

**METROCREST QUAD CITIES
PUBLIC SAFETY RADIO SYSTEM INTERLOCAL AGREEMENT**

This **METROCREST QUAD CITIES RADIO SYSTEM INTERLOCAL AGREEMENT** ("Agreement") is entered into 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 the "Parties" or individually as a "City" or a "Party").

RECITALS

WHEREAS, the Cities are political subdivisions within the State of Texas engaged in the provision of governmental services for the benefit of its citizens; and

WHEREAS, the Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the "Act") provides authority for local governments of the State of Texas to enter into interlocal agreements with each other for the purpose of performing governmental functions and services as set forth in the Act; and

WHEREAS, since 2001, Addison, Carrollton, and Farmers Branch have been parties to an agreement wherein Addison and Farmers Branch have paid Carrollton an annual fee in exchange for use of a portion of Carrollton's trunked radio system for public safety communications; and

WHEREAS, in order to increase the functional radio system coverage area for use by the Cities and their respective users (which radio system coverage is essential and a necessary component of providing certain vital governmental services by each City, including, without limitation, police, fire, emergency medical, and public works protection provided by each City for its citizens), the Cities retained the services of RCC Consultants, Inc. ("RCC") to study and make a recommendation with respect to such coverage ("the RCC Study"); and

WHEREAS, based on the findings and recommendations contained in the RCC Study, the Cities desire to implement a wide area, multi-site ("simulcast") digital trunked simulcast radio system compliant with P-25 interoperability standards; and

WHEREAS, the Cities desire to enter this Agreement for the purpose of establishing the agreement of the Cities regarding the purchase, installation, maintenance, operation, management, and use of the System.

NOW, THEREFORE, for and in consideration of the mutual benefits and obligations set forth in this Agreement, the Cities agree as follows:

I. DEFINITIONS

Unless the context clearly indicates a different meaning, the words and phrases set forth in this Article I shall have the following meanings when used in this Agreement:

“Acceptance Date” shall have the same meaning as set forth in the SPA.

“Business Day” means any day other than a Saturday, Sunday, or official city holiday in which Farmers Branch’s city hall offices are closed for business.

“FCC” means the Federal Communications Commission.

“FCC Licenses” means the radio communications licenses granted by the FCC to Carrollton and Coppell, respectively, listed in Exhibit B.

“Effective Date” means the date this Agreement has been approved by the governing bodies of all of the Cities and signed by the authorized representatives of each City.

“Harris” means Harris Corporation, a Delaware corporation, as defined in the SPA.

“Non-Shared Components” means the equipment, materials, hardware, firmware, structures, and other items comprising a portion of the System described in Exhibit A which are purchased by each of the respective Cities.

“Non-Shared Costs” means the expenses identified in Exhibit A as costs to be incurred by the respective Cities relating to Non-Shared Components purchased by the respective Cities and certain Shared Components as identified in Exhibit A.

“RFP” means collectively (i) that certain Request for Proposal dated August 10, 2012 and titled *P25 Trunked Radio System RFP No. 12-12: Metrocrest Quad Cities (MQC)*, (ii) that certain *Request for Competitive Sealed Proposals for P25 Trunked Radio System - Addendum 1* published and distributed by Farmers Branch on or about September 27, 2012, and (iii) that certain *Request for Competitive Sealed Proposals for P25 Trunked Radio System - Addendum 2* published and distributed by Farmers Branch on or about October 25, 2012, advertised by Farmers Branch for the purpose of seeking proposals from qualified vendors relating to the purchase, installation, and maintenance of a public safety radio communications system and related services as described therein.

“Shared Components” means the equipment, materials, hardware, firmware, structures, and other items comprising a portion of the System described in Exhibit A.

“Shared Costs” means those costs relating to purchase, installation, operation, repair, and/or maintenance of the Shared Components and Non-Shared Components of the System including, but not limited to, all amounts to be paid pursuant to the SMA relating to repair and maintenance of the Shared Components and Non-Shared Components of the System identified in Exhibit A. Shared Costs shall also include out of pocket costs incurred by Farmers Branch

prior to the Effective Date of the SPA relating to the preparation and advertising of the RFP, and costs related to negotiating and preparing the SPA, including reasonable legal fees incurred by Farmers Branch on behalf of all of the Cities.

“System” means a wide area, multi-site (“simulcast”) digital trunked radio system compliant with P-25 interoperability standards as more expressly defined in the SPA and shall include the Shared Components and Non-Shared Components.

“System Maintenance Agreement” or **“SMA”** means the System Maintenance Agreement between Harris (as Seller) and Farmers Branch (as Customer) set forth in Exhibit D to the SPA.

“System Purchase Agreement” or **“SPA”** means that certain System Purchase Agreement dated June 27, 2013, between Farmers Branch (as Buyer) and Harris (as Seller) relating to the purchase, installation, maintenance, and operation of the System.

“Term” means, collectively, the Initial Term as defined in Section 2.01, together with each Renewal Term, as defined in Section 2.02.

“User Equipment” means handheld radios and radios installed at fixed locations or in the Cities’ motor vehicles designed to be compatible for use with the System.

II. TERM

2.01 Initial Term. This Agreement shall commence on the Effective Date and end at 11:59:59 p.m. Central Time on the day prior to the fifth (5th) anniversary of the Acceptance Date (“the Initial Term”), unless extended or terminated earlier as provided in this Agreement.

2.02 Renewal Term. This Agreement shall be extended automatically for additional periods of one (1) year each (“Renewal Term”), the first Renewal Term commencing on the fifth (5th) anniversary of the Acceptance Date, with each Renewal Term commencing on each subsequent anniversary of the Acceptance Date; provided, however, except for provisions of this Agreement that expressly survive termination of this Agreement, this Agreement shall terminate with respect to a City that notifies the other Cities not later than seventy-five (75) days prior to the end of the Initial Term or the then current Renewal Term of its desire to no longer remain a party to this Agreement after the end of the Initial Term or the then current Renewal Term, as applicable.

