

**INTERLOCAL AGREEMENT
FOR THE ESTABLISHMENT, OPERATION AND MAINTENANCE OF
THE WILLIAMSON COUNTY RADIO COMMUNICATIONS SYSTEM**

THE STATE OF TEXAS

KNOW ALL BY THESE PRESENTS:

COUNTY OF WILLIAMSON

This Interlocal Agreement (the "Agreement") is made and entered into by and between WILLIAMSON COUNTY, the CITY OF GEORGETOWN, the CITY OF ROUND ROCK, the CITY OF CEDAR PARK, and the CITY OF HUTTO/ESD #3, all of which are local governments defined as counties, municipalities, and special districts, and all of which are political subdivisions of the State of Texas.

WITNESSETH:

WHEREAS, the Texas Interlocal Cooperation Act, V.T.C.A., Government Code, Chapter 791, Section 791.011(a) and Section 791.011(c)(2) provides that local governments may contract with other local governments to perform governmental functions and services that each party to the contract is authorized to perform individually; and

WHEREAS, each of the parties hereto requires a radio communications system with the capability of communicating on a regular basis within Williamson County and Travis County, Texas (the "Capitol Region"); and

WHEREAS, all parties continue to incur considerable costs in maintaining radio communications systems for their daily use through the existing County Wide Integrated Communications System ("CWICS"); and

WHEREAS, as CWICS is an analog system which is nearing the end of operational capabilities and will soon be obsolete; and

WHEREAS, all parties desire to share in the design, establishment, maintenance and operations of a digital regional radio communications system; and

WHEREAS, representatives of the parties have met periodically with Williamson County, Travis County, the City of Austin, and other political subdivisions located within those jurisdictions, all of which share common interests in the continued development of a digital regional radio communications system, and all of which desire to participate in the Austin-Travis County Regional Radio System; and

WHEREAS, the parties have reached agreement on certain areas of common concern, including the need to dissolve the current CWICS organization, and the need to establish an advisory body, administrative procedures, and financing structures for a new digital regional radio communications system; and

WHEREAS, the parties comprising CWICS desire to contract in this Agreement for the dissolution of CWICS; and

WHEREAS, the parties hereto desire to contract in this Agreement for the establishment of the Williamson County Radio Communications System (the "RCS"):

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

SECTION 1 **DEFINITIONS**

For purposes of this Agreement, the following terms shall have the meanings set forth herein:

Overarching Definition: Williamson County Radio Communications System (the "RCS") - The "RCS" shall mean the Williamson County digital radio communications system serving all RCS Parties and Associates.

1. **Advisory Board** - The "Advisory Board" shall mean the RCS body that provides recommendations to the Program Manager/Williamson County as to issues relating to the overall direction of the RCS, management and operations issues, system issues, and other issues relating to areas delineated in this Agreement in Section 6.
2. **Agency-specific Equipment** - "Agency-specific Equipment" shall mean 911 telephone equipment, logging recorders, printers, copiers, computers, telephones, and all other communications center equipment not directly related to the RCS.
3. **Cities** - "Cities" shall mean and include the City of Georgetown, Texas, the City of Round Rock, Texas, the City of Cedar Park, Texas, and the City of Hutto, Texas. Any reference in this Agreement to any such City or Cities shall include the respective officers, agents, employees and departments of such City or Cities.
4. **County Wide Interagency Communications System (CWICS)** - "CWICS" shall mean the previously-existing emergency analog radio system which operated in and for Williamson County and the City of Georgetown, City of Round Rock, City of Cedar Park, and City of Hutto / ESD #3.
5. **Day** - "Day" shall mean a calendar day.
6. **Employee** - "Employee" shall mean a person holding a position listed in the RCS Budget.
7. **FCC** - The "FCC" shall mean the Federal Communications Commission.

8. **Fiscal Year**- "Fiscal Year" shall mean the fiscal year (as adopted by the Program Manager/Williamson County) which begins on each October 1st and ends on each September 30th of the following year.

9. **Hutto / ESD #3** - "Hutto / ESD #3" or "City of Hutto / ESD #3" shall collectively mean both the City of Hutto, Texas and the Williamson County Emergency Services District #3, as established under V.T.C.A., Health and Safety Code, Chapter 775.

10. **IR Site** - The "IR Site" shall mean the "intelligent repeater" site which is a non-simulcast trunked site that utilizes independent frequencies, and which is linked to the Master Site Controller.

11. **Master Site Controller** - The "Master Site Controller" shall mean the City of Austin master site control computer system.

12. **Party-owned Enhancement** - A "Party-owned Enhancement" shall mean any addition to the RCS, such addition being owned by an RCS Party or Associate, that does not necessarily benefit all RCS Parties and Associates, including the installation of IR Sites purchased and implemented by an RCS Party or Associate that serve to enhance a specific geographic coverage area but that are not designed to benefit all RCS Parties and/or Associates under normal daily operations.

13. **Program Manager** - The "Program Manager" shall mean Williamson County, Texas, and its designated entity or person employed to perform specified functions.

14. **PSAP** - "PSAP" shall mean "Public Safety Answering Point" which is a communications center that answers 911 telephone calls.

15. **RCS Associate** - "RCS Associate" shall mean an entity that is a user of the RCS, that is eligible to use the licensed frequencies under FCC rules and regulations, but that is not a full RCS Party as defined herein and, as such, has no membership right or eligibility to the Advisory Board. In addition to the other requirements set forth herein, each RCS Associate shall be required to execute an interlocal agreement with Williamson County prior to becoming a user of the RCS. Such interlocal agreement shall serve as evidence that the RCS Associate has agreed to be bound by the terms and conditions of this Agreement. When such entities are referred to herein in the plural, they shall be termed "RCS Associates."

16. **RCS Infrastructure** - "RCS Infrastructure" shall mean all system hardware and software necessary for the normal operation of both the RCS and RCS Infrastructure Equipment. The term "RCS Infrastructure" does not include Party-owned Enhancements, Subscriber Equipment and Agency-specific Equipment.

17. **RCS Infrastructure Equipment** - "RCS Infrastructure Equipment" shall mean all critical system equipment necessary to operate the RCS including but not limited to RCS tower sites, RCS Prime Site Controller, and connectivity devices utilized between the

RCS Prime Site or Backup Site and the City of Austin. The term "RCS Infrastructure Equipment" does not include Subscriber Units, Party-owned Enhancements, Agency-specific Equipment, or connectivity devices between each PSAP and the RCS Prime Site, Backup Site or the City of Austin.

18. RCS Party - "RCS Party" shall mean and include Williamson County, the City of Georgetown, the City of Round Rock, the City of Cedar Park, and the City of Hutto / ESD #3, all of which made significant capital investments in the former CWICS system and were CWICS parties. When such entities are referred to herein in the plural, they shall be termed "RCS Parties."

19. RCS Prime Site - The "RCS Prime Site" shall mean a site located in Williamson County which will contain, at a minimum, the number of repeaters and central controllers necessary to properly operate the RCS for all RCS Parties and Associates.

20. RCS Prime Site Controller - "RCS Prime Site Controller" shall mean the computer equipment located and operated at the RCS Prime Site which controls the trunked operation of the RCS.

21. RCS Remaining Parties - "Remaining Parties" shall mean the parties to this Agreement who remain contractually committed to the RCS and this Agreement after the withdrawal of any RCS Party.

22. RCS System Capacity - "RCS System Capacity" shall mean the quantity of available trunked radio channel resources that are operated by the RCS and that are accessible by RCS Parties and Associates. The capacity of the system shall be such that the system supports the stated traffic loading, as delineated in Section 10, which is derived by periodic traffic monitoring.

23. RCS System Load - "RCS System Load" shall mean the amount of trunked radio traffic generated by the RCS Parties and Associates determined by radio traffic monitoring, and identified as a Grade of Service (GOS), where GOS is the probability of a user being "blocked" or delayed access to a trunked radio channel resource for more than a specified time interval as measured during a peak traffic time period defined as the "busy hour."

24. Simulcast System - The "Simulcast System" shall mean the 800MHz trunked simulcast system linked into the Austin-Travis County Regional Radio System. The term "Simulcast System" does not include dispatch, mobile or portable radios, radio phones, agency-specific equipment or PSAP connection devices to the Simulcast System that are solely owned and maintained by each RCS Party or Associate.

25. Subscriber Equipment - "Subscriber Equipment" shall mean and include, but shall not be limited to, portable radios, mobile radios, control station radios and radio consoles owned and operated by the RCS Parties and Associates.

26. **Subscriber Unit** - "Subscriber Unit" shall mean a portable or fixed radio communications device such as a mobile vehicle radio, portable hand-held radio, or fixed control station within a communications center.

27. **Support Vendor** - "Support Vendor" shall mean a vendor properly selected (in accordance with applicable state laws) to provide maintenance, repair, troubleshooting, and/or related services for the RCS.

