

**REGION 2000 EMERGENCY COMMUNICATIONS
REGIONAL COOPERATIVE AGREEMENT**

This Agreement is entered into by and between Amherst County, Virginia ("Amherst County"), Bedford County, Virginia ("Bedford County"), the City of Bedford, Virginia ("Bedford City"), and the City of Lynchburg, Virginia ("Lynchburg"), collectively the "Member Jurisdictions", and Virginia's Region 2000 Local Government Council ("Council"), all political subdivisions or public bodies corporate and politic of the Commonwealth of Virginia, and all of which collectively may be referred to as the "Parties".

RECITALS

WHEREAS, the Member Jurisdictions have been jointly operating a Regional Emergency Communications System ("System") under the auspices of the Central Virginia Radio Communications Board ("CVRCB"), which the Member Jurisdictions formed pursuant to the May 1, 1996 Intergovernmental Agreement ("Intergovernmental Agreement"); and

WHEREAS, the System was financed primarily through a 1996 bond issuance by the Industrial Development Authority of the Town of Amherst, Virginia ("Amherst IDA") in the amount of \$9,931,000.00 as described in the Intergovernmental Agreement; and

WHEREAS, the Member Jurisdictions have paid the interest and principal on the 1996 Bonds pursuant to the May 1, 1996 Lease Agreement ("Lease Agreement") between the Amherst IDA and the Member Jurisdictions, with the final payment having occurred and such bonds having been fully paid; and

WHEREAS, the Member Jurisdictions have determined that the System is in need of significant upgrades or replacement before January 1, 2014 (the "Project") in order to maintain or improve the level of emergency services currently provided by the Member Jurisdictions and expected by the residents of the community before the current System becomes unserviceable and obsolete; and

WHEREAS, the Project will require debt financing in an amount similar to the debt issued in 1996, which financed the current System; and

WHEREAS, the Member Jurisdictions and the Council have determined that in order to manage the Project operations and maintenance in an efficient and cost effective manner, the CVRCB should be dissolved upon repayment of the 1996 Bonds and replaced by a new Region 2000 Radio Communications Board ("Board"), established as a committee by the Council and consisting of representatives from each of the Member Jurisdictions; and

WHEREAS, the Parties have determined that the Council will finance the Project through the issuance of debt to be paid by the Council through payments received from the Member Jurisdictions; and

WHEREAS, the Council's purpose under §15.2-4207 of the Act is to encourage and facilitate local government cooperation, including physical infrastructure development, criminal justice and emergency management through regional cooperative arrangements for the facilitation of revenue sharing, joint service delivery, and joint government purchasing, such as is set forth in this Agreement.

NOW THEREFORE, for and in consideration of the mutual and reciprocal benefits inuring to the Parties, and in further consideration of the duties imposed upon the Parties hereby, the Parties covenant and agree as follows:

ARTICLE I DEFINITIONS

Unless otherwise defined, each capitalized term in this Agreement shall have the meaning set forth below.

"1996 Assets" means all System assets and equipment financed jointly with the 1996 Bonds.

"1996 Bonds" means the Series 1996 Bonds issued by the Amherst IDA in the original principal amount of \$9,931,000.00, as described in the Intergovernmental Agreement, for the original financing of the System.

"Act" means the Regional Cooperation Act, Chapter 42, Subtitle IV, Title 15.2, Code of Virginia, 1950, as now in effect or as hereafter amended.

"Agreement" means this agreement entered into by the Parties.

"Annual Budget" means the budget adopted each fiscal year by the Board to cover the annual Operating and Capital Costs associated with the Project and System.

"Annual Deficit" means any actual deficit at the end of a Fiscal Year consisting of an excess of Operating and Capital Costs over Operating Revenues for such Fiscal Year incurred by the Council acting pursuant to the Annual Budget and any amendments.

"Applicable Law" means any law, regulation, requirement (including but not limited to permit and governmental approval requirements) or order of any local, state or federal agency, court or other governmental body, applicable from time to time to the acquisition, design, construction, equipping, testing, start-up, financing, ownership, possession or operation of any of

the Facilities, the System or the performance of any obligations under any agreement entered into in connection therewith.

“Board” means the Region 2000 Radio Communications Board as set forth herein.

“Bonds” means any bonds, notes, financing leases or other obligations issued by the Council to finance the acquisition, construction and equipping of the Project, including any bonds issued to refund such bonds.

“Capital Costs” means all capital-related costs associated with the Project and System, including but not limited to Debt Service Payments and Capital Expenditures necessary for compliance with Applicable Law, necessary for normal maintenance and reasonable periodic expansion of improvements to the Facilities, or incurred in connection with Uncontrollable Circumstances.

“Capital Expenditure” means any expenditure of a capital nature made directly to support the Project or System, and which will be amortized or depreciated over more than one Fiscal Year.

“Chairman” means chairman of the Board.

“Council” means Virginia’s Region 2000 Local Government Council, a planning district commission and a public body corporate and politic, organized under the Act.

“Debt Service Payments” means the payments of principal, premium, if any, and interest required to be made by Council but funded from the Member Jurisdictions by the terms of any Bonds. It shall also include any payments to Member Jurisdictions that have advanced funding for the Project pursuant to a reimbursement resolution for such payments as may be approved by the Board and Council.

“Event of Default” means any of the events of default set forth in Article VIII of this Agreement.

“Executive Director” means Executive Director of the Council.

“Facility” or “Facilities” means all hardware, software, infrastructure, terminal equipment, and other tangible equipment comprising the System or associated with the Project, including all radio frequency licenses necessary for the operation of the System.

