

**INTERLOCAL COOPERATION AGREEMENT
FOR RADIO SERVICES AND EQUIPMENT
BETWEEN BROWN COUNTY, TEXAS
AND LOWER COLORADO RIVER AUTHORITY**

This Interlocal Cooperation Agreement ("**Agreement**") is entered into by and between, as Parties, the Lower Colorado River Authority ("**LCRA**"), a local government, being a conservation and reclamation district of the State of Texas created pursuant to Article XVI, Section 59, of the Texas Constitution, and Brown County Texas ("**USER**"), to be effective for all purposes as of September 1, 2020 (the "**Effective Date**"). (LCRA and USER may also be referred to herein individually as a "**Party**" and collectively as the "**Parties.**")

RECITALS

WHEREAS, LCRA is authorized by law to own, operate and maintain electric generation and transmission facilities for the benefit of its customers and the general public;

WHEREAS, LCRA's electric system includes a communications network, including a regional, trunked radio system ("**Trunked Radio System**"), which has been installed for LCRA's use within LCRA's service area for purposes of communications to support its statutory purposes and in conjunction with providing electric power and energy in Texas, public safety, and emergency services;

WHEREAS, LCRA is authorized by law to license peace officers for the protection of property and the general public and the enforcement of state law and LCRA's rules and regulations;

WHEREAS, LCRA holds certain frequency licenses from the Federal Communications Commission ("**FCC**") for operation of the Trunked Radio System by mobile radio services for public safety and business purposes and pursuant to statutes and applicable FCC rules enabling LCRA to provide community assistance and economic development;

WHEREAS, USER is authorized by law to provide public services, including law enforcement, transportation services, and emergency services;

WHEREAS, the Trunked Radio System has the current capacity to serve the needs of LCRA and others requiring a Trunked Radio System for public safety, local government purposes, and other purposes in compliance with applicable FCC statutes, rules, and licenses and to provide a key communications link between public safety entities;

WHEREAS, USER and LCRA wish to establish this Agreement allowing LCRA to provide communications equipment, facilities, and technical services required for the installation and operation of dispatchable mobile radio equipment, as more specifically set

September 28, 2020
(Exhibit #5)

out herein, to assist USER with deploying and maintaining radio communications for public safety operations, interlocal response to catastrophic or large-scale incidents or natural disasters, and radio communications coordination support for local, state, tribal, and federal agencies in the State;

WHEREAS, it would be a benefit to USER to receive Radio Services (as defined below) on LCRA's Trunked Radio System on a non-profit, cost-shared basis without investing the substantial capital cost required for a completely separate infrastructure and by sharing the cost of the existing and planned Trunked Radio System;

WHEREAS, LCRA has secured FCC radio licenses and, under Section 90.179 of the FCC's rules, (47 C.F.R. § 90.179), is able to share stations in order to serve eligible users throughout its electric, transmission, and water service territory; and

WHEREAS, the Parties are authorized to enter into this Agreement under Chapter 791 of the Texas Government Code, commonly referred to as the Interlocal Cooperation Act, and more particularly Section 791.025, Texas Government Code.

AGREEMENT

NOW THEREFORE, in consideration of the mutual benefits received by both Parties and the public under the terms of this Agreement, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. ACCEPTANCE; USER'S ACCESS TO TRUNKED RADIO SYSTEM

1.1 This Agreement, including Attachments A and B, is a contract for LCRA to provide Services (as defined below) and equipment to USER when accepted in writing by an authorized representative of USER. It is agreed that the provision of Services is made only on the terms and conditions herein. LCRA shall not be bound by the terms and conditions in USER's purchase order or elsewhere unless expressly agreed to in writing. In the absence of written acceptance of these terms, acceptance of Services hereunder shall constitute an acceptance of these terms and conditions by USER.

1.2 Access to the Trunked Radio System consists of USER's right to use certain facilities and capabilities of the Trunked Radio System, as described in the Attachments ("**Radio Services**"), in consideration for USER's payment of the monthly service and usage fees as set out in the Radio System Pricing Schedule and Participant Information Sheet (Attachment A). Only the features and capabilities selected by USER shall be enabled. Changes or modifications to Radio Services provided hereunder may require modification of system parameters, which will be subject to Additional Service (as defined below) charges as set forth in a separate quote, proposal, or estimate. Upon the Effective Date of this Agreement, USER's equipment will be activated following: (i) registration of LCRA-authorized identification numbers of each USER unit, and (ii) LCRA's certification of the equipment installation and operator training.

