

## INTERLOCAL AGREEMENT

This Interlocal Agreement (the "Agreement") is made and entered into this 13 day of October, 2016, between Collin County, a political subdivision of the State of Texas (hereinafter "COUNTY") and City of Plano, a political subdivision of the State of Texas (hereinafter "CITY").

**WHEREAS**, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform government functions and services under the terms thereof; and

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

**WHEREAS**, both entities have invested, or will invest, in the purchase, design, installation, operations and maintenance of appropriate network, computer and storage components to meet their own disaster recovery needs; and

**WHEREAS**, because both COUNTY and CITY must ensure that their computer networks have sufficient disaster recovery contingency operations, it is mutually beneficial to both parties to execute this Agreement, whereby an equal amount of square footage of unused data center floor space at each entity's data center will be allocated to the other entity for use as a disaster recovery data site which will provide the technical framework for each entity's continuity of operations while reducing the required expenditure of public funds for both COUNTY and CITY; and

**WHEREAS**, the entities will each receive a benefit by being able to establish a geographically separate data center, the benefits of which include, but are not limited to, the following:

1. North to South geographic separation of disaster recovery data sites for protection from localized natural disaster events;
2. Access to a geographically separated disaster recovery site without incurring the recurring costs typical of traditional co-location facilities;
3. Use of a disaster recovery site that is staffed and/or monitored by the other entity during normal operating hours; and
4. The ability to logically extend the entity's data network to a co-location facility (no dependence on public network); and

**WHEREAS,** maintaining geographically separate data centers which house sufficient equipment for operations to continue in the event of a disaster will allow each entity to continue business operations and provide benefits to the public in the event of a disaster; and

**WHEREAS,** the entities further will benefit by the sharing of previously installed fiber-optic broadband bandwidth which will increase the effective functionality of both the entities' disaster recovery sites as well as routine COUNTY and CITY operations;

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

**Section 1. Data Center Housing and Provision of Fiber-Optic Bandwidth**

1.1 This Agreement authorizes the COUNTY to utilize co-location space within the CITY's data center—located at 1117 E. 15<sup>th</sup> Street, Plano, Texas, 75074—for the purpose of providing disaster recovery services for the COUNTY. Further, the COUNTY agrees that the CITY, at its option which may be exercised at any point during the term of this Agreement, may utilize co-location space within the COUNTY's data center—located at 2100 Bloomdale Road, McKinney, Texas 75071. The entity whose facilities are being

utilized shall be the “hosting entity.” In providing data center space to the other entity, COUNTY and CITY, as a hosting entity, will:

1.1.1 Provide floor space with conditioned air and power such that the environment where any equipment is placed has appropriate power and environmental controls to be compliant with IEEE and ANSI/TIA standards.

1.1.1.1 Guarantees the COUNTY at least 200 square feet to meet the needs of the standard City of Plano data center pod.

1.1.1.2 Though environmentally controlled space will be provided, the hosting entity will not provide monitoring support, investigative assistance or other diagnostic services to the other entity within the co-located facility.

1.1.1.3 Each entity will be responsible for providing their own equipment at the hosting site as may be required to support that entity’s specific disaster recovery needs.

1.1.1.4 The entity utilizing the hosting entity’s data center will comply with the hosting entity’s direction with respect to the selection and implementation of a self-contained rack system. For purposes of the COUNTY housing its system in the CITY’s data center, the COUNTY shall use a self-contained rack system substantially similar to the modular system currently used by the CITY in their data center.

1.1.2 Take direction from the hosting entity with regard to the checks and clearances required to provide access to hosting entity’s data center, and all employees or contractors must satisfy the hosting entity’s access requirements prior to those employees or contractors being granted access to the hosting entity’s data center.

1.1.2.1 Prior to being allowed building access, support personnel will be required to pass the background check process the hosting entity has in place.

1.1.2.2 Building access will be allowed 24 hours per day, 7 days per week in the event that a disaster or emergency is declared—for the COUNTY by the chief executive officer, the County Judge, Chief Information Officer, or the Assistant IT Director, and for the CITY by the chief executive officer, the City Manager, any Deputy City Manager, or the CITY’s Chief Information Officer. Each entity will provide notification to the other, either prior to entering the building or as soon as is feasible, using an emergency contact list as referenced in section 1.1.3.3

1.1.2.3 Each entity will be responsible for ensuring timely updates of personnel changes and will collect any access badges and/or key cards issued to support personnel should such personnel leave the

entity's employment or no longer require access to the disaster recovery facility.