“Fiscal Year” means the period from July 1 of one year to June 30 of the next year.

“Indenture” means any Indenture of Trust, loan or financing agreement, financing lease or other agreement entered into between the Council and a corporate trustee or lender, pursuant to which the Bonds are issued.

“Member Jurisdiction” means each political subdivision that enters into this Agreement as of its effective date, and any additional political subdivision that subsequently enters into this Agreement as a Member Jurisdiction.

“Operating Costs” means all costs approved by the Board as properly allocable to acquiring, constructing, equipping, maintaining and operating the Facilities, other than any costs qualifying as Capital Costs, including, but not limited to:

- (1) Salaries and fringe benefits of employees;
- (2) Utilities, fuel, equipment (including but not limited to trucks and heavy equipment) tools and supplies;
- (3) All costs incurred for engineering services, and other services, which may include design, permitting, operation, testing, and monitoring;
- (4) All costs for compliance with all permit conditions and compliance with Applicable Law;
- (5) All costs incurred for legal services, which may include zoning, permitting, financing, issues related to the operation of the Facilities, and defense of claims related to the operation of the Facilities;
- (6) Insurance costs and the costs of bonds, letters of credit, escrows or other financial assurance or allowance for environmental assessments or property value guarantees, or for compliance with Applicable Law;
- (7) Purchase and maintenance costs of equipment and maintenance of the Facilities;
- (8) All accounting, bookkeeping and financial advisory fees and charges;
- (9) All costs associated with uncollectible accounts;
- (10) All amounts necessary to create funds required by an Indenture, or to replenish deficits in any such funds;
- (11) Any payments made by the Member Jurisdictions to the Council or any other governmental entity for Project-related services;

(12) Amounts paid to reserve accounts created by the Board pursuant to Section 4.11 of this Agreement; and

(13) Amounts paid to maintain Facilities, including but not limited to costs for generator maintenance and fuel, pest control, and fire suppression.

“Operating Revenues” means all income and revenues resulting from the ownership or operation of the Facilities and the System, including any payments of a Member Jurisdiction’s Pro Rata Share.

“Parties” means Amherst County, Bedford County, the City of Bedford, the City of Lynchburg, Virginia’s Region 2000 Local Government Council (“Council”), and any political subdivision that may join this Agreement subsequent to the Effective Date.

“Pro Rata Share” means each Member Jurisdiction’s proportional share of the Annual Deficit, Capital Costs and Operating Costs.

“Project” means the Facilities financed with Bonds, and any interest in real estate and equipment that are common facilities required to upgrade, manage and operate the System.

“Shortfall” means an expected lack of funds required for any Debt Service Payment pursuant to Section 6.1(c) of this Agreement.

“System” means the regional emergency communications system operated and managed by the Board.

“System Customer” means a non-Member Jurisdiction entity authorized to access and utilize the System pursuant to an agreement with the Board.

“Uncontrollable Circumstance” means any event or condition, whether affecting the Facilities, any Member Jurisdiction or the Council, that interferes with the acquisition, design, construction, equipping, start-up, operation, ownership or possession of the Facilities or the System, or other performance required hereunder, if such event or condition is beyond the reasonable control, and not the result of willful action of the party relying thereon as justification for any nonperformance including but not limited to an act of God, storm, flood, landslide, earthquake, fire or other casualty, war blockade, insurrection, riot, the order or judgment of any local, state, or federal court, administrative agency or governmental officer or body (other than such an officer or body of the party relying thereon), a strike, lockout or other similar labor action.

ARTICLE II EFFECTIVE DATE AND DURATION OF AGREEMENT

Section 2.1. Effective Date. This Agreement shall become effective upon its execution by authorized officers of all Member Jurisdictions and the Council ("Effective Date"), subject to the terms and conditions contained herein. The initial term of this Agreement shall be 20 years following the Effective Date; provided, however, that the initial term may be extended by unanimous agreement of the Parties.

Section 2.2. Withdrawal of Member Jurisdiction. In the event a Member Jurisdiction withdraws from this Agreement while there is outstanding Project or System related debt, such withdrawal shall require unanimous consent of the other Parties. In the event a Member Jurisdiction withdraws from this Agreement while there is no outstanding debt, then such withdrawal shall not require the consent of the other Parties. In the event of any withdrawal from this Agreement, the withdrawing Member Jurisdiction shall have no right to any portion of the System or the Facilities without the consent of the other Member Jurisdictions. In order to be effective, any withdrawal shall require at least one year advance written notice to the Parties, and shall be approved by the resolution or ordinance of the governing body.

Section 2.3. Dissolution. In the event that the Member Jurisdictions unanimously agree, prior to the end of the term of the Agreement, to voluntarily dissolve the Board and discontinue joint ownership and operation of the System, or in the event that, at the end of the Term of the Agreement, the Member Jurisdictions determine not to extend the Agreement for another term, the Council shall, after the payment of all debts relating to the System that have been approved by the Board, transfer title to all System Facilities to the Member Jurisdictions in proportion to the respective shares of capital costs established in Section 4.7 of this Agreement. The consent of Council to the dissolution shall be required if there is any outstanding indebtedness attributable to the Bonds at the time dissolution is proposed. The determination as to which specific assets of the System or the Facilities shall be given to each Member Jurisdiction shall be determined by agreement of all of the Member Jurisdictions, or if there is no agreement, then the assets shall be sold and the funds transferred to the Member Jurisdictions in proportion to the respective shares of capital costs established in Section 4.7 of this Agreement. In the event that any portion of the System or Facilities is sold prior to Dissolution, the proceeds from such sale shall be divided among the Member Jurisdictions in the same manner as provided in the event of Dissolution.