1.3 USER expressly understands that LCRA, as an FCC licensee, will supervise USER's activities pursuant to this Agreement, and that LCRA will retain control over all aspects of the operation of the Trunked Radio System, as required of a licensee under the FCC's rules and regulations. USER expressly acknowledges that all shared transmitters must be subject to LCRA's control.

2. SERVICES; COST-SHARED BASIS FOR RADIO SERVICES

2.1 RADIO SERVICES. USER may select from the menu of Radio Services offered by LCRA which are set forth on the Radio System Pricing Schedule and Participant Information Sheet (Attachment A). The Radio System Pricing Schedule and Participant Information Sheet (Attachment A) may be amended from time to time upon mutual agreement of the Parties provided that such amendments are in writing and signed by authorized representatives of USER and LCRA. USER agrees to pay for the Radio Services and features indicated on the Radio System Pricing Schedule and Participant Information Sheet (Attachment A), on a non-profit, cost-shared basis in accordance with Section 90.179 of the rules of the FCC, 47 C.F.R § 90.179. USER shall be billed in accordance with Section 3 of this Agreement.

2.2 All Radio Service fees to be paid to LCRA by User are intended to recover a portion of the operation and maintenance expenses and capital expenditures associated with the Trunked Radio System.

2.3 ADDITIONAL SERVICES. In addition to the Radio Services described above, LCRA is able to procure equipment and provide installation, maintenance, and related services under this Agreement ("**Additional Services**") (Additional Services together with Radio Services, are referred to herein as the "**Service**" or "**Services**"). These Additional Services shall be performed either by LCRA's personnel or through independent contractors hired by LCRA. The cost of equipment User has agreed to purchase shall be set forth in the respective quote, proposal or estimate sent by LCRA to USER

3. SERVICE RATES, CHARGES AND TERMS

3.1 Radio Service

3.1.1 LCRA shall provide the Radio Services selected by USER on the Radio System Pricing Schedule and Participant Information Sheet (Attachment A) at the rates and charges shown therein. The Radio System Pricing Schedule and Participant Information Sheet (Attachment A) shall include: (i) USER's monthly Radio Service fee for use of the Trunked Radio System, and (ii) rates and charges for optional features. USER shall notify LCRA in writing within thirty (30) calendar days of any changes in the number of radios or equipment on which it is receiving Radio Service; such notice shall only be considered valid if provided to LCRA on the form attached hereto as Attachment B.

3.1.2 It is agreed that LCRA may at any time modify the fees and rates included in the Radio System Pricing Schedule and Participant Information Sheet (Attachment A) by giving USER written notice of the modified amount at least sixty (60) days in advance of the date on which the modified fees are to become effective. However, during the Initial Term (as defined below), fees and costs for Radio Service in effect on the Effective Date of this Agreement shall not be increased except by mutual agreement of the Parties.

3.2 Additional Services

3.2.1 The charges, costs and fees for Additional Services shall be set out on separate quotes, proposals or estimates to be sent by LCRA to USER.

3.3 Invoicing. The monthly Radio Service fee associated with USER's access to the Trunked Radio System shall be invoiced at the end of each monthly billing cycle (the "**Monthly Radio Service Invoice**"). LCRA may also include on a Monthly Radio Service Invoice any fees, charges or costs for Additional Services provided by LCRA to USER. However, Additional Services may be invoiced separately from the Monthly Radio Service Invoice. Payment for any invoice sent by LCRA to USER under this Agreement (whether that is a Monthly Radio Service Invoice, a separate invoice for Additional Services, an invoice containing both, or other) shall be due within thirty (30) days of receipt of such invoice by USER. Late payments shall be subject to interest or reasonable service charges. The User acknowledges that any payments made under this Agreement are made from current revenues available to it as required by the Interlocal Cooperation Act. Any disputes related to invoiced amounts must be submitted by the USER to LCRA in writing within 30 days of receipt of the disputed invoice. Failure of LCRA to send or for USER to receive an invoice shall not relieve USER from payment of any fees due.