2.03 Early Termination During Initial Term. Notwithstanding anything to the contrary herein, a City may terminate without cause its participation as a party to this Agreement prior to the end of the Initial Term subject to the following:

- A. The termination date must fall on September 30 of the year of termination;

B. The City desiring to terminate its participation in this Agreement must deliver notice to the other Cities not later than two (2) years prior to the date of termination;

C. The City terminating its participation in this Agreement shall not be entitled to reimbursement from the non-terminating Cities for expenditures related to the purchase, installation, or maintenance of the System paid by the terminating City prior to the date of termination; provided, however:

(1) the terminating City shall be entitled to a proportionate share of the proceeds from the sale of any of the Shared Components by the non-terminating Cities to third parties; and

(2) the terminating City shall be entitled to receive a refund of payments for pre-paid preventative maintenance services, but only to the extent such refunds may be obtained and received from Harris or other person or entity providing maintenance services for the System (and each of (1) and (2) of this subsection C. shall survive termination by the City terminating its participation in this Agreement); and

D. The non-terminating Cities shall have the right to continue to access, use, maintain, and repair the Shared Components located on property owned or leased by the terminating City without compensation to or interference by the terminating City, it being understood, acknowledged, and agreed by the Cities that, because of (i) the critical function of the System as originally designed and installed relative to providing communication across jurisdictional lines during events in which public safety mutual aid is provided between and/or among the Cities for the benefit of the City receiving the assistance from one or more of the other Cities and (ii) the need to provide system redundancy to better ensure continued operation of the System in the event one or more of the Shared Components is temporarily non-operational, the continued use of the Shared Components located on property owned, leased, or licensed by the terminating City by the non-terminating Cities serves the public purpose of the terminating City; and

E. Prior to the date of termination, the terminating City must pay any remaining financial obligations related to its share of Shared Costs incurred or accrued prior to the date of the termination of the terminating City's participation in this Agreement.

Except as set forth in this Section 2.03, the terminating City shall have no obligation to pay any amounts which come due under this Agreement following the effective date of said City's termination of its participation in this Agreement.

III. PURCHASE AND INSTALLATION OF SYSTEM

3.01 Ratification of Prior Acts of Farmers Branch. The Cities understand, acknowledge, and agree that Farmers Branch, at the request of and following consultation with

and review by representatives of all of the Cities, issued the RFP and received proposals from Harris and other vendors with respect to purchase, installation and maintenance of the System. The other Cities hereby ratify and affirm the actions of Farmers Branch in issuing the RFP and receiving proposals in response to the RFP.

3.02 Representations Regarding Negotiation of the SPA. The Cities hereby warrant and represent to each other that:

A. Representatives of all of the Cities have had a fair and equal opportunity to review the proposals received by Farmers Branch in response to the RFP; and

B. Representatives of the Cities unanimously agreed that, following review of the proposals received in response to the RFP, Harris provided the best and most advantageous proposal to the Cities in response to the RFP; and

C. Representatives of all of the Cities have participated, or been provided an opportunity to participate in negotiating the best and final offer from Harris and the terms and conditions of the SPA; and

D. A true and correct copy of the SPA was provided to the Cities prior to execution of this Agreement by the Cities, including, but not limited to all provisions affecting Shared Costs and Non-Shared Costs; and

E. To the best of their knowledge and belief, the Cities have complied with all applicable provisions of state law relating to the procurement of proposals for the purchase, installation, and maintenance of the System and the award of the SPA and related agreements.

3.03 Execution of SPA by Farmers Branch; Reliance on the Cities Performance. Pursuant to this Agreement, Farmers Branch agrees to sign the SPA as "Buyer." The other Cities understand and acknowledge that Farmers Branch would not have signed the SPA but for the agreements by the Cities including but not limited to the Cities' agreement to pay their portions of the Shared Costs and Non-Shared Costs.

3.04 Current Funds Appropriated. The Cities hereby warrant and represent they have each identified and appropriated current funds as of the Effective Date to pay their respective portion of the Shared Costs and the Non-Shared Costs relating to the purchase and installation (but not maintenance) of the System. The Cities understand, acknowledge, and agree that, unless the Cities agree among themselves subsequent to the Effective Date of this Agreement to prepay Harris the amounts due for maintenance of the System for the full term of the SMA, the funds for maintenance of the System for the second through fifth years of the term of the SMA will be subject to annual appropriations by each of the Cities.

3.05 Invoices from Harris; Payments to Farmers Branch. The Cities understand and acknowledge that Harris will be sending invoices to Farmers Branch as Buyer under the SPA and as Customer under the SMA. Farmers Branch agrees to deliver to each other City copies of

each invoice relating to purchase, installation, operation, or maintenance of the System not later than five (5) days following receipt of such invoice with a request to pay to Farmers Branch the City's portion of Shared Costs and/or the City's Non-Shared Costs as set forth in the invoice. The City receiving an invoice from Farmers Branch pursuant to this Agreement shall pay to Farmers Branch the amount due from the City based on this Agreement, the SPA and/or the SMA (as applicable), and the contents of the invoice, not later than fifteen (15) days after receipt of the invoice, but in any case not later than five (5) days prior to the date Farmers Branch must pay Harris pursuant to the provisions of the SPA and/or the SMA (as applicable), including, but not limited to, Section 9 of the SPA.

3.06 Disputed Invoices. If a City disputes any amount appearing on an invoice from Harris that constitutes the City's portion of Shared Costs or Non-Shared Costs, the City disputing the invoice shall provide a written notice to Farmers Branch, with a copy to the other Cities and Harris, not later than ten (10) days following receipt of the invoice, identifying the amount(s) disputed and the basis for the dispute. A City disputing an amount on an invoice shall pay any undisputed amount as required by Section 3.05, above, in accordance within the due date for such amount. If any amount that is disputed by a City shall, in fact, be determined to be due, the City disputing the amount shall be solely responsible for also paying any late fees and/or interest accrued on delinquent payments pursuant to the SPA, which amounts said City shall pay directly to Harris.

3.07 Cooperation Regarding Installation, etc.; Mutual Right of Entry. Each City agrees to reasonably cooperate with Harris and the other Cities 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 each other City 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 Harris, its 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.

3.08 Timely Performance by the Cities Under SPA. Notwithstanding that Farmers Branch is named as "Buyer" in the SPA, the Cities understand and acknowledge that timely performance by all of the Cities with respect to reviewing documents, especially the Detailed Design Documents as described in Section 3.F. of the SPA, is necessary to avoid additional costs resulting from a delay in performance under the SPA. The Cities agree to make every reasonable effort to perform all review of documents, provide such consents as needed and required, and

provide access to the Cities' properties in a timely manner. If the failure of a City to timely perform a document review, grant a consent, or provide access to property results in Harris being entitled to an increase in the contract price set forth in the SPA, the City failing to timely perform shall be solely responsible for such increased cost notwithstanding that such increased cost relates to a Shared Cost.

3.09 Ownership of System. The Cities agree that title to the System shall be as follows:

A. Shared Components shall be jointly owned by the Cities in the following shares:

- (1) Addison: 1/6 undivided interest.
- (2) Carrollton: 1/2 undivided interest.
- (3) Coppell: 1/6 undivided interest.
- (4) Farmers Branch: 1/6 undivided interest.