Section 2.4. Termination of Intergovernmental Agreement. As of the Effective Date of this Agreement, the Member Jurisdictions agree that the Intergovernmental Agreement shall terminate.

**ARTICLE III
EFFECTIVE DATE OF CERTAIN PROVISIONS**

Section 3.1. Cost Allocation: Member Jurisdictions' Pro Rata Share. Notwithstanding any provision herein to the contrary, for the purposes of determining the proportional amounts owed by each Member for annual Capital Costs, Operational Costs, and any Annual Deficit, the provisions of Section 4.7 shall not take effect until July 1, 2013. Until that time, the Member Jurisdictions shall be responsible for such costs pursuant to the terms and conditions of the Intergovernmental Agreement and the Lease Agreement, such terms being incorporated herein solely for the purposes of this section and which establish the following percentages for which each Member Jurisdiction is responsible:

Amherst County	24.8%
Bedford County	38.2%
City of Bedford	3.9%
City of Lynchburg	33.1%

Section 3.2. Reserved.

**ARTICLE IV
CENTRAL VIRGINIA RADIO COMMUNICATIONS BOARD; MEMBER
JURISDICTION RIGHTS AND DUTIES**

Section 4.1. Creation of Board. As authorized by the Act, the Council hereby creates with the agreement of the Member Jurisdictions, the Region 2000 Radio Communications Board ("Board") as a committee of the Council to manage the Facilities, the Project and the System as provided herein. Original membership shall consist of the Member Jurisdictions as defined herein as of the Effective Date. The principal office of the Board shall be at the office of the Executive Director of the Council, unless otherwise designated by the Member Jurisdictions. The Board is authorized to manage the day to day operations of the Facilities, the Project and the System as set forth herein.

Section 4.2. Board Membership; Bylaws. The members of the Board shall consist of one representative from each of the Member Jurisdictions who shall be the chief public safety communications officer for that jurisdiction. If a Member Jurisdiction does not have a chief public safety communications officer, then the Board member from such jurisdiction shall be its chief law enforcement officer. Each Member Jurisdiction shall appoint an alternate Board member, who shall be the jurisdiction's chief administrative officer or his or her designee, to attend meetings in the absence of the primary Board member. Alternates shall be entitled to vote on any matter before the Board in the absence of the primary member. The Board may establish

bylaws or procedures governing the election of officers, the scheduling of meetings and notice thereof, and other procedural matters.

Section 4.3. Powers and Duties of Board. The Board shall be responsible for overseeing the management, operation and administration of the Facilities, the Project and the System. Approval of the Board shall be required prior to the incurrence of Bonds related to the Project, the Facilities or the System.

Section 4.4. Reserved.

Section 4.5. Procedures to Add New Member. Any eligible local government entity or other political subdivision in Virginia may, with the approval of its governing body and with the consent of all of the Member Jurisdictions, join and participate in the use, management and operation of the Project and the System as a Board member under the provisions of this section and pursuant to any additional terms and conditions for membership as may be prescribed by the Board. New members shall be responsible for all costs associated with connecting their existing emergency communications infrastructure to the System, for purchasing their own portable and mobile radio equipment, and for other all applicable costs under this Agreement. The Board reserves the right to examine and test any equipment prior to connection to the System, and may, in its sole discretion, refuse to connect any such equipment to the System. Unless otherwise agreed to by the Board, legal title to any infrastructure being contributed and connected to the System by the new member shall be transferred to the Council and committed to use as a part of the System. A new member shall be responsible for providing and contributing any required infrastructure and equipment needed in such new member's jurisdiction, and in no event shall the Council or Member Jurisdictions be required to compensate a new member for the value of any infrastructure owned by the new member or transferred by the new member to the Council.

Section 4.6. Decisions Requiring Consent of Member Jurisdictions. None of the following decisions may be taken by the Board without the unanimous consent of all the Member Jurisdictions:

- (a) Any amendment of this Agreement;
- (b) Any change in the Cost Allocation Methodology used to determine the Pro Rata Share owed by any Member Jurisdiction; and
- (c) The addition of a Member Jurisdiction.

Section 4.7. Allocation of Annual Deficit, Capital Costs and Operating Costs: Member Jurisdictions' Pro Rata Share. Beginning July 1, 2013, Each Member Jurisdiction shall pay its share of (i) any Annual Deficit, (ii) Capital Costs and (iii) Operating Costs associated with the Project and the System, as determined pursuant to the following Cost Allocation Methodology:

A. Capital Costs. Each Member Jurisdiction's share of Capital Costs shall be as follows:

Amherst County:	28.0%
Bedford County:	36.8%
City of Bedford:	5.1%
City of Lynchburg:	30.1%

B. Operating Costs. Each Member Jurisdiction's share of Annual Operating Costs shall be based on the number of radios on the System attributable to the Member Jurisdiction as a percentage of total Member Jurisdiction radios on the System.

C. Annual Deficit. Each Member Jurisdiction's share of any Annual Deficit shall be based on the formulas for determining its share of Capital Costs or Operating Costs, or a combination of both formulas as appropriate, depending on the type of costs constituting the Annual Deficit. Any unforeseen Operating Costs not included in the Annual Budget shall be treated as part of the Annual Deficit.

