

**ADDENDUM TO CONSOLIDATED PUBLIC SAFETY COMMUNICATIONS AND  
DISPATCH OPERATIONS AGREEMENT  
(RADIO SYSTEM TRANSFER)**

This **ADDENDUM TO CONSOLIDATED PUBLIC SAFETY COMMUNICATIONS AND DISPATCH OPERATIONS AGREEMENT (RADIO SYSTEM TRANSFER)** (“Addendum”) is entered as of the Effective Date by and among the **TOWN OF ADDISON, TEXAS**, (“Addison”), the **CITY OF CARROLLTON, TEXAS** (“Carrollton”), the **CITY OF COPPELL, TEXAS** (“Coppell”) and the **CITY OF FARMERS BRANCH, TEXAS**, (“Farmers Branch”), all of whom are Texas home rule municipalities operating under the authority of their respective governing bodies (Addison, Carrollton, Coppell, and Farmers Branch, are hereinafter sometimes referred to collectively as “the Cities” or individually as a “City”) and the **NORTH TEXAS EMERGENCY COMMUNICATIONS CENTER, INC.** (“NTECC”), a Texas non-profit local government corporation established by the Cities pursuant to Chapter 431 of the Texas Transportation Code (the Cities and NTECC collectively hereafter referred to as “the Parties” and individually as “Party”).

**RECITALS**

**WHEREAS**, effective June 26, 2013, the Cities entered into that certain *Metrocrest Quad Cities Radio System Interlocal Agreement* (“the Radio System Agreement”) for the purpose of establishing the terms and conditions by which the Cities would jointly establish specifications, seek proposals, and contract for the purchase, installation and maintenance a wide area, multi-site (“simulcast”) digital trunked radio system compliant with P-25 interoperability standards (defined as “the System” in the Radio System Agreement); and

**WHEREAS**, the Radio System Agreement sets forth the Cities’ agreement regarding the on-going operation, maintenance, and management of the System as well as the manner in which costs for operating, maintaining, and managing the System are to be shared among the Cities; and

**WHEREAS**, pursuant to the Radio System Agreement, effective June 27, 2013, Farmers Branch, as representative of the Cities, entered into the following agreements with Harris Corporation (“Harris”) for the purchase, installation, and maintenance of the System: (a) *System Purchase Agreement* (the “SPA”); (b) *Software License Agreement* (the “SLA”); (c) *Software FX Agreement* (“the SFxA”); and (d) *System Maintenance Agreement* (“the SMA”) (collectively, the SPA, SLA, SFxA, and the SMA, along with the change orders and amendments to the SPA listed in Exhibit “A”, hereto, being referred to herein as the “Harris Agreements”); and

**WHEREAS**, pursuant to Article VI of Radio System Agreement and that certain *Interlocal Cooperation Agreement Regarding Establishment of the Metrocrest Quad Cities Local Government Corporation* effective January 27, 2014 (“the LGC Creation Agreement”), the Cities authorized the establishment of NTECC for the purpose of assisting and acting on behalf of the Cities in the performance of their governmental functions and services, including, but not limited to, the construction, development, management, and operation of a public safety dispatch and communications center (the “Communications Center”) on behalf and for the Cities and their respective Police, Fire/EMS, and public works departments; and

**WHEREAS**, pursuant to Article III of the LGC Creation Agreement, the Cities and NTECC entered into that certain *Consolidated Public Safety Communications and Dispatch Operations Agreement* (“the Operations Agreement”) effective December 19, 2014, setting forth the agreement of the Parties relating to the operation of the Communications Center by NTECC for and on behalf of the Cities, the agreement of the Cities to pay the cost relating to operation of the Communications Center, and agreement among the Cities on how such costs shall be shared; and

**WHEREAS**, Section 4.03 of the Operations Agreement contemplates the possibility of the Harris Agreements being assigned by Farmers Branch to NTECC, along with ownership of the Shared Components (as defined in the Radio System Agreement) of the System, being conveyed to NTECC by the Cities; and

