

**COLLIN COUNTY PUBLIC SAFETY RADIO SYSTEM INTERLOCAL  
AGREEMENT BETWEEN COLLIN COUNTY AND THE NORTH CENTRAL  
TEXAS COUNCIL OF GOVERNMENTS (NCTCOG) FOR USE OF USE OF  
THE FARMERSVILLE RADIO TOWER**

**THIS INTERLOCAL AGREEMENT** (“the Agreement”), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the “Act”), by and between the North Central Texas Council of Governments, hereinafter referred to as “NCTCOG,” having its principal place of business at 616 Six Flags Drive, Arlington, TX 76011, and Collin County, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as “Participant,” having its principal place of business at the Collin County Administration Building, 2300 Bloomdale Rd., Suite 4192 McKinney, Texas 75071..

**WHEREAS**, NCTCOG is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

**WHEREAS**, pursuant to the Act, NCTCOG is authorized to contract with eligible entities to perform governmental functions and services, including the operation, management and facilitation of emergency communication services in North Texas; and

**WHEREAS**, in reliance on such authority, NCTCOG, as part of its 9-1-1 Services Program, has contracted to install telecommunication equipment on telecommunication towers on selected sites throughout North Texas, many of which sites are located on property owned/leased by other local governments; and

**WHEREAS**, Participant has agreed to allow for the location of such equipment on a telecommunication tower owned by Participant and has represented that it is an eligible entity under the Act, that its governing body has authorized this Agreement on June 5 2018 (Date), and that it desires to contract with NCTCOG on the terms set forth below;

**NOW, THEREFORE**, NCTCOG and the Participant do hereby agree as follows:

**ARTICLE 1: LEGAL AUTHORITY**

Each party represents and warrants to the other that it is eligible to contract under the Act for the purposes recited herein because it is one of the following: a planning commission and political subdivision of the State of Texas, a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state, or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and it possesses adequate legal authority to enter into this Agreement.

**ARTICLE 2: DESCRIPTION OF PROJECT**

NCTCOG agrees to install at its expense various telecommunication equipment on the Participant’s Farmersville tower at the location described on Exhibit A. The description of the equipment, including height, design and materials is set forth on Exhibit B. NCTCOG has reviewed the tower’s location and the information in Exhibits A and B and determined that they meet its purposes. Installation shall commence no later than 06/01/2018 unless otherwise agreed by the parties. NCTCOG agrees to install

the equipment according to the plans in Exhibit B, and, during the term hereof, NCTCOG agrees to maintain the equipment and related facilities in good repair and safe condition, according to the manufacturer's specifications, at its sole expense. No other equipment will be installed on the tower or at the tower site. The equipment shall at all times be exclusively owned by NCTCOG. NCTCOG will comply with all federal, state, and local laws and regulations, including obtaining and maintaining all necessary permits. Collin County must approve any change, addition, or substitution to or in NCTCOG's equipment in writing before installation.

NCTCOG will also pay \$3,340 to the Participant to reimburse it for the cost of the extra steel to brace the tower so that it will support the NCTCOG's equipment.

The Participant will manage the tower and tower site according to the law and industry standards, such as TIA/ANSI-222-H (Structural Standard for Antenna Supporting Structures, Antennas, and Small Wind Turbines) and Motorola R56 (Standards and Guidelines for Communication Sites). NCTCOG will reasonably cooperate with the Participant's management of the tower and tower site according to the law and industry standards.

NCTCOG will be responsible for maintaining all microwave paths for NCTCOG's purposes.

### **ARTICLE 3: REVENUE; INSURANCE**

All revenue generated from the installed equipment shall be the property of NCTCOG. All taxes and fees, if any, assessed on such revenue shall be paid by NCTCOG.

As long as NCTCOG's installed equipment generates revenue only from use for 9-1-1 purposes, then the Participant accepts the exchange of performances under this Agreement as fair compensation for providing the government services related to its tower within the meaning of section 791.011(e) of the Texas Government Code. But if NCTCOG's installed equipment begins to generate revenue from the lease or licensing of part or all of the microwave network's capacity for purposes other than 9-1-1 services, then the parties will negotiate terms for NCTCOG to pay, as part of fair compensation, a periodic fee to the Participant comparable to the periodic fees paid by NCTCOG to lease space on comparable commercial towers.

All revenue generated by the tower or tower site will be the Participant's property. The Participant will pay all taxes and fees, if any, assessed on such revenue.

