

NORTH CAROLINA

IREDELL COUNTY

INTERLOCAL AGREEMENT BETWEEN THE TOWN OF MOORESVILLE, THE CITY OF CHARLOTTE, THE COUNTY OF MECKLENBURG, AND THE COUNTY OF IREDELL REGARDING CORE FIBER CABLE FOR RADIO COMMUNICATIONS

This Interlocal Agreement is entered into the date and year of its last execution by and between the Town of Mooresville (hereinafter "Mooresville"), the City of Charlotte (hereinafter "Charlotte"), the County of Mecklenburg (hereinafter "Mecklenburg County"), and the County of Iredell (hereinafter "Iredell County"), each individually a "Party" or collectively referred to herein as the "Parties," all of which are municipal corporations or a body politic organized under the laws of the State of North Carolina.

WITNESSETH

WHEREAS, Charlotte and Mecklenburg County currently share an 800 MHz trunked radio system consisting of eight primary Simulcast tower sites and related operations;

WHEREAS, Charlotte has been designated the lead agency for regional communications interoperability of public safety agencies within the Urban Area Security Initiative (UASI) eleven county region;

WHEREAS, Charlotte has completed establishing the infrastructure necessary for regional voice communications interoperability with the support of several grants;

WHEREAS, the Radio System supports public safety needs and provides service to various Charlotte and Mecklenburg County departments and other local government entities in the region;

WHEREAS, Mooresville and Charlotte/Mecklenburg County have previously expanded the Radio System into Mooresville through connection with the Mooresville Radio Subsystem, and consolidated operation and management of the Radio System under the City of Charlotte, pursuant to an interlocal agreement;

WHEREAS, Mooresville and Iredell County desire to contract for the provision of a fiber network to improve the radio console connectivity at Mooresville's Emergency Communications facility that will improve communications within Iredell County and with the Radio System; and

WHEREAS, North Carolina General Statutes §§153A-445(a)(1) and 160A-460 authorize Charlotte/Mecklenburg County, Iredell County and Mooresville to enter into an interlocal agreement regarding the provision of the fiber optic network;

NOW THEREFORE, for and in consideration of mutual promises to each as herein after set forth, the parties hereto do mutually agree as follows:

Article 1. Authority

- a. North Carolina General Statute § 160A-461 and § 153A-445 permit one or more units of local government to enter into contracts or agreements with each other in order to execute any undertaking.

- b. Mooresville and Charlotte are each municipal corporations organized under the laws of the State of North Carolina, having the powers, duties, privileges, and immunities conferred by law on towns in North Carolina. The County of Iredell and the County of Mecklenburg are each a body politic organized under the laws of the State of North Carolina, having the powers, duties, privileges, and immunities conferred by law on counties in North Carolina.

Article 2. Purpose

- a. The purpose of this Agreement is to establish an interlocal agreement for the purposes of establishing a fiber network to improve the radio console connectivity at the Iredell County Emergency Communications facility (“ECOM”). The Town of Mooresville Fire Department (“MFD”) is dispatched by ECOM. The radio system is part of the UASI network and the CORE that controls the consoles and radio system is located in Matthews, North Carolina and is operated by the City of Charlotte.
- b. Iredell County currently provides and covers the cost of a microwave link for radio communications between its call center and the MFD radio site. The Parties hereto all acknowledge that the current microwave line has proven to be inadequate for the purposes it is used. Therefore, the Parties desire for Mooresville to obtain and cover the costs of a new fiber line running from Iredell County’s call center located in Statesville, North Carolina to the Charlotte call center in Matthews, North Carolina.

