

**USER AGREEMENT  
BETWEEN  
THE CITY OF OVERLAND PARK  
AND  
THE CITY OF FAIRWAY**

This agreement made and entered into this \_\_\_ day of \_\_\_\_\_, 2004 by and between the City of Overland Park, Kansas, hereinafter referred to as "LEAD AGENCY," and the City of Fairway, Kansas, hereinafter referred to as "USER AGENCY."

WHEREAS, the LEAD AGENCY is the administrator of the Computer Aided Dispatch (CAD), Records Management (RMS), and Mobile Data (MDC) systems, hereinafter referred to collectively as "SYSTEM;" and

WHEREAS, the USER AGENCY desires to utilize said SYSTEM; and

WHEREAS, the parties hereto wish to enter into an agreement pursuant to which LEAD AGENCY will allow USER AGENCY access to the SYSTEM for the consideration and upon the terms and conditions herein provided.

WHEREAS, K.S.A. 12-2908 authorizes the parties to cooperate in making the agreement; and

WHEREAS, the governing bodies of each of the parties have determined to enter into this agreement as authorized by K.S.A. 12-2908; and

NOW, THEREFORE, in consideration of the compensation to be paid to LEAD AGENCY and of the mutual agreements herein contained, the parties hereto have agreed, and hereby agree, the LEAD AGENCY for itself and its successors, and the USER AGENCY for itself, and its successors and assigns or its executors and administrators as follows:

**ARTICLE 1. OBLIGATIONS OF LEAD AGENCY**

The LEAD AGENCY shall be responsible for providing the servers, server software (I/CAD, I/LEADS, I/MDT), databases, system administration, and necessary interfaces for the SYSTEM. The LEAD AGENCY will be responsible for maintaining the interface to the Kansas City, Missouri ALERT system and to the Johnson County Sheriff's Radio Network Controller (RNC) as long as these connections are necessary. The LEAD AGENCY will also be responsible for maintaining the Intergraph Public Safety supplied interfaces to mugshot systems, fingerprint identification systems, and interfaces between Intergraph Public Safety products. The LEAD AGENCY will further be responsible to execute a

maintenance contract for the servers, server software, and the hardware necessary for the operation of the SYSTEM. The LEAD AGENCY shall be responsible to monitor new technology to maintain a technologically current SYSTEM. Based upon the data gathered, it shall be the sole responsibility of the LEAD AGENCY to determine the hardware and software that will maximize benefits to both the SYSTEM and the USER AGENCY. The LEAD AGENCY shall establish and maintain a protocol for the diagnosis and correction of system errors. The LEAD AGENCY shall establish and coordinate user groups to facilitate communication, direction, and problem solving. The LEAD AGENCY shall have the responsibility to carefully consider and evaluate all requests, suggestions and recommendations that user groups present in writing to the LEAD AGENCY. The LEAD AGENCY must respond to all requests, suggestions and recommendations presented to it by a user group within a reasonable amount of time.

## **ARTICLE 2. OBLIGATIONS OF USER AGENCY**

### **A. Workstation and Software**

The USER AGENCY shall be responsible for providing the required workstations and workstation software. The workstations will be located in Fairway, Kansas. The workstation software shall be compatible with the software operating on server of LEAD AGENCY. USER AGENCY shall execute maintenance agreements for the software installation on the equipment used by USER AGENCY to access the SYSTEM.

### **B. Connection to Network**

The USER AGENCY is responsible for establishing a connection to the network of LEAD AGENCY. This includes all acquisition, installation, and maintenance of network connections. USER AGENCY shall provide the physical cabling and software necessary to attach to the network of LEAD AGENCY. This connection will be done at the direction and under the supervision of the Information Technology Department of LEAD AGENCY. No action will be taken relative to this connection without the written consent of LEAD AGENCY.

### **C. User Agreement for ALERT and KCJIS Access**

The USER AGENCY is required to maintain a current user agreement with the Board of Police Commissioners of Kansas City, Missouri for access to the criminal justice information provided on SYSTEM including but not limited to, Alert, the National Crime Information Center (NCIC), Missouri Uniform Law Enforcement System (MULES), Missouri Department of Revenue (DOR), Kansas Department of Revenue (KDOR), the Automated Statewide Telecommunications Records Access (ASTRA), and the National Law Enforcement Telecommunications

System (NLETS). The USER AGENCY agrees to abide by all terms and conditions of the user agreement with the Board of Police Commissioners of Kansas City, Missouri. Violation of that agreement shall be considered a violation of this agreement and pursuant to Article 5, is grounds for immediate termination of this agreement. The USER AGENCY further agrees to abide by the policies and procedures set forth in the Memorandum of Agreement regarding the installation and use of KIBRS Gateway software received from the Kansas Criminal Justice Information System (KCJIS). A violation of those policies and procedures shall be considered a violation of this agreement and pursuant to Article 5, is grounds for immediate termination of this agreement.

#### D. Dissemination of Information

The USER AGENCY agrees to abide by all federal and state laws and regulations, relating to the collection, storage, retrieval, and dissemination of criminal justice information. Under no circumstances will the USER AGENCY disseminate information entered into the SYSTEM by LEAD AGENCY or any other user agency. The LEAD AGENCY will not disseminate information entered into the SYSTEM by the USER AGENCY.

#### E. Completeness, Accuracy, Submission, and Security

The USER AGENCY agrees to be responsible for the accuracy, timeliness, and completeness of information entered into or through the SYSTEM. The USER AGENCY agrees to make a good faith effort to maintain the integrity of the I/LEADS Master Name Index, Master Location Index, and Master Property Index. The USER AGENCY is responsible for the submission of criminal offense and criminal arrest data to the State of Kansas or any other entity as is required by law. The USER AGENCY is responsible for managing security of information contained in the databases, as well as the user access and security for its employees.