4. MAINTENANCE OF USER EQUIPMENT

4.1 FCC regulations and proper operation and maintenance of the Trunked Radio System require periodic equipment testing for certain components of the Trunked Radio System. USER agrees to allow LCRA access to USER's equipment for frequency and channel maintenance checks of Trunked Radio System units at any reasonable time and place as requested by LCRA. USER shall pay LCRA for such maintenance in accordance with such reasonable charges and costs to be determined at such time and to be set forth in a separate quote, proposal or estimate. At USER's option, USER shall have the right to engage other maintenance suppliers, subject to LCRA's approval, to maintain USER's equipment in accordance with the regulations of the FCC and the proper operation and maintenance of the Trunked Radio System. USER acknowledges that LCRA will supervise the technical aspects of USER's activities or other maintenance suppliers in accordance with Section 1.3.

5. EXPANSION OF TRUNKED RADIO SYSTEM

5.1 LCRA may, at its sole and exclusive discretion, provide Radio Services to other participants on the Trunked Radio System. The provision of Radio Services to other

participants and expansion of the system will not diminish the capability of USER to use the Trunked Radio System as contemplated in this Agreement. USER acknowledges and agrees that LCRA has or will expand the area covered by its Trunked Radio System. The execution of agreements with other participants may, at the sole option of LCRA, expand the area covered by the Trunked Radio System and may also result in the availability of additional Radio Services to some or all participants. USER acknowledges that LCRA has previously entered into other Interlocal Cooperation Agreements for Mobile Radio Services and Equipment or similar agreements to provide Radio Services to certain governmental entities and other utilities and intends to expand the number of users by entering into new agreements in the future.

6. TERM - AUTOMATIC RENEWAL

6.1 The initial term of this Agreement shall commence on the Effective Date and shall terminate four (4) years after the Effective Date (the "**Initial Term**"), unless automatically extended as provided below. This Agreement shall automatically extend beyond the Initial Term under the terms and conditions, rates, and charges then in effect for successive one (1) year periods provided that either Party may terminate this Agreement: (i) at the end of the Initial Term of this Agreement by giving to the other party written notice at least ninety (90) days prior to the end of the Initial Term or (ii) by giving to the other party written notice at least ninety (90) days prior to the end of any one (1) year extension; and, provided further, that this Agreement shall terminate automatically if the frequency authorization(s) (which may be held by LCRA) under which USER then presently operates is (are) terminated or are revoked by the FCC or otherwise.

6.2 The rates, charges, and fees due and payable by USER for any annual extension shall be the same as made during the preceding term unless LCRA notifies USER of any changes pursuant to the provisions of Section 3.1.2 for Radio Service.

6.3 Funding. If USER funds are utilized to fund any part of this Agreement, LCRA understands that those USER funds for the payment for Services provided by LCRA under this Agreement have been provided through USER's budget approved by its City Council (or other governing body) for the current fiscal year only. State statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. USER cannot guarantee the availability of funds, and enters into this Agreement only to the extent such funds are made available. LCRA acknowledges and agrees that it will have no recourse against USER for its failure to appropriate funds for the purposes of this Agreement in any fiscal year other than the year in which this Agreement was executed.

7. SERVICE INTERRUPTIONS; INTERFERENCE

7.1 LCRA shall have the right, in cooperation with USER's needs, to plan and schedule system outages for purposes of system maintenance, equipment calibration, and similar necessities. Except for such planned outages, LCRA shall credit USER with

one day of Radio Service for any Radio Service outage that exceeds four (4) hours in duration, provided that USER promptly notifies LCRA of the outage. If a Radio Service outage exceeds twenty-four (24) hours, LCRA shall credit USER a full day for each partial day of outage. Credit for outages, which shall be subject to LCRA's verification, shall appear in the monthly invoice.

7.2 In the event of an emergency, as declared by LCRA or LCRA's Trunked Radio System administrator, LCRA reserves the right to reallocate Radio Service priorities for the duration of the emergency.

7.3 USER agrees to refrain from any action, mode of operation, or equipment configuration that interferes with or causes signal degradation with the Trunked Radio System, and to notify LCRA of any conditions likely to cause interference.