D. The total share of annual Capital Costs, Operating Costs, and Annual Deficit attributable to each Member Jurisdiction pursuant to the formulas set forth in this section shall constitute each Member Jurisdiction's respective "Pro Rata Share", which shall be set forth in the Annual Budget.

E. The Pro Rata Shares shall be re-calculated each fiscal year based on the methodology set forth in this section. However, if the Pro Rata Shares are not re-calculated in any particular fiscal year, then the Pro Rata Shares from the prior fiscal year shall continue to remain in effect.

F. For the purposes of determining each Member Jurisdiction's share of Operating Costs in subsection B, the number of radios shall be based on the total number attributable to each Member Jurisdiction as of July 1, in the fiscal year prior to the fiscal year for which the Annual Budget is being adopted.

G. Hand held and mobile radios for use on the System shall be purchased and owned separately by each respective Member Jurisdiction, unless otherwise agreed to by the Parties.

Section 4.8. System Customers. With approval of the Board, the Council may contract with System Customers for the use of the System. System Customers shall pay a proportional share of the Board's annual Operating Costs, based on the number of radios the System Customer uses on the System as a percentage of the total number of radios on the System, or as may otherwise be required by the Board. Any amounts received from System Customers shall be used for the Project or System. Such amounts may be used to offset Member Jurisdiction's Pro Rata Shares

or any other payment obligations or expenses under this Agreement. However, such amounts shall in no way relieve any Member Jurisdiction of its obligations under this Agreement.

Unless otherwise agreed to in writing by the Board, individual hand held and mobile radios shall be purchased directly by each System Customer and shall remain the property of the System Customer.

Section 4.9. Annual Budget. On or before November 1 of each year the Board shall adopt a budget to cover all anticipated Operating Costs, Capital Costs and Annual Deficit for the ensuing fiscal year ("Annual Budget"), and communicate to each Member Jurisdiction the respective Pro Rata Shares due for the ensuing fiscal year. The Board shall itemize each Member Jurisdiction's Pro Rata Share by category of costs (Capital, Operating, Annual Deficit). Each Member Jurisdiction shall include its Pro Rata Share, as adopted in the Annual Budget and communicated by the Board, in its proposed annual budget for consideration by its governing body.

Section 4.10. Member Jurisdiction Payments. Each Member Jurisdiction agrees to pay its Pro Rata Share to the Council by July 30 each year.

Section 4.11. Reserve Accounts. Member Jurisdictions agree to appropriate monies into and maintain reserve accounts as may be required by the terms of any financing for the Project, to cover a certain percentage of Capital Costs, Operating Costs or other Project expenses as determined by the Board to be appropriate.

Section 4.12. City of Bedford; Reversion to Town Status. As of the execution of this Agreement, the City of Bedford has plans to revert to town status. Such reversion shall not affect the rights and obligations hereunder or any other agreement related to the Project or the System to which the City of Bedford is a party as of the date such Reversion becomes effective, unless agreed to in writing by the Parties. As long the Pro Rata Share attributable to the County and Town of Bedford combined continues to be paid in full (by either or both of such county and town), then the Parties agree to amend this Agreement in the event of the City of Bedford reverting to town status in order for this Agreement to be consistent with relevant terms and conditions of any reversion agreement(s) between Bedford County and City/Town of Bedford.

Section 4.13. Lease of tower space or radio spectrum. The Board, by majority vote and with the approval of the member of the Board from the jurisdiction where the tower is located, may lease space for the collocation of equipment on any System tower by entities that are not Member Jurisdictions or System Customers. Additionally, the Board may lease available radio spectrum to entities that are not Member Jurisdictions or System Customers. The Council agrees that in the event the System tower or System radio spectrum is owned by the Council, that it shall enter into any lease or co-location agreement approved by the Board pursuant to this section.

Section 4.14. Distribution of revenues from tower co-location or spectrum leases. Any revenues generated from the lease of System tower space or radio frequency spectrum shall either be used directly for the Project and System, or the Board may vote to divide such revenues according to the respective shares of Capital Costs set forth in Section 4.7.A and distribute them accordingly to the Member Jurisdictions. If there is outstanding indebtedness attributable to the Bonds at the time of the distribution, then such distribution shall be subject to the terms and conditions of the Bonds and any security therefor.

Section 4.15. Distribution of Operating Revenues. Operating revenues shall be used to pay Operating Costs, and to the extent appropriate be used as a credit towards Member Jurisdictions' respective Pro Rata Shares, once apportioned, or any other payment obligations or expenses under this Agreement. However, such amounts shall in no way relieve any Member Jurisdiction of its obligations under this Agreement.

ARTICLE V REGION 2000 LOCAL GOVERNMENT COUNCIL RIGHTS AND DUTIES; OWNERSHIP OF SYSTEM

Section 5.1. Fiscal Responsibilities. The Council shall be the fiscal agent with regard to the Project and the System unless the Member Jurisdictions exercise their authority under Section 5.6. The Council shall deposit all Operating Revenues to a separate account or accounts established solely for the purposes of paying for all costs associated with the Project and the System. The Council shall not be liable or responsible for costs or other payments that are the responsibility of the Member Jurisdictions. The Executive Director is authorized to act on behalf of the Council in order to fulfill the responsibilities set out in this section. Pursuant to the Council's responsibilities as fiscal agent under this Agreement, the Council shall:

- (i) Procure, upon approval by the Board, all contracts with vendors, service providers, contractors, engineers, attorneys, governmental agencies or other entities related to the Project and the System;
- (ii) Provide professional, technical and clerical support to the Board on all matters related to planning, operations, monitoring, oversight, and evaluation of the Radio Board programs, activities and services as directed by the Board;
- (iii) Assist the Board in developing an operations budget for the Board's approval and submission to the Member Jurisdictions;
- (iv) Receive, account for and manage all of the Board's finances, including but not limited to accounts payables and receivables, audits and bond-related finances;

- (v) Provide grant writing and management services;
- (vi) Provide administrative staffing services for Board meetings; and
- (vii) Perform such other duties as may be assigned by the Board from time to time.

