

## OFFICE OF THE COMMISSIONERS AND MANAGER

500 N. Main St., Room 921 • Monroe, NC 28112 • Phone (704) 283-3810 • Fax (704) 282-0121

March 26, 2015

Dr. Mike Webb  
Deputy Superintendent  
Instructional Technology & Operations  
Union County Public Schools  
400 N. Church Street  
Monroe, NC 28112

Dear Dr. Webb:

Enclosed for your file is a fully executed original of the Interlocal Agreement by and between Union County and the Union County Board of Education regarding radio communications for the school transportation system.

Should you have any questions, please let us know.

Sincerely,

Lynn G. West, NCCCC, MMC  
Clerk  
Union County Board of Commissioners

Enclosure

NORTH CAROLINA

UNION COUNTY

**INTERLOCAL AGREEMENT**

**THIS AGREEMENT** is made and entered into this 23 day of June, 2015, by and between UNION COUNTY, a political subdivision of the State of North Carolina located at 500 North Main Street, Monroe, North Carolina 28112 (hereinafter "County"), and the UNION COUNTY BOARD OF EDUCATION, administering the Union County Public Schools, located at 400 North Church Street, Monroe, North Carolina 28112 (hereinafter "UCPS").

**WITNESSETH:**

**WHEREAS**, one of the primary public safety priorities in Union County is the safety of the transportation of school children; and,

**WHEREAS**, an important aspect of school transportation safety is effective and reliable communication between transportation vehicles, UCPS officials, and County's emergency services; and,

**WHEREAS**, UCPS desires to obtain a reliable and resilient school transportation radio communications system for utilization as the primary method of communication for its school transportation operations; and

**WHEREAS**, County currently operates its own primary radio communications system throughout all of Union County; and

**WHEREAS**, County and UCPS believe that utilizing County's existing facilities relating to County's primary radio communications system, as well as County's purchase of radio equipment, would be advantageous in the procurement and utilization of a reliable and resilient school transportation radio communications system for use by UCPS; and

**WHEREAS**, County and UCPS may purchase and exchange property for such a school transportation radio communications systems pursuant to G.S. § 160A-274; and

**WHEREAS**, units of local government are authorized to exercise jointly various powers and functions through interlocal cooperation pursuant to Article 20, Chapter 160A of the North Carolina General Statutes; and,

**WHEREAS**, County and UCPS, pursuant to these statutes, have agreed upon the terms of the service agreement ("Agreement") for the procurement, installation, operation, maintenance, support, and use of a school transportation communications system for use by UCPS.

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

**Section 1. Purpose:**

The purpose of this Agreement is for County and UCPS to cooperate in the procurement, installation, operation, maintenance, support, and use attendant to providing UCPS a reliable and resilient school transportation radio communications system (the "School Radio System"). The School Radio System will increase county-wide interoperability of communications, assist in enhancing the school transportation efforts of UCPS, and improve access to emergency communications thus enhancing the safety of school children, personnel, and facilities.

**Section 2. School Radio System Description**

The School Radio System shall consist of an Ultra High Frequency radio system provided by Motorola (MotoTrbo System) for public service, with a design specifically for school transportation use. The School Radio System will meet the TIA TSB-88 standard for radio broadcast. The School Radio System will consist of an infrastructure component and a radio subscriber component. The infrastructure component of the School Radio System will consist of broadcast repeaters at three (3) County tower sites and a separate console installed at County's Communications Center providing a direct link to public safety officials if necessary ("Infrastructure Equipment"). The radio subscriber component of the School Radio System shall consist of an estimated four hundred sixty (460) radios, which shall be a combination of (i) handheld portable and hard-wired mobile radios, (ii) base stations located at each of UCPS' regional bus locations, and (iii) three (3) additional base stations located at UCPS' transportation building ("Radio Subscriber Equipment").

**Section 3. Maintenance and Support**

County will be responsible for the maintenance and support of the School Radio System during the term of this Agreement. County shall maintain and support the School Radio System for operational stability, such that the School Radio System will be available 99.999% of the time. Coverage for the School Radio System shall be provided in ninety percent (90%) of Union County ninety percent (90%) of the time.

County will provide maintenance and support for all fixed site equipment (Infrastructure Equipment plus the portion of the Radio Subscriber Equipment that consists of fixed based stations) seven (7) days per week, twenty-four (24) hours per day, and will utilize its best efforts to provide systems-critical equipment with a two hour response time for emergency service. All other equipment will receive service during normal business hours (8:00 a.m.-5:00

p.m., Monday-Friday, excluding holidays recognized by County). Normal service response time will be within one business day for non-emergency services. Should a breakdown occur, service will be dispatched from County's Emergency Communications Division Radio Shop. County's radio technician will make diligent efforts to assure spare parts are stocked for critical School Radio System components in an effort to minimize outages. County will also provide and perform a scheduled preventive maintenance plan for the School Radio System equipment.