8. ASSIGNMENT; SUBCONTRACT; NO THIRD-PARTY BENEFICIARIES

8.1 This Agreement is a privilege for the personal benefit of USER and may not be assigned in whole or in part by USER to any other person or entity without the prior written consent of LCRA, and provided that no such assignment of this Agreement shall be effective unless assignee shall assume in writing the obligations of the assignor under this Agreement or enters into a new written agreement with LCRA. LCRA reserves the right to assign this Agreement or subcontract any of its obligations hereunder. This Agreement is entered into for the sole benefit of the Parties. Nothing in this Agreement shall be construed as conferring any rights, benefits, remedies, or claim upon any person or entity not a Party to this Agreement. Any assignment entered into in violation of the provisions of this Section shall be void.

9. COVERAGE

9.1 USER acknowledges that one hundred percent (100%) radio signal coverage at all times for the areas covered by the Radio Services being provided under this Agreement is both improbable and impracticable. Testing and experience with actual field conditions indicate adverse radio wave propagation conditions, such as short-term unpredictable meteorological effects and sky wave interference from distant stations, can interrupt Radio Services at any time. USER agrees that such events are beyond the reasonable control of LCRA, and agrees that other causes beyond the reasonable control of LCRA include, but are not limited to, motor ignition and other electrical noise that could be minimized by corrective devices at USER's expense. Satisfactory communication performance is generally viewed as intelligible reception over rolling terrain approximately ninety percent (90%) of the time, though LCRA is under no obligation hereunder to provide such communication performance.

9.2 USER further acknowledges and agrees that LCRA is not providing a warranty of radio signal coverage and that the inability of LCRA to provide such radio signal coverage will be subject to the limitation of liability set forth in Sections 12, 13, and 14.

10. DEFAULT AND REMEDIES

10.1 If USER fails to timely make any payment of any sum due or fails to perform as required by any other provision hereunder, and continues in such failure for fifteen (15) days after written notice has been sent by LCRA to USER of such breach, USER shall be deemed in default under this Agreement. If a Party should be in default and if the other Party has performed all of its material obligations hereunder, the non-defaulting Party shall deliver written notice to the defaulting Party describing such default. If the default continues for more than one month after delivery of the notice (or such time as necessary to correct the default with due diligence), the non-defaulting Party may immediately terminate this Agreement and pursue its remedies as provided below or as otherwise provided at law or in equity.

10.2 Notwithstanding the above, LCRA shall have the right to immediately terminate USER's Service at any time for USER's failure to use the Trunked Radio System in accordance with rules and regulations of the FCC or USER's failure to use the Trunked Radio System in accordance with applicable laws and regulations. In the event of termination as herein provided, all accrued and unpaid charges shall be due and payable immediately.

10.3 In the event LCRA has the right to immediately terminate either Service in its entirety or, as to USER, this Agreement, LCRA may retain all payments made hereunder, disconnect and deny USER any Service provided by the Trunked Radio System or equipment identified herein, and impose a separate charge for disconnect and a separate charge for any reconnect expenses. If disconnect takes place and the equipment requires reprogramming, USER will also be subjected to additional costs for reprogramming its equipment. Each and all of the rights and remedies of LCRA hereunder are cumulative to and not in lieu of each and every other such right and remedy and every other right and remedy afforded by law and equity.

11. WARRANTIES

11.1 LCRA warrants that its management and operation of the Trunked Radio System will comply with reasonable and standard industry practices. LCRA further warrants that it will operate the Trunked Radio System in compliance with all applicable statutes, laws, ordinances, rules and regulations, including, but not limited to, those of the FCC (such as frequency and eligibility requirements).

11.2 USER agrees (a) to observe and abide by all applicable statutes, laws, ordinances, rules and regulations, including but not limited to those of the FCC (such as waiver and eligibility requirements), and (b) to operate the equipment so as not to cause undue interference with any other participants using the Trunked Radio System. LCRA will provide USER with copies of the relevant FCC rules and compliance information upon request. USER recognizes that applicable FCC rules and other statutes, laws, ordinances, rules and regulations may change from time to time and that, accordingly, LCRA in its sole discretion has the right without liability to modify this Agreement to comply with any such changes. USER further warrants to LCRA that it will operate the equipment for the purposes contemplated by this Agreement, and that USER shall not resell Radio Service,

interconnect, nor patch any equipment with another radio user or another radio system without written consent of LCRA.