1.1.3 Provide access to the disaster recovery site for purposes of testing or utilizing the disaster recovery feature(s).

1.1.3.1 Pursuant to section 1.1.2, individuals accessing the site will adhere to the hosting entity's building access control requirements and will follow an agreed upon business process to ensure security processes are followed.

1.1.3.2 Where possible, advance notice of access will be provided to the hosting entity prior to accessing the hosting entity's data center. Such notice shall be delivered to the hosting entity's point of contact, as established via the provisions of section 1.1.3.3. In the event of an emergency, notification will be made as soon as reasonably possible after accessing the hosting entity's data center.

1.1.3.3 A priority contact list, updated quarterly, will be provided and maintained by each entity

1.1.4 Permit the entity utilizing the hosting entity's data center to provide the data connection and associated maintenance required for their equipment, including but not limited to:

1.1.4.1 Fiber network access

1.1.4.2 Horizontal cabling within the data center

1.1.5 Maintain a persistent private network (no dependence on public network).

1.2 While the primary purpose for this Agreement is to provide each entity a disaster recovery site at a reduced cost to its tax base, both entities agree that, subject to sufficient network bandwidth provided by each respective entity, the systems in the disaster recovery site may be used to augment routine production workloads as a means to continually validate service availability.

1.3 Where available capacity permits, after the entity having ownership of existing or future fiber optic paths has satisfied its needs, the other entity will have access to such existing or future fiber optic paths and cabling, as well as fiber optic paths and cabling

granted to each entity through current or future inter-local agreements the entities have or will enter into with other agencies.

1.4 In consideration of the covenants and promises contained in this Agreement, as well as such other good and valuable consideration the sufficiency of which is hereby acknowledged, COUNTY will assist the CITY to obtain access to six (6) strands of ISO/IEC 11801 compliant single mode fiber between the CITY's primary data center located at 1117 E 15<sup>th</sup> Street, Plano TX 75074 and the CITY's Emergency Operations Center located at 4125 W Parker Rd, Plano TX 75093 for use by the CITY through either an expansion of the COUNTY agreement with Collin College or assist the CITY to coordinate a separate agreement between the CITY and Collin College.

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

A yearly review of this Interlocal agreement, with respect to the contact areas identified in section 2.1, will be conducted between the designated resources.

COUNTY Point of Contact:

Caren Skipworth, CIO  
cskipworth@collincountytx.gov

CITY Point of Contact

Chris Chiancone, CIO  
CIO@plano.gov

2.1 Yearly review topics:

1. Personnel on disaster recovery site access list;
2. Forward looking assessment of new technology planned to be installed within the other entity's facility;

3. Confirmation of continued operations under the Agreement;
4. Proposed or planned changes to the building access requirement;
5. Proposed modifications to the data connection, equipment and/or proprietary network; and
6. Any other topics which would impact the intent of this Agreement.

### **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. Disaster Recovery Services Rendered**

4.1 Each entity agrees to allow physical access to the data center space within the other entity's primary data center, as defined in section 1.1.3. The primary data center locations are:

COUNTY

- 2100 Bloomdale Rd, McKinney TX 75071

CITY

- 1117 E 15th Street, Plano TX 75074

4.2 The hosting entity will not bear any responsibility to provide support for the disaster recovery solution housed within their location. The hosting entity will only be responsible to assist with establishing the communication pathway to a point of presence within the data center, as well as the other obligations provided by this Agreement.

4.2.1 The use of contractor services by either party will be coordinated with the other and will follow the requirements of the hosting entity with respect to materials, selected vendors, etc.

4.2.2 Contractors will be held liable for any damage caused to either entity's equipment. Each party will make available such security logs, video, still images, etc. to support any claim arising from contractor damage.

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

#### **5.1 COUNTY and CITY Responsibilities:**

Each entity, at its own expense, will provide the required equipment at the hosting entity's facility to support their specific disaster recovery needs. Within the defined disaster recovery area the hosting entity's equipment standards will apply.

5.2 Neither entity shall have any requirement to install, operate, or maintain any equipment in the other entity's facilities.

5.3 Neither entity makes any warranties, express or implied (including those regarding merchantability or fitness for a particular purpose) respecting any duties or obligations of the other under this Agreement, and each entity waives any and all warranties, express or implied.