The following are excluded from County's responsibility for maintenance and support of the School Radio System:

- i) Equipment which has become defective other than through normal wear and usage, unless the defect was caused by County. Such causes other than wear and tear which would exclude maintenance and support services may include, without limitation, accidents, physical misuse or abuse, or electronic misuse or abuse of the School Radio System;
- ii) Maintenance or support necessary due to unauthorized attempts by anyone other than County or its authorized agents to repair, maintain, modify, relocate, reinstall, or otherwise alter the School Radio System or systems/equipment connected to the School Radio System; and
- iii) Phosphor burned or defective CRTs.

Section 4. Duration:

The duration of this Agreement shall be the useful life of the School Radio System, as determined by County's Emergency Communications Division Director, estimated at ten (10) to twelve (12) years; provided, however, that the Agreement may be terminated in accordance with Section 14. Both County and UCPS find this term to be reasonable.

Section 5. Personnel:

The personnel necessary to the execution of this undertaking shall be appointed in the following manner:

County shall utilize its own employees or independent contractors to maintain the entire School Radio System during the term of this Agreement. Representatives designated by the management of County and UCPS shall meet on at least a semi-annual basis to develop and implement policies and procedures needed to successfully operate the School Radio System; provided, however, that such policies and procedures shall not conflict with the terms of this Agreement.

Section 6. Financing:

The method of financing this undertaking, including the apportionment of costs, shall be as follows:

The County will pay for the procurement, installation, maintenance, and support of the School Radio System for the first five (5) years of this Agreement. Thereafter, the parties shall negotiate the manner in which costs will be allocated for County maintenance and support of the School Radio System. In consideration of this service and of UCPS' ownership rights of the School Radio System described herein, UCPS shall pay County Eight Hundred Thirty-Five Thousand Dollars (\$835,000) over a five-year period, payable in ten (10) semi-annual (October and April) installments of Eighty-Three Thousand, Five Hundred Dollars (\$83,500), the first such payment to be due on October 1, 2015, and the last such payment due on April 1, 2020. Such payments by UCPS shall be made using funds provided by the State of North Carolina. The cost of insurance and utilities shall be as provided in Sections 10 and 11.

Section 7. Formula for Ownership:

The formula for ownership of the property involved in this undertaking, and the procedure for the disposition of such property under this Agreement is as follows:

County shall own property comprising the School Radio System until April 1, 2020, when UCPS makes the last semi-annual payment. Thereafter during the term of this Agreement, the Radio Subscriber Equipment shall become the sole property of UCPS and the Infrastructure Equipment shall become the joint property of County and UCPS, provided that UCPS shall at no point have any right of access to the Infrastructure Equipment. Any real property upon which any part of the School Radio System may exist shall remain the real property of each owner of record.

In the event of termination of the Agreement as set forth in Section 14, County shall transfer ownership of the Infrastructure Equipment to UCPS, ownership of the Radio Subscriber Equipment having already been transferred to UCPS as of April 1, 2020. County will remove all of the Infrastructure Equipment from its towers and other communications facilities, at County's expense, and provide all Infrastructure Equipment, and title thereto, to UCPS within sixty (60) days of termination of the Agreement.

Section 8. Non-Exclusivity of Use:

County may use the Infrastructure Equipment for its own use so long as it does not interfere with use of the School Radio System by UCPS as contemplated under this Agreement. County may also allow any other public safety agencies

within Union County, who are not a party to this Agreement, to use the School Radio System on an emergency basis for a limited period of time so long as such use does not interfere with use of the School Radio System by UCPS under this Agreement. UCPS shall not allow any vendor, service provider, or other entity to use or access any portion of the School Radio System during the term of this Agreement.

Section 9. Provisions for Interference:

UCPS will not use, nor will UCPS permit its employees, licensees, invitees, agents or independent contractors to use, any portion of the School Radio System in any way which interferes with County's communications, or with the communications of any third party that has communications equipment on County's property. UCPS will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from County. In the event any such interference does not cease within the aforementioned cure period, UCPS shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected. For purposes of this Agreement, "interference" may include, but is not limited to, any use of the School Radio System that causes electronic or physical obstruction with, or degradation of, the communications signals from County's communication facilities or any other communications signals or operations operating on County's property.

Section 10. Utility Charges:

County will be responsible for all utility charges associated with the Infrastructure Equipment. UCPS will be responsible for all utility charges associated with the Radio Subscriber Equipment.