B. A Non-Shared Component shall be owned 100% by the City paying for the purchase of the Non-Shared Component.

Nothing herein shall be construed as (i) granting a City any interest in real property owned by another City merely because a component of the System is located on or attached to the real property of one of the Cities or (ii) granting a City an ownership interest in personal property paid entirely for and owned by another City merely because said personal property constitutes a component of the System or the cost for operation, maintenance, or repair of the personal property constitutes a Shared Cost.

3.10 Division of Costs for Shared Components. The Cities agree that the costs for payment of the purchase and installation of the Shared Components shall be allocated as follows:

- A. Addison: 1/6
- B. Carrollton: 3/6
- C. Coppell: 1/6
- D. Farmers Branch: 1/6

The Cities agree to forward funds to Farmers Branch for their respective shares of the cost of the Shared Components in a timely manner in accordance with Section 3.05, above.

3.11 Shared Costs. The Cities agree to pay the Shared Costs in accordance with the same allocation set forth in Section 3.10, above, established for the costs of the Shared

Components. The Cities agree to forward funds to Farmers Branch for their respective shares of the Shared Costs in a timely manner in accordance with Section 3.05, above.

3.12 Non-Shared Costs. The Cities agree to pay in a timely manner their respective Non-Shared Costs directly to the vendors with whom the Cities contract to provide services, equipment, or facilities related to operation, repair, and/or maintenance of the System.

3.13 Right to Use Property for System Facilities. The Cities warrant and represent they each own, respectively, a sufficient real property interest (including, but not limited to, a fee simple interest, a fee simple determinable interest, a leasehold interest, and/or an easement) or a license and/or right of entry which will allow the System to be installed, operated, and maintained in accordance with the SPA and the SMA. The Cities agree to retain such real property interest at the sole cost of the respective Cities, which cost shall be considered a Non-Shared Cost. If after installation of the System it becomes necessary to relocate any System facilities or equipment because a City loses the right to use the City's property for location of those System facilities or equipment, such City shall be responsible for all costs related to relocating those System facilities or equipment and any expenses related to modifying the System so that the System continues to provided substantially the same coverage and work in substantially the same manner as designed and accepted by the Cities pursuant to the SPA.

3.14 Addison Tower License/Lease. The Cities understand and acknowledge that Addison's tower site is subject to a license agreement with the owner of the property where the Addison tower is located. Addison shall use its best efforts to continue to keep in full force and effect a license or lease agreement with the owner of the Addison tower site at Addison's sole cost and expense. In negotiating any new or extended license or lease agreement for the Addison tower site, Addison agrees to use its best efforts to seek to include a provision that will allow the license agreement to be assigned to any one of the other Cities without the consent of the owner of the property provided the owner receives notice of such assignment and the City to which the license/lease agreement is assigned agrees to assume all of Addison's obligations under the license/lease agreement. If Addison terminates its participation in this Agreement prior to the end of the Term, Addison shall, upon request of the Cities, and subject to the provisions of the license/lease agreement with the owner of the Addison tower site, assign said license/lease agreement to another of the Cities as identified in the request.

3.15 FCC Licenses; Frequency Assignment. Carrollton and Coppell agree that during the Term of this Agreement, the Cities shall be jointly authorized to use the FCC Licenses for the purpose of communicating through the System without compensation to Carrollton or Coppell. The System Operations Committee (as described in Section 4.03.B. below) 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.

3.16 City System Project Representatives. Not later than five (5) days after the Effective Date, each City shall designate a System Project Representative who shall be the City's

primary contact person with Harris and the other Cities during the installation and acceptance testing of the System.

3.17 Farmers Branch Administrative Fee. The other Cities agree to pay Farmers Branch the following amounts to reimburse Farmers Branch for the costs incurred by Farmers Branch in providing services related to the administration of the SPA up to and through the Acceptance Date and making the final payment to Harris and any other party relating to the purchase and installation of the System:

- | | | |
|----|-------------|------------|
| A. | Addison: | \$2,083.33 |
| B. | Carrollton: | \$6,250.00 |
| C. | Coppell: | \$2,083.33 |

The above amounts shall be paid not later than thirty (30) days after Farmers Branch pays the final payment to Harris for purchase and installation of the System. In lieu of a direct cash payment to Farmers Branch, the other Cities may provide a credit to Farmers Branch against any amounts due and owing from Farmers Branch to the respective City under this Agreement or another related agreement between Farmers Branch and the other City.

3.18 Certain Modifications to System. Except where modifications are required by Federal or State law or regulation, no modifications may be made to the System which result in (i) a reduction in the coverage areas for receiving and/or transmitting radio communications or (ii) an increase in the cost to purchase, install, or maintain the System unless approved by a unanimous vote of the System Executive Committee (as described in Section 4.03.A. below); provided, however, the negative vote of a member of the System Executive Committee may be overturned by a vote of the governing body of the City who appointed the committee member who voted against the modification.

IV. SYSTEM MAINTENANCE AND OPERATION

4.01 Shared Components. The Cities agree that the System shall be maintained by Harris for not less than five (5) years after the Acceptance Date as provided in the SMA. The other Cities agree to deliver to Farmers Branch their respective shares for services obtained from Harris pursuant to the SMA in accordance with Section 3.05, above, which shares shall allocated in the same manner as allocated for Shared Costs in Section 3.11.

4.02 System Maintenance Administration. The System Executive Committee shall adopt procedures based on the recommendation of the System Operations Committee governing the maintenance and repair of (i) the Shared Components and (ii) those certain Non-Shared Components the maintenance of which is a Shared Cost. Such procedures shall include, but not be limited to, the identification of the job position(s) within each City (by title) that are authorized to initially contact Harris (or other third party with whom the Cities have contracted to repair and/or maintain the System). If the Cities determine to designate a particular City to administer the SMA for all of the Cities, the Cities agree to negotiate and enter into a System

Maintenance Administration Agreement setting forth the terms and conditions pursuant to which the designated City shall provide such administrative services and the amount the other Cities shall pay to the designated City to reimburse the designated City for its reasonable costs related to administering the SMA on behalf of all of the Cities.

4.03 Governance Committees. The following committees shall be established for the purpose of administering and operating the System:

A. *System Executive Committee.* There shall be established a System Executive Committee whose members shall be the City Managers of each of the Cities or another employee of the City appointed by the City Manager. The System Executive Committee shall be authorized to:

(1) Adopt rules governing the meetings of the System Executive Committee subject to the following:

(a) A quorum of the System Executive Committee shall be three (3) members for the purpose of holding meetings and the transaction of business, including voting on any matters considered by the System Executive Committee; and

(b) The approval of any matter considered by the System Executive Committee shall require the affirmative vote of three (3) members of the System Executive Committee.