NCTCOG will at all times maintain adequate insurance on all equipment owned by NCTCOG on the tower or at the tower site, including comprehensive general liability coverage that includes Participant as the owner of the tower and the tower site.

Participant will at all times maintain adequate insurance on the tower and equipment owned by Participant, including comprehensive general liability coverage. NCTCOG will have no interest in the tower.

### **ARTICLE 4: TERM**

This Agreement shall be effective on the Effective Date shown below and shall remain in full force and effect for ten (10) years. This Agreement shall automatically renew for successive ten-year (10) terms unless sooner terminated in accordance with Article 6 below. Any modification of this Agreement must comply with the requirements of Article 5 below. Upon termination of this Agreement NCTCOG shall be responsible at its expense for removing the equipment and all related facilities from the tower site.

### **ARTICLE 5: CHANGES AND AMENDMENTS**

This Agreement may be amended only by a written amendment executed by both parties, except that any alternations, additions, or deletions to the terms of this Agreement which are required by changes

in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

#### **ARTICLE 6: TERMINATION PROCEDURES**

NCTCOG or the Participant may cancel this Agreement for cause provided written notice is provided to the other party specifying the nature of the cause and allowing the defaulting party six (6) months' time to cure any alleged default under the Agreement. If the default is not cured, this Agreement will terminate upon thirty (30) days written notice by certified mail to the other party. The parties may also terminate this Agreement by mutual agreement.

NCTCOG's microwave network should not interfere with the Participant's public-safety radio system. Nonetheless, if the Participant determines that NCTCOG's equipment unreasonably interferes with the Participant's radio system and if NCTCOG cannot correct the interference within 10 days, then NCTCOG will remove its equipment from the tower and tower site until it corrects the interference. Also, the Participant may disconnect NCTCOG's equipment immediately or take other reasonable action to stop unreasonable interference with the Participant's radio system.

#### **ARTICLE 7: AVAILABILITY OF FUNDING**

Except for tort or tort-related claims, this Agreement and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited to the receipt and availability of funds which are received from the funding agencies by NCTCOG and that are dedicated for the purposes of this Agreement. NCTCOG will give prompt written notice to Participant in the event NCTCOG loses funding. In the event NCTCOG loses funding, Participant and NCTCOG shall immediately terminate this Agreement, except that NCTCOG will dedicate sufficient funds to meet its obligation to remove its equipment at its expense under Article 4 above.

#### **ARTICLE 8: DISPUTE RESOLUTION**

The parties to this Agreement agree to the extent possible and not in contravention of any applicable state or federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this Agreement informally through voluntary mediation, arbitration or any other local dispute mediation process before resorting to litigation.

#### **ARTICLE 9: MISCELLANEOUS**

- a. This Agreement has been made under and shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under, or in connection with, this Agreement shall lie exclusively in Collin County, Texas.
- b. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective entities. A party, which must pay for the performance of governmental functions or services, must make those payments from current revenues available to the paying party.
- c. This Agreement and the rights and obligations contained herein may not be assigned by either party without the prior written approval of the other party to this Agreement. If NCTCOG transforms into, or its relevant functions are replaced by, another entity, such as a communications district under Chapter 772 of the Texas Health & Safety Code, then the Participant will negotiate with the new entity to authorize the entity to assume NCTCOG's rights and obligations under this Agreement, subject to then-prevailing conditions.
- d. All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

- e. To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds.
- f. This Agreement and any attachments/addendums, as provided herein, constitute the complete agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

**THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:**

**(SIGNATURES TO FOLLOW ON NEXT PAGE)**

**North Central Texas  
Council of Governments**  
Next Generation 911 Services Program  
616 Six Flags Drive  
Arlington, Texas 76011

Mike Eastland  
NCTCOG Executive Director or Designee

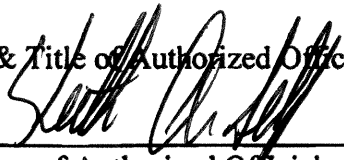
  
Signature of Executive Director or Designee

Date: 6/5/18

**EFFECTIVE DATE:** 6/5, 2018

**Participant**

Name & Title of Authorized Official or Designee

By:   
Signature of Authorized Official or Designee

Date: 5/29/18

Collin County  
Name of Entity

2300 Bloomdale Rd.  
Mailing Address

McKinney, TX 75071  
City, State, ZIP Code

**Exhibit A & B are on file in Purchasing  
Department and Sheriff's Office.**

**EXHIBIT A**  
**(Legal Description of Tower location)**

**EXHIBIT B**  
**(Equipment Description)**