Section 5.2. Ownership and Disposal of System and Project Facilities. Upon the Effective Date, the Member Jurisdictions shall transfer to the Council title to all 1996 Assets. The Council shall be the owner of and hold title to the System Facilities purchased with the Bonds, including the 1996 Assets, until such time as the Bonds are fully paid. Upon repayment of the Bonds, ownership of the System Facilities purchased with the Bonds and the 1996 Assets shall transfer to the Member Jurisdictions, who shall own jointly own such assets in proportion to the respective shares of Capital Costs set forth in Section 4.7. However, the Board, by unanimous vote, may agree for the Council to continue holding title to such assets.

Except as otherwise provided in the event of dissolution under Section 2.3, unanimous approval of the Board shall be required for the Council to sell, transfer or otherwise dispose of any of the System or Facilities to which it holds title. Upon such sale or disposal, any income derived therefrom shall be distributed to the Member Jurisdictions in proportion to the respective shares of Capital Costs set forth in Section 4.7.

Section 5.3. Continued access to towers. In the event that a Member Jurisdiction owns the land on which a System tower is located, or owns the land and the tower, then such Member Jurisdiction shall allow access over and across such property, at no cost, to the Board, the other Member Jurisdictions, the Council and any employee, contractor or agent thereof for the purposes of accessing such tower in the course of operating and maintaining the System.

Section 5.4. Ownership of Portable and Mobile Radios. Individual hand held and mobile radios shall be purchased directly from the vendor by each Member Jurisdiction and shall remain the property of the purchasing locality. Notwithstanding the above, the parties may agree to finance such equipment through Council-issued debt. In that case, such hand held and mobile radios shall be owned by the Council until such time as the debt is paid in full at which point such ownership of such equipment shall transfer to the appropriate Member Jurisdiction. Any Member Jurisdiction financing radios through the Council shall be solely responsible to the Council for the repayment of all associated debt and other expenses.

Section 5.5. Decisions Requiring Consent of Council.

- (a) Any amendment of this Agreement.

- (b) Any issuance of Bonds by the Council in relation to the Project, if the funds to cover such obligation have not previously been appropriated to the Board as a part of its Annual Budget or otherwise.

Section 5.6. Discharge of Fiscal Agent. The Member Jurisdictions, by majority vote, may discharge the Council as fiscal agent at any time during the initial term of this Agreement or during any extended term. Such discharge shall not affect Council's rights and obligations as the issuer of the Bonds.

ARTICLE VI PROJECT FINANCING

Section 6.1. Project Financing.

- (a) **General.** As soon as practicable after the retirement of the 1996 Bonds, the Council shall proceed to secure financing for the costs of the Project and its acquisition, construction and equipping. The Council shall, with all reasonable dispatch after Project costs are established, issue and sell the Bonds pursuant to the authority granted to it under the Act in an amount, together with other available funds, which will be sufficient to pay the costs of the Project, including the repayment of any interim financing; provided, however, that nothing contained in this Agreement shall require the Council to issue the Bonds other than upon terms deemed reasonable by it and in accordance with the terms of this Agreement, or other agreement relating to the Bonds. Any issuance of Bonds for the Project shall require unanimous approval by the Board in addition to approval of the Council.
- (b) **Moral Obligation.** Each Member Jurisdiction hereby agrees that it has a moral, but non-binding, obligation to pay the Debt Service Payments in the event that the Council fails to make such payments. As such, each Member Jurisdiction agrees to direct its chief administrative officer to include in each proposed annual general fund budget submitted to the governing bodies for the Member Jurisdictions an amount equal to its share of the Debt Service Payments, as a component of Capital Costs, determined pursuant to section 4.7. Each Member Jurisdiction agrees to consider whether to include such amounts in its final general fund budget for the ensuing fiscal year.

Further, each Member Jurisdiction agrees to direct their chief administrative officer to submit a budget amendment or other appropriate ordinance or resolution to the respective governing body whenever the chief administrative officer receives a notice from the Council that there is a Shortfall as described in paragraph (c) below. Each Member Jurisdiction agrees to consider whether to make an appropriation to the Council in the amount requested each time that such a budget amendment or other appropriate ordinance or resolution is presented to it.

The obligation of the respective governing bodies to consider making any such appropriations constitutes neither a debt of the Member Jurisdictions within the meaning of any constitutional or statutory limitation nor a lien or charge upon any property or funds of such Member Jurisdiction. The governing body for each Member Jurisdiction has full discretion as to whether it wishes to make any such appropriation.

(c) **Notification of Shortfall to Member Jurisdictions.** Until the Bonds have been paid in full, the Council will ascertain whether it has or is likely to have on hand Operating Revenues sufficient to pay the principal of and interest due on the Bonds during the next succeeding Fiscal Year. If sixty (60) days prior to a Debt Service Payment being due, the Council determines that it does not and will not have on hand an amount sufficient to make such payment, then it will immediately notify the chief administrative officer of each Member Jurisdiction of the amount of any expected shortfall ("Shortfall") and request each to submit to their respective governing bodies immediately a budget amendment or other appropriate ordinance or resolution described in paragraph (b) above in an amount equal to the amount of the deficiency. When ascertaining whether it has or will have a sufficient amount on hand, the Council may take into account moneys in the Board accounts created pursuant to this Agreement, to extent such moneys have not been and need not be allocated to other expenditures on the Project or System.