(2) Adopt procedures relating to the operation, maintenance, and use of the System;

(3) Approve changes orders or amendments to the SPA and/or SMA; provided, however, if pursuant to a City's policies and/or state law such change order cannot be approved by the City Manager of each City without approval of the City's respective governing body, the System Executive Committee shall have the authority to recommend approval of the change order or amendment by the Cities' respective governing bodies;

(4) Prepare and recommend an annual budget relating to the operation, maintenance, and repair of the System; and

(5) Perform such other tasks and duties as the governing bodies of the Cities may from time to time agree shall be performed by the System Executive Committee.

B. *System Operations Committee.* There shall be established a twelve (12) member System Operations Committee whose members shall be three (3) employees from each of the Cities appointed by the City Managers of each of the Cities. The System Operations Committee shall be authorized to:

(1) Adopt rules governing the meetings of the System Operations Committee subject to the following:

(a) A quorum of the System Operations Committee shall be seven (7) members; and

(b) The approval of any matter considered by the System Operations Committee shall require the affirmative vote of a majority of the members of the System Operations Committee; and

(c) No meeting of the Systems Operation Committee shall occur earlier than seventy-two (72) hours after written notice of the time, date, location, and subject matter of the meeting has been provided in writing to all members of the committee.

(2) Make recommendations to the System Executive Committee regarding the adoption and/or amendment of the operation, maintenance, and use policies relating to operation, maintenance, and use of the System;

(3) Develop and make recommendations to the System Executive Committee regarding the purchase of equipment, materials, hardware, software and services relating to the use, operation, maintenance, and/or repair of the System;

(4) Oversee implementation of the System operation, maintenance, and use policies adopted by the System Executive Committee; and

(5) Perform such other tasks as may from time to time be assigned by the System Executive Committee.

C. *User Groups.* The System Executive Committee may from time to time authorize the creation of specialized user groups for the purpose of obtaining input and recommendations regarding the use and operation of various portions of the System.

4.04 Appropriations of Annual Maintenance Fee. Each City understands and acknowledges that the purchase of maintenance and repair services from Harris pursuant to the SMA during the initial term of the SMA is of significant public importance and agrees to use its best efforts to appropriate funds each fiscal year to pay the City's share of the Shared Costs under the SMA for the Initial Term. If a City determines that it does not have funds available to appropriate for any Annual Maintenance Period (as defined in the SMA) commencing after the beginning of the City's fiscal year, the City agrees to notify the other Cities of its intent to not appropriate such funds not later than ninety (90) days prior to the end of the City's then current fiscal year.

4.05 Right to Access and Use System. Provided a City has complied with the provisions of this Agreement including, but not limited to, payment of all of the City's share of Shared Costs as required by this Agreement, each City shall have the right to access and use the System in accordance with the policies and procedures established by the System Executive Committee. At no time shall the System Executive Committee be authorized to adopt any rule or procedure which excludes a City from accessing or using the System as long as the City is not in default (after notice of such default has been received by the City and the City has been provided a reasonable opportunity to cure the default) of this Agreement.

4.06 Line of Site Protection. The Cities understand, acknowledge, and agree that the proper operation of the System is dependent on maintaining the line of site between and among the various microwave transmitter/receiver dishes installed as part of the System. The Cities agree to review their respective ordinances governing the location and height of buildings and other structures, and, as soon as reasonably possible after the Effective Date, adopt such ordinances and regulations governing the development of property within their respective Cities to the extent such ordinances and regulations are reasonable and necessary to protect and maintain the System's microwave signal transmission and reception, provided, however that the City has determined that the adoption of such ordinances and/or regulations is authorized, valid and lawful.

V. USER EQUIPMENT

5.01 Selection and Purchase. Each City shall have the right under this Agreement, and shall at its sole cost, select and purchase the User Equipment to be used by that City's employees and other people authorized by the City to transmit and receive communications using the System. Each City shall be solely responsible for determining the compatibility of the User Equipment selected by the City with the System.

5.02 Purchase from Harris; Cooperative Purchasing. The Cities understand and acknowledge that Farmers Branch has solicited and obtained unit prices in accordance with applicable state laws regarding purchasing for User Equipment from Harris pursuant to its response to the RFP as set forth in the SPA which Harris has agreed to extend to the other Cities pursuant to the provisions of the SPA. The Cities hereby agree that for purpose of purchasing User Equipment under the provisions of the SPA, the Cities shall constitute a local cooperative organization as defined in Tex. Loc. Govt. Code §271.101(1) whose membership is limited to the Cities. Pursuant to this Section 5.02, each City agrees to:

- A. Designate a person to act under the direction of and on behalf of the City in all matters relating to the purchase of User Equipment from Harris;
- B. Make payments directly to Harris for the purchase of User Equipment pursuant to the provisions of the SPA; and
- C. Be solely responsible with respect to enforcing Harris' compliance with provisions relating to the quality and terms of delivery of the User Equipment purchased by the City from Harris.

5.03 Maintenance and Installation. Each City shall have the right to install and/or maintain the City's own User Equipment or to contract with a third party to perform such maintenance and/or installation. The Cities understand and acknowledge that Carrollton presently performs installation and/or maintenance of User Equipment for itself as well as Addison and Farmers Branch at Carrollton's radio shop. In the event a City (other than Carrollton) determines it desirable to obtain the services of a third party relating to the maintenance and/or installation of User Equipment, the City agrees to notify Carrollton that the City is seeking proposals for providing such maintenance and/or installation services and provide Carrollton an opportunity to provide such a proposal. Nothing herein shall be construed as prohibiting Carrollton and one or more of the other Cities from negotiating and signing an agreement pursuant to the Act to provide maintenance and/or installation services relating to the User Equipment.

VI. JOINT DISPATCH CENTER

The Cities understand, acknowledge, and agree that this Agreement does not include provisions relating to the design, construction, and/or operation of a joint public safety dispatch center or facility. The Cities agree to engage in good faith negotiations regarding the design, construction, and operation of a joint public safety dispatch center in sufficient time to make any modifications to the SPA necessary to install the System based on a joint dispatch center concept.