**WHEREAS**, NTECC, as the primary user of the Shared Components of the System, is effectively managing the System for the Cities as part of NTECC’s obligations under the Operations Agreement, but is hampered in its ability to make immediate decisions and requests under the Harris Agreements because NTECC is not a party to the Harris Agreements as well as make decisions and enter agreements regarding future upgrades to the System; and

**WHEREAS**, the Parties desire that (i) the Harris Agreements be assigned to NTECC, (ii) ownership of the Cities’ ownership interest in the Shared Components of the System be conveyed to NTECC continued to be used by NTECC for the benefit of the Cities pursuant to the Operations Agreement, and (iii) the Parties should enter into this Addendum setting forth the terms and conditions regarding such assignment and conveyance:

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the sufficiency of which are hereby acknowledged, and upon and subject to the terms and conditions hereinafter set forth, the Parties agree as follows:

## **Article I**

### **Conveyance of System Shared Components to NTECC**

**1.1 Assignment of Harris Agreements:** Farmers Branch hereby conveys and assigns all of its right, title, and interest in the Harris Agreements to NTECC. NTECC hereby accepts such conveyance and assignment and agrees to accept all benefits and assume all duties and obligations of Farmers Branch as set forth in the Harris Agreements. Addison, Carrollton, and Coppell hereby consent to the conveyance and assignment of the Harris Agreements to NTECC.

**1.2 Conveyance of Title to Shared Components:** The Cities hereby convey to NTECC all of their respective rights, title, and interests (i) in the Shared Components of the System described in Exhibit “B” hereto and (ii) to such other personal property as may constitute a Shared Component as defined in the Radio System Agreement which are not specifically identified on Exhibit “B”. NTECC agrees that the System shall continue to be used by NTECC for the provision of Public Safety Communications Services (as defined in the Operations Agreement) on behalf of the Cities as set forth in the Operations Agreement. Conveyance of the Shared Components by

the Cities to NTECC is on an “As-Is” basis with no warranty by the Cities; provided, however, the Cities hereby convey to NTECC any remaining interest in any manufacturers warranties that may remain in effect as of the Effective Date, to the extent such warranties are not set forth in the Harris Agreements assigned to NTECC pursuant to Section 1, above.

**1.3 Disposition of Shared Components:** From time to time as determined by the NTECC Board of Directors, NTECC may dispose of the Shared Components conveyed to NTECC by this Addendum during the normal course of maintaining, repairing, upgrading and/or replacing the System. In the event the disposition of any Shared Component involves the sale of the Shared Component as surplus property resulting in the receipt of sales proceeds by NTECC for such sale, after deducting any out-of-pocket costs incurred by NTECC in relation to the sale, any remaining sales proceeds shall be credited against any payment due from the Cities to NTECC pursuant to the Operations Agreement in the same ratio as each City’s obligation for payment under Section 4.03 under the Operations Agreement.

**1.4 Assignment of License Agreement for Addison Microwave Site:** Addison hereby assigns to NTECC all of Addison’s right, title, and interest in that certain *Rooftop Telecommunications License Agreement* effective October 1, 2003 , by and between Addison and COP Spectrum Center, L.L.C. (formerly known as GPI Spectrum, L.L.C. and successor in interest to Spectrum Center Partners, L.P.), as amended by that certain *First Amendment to Rooftop Telecommunications License Agreement* effective October 1, 2008, that certain *Second Amendment to Rooftop Telecommunications License Agreement* effective November 13, 2013, and that certain *Third Amendment to Rooftop Telecommunications License Agreement* effective October 31, 2018 (collectively, the “Spectrum License Agreement”); provided, however, such assignment shall not be effective unless and until COP Spectrum Center, LLC consents to such assignment. NTECC agrees to assume all of Addison’s rights, duties, and obligations pursuant to the Spectrum License Agreement as of the latter of the Effective Date of this Addendum or the date COP Spectrum Center, LLC consents to the assignment of the Spectrum License Agreement to NTECC. The license fee and other charges paid by NTECC to COP Spectrum Center, LLC, its successors and assigns pursuant to the Spectrum License Agreement, as amended from time to time, shall be reimbursed to NTECC by Addison as an additional costs added to Addison’s share of NTECC’s annual budget and paid pursuant to the Operations Agreement. Fees and other charges paid by NTECC relating to the Spectrum License Agreement shall not be allocated to Carrollton, Coppell and/or Farmers Branch as a Shared Cost pursuant to Section 4.03 of the Operations Agreement or Section 3.09 of the Radio System Agreement.