11.3 No other warranties, express or implied, are given by either Party.

12. DISCLAIMER OF WARRANTIES; LIMITATION OF REMEDIES

12.1 USER acknowledges and agrees that LCRA is not the manufacturer of equipment, and LCRA hereby disclaims all representations and warranties, direct or indirect, express or implied, written or oral, in connection with the equipment or Service (whether purchased or leased by USER from LCRA or another), including but not limited to any and all express and implied warranties of suitability, durability, merchantability, and fitness for a particular purpose. LCRA, to the extent permitted by law, assigns to USER any and all manufacturers' warranties relating to equipment purchased by LCRA, if any, and USER acknowledges receipt of any and all such manufacturers' warranties.

12.2 USER acknowledges and agrees that its sole and exclusive remedy in connection with any defects in any equipment, including manufacture or design, shall be against the manufacturer of the equipment under the manufacturers' warranties and that LCRA shall have no liability to USER in any event for any loss, damage, injury, or expense of any kind or nature related directly or indirectly to any equipment or service provided hereunder. Without limiting the above, LCRA shall have no liability or obligation to USER, in either contract or tort or otherwise, for special, incidental, indirect, punitive or consequential damages of any kind incurred by USER, such as, but not limited to, claims or damages for personal injury, wrongful death, loss of use, loss of anticipated profits, or other incidental or consequential damages or economic losses of any kind incurred by USER directly or indirectly resulting from or related to any equipment or Service described hereunder, whether or not caused by LCRA's negligence, to the full extent same may be disclaimed by law. Any references to equipment in this paragraph shall be deemed to apply to all equipment purchased by USER or leased by USER from LCRA, if any, or another lessor. Notwithstanding the above limitations, LCRA shall be liable for the cost of restoration, repair, or replacement of any USER-owned facilities to the extent such facilities are damaged or destroyed as a direct result of a grossly negligent or willful act of LCRA.

13. INTERRUPTION OF SERVICE; FORCE MAJEURE

13.1 Except for actions required by this Agreement, LCRA shall not be liable to USER or any other person for any loss or damage, regardless of cause. LCRA shall not be responsible or liable for any delay or failure in its performance under this Agreement to the extent such delay or failure is caused by conditions or events of Force Majeure. The term "Force Majeure" means causes or events beyond the reasonable control of, and without the fault or negligence of the party claiming Force Majeure, including (to the extent satisfying the foregoing requirements) (i) acts of God or sudden actions of the elements such as floods, earthquakes, hurricanes, tornadoes, ice storms, or wildfires; (ii) terrorism; war; riots; blockades; insurrection; strike at a regional level; a slow down or labor disruptions at a regional level (even if such difficulties could be resolved by conceding to the demands of a labor group); (iii) any action by a governmental or regulatory entity, including ERCOT or the PUCT; and (iv) pandemic, including the current Coronavirus Disease 2019 outbreak. In the

event of any failure or delay attributable to the fault of LCRA or its subcontractors, USER's sole remedy shall be limited to a credit for Radio Service as is more fully described in Section 7.1.

14. LIMITATIONS OF LIABILITY; INDEMNIFICATION

14.1 USER understands that (a) alternative means of communication are available to USER; (b) occasional interruption or irregularities in the Service may occur; and (c) any potential harm from interruptions or irregularities in the Service is speculative in nature. LCRA cannot offer the Service at rates which reflect its value to each user, and LCRA assumes no responsibility other than that contained in this Agreement. Accordingly, USER agrees that, except as limited by law, LCRA's sole liability for loss or damage arising out of mistakes, omissions interruptions, delays, errors, or defects in the Service or transmission of Service provided by LCRA or any carrier, or for losses or damages arising out of the failure of LCRA or any carrier to maintain proper standards or maintenance and operation shall be a credit for Radio Service as set forth in Section 7.1. Notwithstanding any other provisions of this Agreement, *neither Party shall be liable to the other for any special, incidental, consequential, punitive or indirect damages or for any loss of use, revenue, or profit* suffered by the other Party, its successors or assigns, customers or affiliates in connection with any breach of obligation under this Agreement, nor as a result of premises defect, condition or use of real or personal property, interference, failure or unavailability of any equipment, facility or Service to be provided by LCRA under this Agreement, or under any other circumstance.

14.2 USER acknowledges that the Radio Service provided hereunder uses radio channels to transmit voice and data communications and that the Radio Service may not be completely private. LCRA is not liable to USER for any claims, loss, damages or cost which may result from lack of privacy on the system.

