

**WILLIAMSON COUNTY
RADIO COMMUNICATIONS SYSTEM
ASSOCIATES AGREEMENT FOR USE OF THE
WILLIAMSON COUNTY RADIO COMMUNICATIONS SYSTEM
BY THE ORGANIZATION KNOWN AS, _____**

This Williamson County Radio Communications System Associates Agreement ("Agreement") for Use of The Williamson County Radio Communications System ("RCS") by the organization known as, _____, ("RCS Associate") entered into by and between ("RCS Associate") and Williamson County, Texas ("County"), being collectively referred to as "the Parties", for the purpose of outlining the Parties' mutual obligations with respect to the organization becoming an RCS Associate in the Williamson County Radio Communications System ("RCS"). Accordingly, the Parties set forth their intent and understandings as follows:

RECITALS

WHEREAS, County and the organization known as; _____ are parties to the Interlocal Agreement for the Establishment, Operation and Maintenance of the Williamson County Radio Communications System ("RCS"), as may be amended from time to time in accordance with the terms thereof ("RCS ILA Agreement"), which provides for the 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;

WHEREAS, both County and RCS Associate are authorized pursuant to TEX. GOV'T CODE ANN., Chapter 791, to enter into an Interlocal Cooperation Agreement for the purpose described in this Agreement;

WHEREAS, the RCS ILA Agreement authorizes County to enter into Interlocal Cooperation Agreements for use of the RCS with organizations that are eligible under FCC rules and regulations to use the licensed frequencies of the RCS;

WHEREAS, the organization known as, _____, has requested to become a RCS Associate, as that term is defined in the RCS ILA Agreement;

WHEREAS, the purpose of this Agreement is to allow the organization known as, _____, to become a RCS Associate and thereby be provided with access to and use of the RCS;

NOW, THEREFORE, the Parties agree to the following terms and conditions:

1.0 DEFINITIONS

Capitalized terms used in this Agreement and not otherwise defined herein shall have the same meanings given to them in the RCS ILA Agreement.

2.0 TERMS AND CONDITIONS

2.1 The RCS ILA Agreement, as attached hereto as Exhibit “A” and incorporated herein by reference as though fully set forth herein, and the terms and conditions contained therein shall apply to this Agreement. In the event of any conflict between the provisions of this Agreement and the RCS ILA Agreement, the provisions of the most current, adopted revision of the, RCS ILA Agreement shall prevail.

2.2 RCS Associate hereby agrees to comply with all terms, conditions, covenants and obligations set forth in the RCS ILA Agreement and all such terms, conditions, covenants and obligations shall accrue and apply with equal effect to RCS Associate under the RCS ILA Agreement.

2.3 RCS Associate shall be afforded all of the rights and privileges afforded to “RCS Associates” under the RCS ILA Agreement.

2.4 RCS Associate shall perform all of the duties, responsibilities and obligations applicable to RCS Associates under the RCS ILA Agreement.

2.5 Pursuant to the RCS ILA Agreement, RCS Associate shall not be afforded any of the rights or privileges that are afforded to RCS Parties under the RCS ILA Agreement.

2.6 RCS Associate is authorized to access and use the type and quantity of Subscriber Units described in Exhibit “B”, which is attached hereto and incorporated herein. RCS Associate shall not use any additional equipment or units on the RCS.

2.7 RCS Associate shall pay, in accordance with the terms of the RCS ILA Agreement, for the Subscriber Units authorized in Exhibit “B” based on the rates set forth therein.

2.8 If the number of Subscriber Units set forth on Exhibit “B” is amended during a Fiscal Year, RCS Associate shall pay County the amount due, which shall be based on the amended number of units and/or Subscriber Unit Fee, for the remainder of that Fiscal Year.

2.9 RCS Associate acknowledges and agrees that the Subscriber Unit Fee shall be adjusted, in accordance with the terms of the RCS ILA Agreement. RCS Associate further agrees to pay such adjusted fee in accordance with the RCS ILA Agreement and that RCS Associate shall be subject to any of the remedies set forth under the RCS ILA Agreement for any failure to make a payment.

