

**STATE OF NORTH CAROLINA**

**COUNTY OF IREDELL**

**FIFTH AMENDMENT TO THE INTERLOCAL AGREEMENT FOR  
THE JOINT OPERATION OF COMMUNICATIONS SYSTEM**

This Fifth Amendment to the Interlocal Agreement for the Joint Operation of a Communications System (the "Fifth Amendment") is entered into by and between the Town of Mooresville and the Town of Davidson, the Operating Parties as defined in the Interlocal Agreement for the Joint Operation of a Communications System (the "Interlocal Agreement").

**WITNESSETH**

WHEREAS, in June 2012, the Operating Parties entered into the Fourth Amendment to the Interlocal Agreement (the "Fourth Amendment") in order to agree to a more equitable formula to be used to calculate the financial risks and rewards of the System (including the sharing of the payment of operating costs) so as to encourage increasing subscribers within the territories served by the Operating Parties;

WHEREAS, the Operating Parties are reviewing strategic alternatives with respect to the System (the "Strategic Review"), which Strategic Review could result in significant cash proceeds being realized by the Joint Agency;

WHEREAS, both of the Operating Parties and the Joint Agency will benefit from the Strategic Review;

WHEREAS, the Strategic Review will result in the incurrence of certain expenses, including expenses associated with the engagement of consultants and advisers and retention and possible severance of System employees (the "Strategic Review Expenses"), the funding of which was not contemplated by the Interlocal Agreement (as amended by the Fourth Amendment) or by the System's current operating budget;

WHEREAS, while all of the Strategic Review Expenses shall be deemed a liability of the Joint Agency, certain of the Strategic Review Expenses will be funded by Mooresville and Davidson.

Now, therefore, the Parties desire to further amend the Interlocal Agreement For the Joint Operation Of A Communications System as follows:

1. Section 11.5 of the Interlocal Agreement (as amended by the Fourth Amendment) is amended and restated in its entirety to read as follows:

“Section 11.5

- (a) It is agreed between the Parties that each Operating Party's share of the required payments to offset the deficit of revenues versus expenses and debt service should be recalculated using the Financial Interests as set out in the Amended Article 16 in the Fourth Amendment from the date of the Interlocal Agreement establishing the System (August 14, 2007).
- (b) Commencing July 1, 2012, the maximum annual contribution required from Davidson shall be One Million Dollars (\$1,000,000.00) (the “Davidson Maximum Annual Contribution”). Mooresville will contribute the amount to offset the deficit of revenues versus expenses and debt service that exceeds \$1,000,000.00. The System shall keep a record of the payments made by the Operating Parties and the total of all such payments. The total of such payments shall be reported at least annually to the Operating Parties.
- (c) As long as a deficit of revenues versus expenses and debt service exists, Davidson shall contribute to the System the sum of One Million Dollars (\$1,000,000.00) annually. To the extent that the \$1,000,000.00 annual contribution by Davidson exceeds the annual contribution required to be paid by Davidson based upon its Financial Interest as set out in the amended Article 16 herein, such excess shall be paid to Mooresville until such time that Mooresville has recovered its contributions in excess of its Financial Interest under Articles 11 and 16 herein. Except as otherwise provided herein, in any one year, Davidson's contribution shall not exceed the “Davidson Maximum Annual Contribution”.
- (d) Notwithstanding the foregoing and any other provisions of the Interlocal Agreement, the expenses, including expenses associated with the engagement of consultants and advisors and retention and possible severance of System employees (the “Strategic Review Expenses”), of a review of strategic alternatives with respect to the System being conducted by the Joint Agency (the “Strategic Review”) shall be provided for as follows:
  - (i) The Joint Agency and Davidson acknowledge and agree that Mooresville may engage advisors and consultants in connection with the Strategic Review, following the approval by Davidson of such advisors and consultants (the “Strategic Review Advisors”), and that the engagement of the Strategic Review Advisors by Mooresville is in the best interests of the Joint Agency and Davidson.

- (ii) The Joint Agency agrees that it shall be liable for the payment of the Strategic Review Expenses, including those incurred by Mooresville and Davidson in accordance with subsection (d)(iii) below, and that such liability shall be included in the calculation of the Joint Agency's liquidation value upon any sale of the System irrespective of whether such liability has been funded in advance by Mooresville and Davidson.
  - (iii) Mooresville and Davidson agree that they shall be responsible for funding Strategic Review Expenses, including those related to Strategic Review Advisors, in accordance with their respective Financial Interest and that the amount of the Davidson Maximum Annual Contribution shall be disregarded in connection with Davidson's responsibility for the funding of such expenses.
  - (iv) Following the receipt of an invoice for a Strategic Review Expense, Mooresville shall provide the amount of the expense to Davidson and the Joint Agency (with supporting documentation). If Mooresville has paid such expense, then Davidson shall reimburse Mooresville, within 30 days of receipt of the supporting documentation, for its pro rata share of such expense based on its Financial Interest.
  - (v) Upon the Joint Agency's receipt of any proceeds resulting from the Strategic Review, and before any other distributions are made other than distributions required by Section 13.3(a) herein, the Joint Agency shall make payments from such proceeds to Mooresville and Davidson in the amount of all Strategic Review Expenses previously incurred by them or for which they remain responsible for payment in accordance with their respective Financial Interest pursuant to this Fifth Amendment.
2. The remaining provisions of the Cable Television System Interlocal Agreement for the Joint Operation of a Cable Television System, as previously amended, shall remain in full force and effect. Capitalized terms used and not defined in this Fifth Amendment shall have the meanings assigned to such terms in the Interlocal Agreement (as amended prior to the date hereof).
3. This Fifth Amendment shall be effective as of March 18, 2019.

**IN WITNESS WHEREOF** the Operating Parties have caused this Fifth Amendment to be executed in their corporate names by duly authorized officers, as of the date set out next to each signature.

**TOWN OF MOORESVILLE**

By \_\_\_\_\_  
Name: \_\_\_\_\_ Date \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Name:

Title: Town Clerk

TOWN OF DAVIDSON

By 

Name: Rusty Knox

Title: Mayor

3-18-19  
Date

ATTEST:

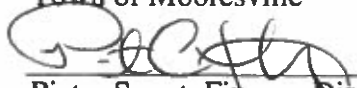
  
Name: Elizabeth K. Shores

Title: Town Clerk

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Deborah Hockett, Finance Director  
Town of Mooresville

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Pieter Swart, Finance Director  
Town of Davidson

\_\_\_\_\_  
3/18/19  
Date