

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

AMENDMENT TO IXP CONSULTING SERVICES AGREEMENT

This Amendment to IXP Consulting Services Agreement (“Amendment”) is made and entered into as of _____, 2014 by and between iXP Corporation, a Delaware corporation, having its principal place of business at Princeton Forrestal Village, 103 Main Street, Princeton, NJ 08540 (“Consultant” or “IXP”), and the Town of Addison, Texas (“Client,” “Town of Addison,” or “Addison”) (Consultant and Client are sometimes referred to herein together as the “parties” and individually as a “party”).

Recitals:

1. Addison and the City of Carrollton, the City of Coppell, and the City of Farmers Branch (collectively, the “Cities”) previously agreed upon and approved the consolidation of their respective public safety dispatch and communications operations into a single consolidated public safety communications center (the “Communications Center”).

2. To further the creation and establishment of the Communications Center, the Cities entered into an interlocal agreement entitled *Interlocal Cooperation Agreement Regarding Establishment of the Metrocrest Quad Cities Local Government Corporation* (the “LGC Interlocal Agreement”) that, among other things, provides for the creation of a local government corporation pursuant to the authority of Subchapter D of Chapter 431, Texas Transportation Code.

3. The North Texas Emergency Communication Center, Inc., a Texas non-profit local government corporation (“NTECC”), is the Texas local government corporation contemplated by the LGC Interlocal Agreement, and was organized by the Cities to assist them in the performance of their governmental functions to promote the common good and general welfare of the Cities, including without limitation, financing, constructing, owning, managing and operating the Communications Center on behalf of the Cities.

4. Following the Cities’ approval of the LGC Interlocal Agreement and in order to promptly facilitate its execution, but prior to the NTECC’s organization, Addison, pursuant to an interlocal agreement between the Cities entitled *iXP Interlocal Agreement*, entered into an agreement with IXP entitled *IXP Consulting Services Agreement* (the “IXP Consulting Agreement”), a copy of which is attached to this Assignment as Exhibit 1. The IXP Consulting Agreement engaged IXP to, among other things, provide temporary management and related services to facilitate the establishment and the initial start-up and operation of the local government corporation and the Communications Center.

5. The IXP Consulting Agreement provides in Section 3.C. thereof that, at Addison’s request and as an optional service, IXP will conduct technology system procurements and title transfers as described in Section 3.C. and in item 4.4 of Schedule A to the IXP Consulting Agreement. In accordance with those provisions of the IXP Consulting Agreement and as set forth in this Amendment, Addison desires that IXP provide work and services to

manage and coordinate the procurement of certain technology and other items identified in Exhibit 2 to this Amendment, and IXP desires to provide those services to Addison.

6. The IXP Consulting Agreement contemplates that, following the creation and establishment of the NTECC, Addison's interest in the IXP Consulting Agreement would be assigned by Addison to the NTECC at a time Addison deems appropriate and that Addison would thereafter no longer be a party to the IXP Consulting Agreement. As set forth herein, Addison desires to assign its interest in the IXP Consulting Agreement to the NTECC, and this Amendment in part addresses that assignment.

NOW, THEREFORE, for and in consideration of the above and foregoing Recitals, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

Section 1. Amendment.

A. *Additional Services.* The IXP Consulting Agreement, attached to this Amendment as Exhibit 1, is amended by adding, to the work and services described in Schedule A of the IXP Consulting Agreement, the work and services described in Exhibit 2 attached to this Amendment and incorporated herein by this reference ("Additional Services"). Accordingly, the term "Services" as used in the IXP Consulting Agreement includes (a) the work and services set forth in the IXP Consulting Agreement, including Schedule A thereof, and (b) the Additional Services.

B. *Communications Center Products.* The Additional Services include IXP acquiring certain equipment, products and items described in the attached Exhibit 2 for the Communications Center (the "Center Products"). No acquisition of any Center Products shall be initiated or consummated by IXP unless and until IXP has received from the NTECC Board of Directors its determination and direction to make the acquisition (the "NTECC Notice").

Upon its receipt of the NTECC Notice and following its acquisition of the Center Products described therein, if IXP has acquired the same in its name or in the name of any person or entity other than the NTECC, IXP shall promptly transfer the ownership thereof and rights in the same (including any warranties) to the NTECC in manner, form, and content that is satisfactory to the NTECC. IXP shall provide to the NTECC all information, materials, and documents pertaining to the Center Products.

In connection with the acquisition of the Center Products, IXP shall at all times keep the representative of the NTECC designated by the NTECC (the "NTECC Representative") informed of the process and progress of the same, and the acquisition and the process thereof shall be subject to the direction of the NTECC Representative.