(d) **Payment upon Appropriation.** If any Member Jurisdiction agrees to make a payment under this section, then it shall make such payment directly to the Council. The Council agrees that once it has received a payment from the Member Jurisdiction pursuant to its Moral Obligation Agreement, it shall immediately transfer the amount of such payment to the holder or holders of the Bonds, as appropriate, to be applied to the payment of the principal of and interest on the Bonds.

(e) **Council not bond issuer after debt retired.** Notwithstanding any other provision herein to the contrary, once the Bonds are paid in full, the Council's rights and duties as the Bond issuer shall terminate and shall be assumed by the Member Jurisdictions.

Section 6.2. Reimbursement Resolution. Member Jurisdictions and Council agree that any funds advanced by Member Jurisdictions for Capital Expenditures, Operating Costs or other costs related to the Project in advance of the Bonds being issued may be reimbursed out of the proceeds of the Bonds to such Member Jurisdiction. The Council may execute a Resolution or other agreement required to effectuate this provision.

ARTICLE VII SYSTEM USE AND OPERATION

Section 7.1. Use of Emergency Communications System by Member Jurisdictions. Member Jurisdictions shall have exclusive rights to use the System; except that other entities, including System Customers shall be entitled to use the System pursuant to terms and conditions as may be established by the Board. Each Member Jurisdiction shall use the System as its primary emergency communications network as long as this Agreement is in effect, and as long as there are any outstanding Bonds on the Project. Failure to utilize the System as its primary emergency communications network shall not relieve any Member Jurisdiction of its duties and obligations under this Agreement unless agreed to in writing by all Parties. Notwithstanding the above, Member Jurisdictions may utilize other emergency communications network in emergency situations or as otherwise required to meet the public safety needs of such Member Jurisdiction, as long as the Member Jurisdiction continues to use the System as its primary emergency communications network.

Section 7.2. Reserved.

Section 7.3. Liability of Council. The financial obligations of the Council with regard to the Project and the System are not general obligations of the Council but are limited obligations payable solely from payments from the Member Jurisdictions. No director, officer, employee or agent of the Council shall be personally liable for the Council's obligations hereunder. The Council shall not be liable for the actions of any Member Jurisdiction.

**ARTICLE VIII
DEFAULT AND REMEDIES**

Section 8.1. Default by Council. Notwithstanding the provisions of Section 7.3 or any other provisions to the contrary, the occurrence of any one or more of the following events will constitute an "Event of Default" by the Council ("Council Default") and the Member Jurisdictions may pursue any appropriate legal or equitable action against the Council as a result of any such default that is not cured as provided below:

- (a) Failure of the Council to pay principal or interest when due on any Bonds or other temporary or permanent financing for the Project issued or obtained by the Council pursuant to this Agreement when all required monies for such payment have been paid to the Council by the Member Jurisdictions;
- (b) The Council is for any reason rendered incapable of performing any of its material obligations under this Agreement;
- (c) The Council makes an assignment of all or a portion of its obligations under this Agreement without the prior consent of the Member Jurisdictions;

- (d) The Council defaults on any of its material obligations under any agreement pursuant to which any Bonds, or other temporary or permanent financing for the Project are issued or obtained by the Council pursuant to this Agreement and such default is not cured within the applicable cure period;
- (e) Any proceeding is instituted, with the consent or acquiescence of the Council, for the purpose of effecting a compromise between the Council and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the funds of the Council; or
- (f) The Council defaults in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in this Agreement, and the default continues for 30 days after written notice specifying the default and requiring it to be remedied has been given to the Council by any Member Jurisdiction, unless the curing of such default is being diligently pursued, but in no event more than 60 days following such notice of default.

Section 8.2. Default by Member Jurisdictions. The occurrence of any one or more of the following events will constitute an "Event of Default" by any Member Jurisdiction ("Member Jurisdiction Default"):

- (a) Failure of any Member Jurisdiction to pay its Pro Rata Share when due under this Agreement;
- (b) Any Member Jurisdiction is for any reason rendered incapable of performing any of its material obligations under this Agreement;
- (c) Any proceeding is instituted, with the consent or acquiescence of any Member Jurisdiction, for the purpose of effecting a compromise between such Member Jurisdiction and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the funds of such Member Jurisdiction; or
- (d) Any Member Jurisdiction defaults in the due and punctual performance of any of the other covenants, conditions, agreements, and provisions contained in this Agreement, and the default continues for 30 days after written notice specifying the default and requiring it to be remedied has been given to such Member Jurisdiction by another Member Jurisdiction or by the Council, unless the curing of such default is being diligently pursued, but in no event more than 60 days following such notice of default.

Any Member Jurisdiction in default of this Agreement shall not be entitled to vote on the Board. Moreover, upon a majority vote of the non-defaulting members of the Board, access to and use of the System by the defaulting Member Jurisdiction may be limited or discontinued until such default is cured.

Section 8.3. Remedies of Member Jurisdictions. Upon the occurrence of any default, any party, after giving notice of such default to all parties, may bring suit by mandamus or other appropriate proceeding to require the defaulting party to perform its duties under the Act and this Agreement or to enjoin any acts in violation of the Act or this Agreement.