5.4 Neither entity is obligated to install, operate or maintain any equipment on the premises of the other entity, however, the minimum amount of agreed upon floor space will remain allocated for use by the other entity as long as this agreement remains in force.

**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 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 120 days written notice to the other party, such time being required for the non-terminating party to secure an alternate disaster recovery site facility. Should either party determine it is in their best interest to terminate the Agreement, each party will work to determine a mutually agreeable timeframe in which to relocate the disaster recovery equipment and services.

**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:

| <b>Collin County</b>       | <b>City of Plano</b>                    |
|----------------------------|-----------------------------------------|
| Purchasing Department      | Office of the Chief Information Officer |
| 2300 Bloomdale, Suite 3160 | 1117 E 15 <sup>th</sup> Street          |
| McKinney, TX 75071         | Plano, TX 75074                         |

**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.

Nothing in this Agreement is intended to be a waiver of either party's governmental or sovereign immunity.

#### **Section 10. Amendments**

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

#### **Section 11. Remedies**

This Agreement shall be construed by and governed by the laws of the State of Texas. Any and all legal action necessary to enforce the Agreement will be held 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. Governing Law**

This Agreement shall be governed by the laws of Texas. Any litigation in any way relating to this Agreement shall be brought in State court in Collin County, Texas.

### **Section 15. Indemnification**

To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees) from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgements and costs, including reasonable attorneys' fees and expenses, in any way arising out of, related to, or resulting from its performance under this Agreement, or caused by negligent acts or omissions of such party (or those of its respective officers, agents, employees, or any other third parties for whom it is legally responsible) in connection with this agreement. COUNTY recognizes that the provisions of Article XI, Section 5 of the Texas Constitution apply to CITY and that no sinking fund is being created in conjunction with the execution of this Agreement.

### **Section 16. Non Waiver**

Any failure by a Party to insist upon strict performance by another Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by in writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which in it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

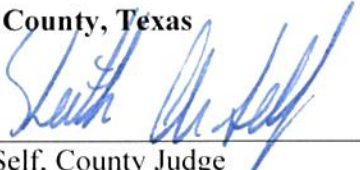
### **Section 17. Counterparts**

The Agreement may be executed in a number of counterparts, each of which shall be deemed an original and constitute one and same instrument.

**Section 18. Entirety of Agreement**

This Agreement represents the entire understanding between the parties 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:   
Bruce D. Glasscock, City Manager

APPROVED AS TO FORM

for By:   
Paige Mims, City Attorney

RESOLUTION NO. 2016-10-1(R)

A Resolution of the City of Plano, Texas, approving the terms and conditions of an Interlocal Agreement by and between City of Plano and Collin County for the housing of a Data Center and the provision of fiber optic bandwidth; authorizing the City Manager or his designee to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date.

**WHEREAS**, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform government functions and services under the terms thereof; and

**WHEREAS**, the City Council has been presented a proposed Interlocal Cooperation Agreement for the housing of a Data Center and the provision of fiber optic bandwidth by and between Collin County and the City of Plano, Texas, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

**WHEREAS**, the City Council finds that the terms and conditions thereof should be approved, and that the City Manager or his designee shall be authorized to execute it on behalf of the City of Plano.

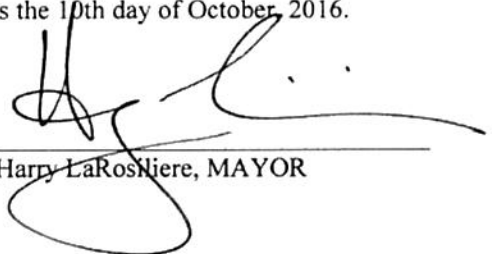
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The terms and conditions of the Agreement, having been found to be acceptable and in the best interest of the City of Plano and its citizens by the City Council of the City of Plano, are hereby in all things approved.

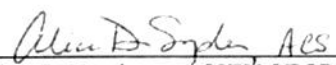
**Section II.** The City Manager or his designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

**Section III.** This Resolution shall become effective immediately upon its passage.

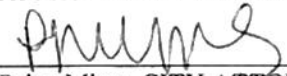
**DULY PASSED AND APPROVED** this the 10th day of October, 2016.

  
Harry LaRoshniere, MAYOR

ATTEST:

  
for Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

  
Paige Mims, CITY ATTORNEY