

## **FINTERLOCAL AGREEMENT**

This Interlocal Agreement (the “Agreement”) is made and entered into this \_\_\_\_ day of January, 2007, between Collin County Texas entity, a political subdivision of the State of Texas (hereinafter “County”) and the City of Plano, Texas, a political subdivision of the State of Texas (hereinafter “City”).

**WHEREAS**, both the County and City have the authority to enter into this Agreement pursuant to Chapter 791, Texas Government Code; and

**WHEREAS**, the County and City have invested in the purchase, design, installation, operations and maintenance of a Fiber Optic Wide Area Network to meet its needs; and

**WHEREAS**, the County and City are members of the Collin County Emergency Communication Committee (hereinafter “CCECC”); and

**WHEREAS**, it is mutually beneficial to both parties to execute this Agreement whereby each entity can provide strands of fiber to create the Collin County Emergency Communication Committee (CCECC) Fiber Optic Wide Area Network to provide high-speed communications for the use of emergencies and day-to-day business saving the Collin County taxpayers money; and

**WHEREAS**, the County and City will receive a benefit by being able to connect to the CCECC Fiber Optic Wide Area Network to include, but not limited to, the following:

1. Connecting the County Home Land Security and Cities Emergency Operation Centers.
2. Connecting the County Home Land Security and Cities Embassy switch.
3. Sharing of agreed upon data for day-to day use.
3. Sharing of agreed upon software applications.
4. Proprietary network (no dependence on public network).

**NOW THEREFORE**, in consideration of the mutual representations, terms and covenants hereafter set forth, the parties hereby agree as follows:

**Section 1. Purpose**

1.1 This Agreement authorizes the County and City to connect strands of fiber to establish the CCECC's Fiber Optic Wide Area Network for the purpose of providing communication services including, but not limited to:

- (a) Connecting the County Home Land Security and Cities Emergency Operation Centers.
- (b) Connecting the County Home Land Security and Cities Embassy switch.
- (c) Sharing of agreed upon data for day-to day use.
- (d) Sharing of agreed upon software applications.
- (e) Proprietary network (no dependence on public network).

1.2 The County's authority to utilize strands of fiber on the District's Fiber Optic Wide Area Network is subject to the County, through the assistance of the College, to amend the following pole license agreements to allow the County's access to the service providers electricity:

- (a) Distribution Pole License Agreement by and between Collin County Community College District and TXU Electric Company dated September 28, 2001;
- (b) Joint Pole Use Agreement by and between Denton County Electric Cooperative, Inc. d/b/a Coserve Electric and the Collin County Community College District dated February 28, 2002; and

- (c) Distribution Pole License Agreement by and between GCEC and Collin County Community College District dated \_\_\_\_\_, 2003.

### **Section 2. Representative/Monitoring Position**

The County representative/contract monitor during the term of this Agreement shall be Caren Skipworth, IT Director with Collin County, whose telephone number is 972-548-4501, or any other person duly appointed by the County.

The City representative/contract monitor during the term of this Agreement shall be David Stephens, Director Technology Services with City of Plano, whose telephone number is 972-941-7660, or any other person duly appointed by the City.

### **Section 3. Effective Date/Term**

This Agreement shall take effect upon execution and shall automatically renew for successive one (1) year terms unless otherwise terminated as provided herein.

### **Section 4. Services Rendered**

The County and City agree to allow connection of the following facilities to the CCECC's Fiber Optic Wide Area Network through a physical connection on the fiber known as the Point of Presence; provided, however, the County and City abide by the responsibilities as set in Section 5.

4.1 Point of Presence in Plano will be 1901 Ave K Plano, TX 75074.

4.2 The County and City agree to provide connectivity to future facilities if mutually agreeable to both parties.

4.3 The Points of Presence will deliver bandwidth between facilities at a level agreed upon by the parties. The bandwidth may be provided for the County and City in separate virtual private networks (VPN), implemented specifically for and by each party ensuring privacy and security.

### **Section 5. Responsibilities and Duties**

#### 5.1 County's Responsibilities:

The County will provide equipment and facilities as defined below:

- (a) County will fund the initial implementation cost and the first year of maintenance for the City.
- (b) The County will provide the use of two (2) pair (four (4) strands) of fiber.
- (c) If possible, the County will notify the other parties at least two (2) weeks prior to any scheduled maintenance on the CCECC Fiber Optic Wide Area Network and/or communications equipment that will render any part of the CCECC Fiber Optic Wide Area Network out of service.
- (d) County will notify other party as soon as practicable of any unscheduled downtime that will render any part of the fiber out of service.
- (e) County will contract directly with CCECC's contracted vendor for any additional fiber needed to connect facilities to CCECC's Fiber Optic Wide Area Network.