14.3 USER HEREBY AGREES TO INDEMNIFY AND SAVE LCRA HARMLESS AGAINST CLAIMS FOR LIBEL, SLANDER, INFRINGEMENT OR COPYRIGHT FROM THE MATERIAL, IN ANY FORM, TRANSMITTED OVER THE RADIO SYSTEM BY USER OR THOSE USING USER'S EQUIPMENT; AGAINST CLAIMS FOR INFRINGEMENT OF PATENTS ARISING FROM COMBINING OR USING APPARATUS OR SYSTEMS OF USER WITH THE FACILITIES OF LCRA OR ANY CARRIER; AND AGAINST ALL OTHER CLAIMS ARISING OUT OF ANY ACT OR OMISSION OF USER IN CONNECTION WITH THE FACILITIES OR SERVICE PROVIDED BY LCRA.

14.4 LCRA is not liable for any damage, accident, injury or the like occasioned by the use of Radio Service or the presence of equipment, including radio handsets and other devices, facsimile units, and ancillary equipment of either Party except as provided herein. LCRA is not liable for any defacement or damage to USER's motor vehicles or any personal or real property resulting from the installation or presence of radio and ancillary equipment.

14.5 The liability of LCRA in connection with Services provided is subject to the foregoing limitations, and LCRA makes no warranties of any kind, expressed or implied, as to the provision of such Services.

14.6 USER AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS LCRA, ITS OFFICERS AND EMPLOYEES, TO THE FULL EXTENT PERMITTED BY LAW FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITIES AND EXPENSES, INCLUDING LEGAL AND ATTORNEY FEES, OF ANY NATURE ARISING DIRECTLY OR INDIRECTLY OUT OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, CLAIMS FOR PERSONAL INJURY OR WRONGFUL DEATH TO USER (INCLUDING USER'S EMPLOYEES, OFFICERS, AGENTS OR SUBCONTRACTORS) OR OTHERS IN THE USE OR OPERATION OF ANY EQUIPMENT, PRODUCTS OR SERVICES PROVIDED BY LCRA OR USED IN CONJUNCTION WITH SUCH EQUIPMENT, PRODUCTS OR SERVICES PROVIDED BY LCRA AND ARISING OUT OF THE MANUFACTURE, PURCHASE, OPERATION, CONDITIONS, MAINTENANCE, INSTALLATION, RETURN OR USE OF THE EQUIPMENT OR SERVICE OR ARISING BY OPERATION OF LAW, WHETHER THE CLAIM IS BASED IN WHOLE OR IN PART ON NEGLIGENT ACTS OR OMISSIONS OF LCRA, ITS AGENTS OR EMPLOYEES. THIS PROVISION SHALL NOT APPLY TO DAMAGES TO FACILITIES OF USER AS PROVIDED IN PARAGRAPH 12.2.

14.7 Nothing in this Agreement is intended to waive any immunity from suit or liability to which a Party may be entitled by law, except for acts in violation of criminal laws.

15. NOTICES

15.1 Any notice or demand required or permitted to be made hereunder shall be made by certified or registered mail to the addresses given on the Radio System Pricing Schedule and Participant Information Sheet (Attachment A). Either Party may from time to time designate any other address for this purpose by written notice to the other Party. All notices or demands shall be effective upon receipt and shall be deemed to be received when actually delivered by hand delivery, facsimile transmission, overnight courier, or two days after deposit in a regularly maintained receptacle of the United States Mail, registered or certified, return receipt request, postage prepaid.

16. NO COMMON CARRIER OFFERING

16.1 With respect to Services contemplated by this Agreement, neither USER nor LCRA shall make, or hold itself out as making, a common-carrier offering of communication or telecommunication services.

17. TAX CODE CONSEQUENCES.

17.1 The relationship of the Parties shall not be treated as a partnership, joint enterprise, or other taxable entity for any purpose, including liability under the United

States Internal Revenue Code (the "Code"). No provision of the Agreement shall be construed to create an association, joint venture, trust, or partnership with regard to the other Party. The Parties agree to take appropriate actions, including appropriate elections under Section 761 of the Code, to exclude the application of the partnership provisions of the Code.