Article 3. Objectives

- a. In order to improve ECOM services for MFD, and indirectly improve communications with the other parties’ emergency services, as well as to relieve Iredell County of the burden associated with the cost of maintaining the microwave line for MFD’s console uses, the Parties agree it is necessary to contract with a provider to install and operate core fiber cabling and services related thereto. The Parties hereto agree that the provider of said services shall be CenturyLink Communications, LLC dba Lumen Technologies Group (“Lumen”).
- b. The Parties hereto agree that the Town of Mooresville shall enter an agreement with Lumen for the installation and maintenance of fiber cabling, associated maintenance and service that shall ultimately benefit each of the parties hereto indirectly. Furthermore, the Parties hereto acknowledge and agree that although Mooresville will be listed as the contracting party on any agreement with Lumen and shall pay any initial installation and customary maintenance and/or service fees associated therewith, including any additional services such as E-Line Service or Local Access Service, for a thirty-six month period, that Iredell County, Mecklenburg County, and Charlotte will also reasonably cooperate with

Mooresville and Lumen as needed or requested to keep the fiber cabling in good working order and to maintain compliance with the terms of the agreement between Lumen and Mooresville insofar as the installation, troubleshooting, maintenance or de-installation of the cabling or other service provided requires their assistance or accommodation. By way of example and not limitation, Charlotte, Mecklenburg County, and/or Iredell County shall provide access to their respective properties, to the interior of their respective call centers and the use of walls, floors or ceilings (whether for access or as mounting areas) as is reasonably necessary to accomplish the objectives of this Agreement and the agreements between Mooresville and Lumen dated _____.

Article 4. Manner of Appointing Personnel

- a. Each Party hereto will appoint a staff member as point of contact to represent their town, city or county, as to any requirements or other matters relating to this Agreement or the aforementioned agreement with Lumen. Notwithstanding the foregoing, any formal or legal actions beyond granting access and reasonable accommodation or assistance as needed, such as any amendment to the agreement, any action upon default or any termination of this Agreement by the parties shall be taken by the governing board of each Party.

- b. The appointed staff member to represent each Party is listed below. Should any Party wish to change its appointee or if any appointee is no longer willing or able to serve, then that Party shall make another appointment and notify the other Parties hereto regarding the same in a writing signed by an authorized signatory.

Mooresville's Appointee: Curt Deaton, Fire Chief

Iredell County's Appointee: Candy Miller, Emergency Communications Director

Charlotte's Appointee: Rafael Quintero, Wireless Communications Manager

Mecklenburg County's Appointee: George Dunlap, Chairman of the County Board of Commissioners

Article 5. Term

- a. This Agreement shall begin upon the date the last Party executes this Agreement and end twelve months from that date, to be automatically renewed for two consecutive twelve month terms unless such time shall be extended by written agreement signed by all Parties hereto or written notice of nonrenewal is given to all parties no less than sixty days prior to the end of the term.

Article 6. Amendment and Termination

- a. This Agreement may only be amended by a written agreement signed by all Parties.
- b. This Agreement may be terminated by Mooresville at any time and for any reason upon thirty (30) days written notification to all Parties or by Charlotte, Mecklenburg County or Iredell County for any reason upon sixty (60) days written notice to all remaining Parties.

Article 7. Funding

- a. Funding for the Lumen contract and the costs for services related thereto shall be provided solely by Mooresville.
- b. Iredell County, Mecklenburg County, and Charlotte shall contribute use of their property and facilities in such manner as is reasonably necessary to enable the fiber cabling to be installed and maintained during the term of this Agreement. Iredell County, Mecklenburg County, and Charlotte shall also be responsible for the funding of any non-recurring fees or costs charged under the Lumen Contract to Mooresville if said charge or fee is caused by the actions or inaction of such Party.
- c. No revenues are expected to be received with regard to this Agreement.

Article 8. Ownership and Disposition

Any equipment placed on Charlotte, Iredell County, or Mecklenburg County property by Lumen or Mooresville shall remain the property of Lumen or Mooresville, as the case may be. Any ownership in equipment purchased in association with the Lumen contract shall be the sole property of Mooresville, regardless of whether the same is located on one of the other Party's property. Upon termination of the Agreement, the Parties agree to allow the owner of property access to remove the same, and further agree to cooperate and assist in any reasonable manner requested to return the same to owner.

Article 9. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. Any legal action, suit or proceeding arising out of or related to this Agreement shall be instituted in the state courts of Iredell County, North Carolina. The Parties hereto irrevocably submit to the exclusive jurisdiction of such court in any legal suit, action or proceeding and waives any defenses it may have based on jurisdiction or venue.

