURY TO OR DEATH OF ANY PERSON, AND (B) DAMAGE TO OR DESTRUCTION OF ANY PROPERTY, RESULTING FROM THE CONDITION, USE OR OCCUPANCY OF THE WATER TOWERS BY MJARS OR FROM MJARS'S BREACH OF THIS AGREEMENT. THIS WAIVER AND INDEMNITY SHALL NOT APPLY TO DAMAGES CAUSED PRINCIPALLY BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNITEES. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT WITH RESPECT TO ANY DAMAGE, INJURY OR DEATH OCCURRING PRIOR TO SUCH TERMINATION.
12. Either the City or MJARS may terminate this Agreement, with or without cause and for its convenience, upon sixty (60) days' written notice to the other party. Upon termination, MJARS shall remove its equipment from the Water Towers at its sole cost and expense.
13. Governing Law/Venue. This Agreement shall be governed by and construed under the laws of the State of Texas without regard to any conflicts of law principles. Venue for any legal action brought to interpret or enforce this Agreement shall lie in Tarrant County.

14. Entirety. This Agreement constitutes the entire agreement of the parties hereto and supersedes any prior written or oral agreements of the parties regarding the subject-matter of this Agreement.
15. Severability. Wherever possible, each provision of this Agreement shall be interpreted so that it is valid under applicable law. If any provision of this Agreement is held to be illegal or unenforceable, that provision will be reformed only to the extent necessary to make the provision legal and enforceable; all remaining provisions of this Agreement shall continue in full force and effect.
16. Amendment. This Agreement may not be amended except by a written document signed by all parties to this Agreement.
17. No Third Party Beneficiaries. This Agreement shall inure to the benefit of and may only be enforced by the parties to this Agreement and their permitted successors and assigns. Except as may be specifically stated and identified in this Agreement, there are no third party beneficiaries of this Agreement.
18. Independent Contractors. The parties to this Agreement are acting as independent entities, and no joint venture or other relationship is intended by this Agreement.
19. Notices. Any notice or other communication required by this Agreement to be given, provided, or delivered to a party shall be in writing addressed to the parties as set forth below. Notices shall be considered "given" for purposes of this Agreement: (a) if sent by certified mail, three business days after being deposited with the U.S. Postal Service, certified mail, return receipt requested; or (b) if sent by private delivery service (e.g., FedEx or UPS), on the date delivered to the notice address listed below as evidenced by a receipt signed by any person at the notice address.

**If to the City:** City of Mansfield, Texas  
Attn: City Manager  
1200 E. Broad St.  
Mansfield, Texas 76063

**If to MJARS:** MJARS  
P.O. Box 572  
Mansfield, Texas 76063

Either party has the right to change its notice addresses by giving written notice to the other party in accordance with the terms of this paragraph.

20. Anti-Assignment. Neither this Agreement nor any interest therein may be assigned by either party to this Agreement without the written consent of the other party.

21. Force Majeure. Other than payment obligations, neither party is responsible for any delay or failure in performance if caused by any event outside the reasonable control of the party, including without limitation acts of God, government regulations, shortage of supplies, act of war, act of terrorism, earthquake, or electrical, internet or telecommunications outage.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed to be effective on the Effective Date.

CITY OF MANSFIELD:

By: \_\_\_\_\_  
Clayton Chandler, City Manager

ATTEST:

\_\_\_\_\_  
Susana Marin, Acting City Secretary

MANSFIELD – JOHNSON AMATEUR RADIO SERVICE

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_