28. **System-owned Enhancement** - A "System-owned Enhancement" shall mean any addition to the RCS, such addition being owned by the RCS itself, that benefits RCS Parties and Associates overall, including but not limited to system-wide software upgrades, installation of new tower sites, or replacement of existing RCS Infrastructure Equipment.

29. **System Manager** - The "System Manager" shall mean the entity designated by Program Manager/Williamson County to perform duties under this Agreement at the direction of Program Manager/Williamson County, such duties to include day-to-day technical operations of the RCS as such relate to the RCS's inter-connectivity to the Austin-Travis County Regional Radio System.

30. **Williamson County** - "Williamson County" shall mean Williamson County, Texas. Any reference in this Agreement to Williamson County shall include the respective officers, agents, employees and departments of Williamson County.

SECTION 2 **PURPOSE**

The general purpose of this Agreement is to dissolve CWICS, to provide for the establishment of the Williamson County Radio Communications System (RCS), to establish an organizational and management structure for the ongoing administration, operation, and maintenance of the RCS, and to create a budget process, funding processes, strategic planning and budget forecasting processes, and allocation of costs associated with, operating, maintaining, and upgrading the RCS.

With the exception of any document cited in this Agreement as retaining full force and effect, all previous Interlocal Agreements and/or Memorandums of Understanding, Commissioners Court or City Council decisions, proclamations, resolutions or decrees which relate to CWICS and/or which were executed between the CWICS parties and associated agencies shall dissolve upon execution of this Agreement, and same shall no longer be of any force or effect.

The parties to this Agreement have developed initial service level objectives attached hereto as Exhibit "B" and incorporated herein by reference for all appropriate purposes, and the parties to this Agreement have developed system performance measurements attached hereto as Exhibit "C" and incorporated herein by reference for all appropriate purposes.

SECTION 3 DISSOLUTION OF CWICS

The parties comprising CWICS hereby agree and accomplish the dissolution of CWICS; and each and every party hereto, having been a party to the original CWICS "Communications System Interlocal Agreement" dated May 8, 1997, and the "Interlocal Agreement" dated November 8, 2001, and the "Agreement for Buy-In to CWICS 800 Trunking Board" dated March 17, 2004 (all being attached hereto), expressly acknowledges and agrees that CWICS is dissolved by this document.

SECTION 4 FREQUENCIES

Prior to or contemporaneous with its execution of this Agreement, the City of Cedar Park agrees to transfer to Williamson County five (5) 800 MHz frequencies currently licensed to Cedar Park. Williamson County hereby agrees to re-license said frequencies and include them in the RCS frequency pool.

The City of Cedar Park agrees to relinquish its current single site five (5) channel 800MHz analog radio system, and ownership of same shall revert to or otherwise be transferred to Williamson County.

It is expressly acknowledged and agreed by the parties hereto that the resolution unanimously passed by the Williamson County Commissioner's Court on September 11, 2001, under Agenda Item 21, remains in full force and effect. Such resolution recites as follows: "Now, therefore, be it resolved by the Commissioner's Court of Williamson County, Texas, that the County agrees that if any participating entity in CWICS transfers its FCC license to Williamson County, the County will transfer said license back to said entity if said entity withdraws from CWICS, or CWICS is dissolved."

In accordance with the immediately-preceding paragraph, it is expressly acknowledged and agreed by the parties hereto that, due to the dissolution of CWICS, the Cities, as defined herein in Section 1(3), currently retain all rights to make demand for and receive reassignment of their individual and respective FCC licenses and frequencies back to themselves from Williamson County. In the spirit of cooperation, the Cities agree to forego their right to demand the immediate reassignment of their individual and respective FCC licenses and frequencies and hereby agree to allow said frequencies to remain in the name of Williamson County and be used for purposes of a RCS frequency pool; provided, however, the parties to this Agreement agree that the Program Manager/Williamson County shall consent to and authorize the reassignment of said FCC licenses and frequencies back to any of the Cities that choose to withdraw from this Agreement pursuant to Section 18 herein below or consent to and authorize the reassignment of the individual and respective FCC licenses and frequencies back to all of the Cities if the RCS is dissolved in its entirety. In the event of a reassignment of said FCC licenses and frequencies following a RCS Party's withdrawal from the RCS, the parties hereto acknowledge that they may not be reassigned the same frequency that they previously assigned to Williamson County prior

to the dissolution of CWICS since such frequency may be in use as an RCS control channel. However, in such case, the Program Manager/Williamson County shall reassign a comparable frequency to the withdrawing RCS Party. The parties to this Agreement expressly acknowledge their understanding that this provision shall have primacy over and shall supersede any statement to the contrary contained herein or elsewhere.

Williamson County agrees to keep the frequencies which are in the RCS frequency pool active in order to prevent any reversion of frequencies back to the FCC.

SECTION 5

TERM OF AGREEMENT; AND EFFECTIVE DATE

This Agreement shall be deemed to be effective as of October 1, 2007. The initial term of this Agreement shall be for ten (10) years, subject to the rights of withdrawal and termination as contained herein. Following the initial ten (10) year term, this Agreement shall automatically renew for up to a maximum of two (2) additional terms of five (5) years each, subject to the rights of withdrawal and termination as contained herein. .

SECTION 6

ADVISORY BOARD

Subsection 6.01: General Purpose. The parties hereto expressly acknowledge that the Advisory Board shall be advisory in nature. Notwithstanding anything contained herein to the contrary, the parties hereto expressly acknowledge that the Advisory Board shall have no authority to obligate the Program Manager/Williamson County in any financial way, nor shall the Advisory Board have the authority to make expenditures of funds.

The organizational structure of the RCS and the initial composition of the Advisory Board are delineated in Exhibit "A" attached hereto and incorporated herein by reference for all appropriate purposes.

The Advisory Board shall generally do the following: (1) provide recommendations to the Program Manager/Williamson County relating to the overall direction of the RCS; (2) collaborate with the Program Manager/Williamson County and with the System Manager to prepare and maintain a revolving five-year strategic plan/budget forecast to address such issues as RCS System Capacity, Party-owned Enhancements, System-owned Enhancements, and coverage issues; (3) provide recommendations relating to management and operations of the RCS to the Program Manager/Williamson County; (4) provide recommendations relating to standard operating procedures for the RCS to the Program Manager/Williamson County; (5) provide overall advice regarding the RCS to the Program Manager/Williamson County; (6) assist the Program Manager/Williamson County in the resolution of RCS issues; and (7) provide recommendations to the Program Manager/Williamson County relating to operational governance of Party-owned Enhancements, System-owned Enhancements, alias database management, template controls, interoperability, RCS budgets, performance, compatibility, and other system issues. It is hereby acknowledged that the Advisory Board may exercise only the powers and duties specifically authorized under this Agreement.

Subsection 6.02: Composition. The parties hereto expressly acknowledge that the Advisory Board shall consist of only RCS Parties, and that RCS Associates shall have no membership rights or eligibility to serve on the Advisory Board. Additionally, the parties hereto expressly acknowledge that the City of Hutto and the Williamson County ESD #3 shall together constitute and be considered as a single RCS Party and shall be entitled to designate only one member to the Advisory Board.

The Advisory Board shall consist of only one member from Williamson County, one member from the City of Georgetown, one member from the City of Round Rock, one member from the City of Cedar Park, and one member from the City of Hutto / ESD #3. As soon as is practicable after execution of this Agreement, each such RCS Party entity shall designate in writing the name of its Board Member and the name of one Alternate Board Member, and shall submit same to the Program Manager/Williamson County.

Subsection 6.03: Officers. The Williamson County Judge or his/her designee shall be the permanent Chair of the Advisory Board.

The Advisory Board shall elect a Vice-Chair annually in the first month of each Fiscal Year, or as soon thereafter as is practicable. The Vice-Chair shall be responsible for acting in the absence of the Chair.

The Program Manager/Williamson County shall designate a person not serving as an Advisory Board Member to serve as Secretary to the Advisory Board. The Program Manager/Williamson County shall provide any necessary administrative support to the Advisory Board.

Subsection 6.04: Quorum and Voting. No action may be considered or taken by the Advisory Board unless a quorum is present. A quorum shall be constituted only when a majority of the Advisory Board Members or Alternate Board Members is present.

Each member of the Advisory Board shall have one vote. The affirmative vote of a simple majority is required to pass any action in which the Advisory Board is authorized to act on under this Agreement. All actions taken as the result of a vote by an RCS Party's Advisory Board Member shall be binding on the RCS Party.

