

iXP INTERLOCAL AGREEMENT

This iXP Interlocal Agreement (“Agreement”) is made by and between the City of Carrollton, Texas (“Carrollton”), the City of Farmers Branch, Texas (“Farmers Branch”), the City of Coppell, Texas (“Coppell”), and the Town of Addison, Texas (“Addison”) (Carrollton, Farmers Branch, Coppell, and Addison are hereinafter sometimes referred to together as the “Cities” and individually as a “City”).

Recitals:

1. The Cities, which are neighboring home rule municipalities, provide public health and safety services to their respective citizens and inhabitants, including police protection, fire protection, and emergency medical services.

2. An emergency services dispatch system (the “System”) is integral to and a necessary part of providing those public health and safety services, and without such a System the public health and welfare could not be adequately provided for and protected.

3. The Cities, by and through a prior interlocal agreement, conducted a review and evaluation, including the possible integration, of their respective Systems into a unified System to be used cooperatively by the Cities. That review and evaluation was conducted on behalf of the Cities by iXP Corporation, a Delaware corporation (“iXP”). iXP’s review and evaluation (the “Dispatch Study”) indicated that the unification of the Systems of the Cities into a consolidated public safety communications center (“Communications Center”) would result in significant efficiencies and savings in both human and financial resources and allow for a higher level of coordination of public safety services within the Cities that will enhance the safety of residents and other inhabitants of each of the Cities.

4. Following the Cities’ receipt and evaluation of the Dispatch Study, 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, to be known as *Metrocrest Quad Cities Local Government Corporation* (the “Corporation”), which will be organized for the purpose of assisting and acting on behalf of the Cities in the performance of their governmental functions and services, including, but not limited to, the construction, development, management, and operation of the Communications Center and other joint projects as authorized in the Certificate of Formation and the Bylaws of the Corporation, as may be amended from time to time. The LGC Interlocal Agreement further provides for the development of agreements regarding the operation of the Corporation.

5. The Cities are, as of the Effective Date, in the process of carrying out the terms of the LGC Interlocal Agreement, including the creation of the Corporation, the development of its organizational, operational, staffing, and support elements, and the provision of the Communications Center, so that the Corporation will become an emergency communications organization that supports the Cities and their public safety functions.

6. In order to help implement the LGC Interlocal Agreement, the Cities desire to engage the services of iXP to provide temporary management and related services to facilitate the establishment and the initial start-up and operation of the Corporation and the

Communications Center, and to provide assistance with management, operations, and technology of the Communication Center during the first year of its operation. However, since the Corporation has not yet been created and established and in order to allow iXP to begin promptly to provide such services, the Cities desire that Addison enter into an agreement with iXP regarding those services (and a proposed agreement between Addison and iXP entitled “iXP Consulting Services Agreement” is attached hereto as Exhibit A and incorporated herein (the “iXP Agreement”).

7. Addison has or intends to approve the iXP Agreement, subject to and contingent upon, however, the approval and execution of this Agreement by each of the other Cities. Addison’s entering into the iXP Agreement, and the execution of this Agreement by the Cities, is with the understanding that, once the Corporation has been created and established, the iXP Agreement will be assigned to the Corporation and Addison will no longer be a party to it.

8. The provision of police, fire and emergency medical services, and the corresponding provision and operation of an emergency dispatch system that is essential to providing those services, are governmental functions and services as set forth in Chapter 791, Tex. Gov. Code (the “Interlocal Cooperation Act” or the “Act”). The Cities are authorized by the Interlocal Cooperation Act to enter into this Agreement and to provide a governmental function or service that each party to and interlocal agreement is authorized to perform individually.

9. The Cities agree that, to the extent any payments are required hereunder, such payments shall be from current revenues or other lawful funds available to the paying party.

NOW, THEREFORE, for and in consideration of the mutual benefits and obligations set forth in this Agreement, the City of Carrollton, Texas, the City of Farmers Branch, Texas, the City of Coppell, Texas, and the Town of Addison, Texas do hereby agree as follows:

Section 1. *Incorporation of Recitals.* The above and foregoing Recitals are true and correct and are incorporated into this Agreement and made a part hereof for all purposes.

Section 2. *Effective Date, End Date.* The Agreement shall become effective on the date it bears the signatures of authorized representatives of all of the Cities (the “Effective Date”) and shall continue until such time as Addison has assigned the iXP Agreement to the Corporation, at which time this Agreement shall end and be terminated without further act by any of the Cities.