**1.5 Payments for SMA:** The Parties acknowledge that all payments required to be made prior to the Effective Date pursuant to Section 3.05 of the Radio System Agreement with respect to the SMA, including (i) the payments by Farmers Branch to Harris and (ii) the payments due from Addison, Carrollton and Coppell to Farmers Branch, have been made such that no additional payment will be due prior to October 1, 2020. In accordance with Section 4.03 of the Operations Agreement, the Parties reaffirm their agreement that amounts due from the Cities to Harris relating to the SMA after the Effective Date will be (i) paid by NTECC, (ii) included in NTECC’s Annual Expense Budget for the fiscal year beginning October 1, 2020, and for each fiscal year thereafter until the System Maintenance Agreement is terminated, and (ii) paid by the Cities as part of their respective shares of NTECC’s Annual Expense Budget.

## **Article II**

### **Radio System Operations**

**2.1 Cooperation Regarding Installation, etc.; Mutual Right of Entry.** Each Party agrees to reasonably cooperate with NTECC, its employees, officers, agents, and contractors (including Harris) with respect to the installation, operation, and maintenance of the System and to take such actions that are reasonable and necessary to ensure that Harris is able to timely perform its obligations under the SPA and SMA. Each City hereby grants to NTECC, its employees, agents, and contractors (including Harris) the right to enter those portions of each City's property on which is located any component of the System for the purpose of securing the installation, repair, operation, and/or maintenance of the System. Each City further agrees to grant NTECC and Harris and their respective employees, agents, and/or subcontractors entry onto the City's property for the purpose of installing and, as long as the SMA is in effect, operating, repairing, and maintaining the System. Notwithstanding the foregoing, each City may enforce reasonable and necessary security measures with respect to access to the City's facilities (including, without limitation, requirements that reasonable notice be given prior to such access) to the extent necessary to protect the City's property or facilities, the health and safety of the City's employees, residents, citizens, and/or businesses, or to comply with applicable state and/or federal laws and/or regulations. In the event access to a City's particular facility or property requires an escort, the City on whose property the System component is located shall provide, at said City's sole cost, an employee or other authorized person for such escort within a reasonable time after the request for an escort is received. Nothing herein shall be construed as granting a City or NTECC any interest in real property owned by a City merely because a Shared Component of the System is located on or attached to the real property of one of the Cities.

**2.2 Contractor Insurance.** The Parties acknowledge that Section 12 of the SPA and Section 6.6 of the SMA set forth certain agreements with respect to the requirement of Harris to procure, and require its subcontractors to procure, insurance when performing work on a City's property which remain in full force and effect as of the Effective Date. With respect to any contractors engaged by NTECC to perform work with respect to the System on a City's property, prior to entry onto the City's property, NTECC shall require such contractor to comply with the following:

- A. NTECC's contractor shall obtain and at all times during the period in which the contractor is performing work on the City's property, keep in full force and effect:
  - (1) Commercial General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 per aggregate for bodily injury and property damage, which coverage shall include, without limitation, contractual liability (covering, but not limited to, the liability assumed under the indemnification provisions of this Addendum) and products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2) years after the work has been completed;