Subsection 6.05: Duties. The Advisory Board's duties and authority shall be as follows:

1. After the first five Fiscal Years of this Agreement when the annual Subscriber Unit Fee is frozen in accordance with Subsection 14.02 herein, review the apportionment of the Annual Assessment between the RCS Parties and Associates and recommend to the Program Manager/Williamson County any adjustments needed;
2. Annually review the draft annual RCS Budget and the revolving five-year strategic plan/budget forecast as prepared by the Program Manager/Williamson County delineating funds needed to operate, maintain, upgrade and use the RCS. Each annual draft

budget and each revolving five-year strategic plan/budget forecast shall be presented to the Advisory Board by not later than April 30th of each year. In the event a RCS Party does not agree with the draft RCS Budget as presented, it must, within thirty (30) days following receipt of the draft RCS Budget, provide the Program Manager/Williamson County and the Advisory Board with a detailed explanation of its issues and a detailed recommendation as to possible solutions to resolve the issues raised;

3. Review and make recommendations to the Program Manager/Williamson County regarding the operating policies and procedures for the RCS, including policies relating to radio resource management, training of communications and field personnel, system security, fleet mapping management, alias database management, capacity management, FCC compliance, and interoperability among Williamson County agencies and with other radio systems;

4. Regularly review the service level objectives and system performance measurements for the RCS and recommend actions to ensure reliable RCS performance;

5. Develop and recommend System-owned Enhancements to the Program Manager/Williamson County, if and as needed, to ensure desired RCS functionality and performance;

6. In conjunction with annual RCS reviews performed by the Program Manager/Williamson County, consider the impact of proposed RCS Associate applicants on the capacity of the RCS and recommend approval or denial of applications to allow additional RCS Associates;

7. Periodically provide input on the performance of the Program Manager/Williamson County;

8. Periodically provide input relating to the hiring of the Program Manager/Williamson County's staff person(s) designated to perform the duties of the Program Manager/Williamson County. The Program Manager/Williamson County shall consider the Advisory Board's evaluation and input in this regard, but the parties hereto expressly acknowledge that the Program Manager/Williamson County retains the exclusive right to take personnel actions, if any, with respect to its staff working on the RCS; and

9. Assist the Program Manager/Williamson County in developing agreements and standards defining the roles and responsibilities of the RCS Parties and Associates for System-owned Enhancements that are approved by the Program Manager/Williamson County. The funding for such System-owned Enhancements shall be included in the referenced agreements and standards. System-owned Enhancements shall be based on recommendations from the RCS Parties, RCS Associates, the Program Manager/Williamson County, and the System Manager. Any System-owned Enhancements or Party-owned Enhancements to the RCS shall be included in the revolving five-year strategic plan/budget forecast reviewed at least annually.

Subsection 6.06: Terms. The term of each Advisory Board Member shall be for two (2) years, but he/she shall serve at the pleasure of the appointing RCS Party and may be removed by said RCS Party at any time with or without cause. There shall be no term limits for an RCS Party's Advisory Board Member, and no prohibition against successive re-appointment. There shall be no term limits for the Chair and Vice-Chair, and no prohibition against successive service or election.

Subsection 6.07: Attendance Requirements. Either an Advisory Board Member or an Alternate Advisory Board Member of each RCS Party shall attend all properly-noticed meetings.

Subsection 6.08: Procedures for Advisory Board Meetings. The Advisory Board shall meet at least quarterly each Fiscal Year. The Chair shall preside at each Board Meeting, and the Vice-Chair shall act in the absence of the Chair. The Chair shall provide the Advisory Board Members with at least ten (10) days notice of proposed dates for regular meetings. The Program Manager/Williamson County and/or any Advisory Board Member may place an item on the Advisory Board's meeting agenda by submitting the item to the Chair at least five (5) days prior to the next scheduled meeting. The Chair shall submit the official agenda to the Advisory Board Members by the time that it is posted in accordance with the Texas Open Meetings Act, but in any event not later than seventy-two (72) hours prior to the scheduled meeting.

Subsection 6.09: Special Meetings. The Advisory Board Chair or the Program Manager/Williamson County may call special meetings upon seventy-two (72) hours' prior written notice to the Advisory Board Members. Special meetings may be called to address unplanned contingencies relating to the RCS or to address RCS Budget related items. A majority of the Advisory Board Members may also call special meetings of the Advisory Board upon proper posting and seventy-two (72) hours' prior written notice of the date, location, and purpose of the meeting to the Advisory Board Chair and to each Board Member.

Subsection 6.10: Actions of the Advisory Board. The Advisory Board shall not take any action that would violate any applicable statute, law, regulation, court order, ordinance or commissioners' court order. Further, all Advisory Board Meetings shall comply with the Texas Open Meetings Act.

SECTION 7 **AMENDMENTS**

Subsection 7.01: Proposal of Amendment. Any RCS Party, through its Advisory Board Member, may propose an amendment to this Agreement to the Advisory Board. The Advisory Board shall consider the proposed amendment and make a recommendation to the Program Manager/Williamson County. The Program Manager/Williamson County shall review such proposed amendment and decide to accept or deny the proposed amendment, and shall thereafter notify each RCS Party and Associate, in writing, of its decision to accept or deny the proposed amendment.

Subsection 7.02: Adoption of Amendment. An amendment to this Agreement shall be effective when adopted by the governing bodies of the RCS Parties. An RCS Party whose

governing body does not adopt such amendment may withdraw from participation in the RCS as provided herein in Section 18. Furthermore, in the event a RCS Party's governing body fails to adopt an amendment within thirty (30) days of the Program Manager/Williamson County's notice of its acceptance of a proposed amendment, such RCS Party shall be deemed to have accepted and approved the proposed amendment by its inaction. Each amendment to this Agreement shall be formalized in a written document and shall be signed by all RCS Parties. All amendments that are proposed and adopted, whether adopted by formal adoption or adoption by an RCS Party's inaction in accordance herewith, shall be binding on each RCS Party and Associate.

SECTION 8

STAFFING AND OPERATIONS

Subsection 8.01: System Manager Duties. The System Manager shall provide personnel to perform all required duties including, but not limited to, the day-to-day technical operations of the RCS as such relate to the RCS's inter-connectivity to the Austin-Travis County Regional Radio System. All actions of the System Manager shall be performed under the direction of the Program Manager/Williamson County.

Subsection 8.02: Program Manager Duties and Responsibilities. At a minimum, the Program Manager shall have the following duties and responsibilities:

1. *Minutes.* Assign a designee to maintain minutes of the Advisory Board meetings;
2. *Operations Authority and Recommendations.* Have operational authority of the system for daily operations, and consider recommendations from the Advisory Board on standard operating procedures and maintenance of the RCS;
3. *Supervision.* Supervise and oversee the personnel that are provided by the System Manager and the Program Manager/Williamson County to support the RCS;
4. *Dispute Resolution.* Provide the first level of administrative dispute resolution to the RCS Parties and Associates as such disputes relate to the operation of the RCS;
5. *Retention of RCS Related Documents and Agreements.* Maintain a current copy of this Agreement, any amendments to this Agreement, the most current version of all exhibits made a part of this Agreement, all program records of the RCS, all bills of sale, licenses, leases, titles, and other legal documents related to the use and ownership of the RCS Infrastructure, System-owned Enhancements and real property acquired under this Agreement, and copies of the most current versions of any subsequently-developed operating procedures or standards of the RCS. Such documentation shall be kept in the Program Manager's Office and be made available for inspection by the RCS Parties and Associates;
6. *Template Control.* Maintain a current copy of each Subscriber Unit and template used on Agency-specific consoles operating on the RCS. Each RCS Party and Associate is

responsible for updating its respective templates and providing said copies to the Program Manager/Williamson County. The Program Manager/Williamson County shall make templates available to all RCS Parties and Associates upon request. The Program Manager/Williamson County shall also maintain a copy of all Template Interlocal Agreements, Memorandums of Understanding, and written agreements between RCS Parties, Associates, and other agencies authorizing the sharing, programming, and usage of any channels on the RCS. The Program Manager/Williamson County will coordinate subscriber unit templates and fleet mapping to ensure that interoperability requirements are met between all users of the RCS and the City of Austin Regional Radio System;

7. *RCS Budget and Staff Reports.* Provide a draft annual RCS Budget and a revolving five-year strategic plan/budget forecast to the RCS Parties and Associates by no later than April 30th of each year, as well as provide annual staff reports as requested by the Advisory Board;
8. *Performance Reports.* Quarterly, or more frequently if specifically requested by the Advisory Board, provide the Advisory Board with at least one report of RCS performance measures, as included in the Annual System Assessment described herein;
9. *Job Descriptions.* Maintain descriptions of the duties of Williamson County and/or the Program Manager staff that is employed on the RCS;
10. *Inventory Report.* Maintain and provide an annual inventory report to the RCS Parties and Associates which describes all RCS Infrastructure and real property acquired under this Agreement and contains an assessment of condition of such inventory;
11. *Manuals and Warranties.* Maintain current operation manuals and warranty information for all RCS Infrastructure Equipment;
12. *Standard Operating Procedures.* Develop, distribute, and revise current standard operating procedures for the RCS;
13. *Contract Administration.* Administer all contracts for the operation and maintenance of the RCS;
14. *Annual System Assessment.* Annually, or more frequently if specifically requested by the Advisory Board, provide the Advisory Board with a system assessment as to the capacity, coverage, and utilization of the RCS;
15. *RCS Availability.* Assist the RCS Parties and Associates in working to ensure operational and technical availability of RCS features to all RCS Parties and Associates which support interactions and communications with other public safety systems.