Article 10. Enforceability

In the event any court of competent jurisdiction shall hold any provision of this

agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

Article 11. Notices

All notices and communications shall be in writing and deemed to be given when sent by U.S. Mail, postage prepaid, or delivered personally to each of the parties as follows:

Town of Mooresville:

Town of Mooresville
Attention: Town Manger
413 N. Main Street
Mooresville, NC 28115

With a copy to: Mrs. Sharon T. Crawford
Town Attorney
413 N. Main Street
Mooresville, NC 28115

County of Iredell: Candy Miller
Emergency Communications Director
PO Box 788
Statesville, NC 28677

City of Charlotte: Reenie Askew
Assistant City Manager
600 E. 4th Street, 9th Floor
Charlotte, NC 28202

County of Mecklenburg: George Dunlap
Chairman of the County Board of Commissioners
600 E. 4th Street
Charlotte, NC 28202

Article 12. Survival.

Those Sections of this Agreement which by their nature would reasonably be expected to continue after the termination of this Agreement shall survive the termination of this Agreement.

Article 13. Familiarity and Compliance with Laws and Ordinances.

In performing their obligations pursuant to this Agreement, the parties shall comply with all laws, rules, regulations, ordinances, codes, standards, and orders of any and all

governmental bodies, agencies, authorities, and courts having jurisdiction.

Article 14. Construction of Terms.

Each of the Parties has agreed to the use of the particular language of the provisions of this Agreement and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the Parties.

Article 15. Indemnification.

To the extent permitted by applicable law, each Party (as the "Indemnifying Party") agrees to protect, defend, indemnify and hold the other Parties, their officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due to the negligence or intentional misconduct of the Indemnifying Party, its officers, employees, subcontractors or agents. To the extent permitted by applicable law, the Indemnifying Party further agrees to investigate, handle, respond to, provide defense for, and defend the same at its sole expense and agrees to bear all other costs and expenses related thereto.

Article 16. Limitation of Liability and Exclusion of Remedies.

To the fullest extent permitted by law, and except as expressly provided in this Agreement, no Party shall be liable to the other Parties to this Agreement or to any third party for any consequential, indirect, special damages, lost profits or attorneys' fees in connection with any matters relating to this Agreement, and all Parties hereto waive any right they may have under this Agreement, at law or in equity to recover such damages, profits or fees from such other Party.

Article 17. No Third Party Beneficiaries.

This Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than Charlotte, Mecklenburg County, Iredell County, and Mooresville.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, by authority duly given, on the day and year first above written.

Adopted by each Party on the date and year as indicated below, to be effective on the date of its last adoption.

TOWN OF MOORESVILLE

By: _____

Miles Atkins, Mayor

Date: _____

Attest: _____

Genevieve Glaser, Town Clerk

Date: _____

[Town Seal]

This instrument has been pre-audited in the manner required by the “Local Government Budget and Fiscal Control Act.”

Evans Ballard, Acting Chief Financial Officer

Date: _____

COUNTY OF IREDELL

By: _____
Beth Mull, Town Manager

Date: _____

ATTEST: _____

Amy Anderson, Clerk to the Board

Date: _____

[County Seal]

CITY OF CHARLOTTE

By: _____
Reenie Askew, Assistant City Manager

Date: _____

ATTEST: _____

[City Seal]

No pre-audit is required by the Local Government Budget and Fiscal Control Act because the Agreement does not obligate the County of Iredell to expend funds in the current fiscal year.

No pre-audit is required by the Local Government Budget and Fiscal Control Act because the Agreement does not obligate the City of Charlotte to expend funds in the current fiscal year.

(Signature of finance officer)

Date: _____
Debra Cheek

(Name of finance officer)

(Signature of finance officer)

Date: _____
Brad Dunkle

(Name of finance officer)

County of Mecklenburg

By: _____

George Dunlap, Chairman of the County Board of Commissioners

Date: _____

Attest: _____

Kristine Smith, Clerk to the Board

Date: _____

No pre-audit is required by the Local Government Budget and Fiscal Control Act because the Agreement does not obligate Mecklenburg County to expend funds in the current fiscal year.

(Signature of finance officer)

Date: _____

David Boyd