C. *Additional Services Compensation.* As compensation for the Additional Services, and in accordance with Section 3.C. of the IXP Consulting Agreement, IXP will be paid an amount equal to three percent (3%) of the direct cost of Center Products (the "Additional Services Compensation"). Payment to IXP of the Additional Services Compensation shall be in accordance with the following:

- (1) IXP shall submit to Addison an invoice for payment of the Additional Services Compensation. Such invoice shall (i) identify the amount paid for the Center Products that are the subject of the invoice, (ii) set forth the Additional Services Compensation for the Center Products that are the subject of the invoice, (iii) include a copy of all receipts and other documentation in support of the direct cost of Center Products that are the subject of the invoice, and (iv) include such other materials and information as Addison may request to verify the invoice.
- (2) The amount of each such invoice that is not the subject of a dispute will be paid within 30 days after the date of Addison's receipt of each such invoice (and all accompanying materials) as described above.

Until such time as IXP has received written notice from either Addison or from the NTECC, Addison shall manage and administer the Additional Services Payment Process and the process for payment of compensation to IXP as described in Section 3 of the IXP Consulting Agreement.

Section 2. Assignment. Addison anticipates that, following its execution of this Amendment, it will assign, transfer, and convey to the NTECC its interests, duties, and obligations in and to the IXP Consulting Agreement and this Amendment (the IXP Consulting Agreement, as amended by this Amendment, being the "IXP Agreement").

However, notwithstanding such assignment, transfer, and conveyance, Addison further anticipates that the assignment and conveyance will provide that Addison is to retain the management, administration, and processing of payments to IXP under the IXP Agreement ("Payment Processing"). In the event that Addison retains the same, payments to IXP under the IXP Agreement will be managed, administered, and processed by Addison in accordance with the IXP Agreement until such time as either Addison or the NTECC has given written notice to IXP that that the same has been assigned and transferred by Addison to the NTECC.

Upon any such assignment, transfer, and conveyance of the IXP Agreement, in whole or in part, Addison is and shall be fully released from, and shall have no further liability, responsibility, or obligations for or under, the IXP Agreement. However, if the IXP Agreement is assigned, transferred, and conveyed to NTECC, but the instrument making the assignment, transfer, and conveyance provides that Addison will retain the Payment Processing function of the IXP Agreement, Addison will retain responsibility for the same until such time as Addison or NTECC shall give notice to IXP that the Payment Processing function has been assigned, transferred, and conveyed to NTECC.

Notwithstanding any assignment, transfer, or conveyance of the IXP Agreement by Addison to NTECC (or any other person or entity), the provisions of Section 4 (Records; Documents; Confidentiality) and Section 5 (Insurance; Consultant's Indemnification Obligation) of the IXP Consulting Agreement, and all other provisions of the IXP Consulting Agreement and of this Amendment that are in favor of and benefit (but do not burden) Addison and the other Cities shall continue to apply to Addison and the other Cities (e.g., IXP shall continue to have its required insurance endorsed to name Addison and all other Cities as additional insureds; and Addison and the other Cities (and their respective elected and appointed officials, and their officers, employees, agents and representatives shall all be considered Indemnified Persons as described in the IXP Consulting Agreement).

Following any assignment, transfer, and conveyance by Addison to the NTECC, each of Addison and the Cities of Carrollton, Coppell, and Farmers Branch are and shall be and remain third party beneficiaries of the IXP Agreement and of the obligations, duties and responsibilities of IXP thereunder, and shall be entitled to the same rights and benefits of the IXP Agreement as if each of the Cities was a party to the IXP Agreement.

Section 3. Binding Agreement; No Third Party Beneficiaries. This Amendment shall be binding on and inure to the benefit of the parties, their respective permitted successors and permitted assigns. Except as provided herein, this Agreement and all of its provisions are solely for the benefit of the parties hereto and do not and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

Section 4. Recitals. The above and foregoing Recitals to this Amendment are true and correct and are incorporated into this Amendment and made a part hereof.

Section 5. Certain Words. Capitalized and other words and phrases used in this Amendment but not defined herein have the meaning given to them in the IXP Consulting Agreement.

Section 6. No Other Amendments. Except as set forth in this Amendment, all other terms, conditions, and provisions of the IXP Consulting Agreement remain unchanged and in full force and effect. To the extent of any conflict between this Amendment and the IXP Consulting Agreement, the terms and provisions of this Amendment shall control. Section and subsection headings in this Second Amendment are for convenience only and shall not be used in interpretation of this Second Amendment.

Section 7. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Second Amendment on behalf of the parties hereto.

IN WITNESS WHEREOF, the undersigned parties execute this Amendment effective as of the date first set forth above.

TOWN OF ADDISON, TEXAS

iXP CORPORATION

By: _____
Lea Dunn, City Manager

By: _____

Date: _____

Date: _____

EXHIBIT 1

[attach copy of the IXP Consulting Agreement]

EXHIBIT 2

[description of the Additional Services]