The parties expressly acknowledge and agree that the Program Manager might resign, be terminated, be re-assigned, have its/his/her duties re-structured, or otherwise be “separated from duty” by being withdrawn from performing a portion of or all duties hereunder. In that event,

the Advisory Board Chair shall act as interim Program Manager until the time that Williamson County designates a replacement permanent Program Manager. Within ten (10) days of separation from duty, the former Program Manager shall have the obligation to fully transfer to the interim Program Manager possession and control of all documents, budgets, inventory lists, standard operating procedures, RCS Infrastructure, and all items of personal property and real property related in any manner to this Agreement and to the RCS. Following such transfer, the former Program Manager shall be relieved of further obligations hereunder.

SECTION 9

LEVEL OF SERVICES

The Program Manager/Williamson County shall provide all RCS Parties and Associates with a level of service which is, at a minimum, in compliance with the service level objectives and system performance measurements attached hereto as Exhibit "B" and Exhibit "C" respectively.

SECTION 10

RCS SYSTEM CAPACITY AND RCS SYSTEM LOAD

The Program Manager/Williamson County shall be charged with the collection of trunked system radio traffic data. Data collected each month shall be such so that a statistically valid sample is obtained.

System loading data shall be collected and stored. The Program Manager/Williamson County shall consult with the Advisory Board regarding the most appropriate method of presentation. One such method can be a "channel activity" graph that illustrates the number of transactions on each channel. Another such method can be a traffic profile chart that includes, among other items, the calls per hour, duration of call, and calls per unit per hour. Such data shall be used to determine the Grade of Service, which shall be metric used to determine system performance in regards to the system's ability to adequately serve the users.

If the collected data, plotted on a monthly basis, indicates a trend where the GOS exceeds one percent (1%) and the queue (wait for a channel grant) time exceeds one (1) second over a period of three (3) consecutive months, steps shall be taken to increase capacity once any potential anomalous occurrences or conditions have been examined and adequately explained.

The Program Manager/Williamson County shall ensure that the proper system management processes are in place to maximize the system's capacity before trunked radio channel resources are added to the system.

In the event the RCS System Capacity is increased to meet the needs of an out-of-county RCS Associate, such out-of-county RCS Associate shall be solely responsible for all initial and implementation costs, maintenance costs, operational costs, and recurring costs. Such costs shall not be included in the Annual Assessments apportioned to all RCS Parties and Associates.

SECTION 11
PARTY-OWNED ENHANCEMENTS, AND SYSTEM -OWNED
ENHANCEMENTS

Subsection 11.01: Party-owned Enhancements. A Party-owned Enhancement is defined as any addition to the RCS, such addition being owned by an RCS Party or Associate, that is designed and implemented to benefit a specific geographic coverage area(s) or specific agency and that does not necessarily benefit all RCS Parties and Associates, including the installation of IR Sites purchased and implemented by an RCS Party or Associate that serve to enhance a specific geographic coverage area but that are not designed to benefit all RCS Parties and/or Associates under normal daily operations. Such Party-owned Enhancement shall be paid for by the RCS Party or Associate implementing such Party-owned Enhancement. The RCS Party or Associate that implements such Party-owned Enhancement shall also be solely responsible for the design, implementation, operation, and recurring costs of such Party-owned Enhancement, and such costs shall not be included in the Annual Assessments apportioned to all RCS Parties and Associates. All infrastructure, equipment and/or frequencies added to the RCS by any RCS Party or Associate as a Party-owned Enhancement shall remain the property of the implementing RCS Party or Associate.

All Party-owned Enhancements must be compatible with existing RCS Infrastructure at the time a Party-owned Enhancement is implemented, and a Party-owned Enhancement shall not cause substantive interference or degradation of existing RCS services. In the event that it is determined that a Party-owned Enhancement does cause substantive interference or degradation of existing RCS services, such interference or degradation must be cured and fully resolved within twenty-four (24) hours of an RCS Party's or Associate's receipt of written notice from the Program Manager/Williamson County.

Subsection 11.02: System-owned Enhancement. A System-owned Enhancement is defined as any addition to the RCS, such addition being owned by the RCS itself, that benefits the RCS Parties and Associates overall, and shall include but not be limited to system-wide software upgrades, installation of new tower sites, and/or replacement of existing RCS Infrastructure Equipment. Notwithstanding anything contained herein to the contrary, all infrastructure and equipment added to the RCS as a System-owned Enhancement shall be considered the property of Williamson County. After the first five Fiscal Years of this Agreement when the annual Subscriber Unit Fee is frozen in accordance with Subsection 14.02 herein, all future operations costs, maintenance costs and the costs of a System-owned Enhancement shall be shared equitably based on the percentage of total Subscriber Unit allocations for each RCS Party and Associate, as more fully set forth in Section 14 herein.

Subsection 11.03: Determination of Party-owned Enhancement or System-owned Enhancement. Whenever an RCS Party or Associate desires to make an addition to the RCS, it must first request that the Advisory Board issue a recommendation to the Program Manager/Williamson County on whether, in the opinion of the Advisory Board, such proposed addition should be deemed to be a Party-owned Enhancement or a System-owned Enhancement. Such recommendation from the Advisory Board shall be made based on a criteria set to be

developed and periodically reviewed and amended by the Program Manager/Williamson County. Prior to the issuance of the Advisory Board's recommendation, the RCS Party or Associate proposing the addition shall be allowed to present, testify, and negotiate matters including but not limited to proportional benefit, establishment of current fair market value, projections of future increased RCS Operating Costs, projections of future value, appreciation and depreciation issues, and amount (if any) of costs to be recouped in the event of the RCS Party's or Associate's withdrawal from the RCS and this Agreement. Written notification of the Advisory Board's recommendation on to whether such proposed addition should be considered a Party-owned Enhancement or a System-owned Enhancement, and any associated details, shall be promptly given to the RCS Party or Associate proposing the addition and to the Program Manager/Williamson County. Following the Program Manager/Williamson County's receipt of the Advisory Board's recommendation, the Program Manager/Williamson County shall consider the recommendation and make the final determination as to whether the proposed addition will be deemed a Party-owned Enhancement or a System-owned Enhancement. Agreements regarding negotiated matters shall be reduced to a contractually-binding document. Nothing herein shall be deemed to require a proposing RCS Party or Associate to actually make any proposed addition.

Subsection 11.04: Number of Subscriber Units. All RCS Parties and Associates shall review and reconcile their Subscriber Unit counts with the Program Manager/Williamson County during each Annual System Assessment. Each RCS Party and Associate shall notify the Program Manager/Williamson County of any Subscriber Units that are being added to or removed from the RCS during a Fiscal Year. In order to assist in creating accurate Annual Assessments and Subscriber Unit Fees for each new Fiscal Year, each RCS Party and Associate shall notify the Program Manager/Williamson County of the projected Subscriber Unit increases/decreases on or before March 1st of each year.

SECTION 12

OWNERSHIP AND OPERATION OF EQUIPMENT

Subsection 12.01: CWICS Equipment. Ownership of all equipment currently belonging to CWICS, same having been purchased and maintained by CWICS prior to the execution of this Agreement, shall revert or otherwise be transferred to Williamson County upon execution of this Agreement, and same shall thereafter be deemed to be RCS Infrastructure Equipment. Each RCS Party hereby agrees to execute any documents or instruments necessary to transfer title and/or ownership of such CWIC's equipment and property to Williamson County. The parties to this Agreement expressly acknowledge and agree that this provision applies only to equipment and does not apply to any real property owned by any of the entities comprising CWICS.

Subsection 12.02: RCS Infrastructure Equipment at RCS Sites. RCS Infrastructure Equipment located at each RCS Prime Site(s), Backup Site(s) or that is being operated for the benefit of all RCS Parties and Associates shall be available for use by all RCS Parties and Associates.

Subsection 12.03: Party-owned Enhancement Equipment. Equipment that is being operated to solely benefit one or more RCS Parties and/or Associates as a Party-owned Enhancement,

whether such equipment be located at the RCS Prime Site(s), Backup Site(s) or at an RCS Party's location, shall be operated for the benefit of the implementing RCS Party or Associate that owns it, and it shall not be considered RCS Infrastructure Equipment. The costs associated with operating and maintaining such equipment shall be the sole responsibility of the RCS Party or Associate that owns and operates such equipment.

Subsection 12.04: Agency-specific Equipment. Dispatch facilities and field user equipment may be co-owned by two or more RCS Parties and/or Associates or purchased and owned separately by any RCS Party or Associate. Agency-specific Equipment includes but is not limited to consoles, recording equipment, furniture, telephones, 911 ANI/ALI consoles, and microwave or fiber lines. Such Agency-specific Equipment shall not be considered RCS Infrastructure Equipment and shall remain the sole responsibility of each RCS Party or Associate that purchases same.