- (2) If not covered under the Commercial General Liability policy described in paragraph (1), above, auto liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage, including owned, non-owned, and hired vehicle coverage;
  - (3) Worker's Compensation at Statutory Limits, including Employer's Liability coverage at minimum limits of \$1,000,000 each occurrence/accident; \$1,000,000 by disease each occurrence, and \$1,000,000 by disease aggregate;
- B. All policies shall be issued by a company or companies authorized to do business in the State of Texas and with a Best rating of no less than A:VII. Coverage afforded shall apply as primary;
- C. All policies shall provide not less than thirty (30) days advance notice of cancellation, nonrenewal, or a change in coverage limits below the required minimum amounts; provided, however, notice of cancellation based on non-payment shall be given within the maximum time allowed by law;
- D. Except for the Workers Compensation and Employers' Liability Insurance, all policies shall be endorsed to name the NTECC and the City or Cities on whose property the work will be performed, as additional insureds;
- E. All policies shall be endorsed to waive subrogation against NTECC and the City or Cities on whose property the work will be performed; and
- F. Not later than ten (10) days after execution of this Addendum, Seller shall furnish Buyer with a Certificate of Insurance showing the required insurance coverage and endorsements have been purchased and are in effect. Seller's insurance shall be on a Per Occurrence and not a Claims-Made basis. Seller shall maintain coverage for the duration of this Addendum and for two years following the completion of this Addendum. Annually, on or before the policy renewal date, Seller shall furnish Buyer a new Certificate of Insurance as evidence the required coverage and endorsements remain in effect. All insurance must be written on forms filed with and approved by the Texas Department of Insurance.

The Parties agree that each City, acting at its sole option and through its City Manager or designee, may modify or waive any and all requirements contained in this Section 2.2, such modification or waiver to be in writing only and signed by the City Manager or the City Manager's designee. Such modification or waiver may include or be limited to a reduction in the amount of coverage required above.

**2.3 Indemnification:** Unless different language is approved by NTECC's Executive Director and General Counsel and the City Manager(s) and City Attorney(s) of the City or Cities on whose property the work will be conducted, NTECC shall require the contractor performing work on a City's property to agree with the following indemnification clause:

[Contractor] shall be responsible for and agrees to indemnify, hold harmless and defend the NTECC and *[insert name(s) of the City or Cities where the work will be performed]* and their respective governing bodies, boards, commissions, agencies, officers and employees (collectively “the Indemnified Parties”) from and against all liability, losses, damages, harm, judgments, proceedings, suits, liens, penalties, fines, fees (including reasonable attorneys’ fees), costs or expenses which the Indemnified Parties (or any of them) may sustain, incur or be required to pay by reason of third party claims, demands and/or causes of action for damages resulting from personal injuries, loss of life or damage to or destruction of tangible property, (collectively “Claims”) resulting from, caused by, or relating to the willful misconduct or negligent acts or omissions, of [Contractor] or of any of [Contractor’s] officers, agents, employees, or subcontractors, in performance of or otherwise in connection with this Agreement. However, [Contractor’s] liability under this *[clause/section/paragraph]* shall be reduced by that portion of the total amount of the Claims (excluding defense fees and costs) equal to the Indemnified Parties’ proportionate share of the negligence or gross negligence, or conduct that would give rise to strict liability of any kind, that caused the Claim. Likewise, [Contractor’s] liability for the Indemnified Parties’ defense costs and attorneys’ fees shall be reduced by that portion of the defense costs and attorneys’ fees equal to the Indemnified Parties’ proportionate share of the negligence or conduct that would give rise to strict liability of any kind, that caused the loss.

**2.4 FCC Licenses; Frequency Assignment.** Carrollton and Coppell agree that during the Term of this Addendum, the Parties shall be jointly authorized to use the FCC Licenses (as defined in the Radio System Agreement) for the purpose of communicating through the System without compensation to Carrollton or Coppell. The NTECC Executive Director, subject to the approval of the System Operations Committee (as described in Section 4.03.B. of the Radio System Agreement), which approval shall not be unreasonably withheld or delayed, shall allocate and assign to each City the frequency or frequencies that the City will use for transmitting and receiving radio communications with the respective City’s police, fire, and such other departments of the respective Cities as may be determined by the System Operations Committee and the frequency to be used for inter-agency communications among the departments of the respective Cities using the System.

**2.5 System Maintenance Administration.** Upon the Effective Date, notwithstanding Section 4.02 of the Radio System Agreement, NTECC shall assume all duties and obligations for the management and administration of the maintenance and repair of the Shared Components of the System. At no time after the Effective Date shall any of the Cities, its officers, employees, agents, or contractors seek to access, repair, maintain, move, relocate, or remove any Shared Component of the System without the prior written consent of NTECC’s Executive Director or designee. NTECC’s Executive Director or designee shall provide reasonable and timely notice to the Fire Chief and Police Chief of each City (or their respective designee) of any scheduled System maintenance or repair work that will result in an interruption of use of the System for Public Safety Communications. In the event of any unscheduled maintenance and/or repair of the System which

NTECC finds must be performed in order to (i) avoid any interruption in use of or (ii) restore operation of, the System for Public Safety Communications, NTECC shall provide of such work to the Cities' Fire and Police Chiefs (or their respective designees) as soon as practicable after NTECC becomes aware of the need to conduct such maintenance or repair.