- (f) County will notify each party immediately if any part of the CCECC's Fiber Optic Wide Area Network is disrupted for any reason.

5.2 City's Responsibilities:

- (a) City is responsible for any costs after implementation and continuing maintenance costs after year one (1).
- (b) The City will provide the use of two (2) pair (four (4) strands) of fiber.
- (b) If possible, the City will notify each party at least two (2) weeks prior to any scheduled maintenance on the CCECC Fiber Optic Wide Area Network and/or communications equipment that will render any part of the CCECC Fiber Optic Wide Area Network out of service.
- (d) City will notify the other party as soon as practicable of any unscheduled downtime that will render any part of the fiber out of service.
- (e) City will contract directly with CCECC's contracted vendor for any additional fiber needed to connect facilities to CCECC's Fiber Optic Wide Area Network.
- (f) County and City will notify each party immediately if any part of the CCECC's Fiber Optic Wide Area Network is disrupted for any reason.

5.3 The County and City shall have no requirement to install, operate, or maintain any equipment on any other party's facilities.

5.4 The County and City only will connect, expand or otherwise modify the CCECC's Fiber Optic Wide Area Network components which are owned by them.

5.5 The County and City will provide access to the CCECC's Fiber Optic Wide Area Network on a good faith effort basis. The County and City goals will be to provide one hundred percent (100%) availability; provided, however, it is not a breach of this Agreement and damages are not available to the County or City if less than one hundred percent (100%) access is provided.

5.6 County and City make no warranties, express or implied, (including any warranty for merchantability or fitness for a particular purpose), respecting any duties or obligations under this Agreement and both parties waive any warranty by the other party, express or implied.

#### **Section 6. Breach/Opportunity to Cure**

The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default at least thirty (30) days written notice to cure said default before exercising any of its rights as provided for in this Agreement.

#### **Section 7. Termination**

This Agreement may be terminated by either party to this Agreement upon six (6) months prior written notice to the other party.

**Section 8. Notice**

All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail to the following:

**Collin County:**

Collin County  
Purchasing Department  
200 S. McDonald Street, Suite 230  
McKinney, TX 75069

**with Copy to:**

Collin County  
Information Technology  
210 S. McDonald, Suite 510  
McKinney, TX 75069

**City of Plano**

City of Plano  
Technology Services  
PO Box 860358  
Plano, TX 75086-0358

**Section 9. Liability**

The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions and negligence of the other party.

**Section 10. Amendments**

This Agreement may be amended from time to time by written amendment by both parties.

**Section 11. Remedies**

This Agreement shall be construed by and governed by the laws of the State of Texas. Venue for any legal action necessary to enforce the Agreement will be in Collin County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in

addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

**Section 12. Captions**

The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

**Section 13. Severability**

In the event that any section, paragraph, sentence, clause or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

**Section 14. No Third Party Beneficiaries**

For purposes of this Agreement, including its intended operation and effect, the parties specifically agree and contract that: (1) the Agreement only affects matters/disputes between the parties to this Agreement, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with County or City, or both; and (2) the terms of this Agreement are not intended to release, either by contract or by operation of law, any third person or entity from obligations owed by them to either County or City.

**Section 15. Funding**

Each party paying for the performance of governmental functions or services pursuant to this Agreement must make those payments from current revenues available to the paying party.

**Section 16. Entirety of Agreement**

This Agreement represents the entire understanding between the County and City and supersedes all other negotiations, representations or agreement, either written or oral, relating to this Agreement.

**Collin County, Texas**

By: \_\_\_\_\_  
Keith Self, County Judge

**City of Plano, Texas**

By: \_\_\_\_\_  
Thomas H. Muehlenbeck  
City Manager  
1520 Avenue K  
P.O. Box 860358  
Plano, TX 75086-0358

**ACKNOWLEDGEMENT**

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2007 by Keith Self, County Judge, on behalf of Collin County, Texas.

\_\_\_\_\_  
Notary Public in and for the State of Texas

**ACKNOWLEDGEMENT**

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2006 by Thomas H. Muehlenbeck, on behalf of City of Plano, Texas.

\_\_\_\_\_  
Notary Public in and for the State of Texas