Subsection 12.05: Inventory of RCS Infrastructure Equipment. A complete inventory of all RCS Infrastructure Equipment shall be kept current and shall be maintained by the RCS Program Manager/Williamson County. Such inventory of all RCS Infrastructure Equipment shall include an assessment of the condition of the inventory. Such inventory/condition report shall be made available for inspection to all RCS Parties and Associates.

SECTION 13

DISPOSITION OF PROPERTY UPON WITHDRAWAL

Subsection 13.01: Claims to RCS Infrastructure Property or Equipment Following Withdrawal or Termination. Notwithstanding anything contained herein to the contrary, upon the withdrawal or termination of an RCS Party or Associate in accordance with Section 18 herein, the withdrawing or terminated RCS Party or Associate shall have no claim to any RCS Infrastructure Equipment or any property, real or personal, that is owned by Williamson County or that becomes the property of Williamson County under this Agreement.

Subsection 13.02: Claims to Party-owned Enhancements Following Withdrawal or Termination. Withdrawing or terminated RCS Parties or Associates shall retain ownership of any Party-owned Enhancements which that RCS Party or Associate brought into the RCS or that have been transferred to the RCS Party or Associate by Williamson County. At the time of a RCS Party's or Associates withdrawal or termination, and prior to the removal of its Party-owned Enhancement, a system assessment shall be performed by the Advisory Board. Following the said system assessment, the Advisory Board shall issue an opinion to the Program Manager/Williamson County as to whether, in the Advisory Board's opinion, there is a likelihood of significant degradation or interruption of RCS services if such Party-owned Enhancement is removed from the RCS. The Program Manager/Williamson County shall, thereafter, review the Advisory Board's opinion and make a final determination on whether or not there is a likelihood of significant degradation or interruption of RCS services. If significant degradation or interruption of services is deemed likely by the Program Manager/Williamson County, then and in that event the Program Manager/Williamson County, on behalf of the RCS, shall have the right to do the following: make a good-faith offer to the withdrawing or terminated RCS Party or Associate to purchase such Party-owned Enhancement at its then-

current fair market value and in accordance with any agreement in place reached during negotiations under Subsection 11.03 herein, with the express understanding and agreement of both the RCS and the withdrawing or terminated RCS Party or Associate that same is an offer only and not an obligation to either buy or sell. In the event of an agreed sale, following such purchase by the RCS, the Party-owned Enhancement would thereafter be deemed to be a System-owned Enhancement. In the event that the withdrawing or terminated RCS Party or Associate does not elect to sell, then and in that event the withdrawing or terminated RCS Party or Associate shall have the obligation to reach a fair and equitable agreement with the RCS to allow appropriate co-use, lease or rental rights, or the like, along with appropriate compensation, of the Party-owned Enhancement.

SECTION 14 **COSTS**

Subsection 14.01: Definitions.

For purposes of this Agreement, the following terms shall have the meanings set forth herein:

1. **RCS Capital Costs** - The "RCS Capital Costs" shall mean all costs associated with (1) any improvements, additions or replacements of items that have an expected useful life of more than five years; and/or (2) System-owned Enhancements to the RCS occurring after the initial installation and implementation of the RCS. The term "RCS Capital Costs" shall not include Party-owned Enhancements, RCS Operating Costs, System Manager Costs, Program Manager Costs, and RCS System Costs. RCS Capital Costs are borne by Williamson County, and are not apportioned to or chargeable to the RCS Parties and Associates.

2. **RCS Operating Costs** - The "RCS Operating Costs" shall mean all costs incurred to operate the RCS, including but not limited to maintenance and operational costs relating to RCS Infrastructure Equipment and System-owned Enhancements, commodities costs, contractual costs, personnel costs, utility costs, security costs, lease payments, insurance costs and normal periodic maintenance, tuning, servicing, inspecting, parts replacement, repair and other similar activities intended to keep the RCS functioning efficiently and to maintain the useful life of the RCS and reduce the probability of failures. All RCS Operating Costs are, as required in this Agreement, included in each Annual Assessment and RCS Budget. Elements considered in the calculation of annual RCS Operating Costs are, among other data, annual system maintenance contracts, utilities, tower insurance, and system management fees. After the first five Fiscal Years following execution of this Agreement, the RCS Operating Costs are borne by the RCS Parties and Associates, and Williamson County shall apportion and charge same to the RCS Parties and Associates in accordance with this Agreement.

3. **RCS System Costs** - The "RCS System Costs" shall mean and include, but shall not be limited to, the cost of operation and maintenance of all RCS-owned equipment, the cost of any improvements, additions or replacements that have an expected useful life of five years or less, and/or the cost of administration in operating the RCS generally used each time a two-way Radio Frequency (RF) call is made on the RCS. All RCS System Costs are, as required in this Agreement, included in each Annual Assessment and RCS Budget. After the first five Fiscal

Years following execution of this Agreement, the RCS System Costs are borne by the RCS Parties and Associates, and Williamson County shall apportion and charge same to the RCS Parties and Associates in accordance with this Agreement.

4. **System Manager Costs** - The "System Manager Costs" shall mean all reasonable and necessary costs incurred by the System Manager to support the RCS, including but not limited to professional services, wages, benefits, insurance, employment related taxes, employers' retirement contributions, telephone allowances, pagers, education and seminar fees, travel for training, mileage reimbursement, photographic supplies, developing and printing costs, educational materials, books, office supplies, computer supplies, computer software, small tools and minor equipment. All System Manager Costs are, as required in this Agreement, included in each Annual Assessment and RCS Budget. After the first five Fiscal Years following execution of this Agreement, the System Manager Costs are borne by the RCS Parties and Associates, and Williamson County shall apportion and charge same to the RCS Parties and Associates in accordance with this Agreement.

5. **Program Manager Costs** - The "Program Manager Costs" shall mean all reasonable and necessary costs incurred by the Program Manager to support the RCS, including but not limited to professional services, wages, benefits, insurance, employment related taxes, employers' retirement contributions, telephone allowances, pagers, education and seminar fees, travel for training, mileage reimbursement, photographic supplies, developing and printing costs, educational materials, books, office supplies, computer supplies, computer software, small tools and minor equipment. All Program Manager Costs are, as required in this Agreement, included in each Annual Assessment and RCS Budget. After the first five Fiscal Years following execution of this Agreement, the Program Manager Costs are borne by the RCS Parties and Associates, and Williamson County shall apportion and charge same to the RCS Parties and Associates in accordance with this Agreement.

Subsection 14.02: Cost for RCS Party or Associate to Participate in RCS During First Five Fiscal Years. For the first five Fiscal Years of this Agreement, beginning October 1, 2007, the only cost chargeable to RCS Parties and Associates is \$17.50 per Subscriber Unit per month in order for the RSC Party or Associate to gain and enjoy full participation in the RSC System. All parties expressly acknowledge and agree that the annual Subscriber Unit Fee shall, without exception, be frozen at \$17.50 per Subscriber Unit per month for the first five Fiscal Years of this Agreement, beginning October 1, 2007.

Subsection 14.03: Cost for RCS Party or Associate to Participate in RCS After the Expiration of First Five Fiscal Years. For all periods of time following the expiration of the first five Fiscal Years of this Agreement, the cost chargeable to RCS Parties and Associates in order for the RSC Party or Associate to enjoy full participation in the RSC System shall be computed using the following definitions and methodology:

1. **Annual Assessment** - The "Annual Assessment" shall mean the total amount of RCS Operating Costs, System Manager Costs, Program Manager Costs, and RCS System Costs which are projected to be incurred and the amount of money projected to be expended during the next Fiscal Year, according to an itemized schedule prepared and presented to the Advisory

Board by the Program Manager/Williamson County. The RCS Parties and Associates agree and acknowledge that the total amount of the Annual Assessment shall be adjusted (increased or decreased) each year following the initial first five Fiscal Years of this Agreement in order to annually reconcile the RCS Budget to the actual RCS Operating Costs, System Manager Costs, Program Manager Costs, and RCS System Costs.

2. **Subscriber Unit Fee** - The "Subscriber Unit Fee" shall mean the per radio unit cost which is chargeable to each RCS Party and Associate quarterly by Williamson County. The Subscriber Unit Fee is determined by dividing the Annual Assessment by the total number of Subscriber Units that each RCS Party and Associate will be using on the RCS in a specific Fiscal Year.

All parties expressly acknowledge and agree that no RCS Capital Costs will be apportioned to or borne by RCS Parties and Associates at any time during the term of this Agreement.

Subsection 14.04: Payment Instructions. The amounts due under this Agreement will be billed to the RCS Parties and Associates by the Program Manager/Williamson County on a quarterly basis. Invoices shall be paid to Williamson County within thirty (30) days from the date of receipt of the invoice. Interest charges for any late payments shall be paid in accordance with Texas Government Code Section 2251.025 (or as later amended): "The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of: (1) one percent; and (2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday."