Section 8.4. Remedies of Council. Upon the occurrence of a Member Jurisdiction Default, the Council, after giving notice of such Member Jurisdiction Default to all parties, may bring suit by mandamus or other appropriate proceeding to require the Member Jurisdiction to perform its duties under the Act and this Agreement or to enjoin any acts in violation of the Act or this Agreement.

Section 8.5. Remedies Not Exclusive. No remedy in this Agreement conferred upon or reserved to the parties is intended to be exclusive of any other remedy, and each remedy is cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute.

ARTICLE IX MISCELLANEOUS

Section 9.1. Entire Agreement; Modification. This Agreement represents the entire agreement between the Member Jurisdictions and the Council and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement shall govern the relations between the Council and the Board, and shall supersede all other representations or agreements, either written or oral, unless otherwise agreed to by the Parties or required by law.

Section 9.2. Assignment. No assignment of this Agreement, or any right occurring under this Agreement, shall be made in whole or part by any Member Jurisdiction without the Parties' express written consent.

Section 9.3. Partnership. Nothing herein shall be construed to constitute a joint venture between the Council and any Member Jurisdiction or the formation of a partnership.

Section 9.4. Severability. If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section had not been contained in it.

Section 9.5. Notices. All notices, certificates, requests or other communications under this Agreement must be in writing and will be deemed given, unless otherwise required, when either mailed by first-class U.S. Mail, postage prepaid, or delivered by hand, to the address set forth below:

If to Council: Region 2000 Local Government Council
Executive Director
828 Main Street – 12th Floor
Lynchburg, VA 24504

If to City of Bedford: Bedford, Virginia
City Manager
P.O. Box 807
Bedford, VA 24523

If to City of Lynchburg: Lynchburg, Virginia
City Manager
900 Church Street
Lynchburg, VA 24504

If to County of Amherst: Amherst County, Virginia
County Administrator
PO Box 390
Amherst, VA 24521

If to County of Bedford: Bedford County, Virginia
County Administrator
122 East Main Street, Suite 202
Bedford VA 24523

The parties may by notice given under this Section designate such other addresses as they may deem appropriate for the receipt of notices under this Agreement. If, by reason of the suspension of or irregularities in regular mail service, it is impractical to mail notice of any event when notice is required to be given, then any manner of giving notice which is satisfactory to the intended recipient will be deemed to be sufficient.

Section 9.6. Representations as to Ability to Perform. The Council is not a party to any legal, administrative, arbitration or other proceeding or controversy pending, or, to the best of the Council's knowledge threatened, which would materially adversely affect the Council's ability to perform under this Agreement. Each Member Jurisdiction represents as to itself that it is not a party to any legal, administrative, arbitration, or other proceeding or controversy pending, or, to the best of its knowledge, threatened, which would materially and adversely affect its ability to perform under this Agreement.

Section 9.7. Further Documents and Data. The parties to this Agreement will execute and deliver all documents and perform all further acts that may be reasonably necessary to perform the obligations and consummate the transactions contemplated by this Agreement.

Section 9.8. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, will be an original, and the counterparts taken together will constitute one and the same instrument.

Section 9.9. Tax Exemption Covenant.

- (a) **General.** Each Member Jurisdiction understands and acknowledges that the Council may issue Bonds or other obligations the interest on which will be treated as tax exempt under Federal income laws and regulations, including but not limited to the Internal Revenue Code of 1986, as amended (the "Tax Code"). In reliance on the financing provided by the issuance of such Bonds, each Member Jurisdiction agrees that it will not directly or indirectly use or permit the use of any of the proceeds received pursuant to the Bonds, in such manner as would, or enter into, or allow any other person or entity to enter into, any arrangement, formal or informal, that would, or take or omit to take any other action that would, cause interest on the Bonds to be includable in gross income for federal income tax purposes or to become a specific item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations.
- (b) **Use of Proceeds.** Neither the Council nor any Member Jurisdiction shall knowingly (a) take any action, or approve the making of any investment or use of the proceeds of the Bonds (including failure to spend the same with due diligence) or taking any other action, which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or (b) barring unforeseen circumstances, approve the use of the proceeds from the sale of the Bonds otherwise than in accordance with the Authority's "non-arbitrage" certificate given immediately prior to the issuance of such Bonds.
- (c) **Preservation of Tax Exempt Status of Interest, Representation, Warranties and Covenants.** The Council and each of the Member Jurisdictions agree that neither of them shall allow the use by or lease or sublease of the Project, the Facilities or the System, or any portion thereof, to any entity other than the Commonwealth of Virginia, a city, a county or a town, or any agency or political subdivision thereof, without an opinion of Bond Counsel that such sublease or other availability would not adversely affect the status of the interest on the Bonds for federal income tax purposes. The Council and each Member Jurisdiction covenant that the Project, the Facilities and the System shall not be used in a manner that would permit the proceeds of the Bonds to be used in any manner that would result in (a) 10% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Tax Code, provided that no more than 5% of such proceeds may be

used in a trade or business unrelated to the Council's or any Member Jurisdiction's use of the Project, Facilities or System, (b) 5% or more of such proceeds being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Tax Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than governmental unit, as provided in Section 141(c) of the Tax Code; provided, however, that if the Council receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for Federal income tax purposes of the registered owner thereof under existing law, the Council and the Member Jurisdictions need not comply with such covenants.