Section 3. *Payment of iXP Agreement.* The Cities agree that they shall each pay one fourth of the total cost of the iXP Agreement as set forth therein. Addison will make the initial payments to iXP in accordance with the iXP Agreement, and each of Carrollton, Farmers Branch, and Coppell shall reimburse Addison their proportionate (one-fourth) share of each payment made by Addison. Such reimbursement shall be made by Carrollton, Farmers Branch, and Coppell not later than fifteen (15) days following their receipt of an invoice from Addison identifying the amount(s) paid by Addison and a copy of the iXP invoice and any supporting documentation received in support thereof from iXP.

The payments made by Carrollton and Farmers Branch to Addison pursuant to this Agreement shall be made from current revenues available to each of Carrollton, Farmers Branch and Coppell.

Section 4. *Notices.* For purposes of this Agreement, notices and other communications shall be in writing, addressed as provided hereinafter to the party to whom the notice or request is given, and shall be either (i) delivered personally, (ii) sent by United States certified mail, postage prepaid, return receipt requested, or (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight. Notice shall be deemed given upon receipt. Addresses for notices and other communications are as follows:

To Carrollton:

1945 E. Jackson Road
Carrollton, Texas 75006
Attn: City Manager

To Farmers Branch:

13000 William Dodson Parkway
Farmers Branch, TX 75234
Attn: City Manager

To Coppell:

255 Parkway Boulevard
Coppell, Texas 75019-9478
Attn: City Manager

To Addison:

5300 Belt Line Rd.
Dallas, Texas 75254
Attn: City Manager

From time to time each City may designate another address within its boundaries for purposes of this Agreement by giving the other party not less than ten (10) days advance notice of such change of address in accordance with the provisions hereof.

Section 5. *No Assignment.* A City shall not, and shall have no authority to, assign or otherwise transfer this Agreement or an portion hereof without the prior written consent of the other Cities. No assignment or other transfer by any City will be effective without the written consent of the other Cities.

Section 6. *Agreement Not Effective.* Unless this Agreement is approved and executed by an authorized representative of each of the Cities on or before March 1, 2014, this Agreement shall be null and void and of no force or effect.

Section 7. *Entire Agreement.* This Agreement represents the entire and integrated agreement between Carrollton, Farmers Branch, Coppell, and Addison, and supersedes all prior negotiations, representations and/or agreements, either written or oral with regard to the subject matter hereof. This Agreement may be amended and modified only by written instrument signed by authorized representatives of each of the Cities.

Section 8. *Governmental Immunity.* This Agreement is subject to the respective governmental immunity of each of the Cities. By its respective execution and performance hereof, no City waives its governmental or any other immunity, any defenses, or any tort limitations.

To the extent allowed by law, and without waiving any governmental immunity available to the Cities under Texas law, or any other defenses the Cities are able to assert under Texas law, each City agrees to be responsible for its own negligent or otherwise tortious acts or omissions in the course of performance of this Agreement.

Section 9. *Severability.* The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason

held by a court of competent jurisdiction to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement.

Section 10. *Governing Law, Venue.* This Agreement and the rights and duties of the Cities shall be governed by the laws of the State of Texas, without regard to the choice of laws provisions of any jurisdiction. This Agreement shall be enforceable in Dallas County, Texas, and, if legal action is necessary, exclusive venue shall lie in Dallas County, Texas.

Section 11. *Mutual Drafting.* This is a negotiated document. Should any part of this Agreement be in dispute, the Cities agree that the terms and provisions of this Agreement shall not be construed more favorably for or strictly against any City.

Section 12. *No Waiver; Pursuit of Remedies.* It is not a waiver of or consent to a breach, failure to perform, or default of this Agreement if the non-defaulting party fails to declare promptly a default or delays in taking any action. Pursuit of any rights or remedies set forth in this Agreement does not preclude pursuit of any other rights or remedies in this Agreement or available or provided by law, in equity, or otherwise.

Section 13. *No Third Party Beneficiaries.* This Agreement and all of its provisions are solely for the benefit of the Cities and, except as set forth herein, do not and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

Section 14. *Counterparts.* This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

Section 15. *Authorized Signatories.* The undersigned persons are the properly authorized representatives of each of the respective Cities and have the necessary authority to execute this Agreement on behalf of the Cities.

EXECUTED by each of the Cities as of the dates set forth below.

CITY OF CARROLLTON, TEXAS

CITY OF FARMERS BRANCH, TEXAS

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

CITY OF COPPELL, TEXAS

TOWN OF ADDISON, TEXAS

By: _____

By: _____

Ron Whitehead, City Manager

Title: _____

Date: _____

Date: _____

**Exhibit A
to iXP Interlocal Agreement**

[attach copy of iXP Agreement]