In the event that any discrepancy arises in relation to an invoice, the RCS Party or Associate which claims such discrepancy shall notify the Program Manager/Williamson County of such discrepancy. Following notification of such discrepancy as to an invoice, the RCS Party or Associate and Williamson County shall work in good faith to seek to resolve such discrepancy. Thereafter, the Program Manager/Williamson County shall re-submit a corrected or revised invoice, and the RCS Party or Associate shall pay same within thirty (30) days from the date of receipt of the corrected or revised invoice.

Subsection 14.05: Potential Increases in Subscriber Unit Fees. Following the first five Fiscal Years of this Agreement, during which time the annual Subscriber Unit Fees will have remained frozen at \$17.50 per Subscriber Unit per month, the annual Subscriber Unit Fee which is assessed for each Subscriber Unit may be increased by the Program Manager/Williamson County in an amount not to exceed ten percent (10%) per year per Subscriber Unit.

In the event that the Program Manager/Williamson County makes a determination that an increase is necessary which exceeds such ten percent (10%) limit, then and in that event the Program Manager/Williamson County shall submit the matter to the Advisory Board. After a hearing, the Advisory Board shall make known in written form its determination as to whether an increase above such ten percent (10%) limit is warranted and, if so, an appropriate percentage of increase to the Subscriber Unit Fee. Following receipt of such determination by the Advisory

Board, the Williamson County Commissioner's Court shall set the actual amount of increase, if any. The Program Manager/Williamson County shall notify the RCS Parties and Associates of same.

Subsection 14.06: Additional Costs to RCS Parties and Associates for Non-RCS Infrastructure Equipment. Each RCS Party and Associate shall be solely responsible for all maintenance and other costs associated with its own dispatch facilities, field user equipment, telephone lines, microwave links, long distance telephone calls, mobile and portable equipment, any equipment not considered RCS Infrastructure Equipment under this Agreement, and any other such equipment that was acquired solely for the benefit of the individual RCS Party or Associate. If any equipment or other facilities are co-owned by RCS Parties and/or Associates, such parties shall be solely responsible for agreeing to a procedure for allocating maintenance costs between themselves.

Subsection 14.07: Costs to RCS Parties and Associates for Presenting Proposals. Any and all costs associated with a RCS Party's or Associate's proposal for adding enhancements to the RCS shall be borne by the RCS Party or Associate making such proposal whether or not such proposed enhancement is ultimately deemed a System-owned Enhancement in accordance with Subsection 11.03.

SECTION 15

APPLICATION FOR PARTICIPATION BY OTHER ENTITIES

Subsection 15.01: Limitation to Acceptance Based on RCS System Capacity. Except for the RCS Parties, no other entity may be accepted into the RCS unless and until there is sufficient RCS System Capacity to add additional Subscriber Units to the RCS, as determined by the Program Manager/Williamson County.

Subsection 15.02: Application to Become an RCS Associate. Any governmental or non-governmental entity satisfying FCC requirements to operate on a public safety radio system that desires to become an approved RCS Associate of the RCS must apply in writing to the Program Manager/Williamson County. The application must state the name of the entity applying, the type of use requested, the number of Subscriber Units to be used by the applicant, the quantity of each type of use, any encryption requirements, subscriber unit programming parameters, and all templates currently in use or proposed by the applicant. The applicant shall make a presentation regarding its application to the Advisory Board. The Advisory Board shall then review the application and make a recommendation to the Program Manager/Williamson County to approve or deny the applicant as an RCS Associate.. The Program Manager/Williamson County shall consider the Advisory Board's recommendation and all matters relating to such application and thereafter decide, at its sole discretion, to either approve or deny the application.

SECTION 16

COMPLIANCE AND GOOD FAITH DEALING

RCS Parties and Associates shall use the RCS in a manner consistent with the Standard Operating Procedures of the RCS, in compliance with all applicable FCC Rules and Regulations, and in compliance with all applicable federal, state, and local laws.

When dealing with RCS related problems or issues, RCS Parties and Associates shall utilize the Program Manager as the primary point of contact. RCS Parties and Associates shall work in good faith with the Program Manager/Williamson County to attempt to resolve problems relating to the operation of the RCS. RCS Parties and Associates shall be solely financially responsible for any FCC penalties or fines or any other type of financial encumbrance caused by the actions of that specific RCS Party or Associate. .

SECTION 17 **FUNDING PROVISIONS**

Subsection 17.01: Funding. RCS Parties and Associates specifically acknowledge that funding for each RCS Party's and Associate's Subscriber Unit Fees, as well as any other amounts that become rightfully due under this Agreement, shall be processed and appropriated through the budgeting process of each RCS Party's and Associate's governing body. Purchase costs of the actual Subscriber Units shall be the responsibility of each individual RCS Party and Associate.

Subsection 17.02: Failure to Appropriate. On or before July 1st of each year, each RCS Party and Associate must give written notification to the Program Manager/Williamson County of its intent to appropriate its Subscriber Unit Fees. Following its governing body's formal appropriation of such Subscriber Unit Fees, each RCS Party and Associate shall provide the Program Manager/Williamson County with written documentation evidencing its formal appropriation. In the event that an RCS Party's or Associate's governing body fails to appropriate the necessary funds at the beginning of its fiscal year, such RCS Party or Associate may be considered to be in material breach of this Agreement and may be subject to termination as set forth herein in Subsection 18.03.

Subsection 17.03: Remedies Available to Address Underfunding. If any RCS Party or Associate pays less than the total amount of its Subscriber Unit Fees or any other fee that may become lawfully due under this Agreement, for any Fiscal Year or portion of a Fiscal Year, the Program Manager/Williamson County may take one or more of the following actions:

1. Notice of Underfunding - Send the Underfunding RCS Party or Associate a notice stating the amount of underpayment, and request payment within thirty (30) days from the date of receipt of said notice;
2. Suspension of Services - Suspend radio services on the RCS to the Underfunding RCS Party or Associate until such time as payment for services has been received in full; and/or

3. Termination of Participation - With approval from the Williamson County Commissioner's Court, the Program Manager/Williamson County may terminate the Underfunding RCS Party or Associate as to participation in the RCS under this Agreement. In such event, the procedures for termination must be followed which are set forth herein in Subsection 18.03.

SECTION 18

WITHDRAWAL; BREACH AND TERMINATION

Subsection 18.01: Right to Withdraw. Any RCS Party or Associate has the right to withdraw from this Agreement and the RCS by providing express written notice of its decision to withdraw to the Advisory Board, the Program Manager/Williamson County, and to all other RCS Parties and Associates at least one hundred eighty (180) days prior to its projected withdrawal date. Any withdrawing RCS Party or Associate shall remain obligated to pay all costs and fees which were lawfully incurred by such RCS Party or Associate prior to the date of its withdrawal.

Subsection 18.02: Incidents of Breach. A breach of this Agreement shall include, but not be limited to, the following:

1. **Failure to Make Payment.** Failure of an RCS Party or Associate to appropriate or timely pay its Subscriber Unit Fees, or any other fee that may become lawfully due under this Agreement;
2. **Substantive or Knowing Violation of FCC Rules.** Any substantive or knowing violation of FCC rules and regulations by an RCS Party or Associate, as determined by the FCC and/or the Program Manager/Williamson County;
3. **Violation of Standard Operating Procedures.** Egregious or repeated violations of the RCS Standard Operating Procedures by a RCS Party or Associate, as determined by the Program Manager/Williamson County. For purposes of this Agreement, egregious or repeated violations shall be deemed to have occurred when an RCS Party or Associate violates, on three (3) separate occasions, the same or similar RCS Standard Operating Procedure;
4. **Inappropriate Use.** Use of the RCS by an RCS Party or Associate, which use is determined to be inappropriate by the Program Manager/Williamson County and/or the Advisory Board;
5. **Failure to Make Penalty Payment.** Failure of an RCS Party or Associate to pay FCC penalties or fines legally attributable to it, which fines resulted solely from its actions;
6. **Adverse Impact.** Any other substantial action or omission that has a material adverse impact on the operation and maintenance of the RCS, as determined by the Program Manager/Williamson County and/or the Advisory Board; and/or

7. **Non-compliance with Terms and Conditions of this Agreement.** The knowing failure of an RCS Party or Associate to substantially comply with the terms and conditions of this Agreement and/or any subsequent adopted amendments to this Agreement.

Subsection 18.03: Notice of Breach and Termination. The decision to exercise the rights and remedies granted by this Section 18 must be approved in writing, in advance, by the Williamson County Commissioner's Court. If an RCS Party or Associate commits a breach as delineated in Subsection 18.02, the Program Manager/Williamson County shall deliver written notice of such breach to the breaching RCS Party or Associate. Such notice must specify the nature of the breach and inform the breaching RCS Party or Associate that unless the breach is cured within thirty (30) days of receipt of the notice, additional steps may be taken to terminate the breaching RCS Party or Associate under this Section 18. If the breaching RCS Party or Associate begins a good faith attempt to cure the breach within thirty (30) days, then and in that instance the thirty (30) day period may be extended by the Program Manager/Williamson County, so long as the breaching RCS Party or Associate continues to prosecute a cure diligently to completion and continues to make a good faith attempt to cure the breach. If, in the opinion of the Program Manager/Williamson County, the breaching RCS Party or Associate does not cure the breach within thirty (30) days or otherwise fails to make any diligent attempt to correct the breach, the breaching RCS Party or Associate shall be deemed to be in breach and the Program Manager/Williamson County may deliver written notice to the breaching RCS Party or Associate which specifies the following:

1. Nature and description of the breach;
2. Date on which the original thirty (30) day notice of the breach was tendered to the breaching RCS Party or Associate;
3. Notice of any financial responsibility incurred by the RCS due to the acts of the breaching RCS Party or Associate;
4. Description of the failure of the breaching RCS Party or Associate to cure timely;
5. Statement that the RCS Party's or Associate's use of the RCS shall be terminated;
and
6. Effective date of the termination of the RCS Party or Associate.