(d) Financial Records and Statements. The Council and the Member Jurisdictions shall maintain proper books of record and account in which proper entries shall be made in accordance with generally accepted accounting principles, consistently applied, of all its business and affairs. The Council and each of the Member Jurisdictions shall have an annual audit of their respective financial conditions made by an independent certified public accountant within 180 days after the end of each Fiscal Year and shall furnish to Council, in an electronic format, copies of the report of such accountant immediately after such report is submitted to each Member Jurisdiction. Such report shall include statements in reasonable detail, certified by such accountant, reflecting the Member Jurisdiction's financial position as of the end of such Fiscal Year and the result of its operations and changes in the financial position of such Member Jurisdiction's funds for the Fiscal Year.

(e) Continuing Disclosure. Each Member Jurisdiction agrees that so long as any Bonds are outstanding, if required under any Indenture or other agreement related to the issuance of the Bonds, to provide financial and event information to the Council for submission to a national municipal securities information repository (NMSIR) which is required to be disclosed on a continuing basis, within the time frames required for such disclosure under Rule 15c2-12, as it may be amended from time to time, under the Securities Exchange Act of 1934, as amended and any similar rules of the Securities and Exchange Commission relating to disclosure requirements in the offering and sale of municipal securities, all as in effect from time or that may be promulgated by the Municipal Securities Rulemaking Board.

Section 9.10. Litigation. Any litigation involving this Agreement or the operation of the Council or the Member Jurisdictions shall be brought only in the Circuit Court or District Court for one of the Member Jurisdictions.

Section 9.11. Representations and Warranties. Each of the parties hereto makes the following representations and warranties, all of which shall continue for the duration of this Agreement:

Section 9.11. Representations and Warranties. Each of the parties hereto makes the following representations and warranties, all of which shall continue for the duration of this Agreement:

- a) It has the full power and authority to enter into this Agreement and to consummate and carry out the transaction contemplated herein. It has taken or will take all necessary action required by this Agreement and other applicable agreements and laws in connection therewith.
- b) It has duly authorized the execution and delivery of this Agreement.

Section 9.12. Headings. The headings of sections throughout this Agreement are intended solely to facilitate reading. Such captions shall not affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have each caused this Agreement to be signed as dated below.

Amherst County, Virginia

By: 

Chair, Board of Supervisors

Bedford County, Virginia

By: _____

Chairman, Board of Supervisors

City of Bedford, Virginia

By: _____

Mayor

City of Lynchburg, Virginia

By: _____

Mayor

Region 2000 Local Government Council

- a) It has the full power and authority to enter into this Agreement and to consummate and carry out the transaction contemplated herein. It has taken or will take all necessary action required by this Agreement and other applicable agreements and laws in connection therewith.
- b) It has duly authorized the execution and delivery of this Agreement.

Section 9.12. Headings. The headings of sections throughout this Agreement are intended solely to facilitate reading. Such captions shall not affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have each caused this Agreement to be signed as dated below.

Amherst County, Virginia

By: _____
Chair, Board of Supervisors

Bedford County, Virginia

By: Kathleen D. Gray
County Administrator

Approved As To Form:

Date: 15 DECEMBER 2011
[Signature]
County Attorney

City of Bedford, Virginia

By: _____
Mayor

City of Lynchburg, Virginia

By: _____
City Manager

Region 2000 Local Government Council

By: _____
Executive Director

- a) It has the full power and authority to enter into this Agreement and to consummate and carry out the transaction contemplated herein. It has taken or will take all necessary action required by this Agreement and other applicable agreements and laws in connection therewith.
- b) It has duly authorized the execution and delivery of this Agreement.

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IN WITNESS WHEREOF, the parties have each caused this Agreement to be signed as dated below.

Amherst County, Virginia

By: _____
Chair, Board of Supervisors

Bedford County, Virginia

By: _____
Chairman, Board of Supervisors

City of Bedford, Virginia

By: Willard D. Gray
Mayor

City of Lynchburg, Virginia

By: _____
City Manager

Region 2000 Local Government Council

By: _____
Executive Director

- a) It has the full power and authority to enter into this Agreement and to consummate and carry out the transaction contemplated herein. It has taken or will take all necessary action required by this Agreement and other applicable agreements and laws in connection therewith.
- b) It has duly authorized the execution and delivery of this Agreement.

Section 9.12. Headings. The headings of sections throughout this Agreement are intended solely to facilitate reading. Such captions shall not affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have each caused this Agreement to be signed as dated below.

Amherst County, Virginia

By: _____
Chair, Board of Supervisors

Bedford County, Virginia

By: _____
Chairman, Board of Supervisors

City of Bedford, Virginia

By: _____
Mayor

City of Lynchburg, Virginia

By: Kimball P. [Signature]
City Manager

Region 2000 Local Government Council

By: _____
Executive Director

- a) It has the full power and authority to enter into this Agreement and to consummate and carry out the transaction contemplated herein. It has taken or will take all necessary action required by this Agreement and other applicable agreements and laws in connection therewith.
- b) It has duly authorized the execution and delivery of this Agreement.

Section 9.12. Headings. The headings of sections throughout this Agreement are intended solely to facilitate reading. Such captions shall not affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have each caused this Agreement to be signed as dated below.

Amherst County, Virginia

By: _____
Chair, Board of Supervisors

Bedford County, Virginia

By: _____
Chairman, Board of Supervisors

City of Bedford, Virginia

By: _____
Mayor

City of Lynchburg, Virginia

By: _____
Mayor

Region 2000 Local Government Council

By: Gay F. Christen
Executive Director