VII. TERMINATION OF EXISTING INTERLOCAL AGREEMENT

Addison, Carrollton, and Farmers Branch agree that the *Metrocrest Radio System Interlocal Agreement* signed and dated September 11, 2001, ("the Old ILA") a copy of which is attached hereto as **Exhibit C**, will be terminated in accordance with and subject to the following:

A. The termination date of the Old ILA shall be the date the Metrocrest Radio System purchased, installed, and operated pursuant to the provisions of the Old ILA ceases to be used by Addison, Carrollton, and Farmers Branch for radio communications;

B. Carrollton agrees to continue to maintain the existing Metrocrest Radio System pursuant to the Old ILA until the termination date of the Old ILA;

C. Commencing with the Renewal Year (as defined in the Old ILA) beginning on October 1, 2014 ("the 2014 Renewal Period"), Addison and Farmers Branch may elect to pay Carrollton the System Management Fee described in Section 7.03 of the Old ILA in monthly installments equal to 1/12th of the amount of the System Management Fee due for the 2014 Renewal Period. Such installments shall be due on the first day of each month commencing October 1, 2014, and continuing thereafter until the first day of the month during which the termination date of the Old ILA occurs;

D. Notwithstanding Section 7.03 of the Old ILA, Addison and Farmers Branch shall be required to pay Carrollton only the installments of the System

Maintenance Fee that are due prior to the termination date of the Old ILA and not the full annual amount of the Annual System Management Fee (as defined in the Old ILA) due for the Renewal Period during which the Old ILA is terminated;

E. This Article VII shall constitute the notice of termination required by Section 9.02 of the Old ILA; and

F. Carrollton acknowledges and agrees that no reimbursement is or shall be due from Addison and/or Farmers Branch pursuant to Section 9.03 of the Old ILA as the result of the termination of the Old ILA pursuant to this Article VII.

VIII. MISCELLANEOUS

8.01 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, by hand-delivery or facsimile transmission and addressed to the respective City at the following address:

If intended for Town of Addison:

Town of Addison
Attn: City Manager
5300 Belt Line Road
Dallas, Texas 75254

With copy(ies) to:

City Attorney
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

If intended for City of Carrollton:

City of Carrollton
Attn: City Manager
1945 E. Jackson Road
Carrollton, Texas 75006

With copy(ies) to:

City Attorney
City of Carrollton
1945 E. Jackson Road
Carrollton, Texas 75006

If intended for City of Coppell:

City of Coppell
Attn: City Manager
255 E. Parkway Boulevard
Coppell, Texas 75019

With copy(ies) to:

Robert E. Hager
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

If intended for City of Farmers Branch:

City of Farmers Branch
Attn: City Manager
13000 William Dodson Parkway
Farmers Branch, Texas 75234

With copy(ies) to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

8.02 Governing Law. The validity of this Agreement and any of its terms and provisions as well as the rights and duties of the Cities shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The Cities agree to submit to the personal and subject matter jurisdiction of said court.

8.03 Party Responsibility. To the extent allowed by law, and without waiving any governmental immunity available to the Cities under Texas law, or any other defenses the Cities are able to assert under Texas law, each City agrees to be responsible for its own negligent or otherwise tortious acts or omissions in the course of performance of this Agreement.

8.04 Immunity. It is expressly understood and agreed that, in the performance of this Agreement, none of the Cities waive, nor shall be deemed hereby to have waived, any immunity or defense that would otherwise be available to them against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Cities do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in any persons or entities who are not parties to this Agreement.

8.05 Entire Agreement. This Agreement represents the entire agreement among the Cities with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

8.06 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

8.07 Recitals. The recitals to this Agreement are incorporated herein.

8.08 Amendment. This Agreement may be amended by the mutual written agreement of all Cities.

8.09 Place of Performance. Performance and all matters related thereto shall be in Dallas County, Texas.

8.10 Authority to Enter Agreement. Each City has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each City has been properly authorized and empowered to sign this Agreement. The persons signing this Agreement hereby represent that they have authorization to sign on behalf of their respective City.

8.11 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

8.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

8.13 Assignment. No City may assign, transfer, or otherwise convey this Agreement without the prior written consent of the other Cities.

8.14 Consents. Unless expressly stated otherwise, whenever the consent or the approval of a City is required herein, such City shall not unreasonably withhold, delay or deny such consent or approval.

8.15 Good Faith Negotiation; Dispute Mediation. Whenever a dispute or disagreement arises under the provisions of this Agreement, the Cities agree to enter into good faith negotiations to resolve such disputes. If the matter continues to remain unresolved, the Cities shall refer the matter to outside mediation, the costs of which shall be shared equally, prior to engaging in litigation (unless delaying the filing of a lawsuit might result in the lawsuit being barred, including but not limited to a bar by a statute of limitations). The provisions of this Section 8.15 shall survive termination.

8.17 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the Cities, pertaining to a period of time following the termination of this Agreement shall survive termination.


8.18 Source of Payment. Each City paying for the performance of governmental functions or services pursuant to this Agreement must make those payments from current revenues available to the paying City or from funds otherwise lawfully available to the City for use in the payment of the City's obligations pursuant to this Agreement.

8.19 Force Majeure. No City shall be liable to any or all of the other Cities for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Agreement due to causes beyond the City's respective control or because of applicable law, including, but not limited to, war, nuclear disaster, strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage, terrorism, or any other circumstance for which a party is not legally responsible or which is not reasonably within its power to control. The affected City's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. To the extent possible, the City shall endeavor to remove or overcome the inability claimed with all reasonable dispatch.


(Signatures on Following Pages)

SIGNED AND AGREED this 26th day of June, 2013.

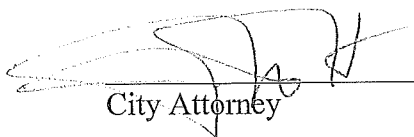
TOWN OF ADDISON

By: 
Ron Whitehead, City Manager

ATTEST:


Chris Terry, City Secretary

APPROVED AS TO FORM:


City Attorney

SIGNED AND AGREED this _____ day of June, 2013.

CITY OF CARROLLTON

By: _____
Leonard Martin, City Manager

ATTEST:

Ashley D. Mitchell, City Secretary

APPROVED AS TO FORM:

City Attorney

SIGNED AND AGREED this _____ day of June, 2013.

TOWN OF ADDISON

By: _____
Ron Whitehead, City Manager

ATTEST:

Chris Terry, City Secretary

APPROVED AS TO FORM:

City Attorney

SIGNED AND AGREED this _____ day of June, 2013.