Following the effective date of termination of an RCS Party or Associate, such terminated RCS Party or Associate shall immediately cease and desist from any further use of the RCS. The terminated RCS Party or Associate may be subject to "System Lock-out" whereby its use of the RCS shall be restricted via the alias database management tools. The Program Manager, System Manager, Williamson County and the remaining RCS Parties and Associates shall not be liable for any damages that may arise due to the locking out of a

terminated RCS Party or Associate. A terminated RCS Party or Associate shall remain obligated to pay all costs and fees that were lawfully incurred by such RCS Party or Associate prior to the date of its termination.

Section 18.04: Failure to Ratify. In the event that a governing body of any RCS Party or Associate fails to ratify and execute this Agreement or any subsequent amendments that are adopted in accordance with the terms of this Agreement, such RCS Party or Associate may, at the discretion of the Program Manager/Williamson County, be restricted or suspended from using the RCS until such time as approval and/or ratification is obtained.

SECTION 19 **LIMITATION OF LIABILITY**

IN NO EVENT SHALL THE PROGRAM MANAGER OR WILLIAMSON COUNTY, INCLUDING THEIR AGENTS, EMPLOYEES, OFFICERS, AND REPRESENTATIVES, BE LIABLE FOR ANY LOSS, DAMAGE, COST OR EXPENSE ATTRIBUTABLE TO THE ACTS, OMISSIONS, NEGLIGENCE, WILLFUL MISCONDUCT OR MISREPRESENTATIONS BY ANY RCS PARTY OR ASSOCIATE, OR THEIR DIRECTORS, EMPLOYEES OR AGENTS. IN NO EVENT SHALL THE PROGRAM MANAGER OR WILLIAMSON COUNTY BE LIABLE TO ANY RCS PARTY OR ASSOCIATE, BY REASON OF ANY ACT OR OMISSION RELATING TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, WHETHER A CLAIM BE IN TORT, CONTRACT OR OTHERWISE, (A) FOR ANY CONSEQUENTIAL, INDIRECT, LOST PROFIT, PUNITIVE, SPECIAL OR SIMILAR DAMAGES RELATING TO OR ARISING FROM THE SERVICES, OR (B) IN ANY EVENT, IN THE AGGREGATE, FOR ANY AMOUNT IN EXCESS OF THE TOTAL FEES PAID BY ANY RCS PARTY OR ASSOCIATE UNDER THIS AGREEMENT, EXCEPT TO THE EXTENT DETERMINED TO HAVE RESULTED FROM THE PROGRAM MANAGER'S OR WILLIAMSON COUNTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUDULENT ACTS RELATING TO THE SERVICES PROVIDED FOR HEREUNDER.

SECTION 20 **MISCELLANEOUS PROVISIONS**

Subsection 20.01: Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of all parties shall be construed and enforced in accordance therewith. All parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be valid and enforceable.

Subsection 20.02: Construction. Each party hereto acknowledges that it and its counsel have reviewed this Agreement, and that there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.

Subsection 20.03: Incorporation of Exhibits and Attachments. All of the exhibits and attachments referred to in this Agreement are incorporated by reference as if set forth herein verbatim.

Subsection 20.04: No Waiver of Immunities. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to any RCS Party or Associate, or their past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. Each RCS Party and Associate does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

Subsection 20.05: Choice of Law; Jurisdiction and Venue. This Agreement shall be performable in Williamson County, Texas. This Agreement and all of the rights and obligations of the RCS Parties and Associates and all of the terms and conditions shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas, without reference to its conflicts of law provisions. Williamson County shall be the sole place of jurisdiction and venue for any legal action arising from or related to this Agreement.

Subsection 20.06: Assignment. Except as otherwise provided in this Agreement, the rights and duties of the Program Manager, System Manager, Williamson County and the RCS Parties and Associates may not be assigned or delegated without the prior written consent of all the RCS Parties. Any authorized assignment or delegation of such rights or duties shall be consistent with the terms of any contracts, resolutions, indemnities, and other obligations of this Agreement. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the RCS Parties and Associates.

Subsection 20.07: No Personal Benefit. No party to this Agreement intends to (1) benefit any person who is not either named as an RCS Party or otherwise added as an RCS Associate; (2) assume any special duty to supervise the operations of another RCS Party or Associate; (3) provide for the safety of any specific person; or (4) assume any other duty other than that imposed by this Agreement and general law.

Subsection 20.08: Notice. Any notice given hereunder shall be in writing, and shall be delivered by personal delivery, or by registered or certified mail, with return receipt requested, at the address of the respective parties indicated below:

Program Manager/System Manager
c/o: Ron Winch
321 W. 8th Street
Georgetown, Texas 78626

RCS Advisory Board
c/o: _____

_____, Texas _____

Williamson County
c/o: Williamson County Judge
301 S.E. Inner Loop, Suite 109
Georgetown, Texas 78626

City of Georgetown:
c/o: Mayor's Office
600 Main Street
Georgetown, Texas 78626

City of Round Rock
c/o: Mayor's Office
221 East Main Street
Round Rock, Texas 78664

City Of Cedar Park
c/o: Mayor's Office
600 North Bell Blvd.
Cedar Park, Texas 78613

City of Hutto
c/o: Mayor's Office
Post Office Box 639
401 West Front Street
Hutto, Texas 78634

With a copy to:

Williamson County ESD #3
c/o: _____

_____, Texas _____

The above addresses for notice may be changed at any time by delivering written notice of change to the Program Manager/Williamson County, the Advisory Board, and to all RCS Parties in accordance with the notice requirements of this Subsection 20.08 and elsewhere in this Agreement.

Subsection 20.09: Gender, Number and Headings. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

Subsection 20.10: Attorneys Fees. In any lawsuit concerning this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees from the non-prevailing party, plus out-of-pocket expenses such as deposition costs, telephone calls, travel expenses, expert witness fees, court costs, and other reasonable expenses.

Subsection 20.11: Compliance with Applicable Laws. All parties agree to comply with all applicable federal, state and local ordinances, laws, rules, regulations, and lawful orders of

any public authority. Nothing in this Agreement is intended to conflict with any RCS Party's or Associate's zoning, franchise, or health and safety authority.

Subsection 20.12: Dispute Resolution. Should dispute arise between any parties to this Agreement concerning the terms of this Agreement, the dispute shall be first presented for resolution to the Advisory Board. If the Advisory Board cannot timely resolve the issue, the Advisory Board shall then recommend that the Program Manager/Williamson County retain a certified mediator to attempt to mediate a resolution to the conflict. Any costs of mediation will be shared equally by parties involved in the dispute subject of the mediation. If a resolution cannot be obtained through such mediation, the parties may then litigate the dispute in a court of competent jurisdiction.

The parties hereby expressly agree that no claims or disputes between the parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

Subsection 20.13: Abatement of Costs. RCS Parties and Associates shall not be entitled to any damages, nor to any abatement or reduction of its Subscriber Unit Fees for any repairs, alterations, additions or temporary failures of the RCS.

Subsection 20.14: Independent Relationships. The RCS Parties, RCS Associates, Program Manager, System Manager and Williamson County shall act in individual capacities and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of any other party for any purposes whatsoever.

Subsection 20.15: Execution in Multiple Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be considered an original, and all of which shall be considered as one original fully executed as of the date when all RCS Parties have executed an identical counterpart, notwithstanding the fact that all signatures may not appear on the same counterpart.

Subsection 20.16: Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes all other oral and/or written negotiations, agreements, and understandings of every kind. The parties understand, agree, and declare that no promise, warranty, statement, or representation of any kind whatsoever which is not expressly stated in this Agreement has been made by any party, or its respective officers, employees, or other agents to induce execution of this Agreement.

IN WITNESS WHEREOF, the parties have set their hands on this _____ day of _____, 200__.