2.10 RCS Associate expressly agrees that any request for assistance, troubleshooting, or questions regarding the operation, maintenance, functionality, or any other issues related to Subscriber Units shall be directed to County and shall not have any direct contact with manufacturers or software providers regarding the Subscriber Units.

2.11 In the event the governing body of RCS Associate fails to ratify and execute any subsequent amendments that are adopted in accordance with the terms of the RCS Agreement, the RCS Associate may, at the discretion of the Program Manager/Williamson County, under the guided recommendation of the RCS Advisory Board, as well as quorum recommendation from the Williamson County Commissioners Court, the RCS Associate may be restricted or suspended from using the RCS until such time as approval and/or ratification is obtained.

3.0 TERM

3.1 Contingent Term. This Agreement is contingent upon both the continuation of the RCS Agreement and County’s continued right to use the RCS under the RCS ILA Agreement. If County becomes no longer eligible to use the RCS for any reason or if the RCS ILA Agreement is otherwise terminated pursuant to its terms, this Agreement shall automatically terminate.

3.2 Initial Term. This Agreement shall commence on the date in which it is signed by the RCS Associate (intended) and executed Williamson County.

3.3 Automatic Renewal. If neither of the contingencies in 3.1 have occurred, this Agreement shall automatically renew on October 1st of each year for terms of one (1) year each.

3.4 Withdraw or Termination of Agreement. This Agreement can be terminated upon a minimum 90 day notification from the RCS Associate, in writing to the Program Manager/Williamson County, and the RCS Advisory Board. Notwithstanding anything contained herein to the contrary, upon the withdrawal or termination of an RCS Associate in accordance with Section 18 of the RCS ILA Agreement, herein, the withdrawing or terminated RCS 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

4.0 MISCELLANEOUS PROVISIONS

4.1. 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.

4.2. 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.

4.3. 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.

4.4. 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 the Parties, or their past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. the Parties do 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.

4.5. 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 Parties 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.

4.6. Assignment. RCS Associate may not assign or transfer its interest in or obligations under this Agreement without the prior written consent of County. 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 and the RCS ILA Agreement. This Agreement shall ensure to the benefit of, and be binding upon, the successors and assigns of the Parties.

4.7. 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.

4.8. 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:

Williamson County RCS
Program Manager/System Manager
508 Holly Street
Georgetown, Texas 78626

RCS Advisory Board
508 Holly Street
Georgetown, Texas 78626

Williamson County
c/o: Williamson County Judge
710 S. Main Street
Georgetown, Texas 78626

Organization Known As, _____
_____, 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 provision.

4.9. 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.

4.10. Attorney's 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.

4.11. Compliance with Applicable Laws. The 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 the RCS Associate's zoning, franchise, or health and safety authority.

4.12. Dispute Resolution. Should dispute arise between the 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.

4.13. Abatement of Costs. RCS Associate 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.

4.14. Independent Relationships. The Parties 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.

4.15. 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 the Parties have executed an identical counterpart, notwithstanding the fact that all signatures may not appear on the same counterpart.

4.16. Entire Agreement. This Agreement and the RCS ILA Agreement constitute 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 _____, 201__.

WILLIAMSON COUNTY

By: 
Dan Gattis
Williamson County Judge

APPROVED AS TO FORM:

Williamson County
Office of General Counsel

Date _____

Williamson County
Contract Auditor

Date _____

Organization Known As, _____

ATTEST:

By: _____

By: _____

Printed Name: _____

Title: _____

Exhibit “A”

Exhibit “B”

RCS Initial Subscriber Units (ISU) and Initial Rate Schedule

Agency Known as: _____

The initial number of ISUs and per unit monthly rate is as followed:

<u>Cost Category</u>	<u>Number of ISU</u>	<u>Monthly Fee per each</u>	<u>Total Monthly Cost</u>
RCS System Operations & Maintenance	Subscriber Units No. _____	\$ _____	\$ _____

Reference Section 2, Subsection 2.9 related to approved changes to per unit Monthly cost