CITY OF CARROLLTON

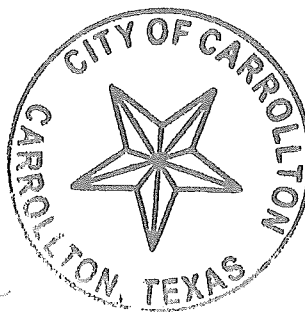
By: _____
Leonard Martin, City Manager

ATTEST:

Ashley D. Mitchell, City Secretary

APPROVED AS TO FORM:

City Attorney



SIGNED AND AGREED this 11th day of June, 2013.

CITY OF COPPELL

By: _____

Karen Selbo Hunt, Mayor

ATTEST:

Christel Pettinos
Christel Pettinos, City Secretary

APPROVED AS TO FORM:

[Signature]
City Attorney

SIGNED AND AGREED this _____ day of June, 2013.

CITY OF FARMERS BRANCH

By: _____

Gary D. Greer, City Manager

ATTEST:

Angela Kelly, City Secretary

APPROVED AS TO FORM:

City Attorney

SIGNED AND AGREED this _____ day of June, 2013.

CITY OF COPPELL

By: _____
Clay Phillips, City Manager

ATTEST:

Christel Pettinos, City Secretary

APPROVED AS TO FORM:

City Attorney

SIGNED AND AGREED this 19th day of June, 2013.

CITY OF FARMERS BRANCH

By: _____
Gary D. Greer, City Manager

ATTEST:

Angela Kelly
Angela Kelly, City Secretary

APPROVED AS TO FORM:

123456
City Attorney

Exhibit A
Shared and Non-Shared Components and Costs

			Costs	
			upfront purchase, Installation, replacement or upgrade	ongoing support and maintenance
1	Radio System Equipment	Master Switch	P	P
2		Prime Site Switch/s	P	P
3		other antennas and radio equipment, cabinets, racks, cabling, etc. at various sites	P	P
4		separate dispatch consoles	C	P
5		consolidated dispatch consoles	P	P
6	Communication Links	Core Ring	P	P
7		Carrollton data center and dispatch link	P	P
8		Carrollton Radio Shop spur	P	P
9		Coppell dispatch spur	P	P
10		Addison dispatch spur	P	P
11	Site Facilities	consolidated dispatch spur	P	P
12		Addison Spectrum Center roof penthouse existing with new cabinets	N/A	P
13		Carrollton Josey water tank <u>new free standing building</u>	P	C
14		Possible new Carrollton Tower site with <u>new free standing building</u>	P	C
15		FB #1 water tank including shelter existing	N/A	C
16		FB #2 (west) water tank including shelter existing	N/A	C
17		Coppell water tank including shelter existing	N/A	C
18		Possible Coppell new Tower site with <u>new free standing building</u>	P	C
19		utilities (electrical, gas, etc.)	C	C
20		site security (alarms, surveillance, fences, etc.)	C	C
21		separate dispatch furniture and non radio equipment	C	C
22		consolidated dispatch furniture and non radio equipment	P	P
23		back up power generators	P	C
24		UPS (Uninterrupted Power Supplies)	P	C
25	Subscriber Units	portables	C	C
26		mobiles	C	C
27	Vehicle outfitting	radio equipment	N/A	N/A
28		non-radio equipment	N/A	N/A
29	Administration and Professional Services	Overall administration, budgeting, reporting, support coordination, invoicing and payments, etc.	TBD	TBD

P= proportion (Carrollton 1/2 and Addison,
Farmers Branch and Coppell 1/6 each)
C= fully funded or costs absorbed a single city
N/A= not applicable to this worksheet
TBD= to be determined

Exhibit "B"
Carrollton and Coppell FCC Licenses

Carrollton FCC Licensed Frequencies:

854.2875
854.7875
856.2625
856.7625
857.2625
857.7625
858.2625
858.7625
859.2625
859.7625

Exhibit "C"
Copy of Existing Interlocal Agreement

**METROCREST RADIO SYSTEM
INTERLOCAL AGREEMENT**

This Agreement is made between the **CITY OF CARROLLTON, TEXAS**, a home-rule municipal corporation with the authorization of its governing body, (hereinafter referred to as "Carrollton"), the **CITY OF FARMERS BRANCH, TEXAS**, a home rule municipal corporation with the authorization of its governing body, (hereinafter referred to as "Farmers Branch") and the **TOWN OF ADDISON, TEXAS**, a home rule municipal corporation with the authorization of its governing body, (hereinafter referred to as "Addison") (Carrollton, Farmers Branch, and Addison are hereinafter sometimes referred to together as the "Cities" or the "Parties" or referred to individually as a "City" or a "Party"), as follows:

WITNESSETH:

WHEREAS, Carrollton, Farmers Branch and Addison are political subdivisions within the State of Texas, and each is engaged in the provision of governmental services for the benefit of its citizens; and

WHEREAS, the Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the "Act") provides authority for local governments of the State of Texas to enter into interlocal agreements with each other for the purpose of performing governmental functions and services as set forth in the Act; and

WHEREAS, Carrollton owns and operates its own independent radio system for the purpose of providing radio communications in support of its governmental operations; and

WHEREAS, Farmers Branch and Addison currently have an interlocal agreement with Carrollton that allows those cities to use a portion of Carrollton's trunked radio system for an annual fee; and

WHEREAS, in order to increase the functional radio system coverage area for use by each of the municipalities and its respective users (which radio system coverage is essential and a necessary component of providing certain vital governmental services by each City, including, without limitation, police and fire protection provided by each City for its citizens), Carrollton, Farmers Branch

and Addison each retained the services of RCC Consultants, Inc. ("RCC") to study and make a recommendation with respect to such coverage, and based on the reports and recommendations received from RCC, the Cities desire to implement a wide area, multi-site ("simulcast") radio system and replace the existing interlocal agreement as provided herein; and

WHEREAS, the Metrocrest Radio System will provide an increased functional system coverage area for each City which will facilitate future growth, ensure safe, effective and efficient communications, benefit the greatest number of citizens both now and in the future, and further protect the public health, safety and welfare of the citizens of each of the respective cities; and

WHEREAS, the increased functional radio system coverage area for use by each of the municipalities and their respective users (as described in Section 3.02 hereof) will create an upgraded radio system ("Metrocrest Radio System" or "System"); and

WHEREAS, Carrollton, Farmers Branch, and Addison desire to establish herein a framework for the administration, management, use and operation of the Metrocrest Radio System, but nothing in this Agreement is intended to establish, and shall not establish, a joint enterprise between the Cities.