**2.6 Governance Committees.** The Parties agree as follows with respect to the System Executive Committee and System Operations Committee established pursuant to Section 4.03 of the Radio System Agreement:

- A. The System Executive Committee is hereby dissolved, and the authority, duties, and obligations of the System Executive Committee shall be assumed by the NTECC Board of Directors.
- B. Section 4.03.B. of the Radio System Agreement relating to the System Operations Committee shall be read as if "System Executive Committee" reads as "NTECC Board of Directors."

### **Article III Miscellaneous Provisions**

**3.1 Relation to Operations Agreement.** This Addendum shall constitute additional terms and conditions to the Operations Agreement. Except to the extent modified by this Addendum, the Operations Agreement remains in full force and effect, and the terms of the Operations Agreement shall be applicable and govern this Addendum as if fully set forth herein.

**3.2 Effective Date.** This Addendum shall become effective on May 1, 2020.

*Signatures on Following Page*

***Town of Addison Signature Page***

SIGNED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

TOWN OF ADDISON

By: \_\_\_\_\_  
Wesley Pierson, City Manager

ATTEST:

\_\_\_\_\_  
Irma Parker, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Brenda McDonald, City Attorney



*City of Carrollton Signature Page*

SIGNED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF CARROLLTON

By: \_\_\_\_\_  
Erin Rinehart, City Manager

ATTEST:

\_\_\_\_\_  
Laurie Garber, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Meredith A. Ladd, City Attorney

*City of Coppell Signature Page*

SIGNED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF COPPELL

By: \_\_\_\_\_  
Michael Land, City Manager

ATTEST:

\_\_\_\_\_  
Christel Pettinos, City Secretary

APPROVED AS TO FORM:

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

*City of Farmers Branch Signature Page*

SIGNED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF FARMERS BRANCH

By: \_\_\_\_\_  
Charles S. Cox, City Manager

ATTEST:

\_\_\_\_\_  
Amy Piukana, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Peter G. Smith, City Attorney

*NTECC Signature Page*

SIGNED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**NORTH TEXAS EMERGENCY  
COMMUNICATIONS CENTER, INC.**

By: \_\_\_\_\_  
Terry Goswick, Executive Director

APPROVED AS TO FORM:

\_\_\_\_\_  
Kevin B. Laughlin, General Counsel

**EXHIBIT A**  
**LIST OF CHANGE ORDERS AND AMENDMENTS TO HARRIS AGREEMENTS**

The following constitute the Amendments and Change Orders to the *System Purchase Agreement* dated June 27, 2013, between Harris Corporation and the City of Farmers Branch, Texas:

**A. Amendments:**

1. *First Amendment to the System Purchase Agreement* dated April 8, 2014
2. *Second Amendment to the System Purchase Agreement* dated March 16, 2015
3. *Third Amendment to the System Purchase Agreement* dated May 11, 2015
4. *Fourth Amendment to the System Purchase Agreement* dated March 14, 2018

**B. Change Orders to System Purchase Agreement:**

1. Change Order 1 dated October 23, 2013.
2. Change Order 2 dated February 18, 2014
3. Change Order 3 dated March 20, 2014
4. Change Order 4 dated March 20, 2014
5. Change Order 5 dated April 24, 2014
6. Change Order 6 dated May 8, 2014
7. Change Order 7 dated May 30, 2014
8. Change Order 8 dated June 11, 2014
9. Change Order 9 dated June 27, 2014
10. Change Order 10 dated April 21, 2015
11. Change Order 11 dated September 16, 2015

**EXHIBIT B**  
**INVENTORY OF SHARED COMPONENTS**

*Inventory List to be Attached*