

**AGREEMENT BETWEEN THE COUNTY OF SAN DIEGO AND THE CITY OF CHULA VISTA FOR PAYMENT OF NEXTGEN RCS INFRASTRUCTURE COSTS**

This Agreement ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, *(to be filled in by County Clerk of the Board)* between the County of San Diego, a political subdivision of the State of California ("County"), and the City of Chula Vista ("City"). City and County shall be collectively referred to as the "Parties".

**RECITALS**

**R.1** County and City have entered an Agreement Between and Among the County of San Diego and Participating Cities and Jurisdictions Regarding the Next Generation Regional Communication System Providing Communication Services to Public Safety and Public Service Agencies Operating in San Diego County and Imperial County ("NextGen RCS Agreement").

**R.2** Under Section 11.8 of the NextGen RCS Agreement, participating agencies pay a monthly operating fee based on the number of radios that they operate within the Next Generation Regional Communications System (NextGen RCS).

**R.3** Pursuant to the NextGen RCS Agreement, the County agrees to purchase a NextGen RCS and the Parties agree to share Backbone Infrastructure costs. The NextGen Agreement contemplates additional, separate agreements related to payments and possible financing.

**R.4** On February 2, 2016 (Item No. 5), the Board of Supervisors authorized the Clerk of the Board to execute payment agreements with the Next Generation Regional Communications System Parties on behalf of the County.

Therefore, the parties agree as follows:

**AGREEMENT**

**1. Obligations of the Parties**

**1.1 County.** County agrees to pay City's proportional Infrastructure costs as part of the NextGen procurement.

**1.2 City.** Beginning June 1, 2017, and each year thereafter for ten (10) years, City agrees that the City will pay an annual payment as described in section 11.4 of the NextGen RCS agreement, of \$345,260.79. The annual payment of \$345,260.79 is determined by the amortization schedule which is attached as **Exhibit A**. These annual payments will continue through June 30, 2026. Failure by the City to pay any portion of the annual fee will be a breach of section 11.4 of the NextGen RCS Agreement. These annual payments are separate and apart from the monthly operating fee referenced in R.2 of this agreement and 11.8 of the NextGen Agreement.

**1.3 Early Payoff.** During the term of this agreement, within 30 days of making the annual payment, the Agency will be permitted to retire their entire debt by paying it in full. **Exhibit A**, the amortization schedule, provides the amount to be paid in full for the term of the agreement.

**2. No Third Party Beneficiaries.** This Agreement is not intended to, and shall not be construed to, confer a benefit or create any right on any third party, or the power or right to bring an action to enforce any of its terms.

**3. Amendments.** This Agreement may be amended only by written instrument duly signed and executed by authorized representatives of the County and City.

**4. Waiver.** The waiver by either Party or any of its officers, agents or employees, or the failure of either Party or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement, will not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement, unless such waiver is expressly set forth in writing in a document signed and executed by the appropriate authority of the County or of the City.

**5. Authorized Representatives.** The persons executing this Agreement on behalf of the Parties hereto affirmatively represent that each has the requisite legal authority to enter into this Agreement on behalf of its respective Party and to bind its respective Party to the terms and conditions of this Agreement. The person executing this Agreement on behalf of its respective Party understands that all Parties are relying on these representations in entering into this Agreement.

**6. Successors in Interest.** The terms of this Agreement will be binding on all successors in interest of each Party.

**7. Severability.** The provisions of this Agreement are severable, and the adjudicated invalidity of any provision or portion of this Agreement shall not in and of itself affect the validity of any other provision or portion of this Agreement, and the remaining provisions of the Agreement shall remain in full force and effect, except to the extent that the invalidity of the severed provisions would result in a failure of consideration or would materially adversely affect any Party's benefit of its bargain. If a court of competent jurisdiction were to determine that a provision of this Agreement is invalid or unenforceable and results in a failure of consideration or materially adversely affects any Party's benefit of its bargain, then the Parties agree to promptly use good faith efforts to amend this Agreement to reflect the original intent of the Parties. Except for this obligation to discuss amending this Agreement, no Party is obligated to agree to a new agreement or any amendment hereto.

**8. Termination.** This Agreement will be terminated once the Agency has made the final payment required under section 1.2.

9. **Term of Agreement.** The term of this Agreement is from the first business day following the date on which the last Party executes the Agreement through June 30, 2026, subject to Paragraph 8 above.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the day and year above set forth. This Agreement shall be effective as of the first business day following the date on which the last Party executes it.

CITY OF CHULA VISTA

COUNTY OF SAN DIEGO

By \_\_\_\_\_ Date \_\_\_\_\_

By \_\_\_\_\_ Date \_\_\_\_\_

David C. Hall, Clerk of the Board

For San Diego County Board of Supervisors

APPROVED AS TO FORM AND

LEGALITY FOR COUNTY OF

SAN DIEGO

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

Mark Day, Senior Deputy



**City of Chula Vista**  
**Exhibit A - Amortization Schedule**

Annual Interest Rate	2.79%
Years	10
Payments Per Year	1
Amount	\$ 2,976,961.29

Payment Number	Payment	Principal	Interest	Balance
1	(\$345,260.79)	(\$262,203.57)	(\$83,057.22)	\$2,714,757.72
2	(\$345,260.79)	(\$269,519.05)	(\$75,741.74)	\$2,445,238.68
3	(\$345,260.79)	(\$277,038.63)	(\$68,222.16)	\$2,168,200.05
4	(\$345,260.79)	(\$284,768.01)	(\$60,492.78)	\$1,883,432.04
5	(\$345,260.79)	(\$292,713.03)	(\$52,547.75)	\$1,590,719.01
6	(\$345,260.79)	(\$300,879.73)	(\$44,381.06)	\$1,289,839.28
7	(\$345,260.79)	(\$309,274.27)	(\$35,986.52)	\$980,565.01
8	(\$345,260.79)	(\$317,903.02)	(\$27,357.76)	\$662,661.99
9	(\$345,260.79)	(\$326,772.52)	(\$18,488.27)	\$335,889.47
10	(\$345,260.79)	(\$335,889.47)	(\$9,371.32)	\$0.00