Section 11. Insurance

UCPS is responsible for insuring or self-insuring all property comprising the Radio Subscriber Equipment for loss or damage. County is responsible for insuring or self-insuring all property comprising the Infrastructure Equipment for loss or damage.

Section 12. Performance in Accordance with Applicable Law:

In performing the services pursuant to this Agreement, County and UCPS shall comply with all laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

Section 13. Amendments:

This Agreement may be amended in writing duly authorized by the governing bodies of both County and UCPS and executed by the appropriate officials of both.

Section 14. Termination

After April 1, 2020, and County's receipt of the final UCPS payment as set forth in Section 6, either party shall have the right to terminate the Agreement: (i) in the event of a material breach of a term of the Agreement by the other party that has not been cured within ninety (90) days following written notice to the other party thereof, or (ii) for convenience, upon at least six months' written notice to the other party prior to July 1 of any given year, with such termination to be effective that July 1.


Section 15. Miscellaneous

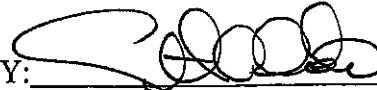
This Agreement shall inure to the benefit of and be binding upon the parties hereto, their assigns and successors in interest. This Agreement contains the total agreement between the parties and may only be altered or amended by the parties hereto in writing. The provisions hereof are severable, and should any provision be determined to be invalid, unlawful or otherwise null and void by any court of competent jurisdiction, the other provisions shall remain in full force and effect and shall not thereby be affected unless such ruling shall make further performance hereunder impossible or impose an unconscionable burden upon one of the parties. The parties shall endeavor in good faith to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as practicable to that of the invalid, illegal or unenforceable provisions. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina. Exclusive venue for any disputes arising hereunder is conferred upon the General Courts of Justice of the State of North Carolina sitting in Union County, North Carolina. Neither County nor UCPS shall assign, sublet or transfer any rights under or interest in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this Agreement. Each party warrants that it has the corporate or other organizational power and authority to execute, deliver and perform this Agreement. Each party further warrants that the execution, delivery and performance by it of the Agreement has been duly authorized and approved by all requisite action of the party's management and appropriate governing body.

IN WITNESS WHEREOF, each of the parties to this Agreement has caused the same to be executed in the day and year first above written.

ATTEST:

UNION COUNTY

  
\_\_\_\_\_  
Lynn G. West, Clerk to the Board


BY:   
\_\_\_\_\_  
Cynthia A. Coto, County Manager



(seal)

**APPROVED AS TO LEGAL FORM** 

ATTEST:

UNION COUNTY BOARD OF EDUCATION

  
\_\_\_\_\_  
Dr. Mary Ellis, Secretary and  
Superintendent to the Union County  
Board of Education

BY:   
\_\_\_\_\_  
 Michael Collins, Chairman of the Union  
County Board of Education

(seal)

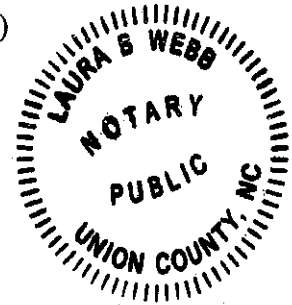


STATE OF NORTH CAROLINA  
UNION COUNTY

I, Laura B. Webb, notary public, in and for said County and State, do hereby certify that Lynn G. West personally appeared before me, and having been duly sworn did state that she knows the common Seal of Union County, and is acquainted with Cynthia A. Coto, County Manager; and did further state that she is the duly appointed or designated Clerk to the Board of Commissioners of Union County, and saw the County Manager sign the foregoing instrument, and that she, as Clerk, affixed the common Seal of Union County to the instrument, and that she, as Clerk, signed her name in attestation of the execution of the instrument in the presence of the County Manager of Union County, North Carolina.

Witness my hand and official seal, this the 26 day of March, 2015.

Laura B. Webb (SEAL)  
Notary Public



My Commission Expires: 10-17-19

STATE OF NORTH CAROLINA  
UNION COUNTY

I, Danna C. Mjulerkey, a notary public, in said County and State, do hereby certify that Dr. Mary Ellis, personally appeared before me this day and having been duly sworn did state that she knows the common Seal of the Union County Board of Education, and is acquainted with Michael Collins, who is the Chairman of the Union County Board of Education; and did further state that she is Secretary and Superintendent of the Union County Board of Education, and saw the Chairman sign the foregoing instrument, and that she as Secretary, affixed the common Seal of the Union County Board of Education to the instrument, and that she, as Secretary, signed her name in attestation of the execution of the instrument in the presence of the Chairman of the Board of Education of Union County, North Carolina.

Witness my hand and official seal, this the 23 day of March, 2015.

Danna C. Mjulerkey (SEAL)  
Notary Public

My Commission Expires: March 31, 2015