#### F. Training

USER AGENCY agrees to train any personnel accessing the SYSTEM according to the training standard provided by Intergraph Public Safety. The USER AGENCY represents and agrees that they assume the responsibility to ensure that all persons operating the software shall be properly qualified, supervised, and trained, and have demonstrated effectively that the operator is proficient to properly access the SYSTEM.

### **ARTICLE 3. BACKUP SERVER**

The LEAD AGENCY and the USER AGENCY may agree to work together to implement and maintain a backup server at the USER AGENCY site. The USER

AGENCY will supply this server and have primary responsibility for its maintenance.

#### **ARTICLE 4. TERM**

This Agreement shall commence upon the date it is executed, and shall continue in effect for a period of two (2) years. The term of this agreement shall be automatically extended at the end of the initial two (2) year term for a twelve month period, and in a like manner in succeeding years, unless either party notifies the other, in writing, at least sixty (60) days prior to the end of the agreement current at the time, that the party intends to terminate the agreement and it will not be extended.

Notwithstanding the foregoing or any other language contained in this agreement, the USER AGENCY is obligated to pay only such periodic payments or monthly installments thereof as may lawfully be made from funds budgeted and approved for the purpose. USER AGENCY agrees to notify LEAD AGENCY at the earliest possible time of the non-availability of funds from which to make any periodic payment or monthly installment.

In the event the USER AGENCY fails to make any payments due to LEAD AGENCY under this agreement, LEAD AGENCY may at its option immediately thereafter terminate this agreement upon fifteen (15) days written notice from LEAD AGENCY of an overdue payment.

#### **ARTICLE 5. TERMINATION**

The LEAD AGENCY or the USER AGENCY may terminate this agreement for any reason upon at least one hundred twenty (120) days notice. If the USER AGENCY fails to comply with terms and conditions of this agreement, the LEAD AGENCY reserves the right to immediately terminate the agreement.

#### **ARTICLE 6. CONSIDERATION**

The USER AGENCY agrees to pay and LEAD AGENCY agrees to accept as full compensation, a fee of One Thousand and Eighty Dollars and 00/100 (\$1,080.00) per year for access to the LEAD AGENCY'S SYSTEM. This amount is due and payable in monthly installments starting at the USER AGENCY time of cutover to the live system is accomplished.

#### **ARTICLE 7. INDEMNIFICATION**

To the extent permitted by law and subject to the immunity and maximum liability provisions of the Kansas Tort Claims Act, the USER AGENCY agrees to

indemnify and hold harmless the LEAD AGENCY, and its agents, servants, and employees from and against any and all claims, demands, actions, suits, judgments, and proceedings by others, against all liability, including but not limited to, any liability for damages by reason of or arising out of any false arrests, imprisonment, or any loss, cost expense, or damage arising from, arising out of or in connection with this agreement to the extent that such liability results from the negligent acts or omissions of the USER AGENCY, its employees or agents.

## **ARTICLE 8. WARRANTY**

The SYSTEM is provided without any warranty or condition, expressed or implied. LEAD AGENCY specifically disclaims any implied warranties of title, merchantability, fitness for a particular purpose, and non-infringement. The USER AGENCY acknowledges that the SYSTEM may not operate totally without interruption and warrants that it shall maintain a manual system adequate to back up the SYSTEM should it become unavailable for use, either planned or unplanned. LEAD AGENCY makes no representations, warranties, or guarantees regarding "up-time" for the SYSTEM. The LEAD AGENCY and THE USER AGENCY both agree to pursue remedies through Intergraph Public Safety to all software problems arising from software provided by Intergraph Public Safety. Remedies for problems arising that are caused by circumstances outside of Intergraph Public Safety's control (network connection issues, user errors, hardware failures, etc.) shall be pursued jointly by the LEAD AGENCY and the USER AGENCY until a resolution is achieved.

## **ARTICLE 8. NON-DISCRIMINATION**

USER AGENCY and LEAD AGENCY, for purposes this section referred to singularly as "AGENCY" and collectively as "AGENCIES", agree that:

1. AGENCIES shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of the work under the present contract because of race, color, religion, age, disability, sex, ancestry, national origin or veteran status.
2. In all solicitations or advertisements for employees, AGENCIES shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission, hereinafter, "Commission."
3. If the AGENCIES fail to comply with the reporting requirements of K.S.A. 44-1031 and amendments thereto, the offending AGENCY shall be deemed to have breached the present agreement it may be canceled, terminated or suspended, in whole or in part, by the contracting agency.
4. If AGENCIES are found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has

become final, the offending AGENCY shall be deemed to have breached the present agreement and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency.

5. AGENCIES shall include the provisions of subsections (A)(1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

The provisions of this section shall not apply to a contract entered into by a contractor:

- (a) who employs fewer than four employees during the term of such contract; or
- (b) whose contracts with the AGENCY cumulatively total \$5,000.00 or less during the fiscal year of the AGENCY.

The AGENCIES further agree that they shall abide by the Kansas Age Discrimination In Employment ACT (K.S.A. 44-1111 *et seq.*) and the applicable provision in the Americans With Disabilities Act (42 U.S.C. 1201 *et seq.*) as well as all federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

IN WITNESS WHEREOF, the parties hereto caused this agreement to be executed by the proper officers and officials.

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

CITY OF FAIRWAY, KANSAS

By \_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

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TAMMY M. OWENS  
ASSISTANT CITY ATTORNEY

CITY OF OVERLAND PARK, KANSAS

By 

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ED EILERT  
MAYOR

ATTEST:

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MARION COOK  
CITY CLERK