NOW, THEREFORE, Carrollton, Farmers Branch and Addison, for and in consideration of the mutual benefits and obligations set forth in this Agreement, agree as follows:

I.
MATTERS AS STATED IN THE PREAMBLE

1.01 All matters stated in the preamble are found to be true and correct And are incorporated here in their entirety.

II.
REPLACEMENT BY THIS AGREEMENT

2.01 The agreement regarding the Metrocrest Radio System between the City of Carrollton and the City of Farmers Branch, and the City of Carrollton and the Town of Addison, are hereby amended and replaced in their entirety by this Agreement.

III.
ADMINISTRATION OF THE METROCREST RADIO SYSTEM

3.01 Steering Committee. A committee shall be created as an advisory aid to the Cities for operational oversight of the Metrocrest Radio System and shall have such other authority as may be set forth herein. The Steering Committee's scope of interests will include operational, maintenance and technical standards; System policies and procedures; dispute resolution and general operational issues.

The Steering Committee shall be comprised of two representatives from each of the Cities. These representatives should be involved in the management, technical support or use of the Metrocrest Radio System. In addition to the six members, a Chairperson for the Steering Committee shall be the Carrollton City Manager or the Manager's designee.

The Committee shall adopt rules to govern its proceedings provided that such rules are not inconsistent with this agreement. Meetings of the committee will be held at the call of the chairperson or at times the committee determines it necessary. The concurring vote of a majority of those present is required to determine recommendations or decisions. The chairperson shall have a vote.

3.02 User Group. A group representing the various types of System users, such as communications, police, fire and public works, will be formed with representatives from each of the Cities. Primary or secondary user groups may also be formed as determined by the Steering Committee. The Steering Committee may schedule periodic or ad hoc User Group meetings as necessary.

IV.
FUTURE EXPANSION OF THIS AGREEMENT

4.01 Addition of Users. This Agreement may be amended by written agreement so that third parties may utilize the Metrocrest Radio System under the terms and conditions acceptable to each of the Parties.

In addition to any other obligations, any third party added to the Metrocrest Radio System shall also be required to pay a rate established by the Steering Committee, and if required by a city's Charter or ordinance the rate shall be approved by the respective governing bodies of Carrollton, Farmers Branch and Addison.

V.

SYSTEM USE AND STANDARDS

To maintain an effective and safe system, the following controls will be implemented concerning the use of the System.

5.01 Talk Groups. Talk Groups are the primary level of organization for communications on a trunked radio system and is similar to a single conventional radio channel. Any City may have only that number of talkgroups totaling no more than 5% of their total subscriber units. (Example: A City with 500 subscriber units could have no more than 25 talk groups).

5.02 Subscriber Units. Subscriber units are individual radios. There shall be no limit on the number of subscriber units that any of the Parties utilize on the Metrocrest Radio System.

5.03 Equipment. As the simulcast System is implemented, all radios using this new System would need to be Smartnet (Motorola Trunking protocol), Type II, and fully type-accepted equipment. Only equipment recommended and approved by the City of Carrollton and the Steering Committee will be purchased, installed and used on the System. Technical standards shall be developed and approved by the City of Carrollton and the Steering Committee, and shall be standard industry practice in accordance with Motorola recommendations.

5.04 Metrocrest Radio System Priorities. The Parties agree that the priority (from greatest to least) in radio transmission for the Metrocrest Radio System is as follows:

1. Emergency Activations (greatest priority)
2. Police/Fire/EMS
3. Non Public Safety - Special Events
4. Non Public Safety – Public Works
5. Non Public Safety – Open (least priority)

VI.

OWNERSHIP INTERESTS OF THE PARTIES

6.01 Hardware / Software. Each Party shall retain individual ownership of its respective hardware and software purchased prior to, or as a part of, this Agreement. All communications and operating equipment owned or hereafter purchased by each Party will continue to be separately owned by such Party.

**VII.
FUNDING**

7.01 Site Implementation Costs. The total cost of implementing the Metrocrest Radio System is estimated in the 2000 RCC Consultants, Inc. Radio studies (the "RCC Studies", true and correct copies of which are attached hereto as Exhibits A, B and C) to be \$ 3,941,510.00. The following is a breakdown of the estimated cost to be paid by each Party:

- | | |
|----------------------------------|--------------|
| • Carrollton Site Upgrades | \$ 829,510 |
| • Install Addison Site | \$ 1,160,000 |
| • Install Farmers Branch Site(s) | \$ 1,922,000 |

Each Party incurring the costs set forth above has the sole responsibility to fund their portion of equipment and services for the Metrocrest Radio System. In no event shall any Party be held liable for debts or any other monetary obligation incurred by any other Party pursuant to this Agreement.

7.02 Radio System Request for Proposal. In order to implement the recommendations set forth in the RCC Studies for the Metrocrest Radio System, a request for proposal outlining the criteria and specifications for the design and installation of the System must be developed. The Parties agree that Carrollton shall enter into an agreement with a qualified vendor to prepare the RFP and to participate in vendor evaluations and vendor negotiations. The Parties shall share equally in the cost of the RFP, vendor evaluations and vendor negotiations (each such share not to exceed \$35,000.00). Carrollton shall pay the qualified vendor in accordance with the RFP Agreement, and Farmers Branch and Addison shall reimburse to Carrollton their respective shares of the cost of the RFP Agreement.

7.03 System Management Fees. Carrollton shall assess an annual fee to cover the cost of providing day-to-day operation and management (as determined by the Steering Committee) of the Metrocrest Radio System (the "Annual System Management Fee"), which Fee shall be shared equally by the Parties. That portion of the Annual System Management Fee owed by Farmers Branch and Addison will be due on the first day of October during each year of this Agreement (the "Payment Date"), and Carrollton shall give written notice to Farmers Branch and Addison of such portion (together with any materials or documentation supporting the calculation of such Fee) on or before July 1 immediately preceding the applicable Payment Date. Effective October 1, 2001 and for the three year period thereafter, Addison and Farmers Branch each shall pay Carrollton \$24,000 annually, which payment shall constitute that portion of

the Annual System Management Fee owed by Farmers Branch and Addison for the first three years of this Agreement (and Carrollton shall not be required to give notice of such portion during this three year period). Thereafter (starting with that fiscal year which begins October 1, 2004), Carrollton may increase the Annual System Management Fee for subsequent years; however, in no event shall such Annual System Management Fee exceed the prior year's fee by more than 5% without the Parties agreeing to an amendment to this Agreement.

7.04 Comprehensive Maintenance Agreement for Equipment. The Parties agree that to be consistent with and to the extent allowed by all applicable laws governing purchases made by municipalities, they will enter into one comprehensive maintenance agreement for the Metrocrest Radio System. Each Party shall pay its respective share of the cost of the comprehensive maintenance agreement and materials pursuant to the comprehensive maintenance agreement and such payments shall be equivalent to the amount required to cover each Party's simulcast site infrastructure. Any additional maintenance agreements for consoles, subscriber units, and other non-simulcast site equipment, such as shelters, generators and UPS systems, shall be the sole responsibility of the individual Party entering into such agreement.