WILLIAMSON COUNTY

By: [Signature]
DAN A. GATTIS,
Williamson County Judge

ATTEST:

By: [Signature]
NANCY RISTER,
Williamson County Clerk

CITY OF ROUND ROCK

By: [Signature]
NYLE MAXWELL, Mayor
Round Rock, Texas

ATTEST:

By: [Signature]
SARA WHITE,
City Secretary
Round Rock, Texas

CITY OF GEORGETOWN

By: [Signature]
GARY NELON, Mayor
Georgetown, Texas

ATTEST:

By: [Signature]
SANDRA LEE, City Secretary
Georgetown, Texas

CITY OF CEDAR PARK

By: [Signature]
BOB LEMON, Mayor
Cedar Park, Texas

ATTEST:

By: [Signature]
LeANN QUINN,
City Secretary
Cedar Park, Texas

CITY OF HUTTO

By: [Signature]
KEN LOVE, Mayor
Hutto, Texas

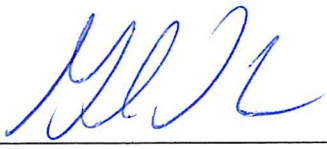
ATTEST:

By: [Signature]
DEBBIE CHELF, City Secretary
Hutto, Texas

WILLIAMSON COUNTY ESD #3

ATTEST:



By: 
_____, President



_____, Board Secretary
of Williamson County ESD #3

Exhibit A – Williamson County Radio Communications System
User Advisory Board Organization

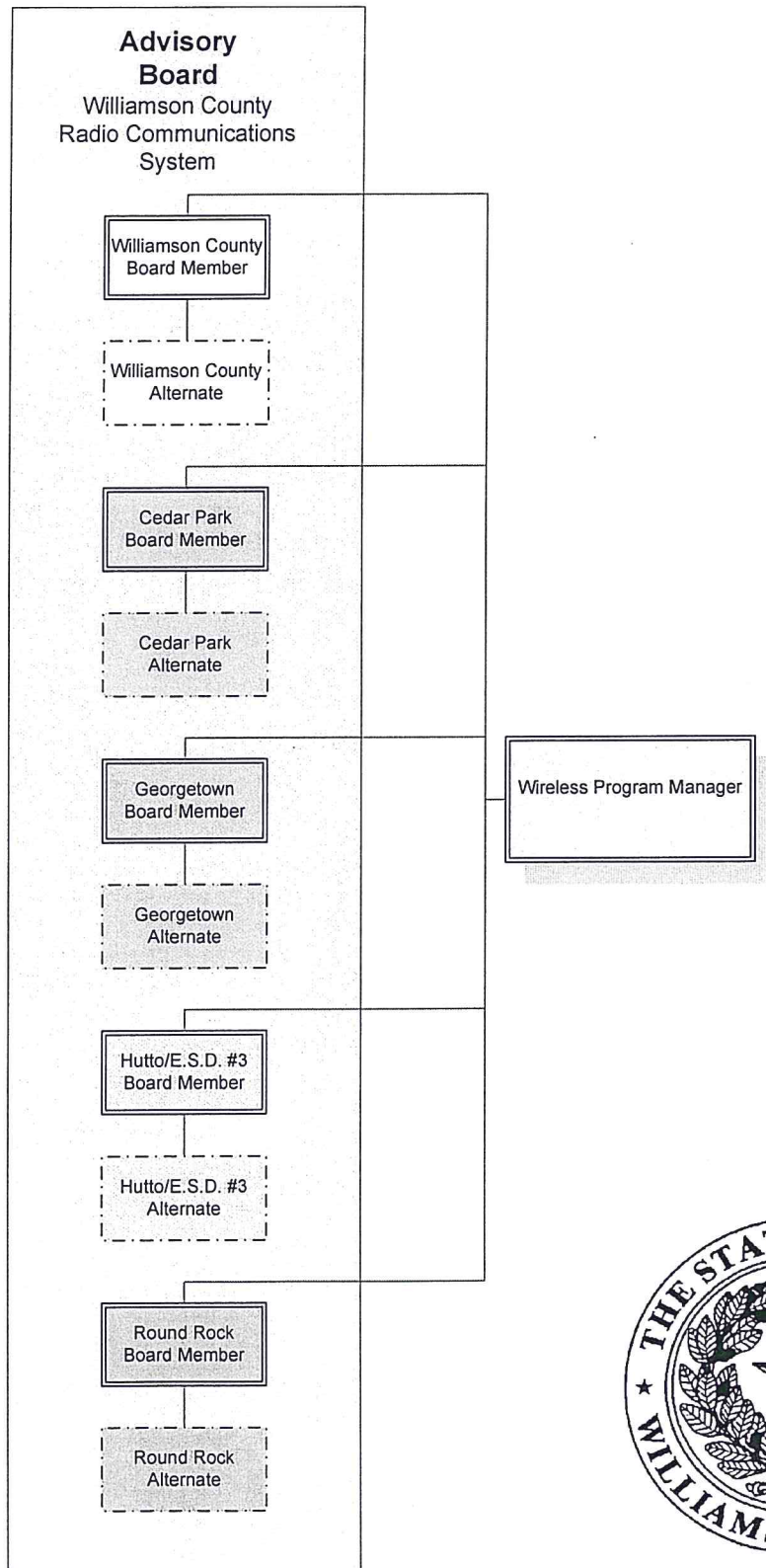


Exhibit B – Initial Service Level Objectives

The Williamson County Radio Communications System (RCS) has been designed and engineered to provide an extremely high level of service to users. System reliability, coverage, availability, implementation, and maintenance will continue to be focused on providing high quality, public safety grade service to all users.

System loading is one key characteristic of measuring a system's effectiveness as well as the need to plan for expansion should loading and traffic patterns suggest that the system infrastructure is approaching a saturation point.

Measurement of loading is done by a Grade of Service, where Grade of Service is the probability of a user being "blocked" or delayed access to a trunked radio channel resource for more than a specified time interval measured. The "Busy Hour" is defined as the hour within a 24 hour period that has the highest average traffic load, averaged over a statistically significant number of days.

Through advance, long-range planning and ongoing assessment of current system loading, forecasted growth in population and radio users, and technological developments, the RCS Program Manager will responsibly and methodically plan for keeping the communications system infrastructure at a level that will continually meet or exceed the reasonably foreseeable demands of the system and the users that it supports.

If the collected traffic data, plotted on a monthly basis, indicates a trend where the GOS exceeds 1% and the queue (wait for a channel grant) time exceeds 1 second over a period of three consecutive months, steps shall be taken to increase capacity once any potential anomalous occurrences or conditions have been examined and explained. Clearly, it is desirable that *no* busy signals will be received by a public safety user at any point, and it is equally clear that no system can be designed that will assure that no busy signal will ever be received during an extraordinary event.

As such, the RCS Program Manager will continuously and proactively monitor system performance, actual measured growth and system demand over time, and anticipated growth in users and population, and all other known factors affecting system loading and performance. This monitoring will be an integral part of system planning, and plans will be in place well in advance of need for system expansion, to allow for orderly funding processes and lead time for development of system expansion, be it for equipment acquisition and construction to any needed land acquisition and development or other factors.

Funding needs and availability will be identified and communicated in a timely manner to allow Williamson County to have adequate time for identifying and securing funding, and to identify any potential funding impacts on RCS Parties and Associates. Additionally, the RCS Program Manager will maintain awareness of obsolescence or dates for manufacturer abandonment of support of infrastructure components and subscriber equipment, and will advise all RCS Parties and Associates of any such dates in order to provide adequate advance notice to RCS Parties and

Associates for anticipated financial obligations on their parts for subscriber equipment or any other user-owned equipment.

Service measurements will continue to be honed through the system life-cycle, based upon recommendations from the Advisory Board to the RCS Program Manager. Ongoing monitoring of system performance measurements and adoption of baseline data will allow the management of system capacity and performance to be defined to a more granular level and more precisely monitored and measured throughout the life of the system.

Worth noting is that Williamson County, as the largest single user of the system and having coverage requirements over the entire county, has a high degree of interest of ensuring that coverage and capacity of the radio system is comprehensive, complete, and adequate at all times.

No unconditional guarantees of operability are implied or provided. Furthermore, no unconditional guarantees of funding availability are implied or can be provided. However, all RCS Parties and Associates agree to make all reasonable efforts to secure and provide funding, as defined elsewhere in the Agreement, consistent with the goals and measurements provide herein.

Exhibit C – System Performance Measurements

The Williamson County Radio Communications System (RCS) will be measured as to effectiveness and capacity on an ongoing basis. Optimal service and capacity levels will continue to be refined through the life of the system, as defined by the RCS Program Manager, based upon his/her expertise and experience, and with the advice and recommendations of the Advisory Board.

Measurement factors will include:

Measured Item	Metric
System busy signals	<ul style="list-style-type: none">• Number of busy signals received by hour/day
Subscriber units	<ul style="list-style-type: none">• Total number, and number per channel pair
Coverage	<ul style="list-style-type: none">• Signal strength measurements• Propagation modeling• Population density overlays
System Loading	<ul style="list-style-type: none">• Percentage of time per hour that a radio transmission (base or mobile) is taking place per radio frequency pair• By hour, by day

Other measurements will likely be identified as appropriate throughout the life-cycle of the system, and will be adopted as appropriate by the RCS Program Manager with the advice of the Advisory Board, and refined as appropriate.