17.2 Each Party shall be responsible for the payment of its own tax liabilities arising from this Agreement.

18. AMENDMENT; WAIVER; SEVERABILITY; GOVERNING LAW

18.1 Except for revisions of the Radio System Pricing Schedule and Participant Information Sheet (Attachment A), additions of additional participants and users or the expansion provisions set forth in Section 5, amendments to or modification of this Agreement shall be in writing and signed by authorized representatives of the Parties. Lack of enforcement of any right under this Agreement by either Party shall not constitute a waiver of that right or any other in the future. The terms and conditions of this Agreement supersede other agreements, written or oral, between the Parties regarding the subject of this Agreement. Should a court of competent jurisdiction find any part of this Agreement invalid or unlawful, the remainder of this Agreement shall remain in full force and effect, consistent with the original intent of the Parties. This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

19. NO ORAL AGREEMENTS.

19.1 The parties agree that this Agreement contains all representations, understandings, contracts and agreements between the Parties regarding the subject matter of this Agreement and any other writings, understandings, oral representations or contracts for Service, if any, shall be deemed to be terminated, void and ineffective from the Effective Date of this Agreement, except for charges and fees incurred and remaining unpaid under any previous agreement.

20. REVIEWS

20.1 The Parties agree to conduct periodic reviews at the request of either Party to coordinate operations and related administrative or management activities with regard to the Services provided under this Agreement. The Parties may loan equipment to each other in furtherance of this Agreement, but any such equipment shall remain the property of the loaning Party and must be returned after requested within a reasonable period of time to insure non-interruption of official duties and Services.

21. Confidentiality

21.1 The Parties agree that they and their employees have kept and will keep confidential any and all documents or information obtained for from the other Party that is identified as confidential information ("Confidential Information"). Confidential Information

shall include, but is not limited to, the pricing and competitive business provisions of this Agreement, as well as technical data, summaries, reports or information acquired or developed during the negotiations and performance of this Agreement. The Parties agree that they have not and will not (a) use the Confidential Information for any purpose other than to perform their respective obligations under this Agreement or (b) reveal the Confidential Information to any persons not employed by the other receiving Party except (i) at the written direction of such the disclosing Party; (ii) in compliance with law including the Texas Public Information Act, in which event the Party required to disclose information shall promptly notify the other Party, if possible, prior to making any disclosure and shall seek lawful protection for the confidentiality of such information; (iii) as part of its normal reporting or review procedure to its parent company, auditors, regulators and attorneys; (iv) where such information is part of the public domain; (v) where such information was previously disclosed by the other disclosing Party without any confidentiality restrictions; or (vi) to potential investors, insurers or financing entities or their agents, representatives or consultants, provided that such persons agree to be bound by the provisions of this Section 21 or by an agreement containing confidentiality provisions substantially similar to those set forth herein. This confidentiality provision shall be effective for two years after termination of the Agreement; provided, however, that the receiving Party's obligations of confidentiality with respect to trade secrets disclosed by the disclosing Party shall last indefinitely.

Notwithstanding anything to the contrary herein, if a separate non-disclosure agreement or confidentiality agreement ("**NDA**"), between the Parties exists and applies to confidential information related to or arising from this Agreement the provisions of such NDA shall govern with respect to the confidentiality obligations of the Parties.

22. INTERLOCAL CERTIFICATION

22.1 The Parties certify that (1) the Services described herein and to be provided under this Agreement are necessary and essential for activities that are properly within the Parties' statutory functions; (2) the proposed arrangements serve the interests of efficient and economical administration of the Parties' authorized functions, and (3) the Services, supplies, or materials contracted for are not required by Article XVI, Section 21 of the Texas Constitution to be supplied under contract given to the lowest responsible bidder.

Executed to be effective on the Effective Date set out in the first paragraph above.

Agreed by:

Lower Colorado River Authority:

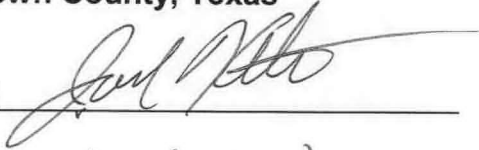
By: _____

Name: Clint Harp

Title: VP Trans Strategic Services

USER

Brown County, Texas

By:  _____

Name: Joel Kelton

Title: Brown County Commissioner Precinct 4
Judge Pro-Tem