7.05 Simulcast Site Connectivity. The parties agree that there will be recurring costs for required system connectivity between simulcast sites. This connectivity may come in the form of microwave; leased lines or a combination there-of, determined by the solutions selected and will be equally shared.

7.06 Console Connectivity. The parties agree that there will be recurring costs for required connectivity between Console Electronics Bank's ("CEB's") residing in both Addison and Farmers Branch and the Console Electronic Bank (CEB) equipment located at Carrollton City Hall. This connectivity may come in the form of microwave; leased lines or a combination there-of, determined by the solutions selected and each Party shall pay for their console connectivity's associated costs.

VIII. SYSTEM MANAGEMENT AND OPERATION

8.01 Management. The City of Carrollton shall perform the day-to-day operation and management of the Metrocrest Radio System. Policies and procedures for specific management issues shall be pre-determined and approved by the Steering Committee.

**IX.
TERM**

9.01 Term. Unless terminated as provided for herein, this Agreement shall be for a one-year period beginning October 1, 2001 (the "Initial Year"), and will be automatically renewed for an additional one year period (each additional year being a "Renewal Year") at the end of the Initial Year or any Renewal Year, as the case may be. The Initial Year and the first nine Renewal Years shall serve as a period of time to allow each Party the opportunity to recover their investment made pursuant to this Agreement (the "investment recovery period"). Should circumstances exist that require one or more of the Parties to terminate this Agreement during the investment recovery period, then such termination shall be in accordance with the conditions set forth in Section 9.03.

9.02 Termination. Notwithstanding anything in this Agreement to the contrary, this Agreement may be terminated upon the giving of at least one (1) year's written notice to the other Parties by the Party seeking termination.

9.03 Reimbursement. If this Agreement is terminated during the investment recovery period, the Party terminating this Agreement shall reimburse the City of Carrollton for actual implementation costs (as described in Section 7.01) paid by Carrollton which are attributable to Carrollton's investment in the System (i.e., enhancements, upgrades, etc.) for the benefit of the Party seeking termination (the "attributable implementation costs"), as follows:

9.03a Upon termination occurring within the first 4 years of this Agreement, the terminating Party shall reimburse Carrollton 75% of the attributable implementation costs.

9.03b Upon termination occurring within years 5 through 7 of this Agreement, the terminating Party shall reimburse Carrollton 50% of the attributable implementation costs.

9.03c Upon termination occurring within years 8 through 10 of this Agreement, the terminating Party shall reimburse Carrollton 25% of the attributable implementation costs.

Upon the request of either Farmers Branch or Addison, Carrollton shall provide to the requesting City its determination (calculation) of the requesting City's attributable implementation costs (together with any materials or documentation supporting such determination).

**X.
ASSIGNMENT AND SUBLETTING**

The Parties shall not, and shall not have the power or authority to, assign, sublet, subcontract or transfer any interest in this Agreement without the prior written consent of the other Parties. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of the Parties.

**XI.
ENTIRE AGREEMENT**

This Agreement represents the entire and integrated agreement between Carrollton, Addison, and Farmers Branch and supersedes all prior negotiations, representations and/or agreements, either written or oral with regard to the subject matter hereof. This Agreement may be amended and modified only by written instrument signed by all Parties.

**XII.
SEVERABILITY**

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement. However, upon the occurrence of such event, any Party may terminate this Agreement by giving the other Parties thirty (30) days written notice.

**XIII.
VENUE**

This Agreement and any of its terms or provisions, as well as the rights and duties of the Parties hereto, shall be governed by the laws of the State of Texas. The Parties agree that this Agreement shall be enforceable in Dallas County, Texas, and, if legal action is necessary, exclusive venue shall lie in Dallas County, Texas.

**XIV.
INTERPRETATION OF AGREEMENT**

This is a negotiated document. Should any part of this Agreement be in dispute, the Parties agree that the terms and provisions of this Agreement shall not be construed more favorably for or strictly against any Party.

**XV.
REMEDIES**

No right or remedy granted herein or reserved to the Parties is exclusive of any right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the parties. It is further agreed that one (1) or more instances of forbearance by any Party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

**XVI.
SUCCESSORS AND ASSIGNS**

The Parties bind themselves, their respective successors, executors, administrators and assigns, to the other Parties to this contract. References in this Agreement to Carrollton, Addison, and Farmers Branch, whether individually or collectively, includes the successors and assigns of each of the respective Parties.

**XVII.
NOTICE**

All payments, notices, demands, or requests from one party to another shall be personally delivered or sent by United States mail certified, or registered, return receipt requested, postage prepaid, to the addresses stated in this Section:

<u>To Carrollton:</u>	<u>To Farmers Branch:</u>	<u>To Addison:</u>
<u>Information Technology</u>	<u>Deputy Police Chief Over</u>	<u>Assistant Chief of Police</u>
<u>Administrator</u>	<u>Support Services</u>	<u></u>
Attn: <u>Lon Fairless</u>	Attn: <u>Kirk Riggs</u>	Attn: <u>Ron Davis</u>
<u></u>	<u></u>	<u></u>

Notice shall be deemed to have been given (i) if by hand delivery, at the time of delivery, or (ii) if mailed, seventy-two (72) hours after the deposit of same in any United States mail post office box, postage paid, addressed as set forth above. The addresses and addressees for the purpose of this Section may be changed by giving notice of such change in the manner herein provided for giving notice. Unless and until such written notice is received the last addresses and addressee stated by written notice, or provided herein if no written notice of change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

XVIII. AUTHORITY

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

XIX. FUNDING AVAILABILITY

Each party paying for the performance of governmental functions or services will make those payments from current funds available to the paying party.

EXECUTED this the 11 day of September 2001.

TOWN OF ADDISON, TEXAS

BY: 

Name: Ron Whitehead

Title: City Manager

ATTEST AS TO FORM:

BY: 

Name: Carmen Moran

Title: City Secretary

CITY OF FARMERS BRANCH, TEXAS

BY: 

Name: Richard Escalante

Title: City Manager

ATTEST AS TO FORM:

BY: 

Name: Matthew Boyle

Title: City Attorney

CITY OF CARROLLTON, TEXAS

BY: 

Name: Leonard Martin

Title: City Manager

ATTEST AS TO FORM:

BY: 

Name: Clayton Hutchins

Title: City Attorney