

**INTERLOCAL AGREEMENT BETWEEN JOHNSON COUNTY,
TEXAS AND CITY OF KEENE, TEXAS FOR CONSTRUCTION
AND OPERATION OF COLLABORATIVE ADAPTIVE
SENSING OF ATMOSPHERE (“CASA”) RADAR HOST SITE**

This interlocal agreement, made and entered into by and between CITY OF KEENE, TEXAS, a City of the State of Texas existing by virtue of the Constitution and Statutes of The State of Texas and hereinafter referred to as CITY OF KEENE and JOHNSON COUNTY, TEXAS a political subdivision of the State of Texas, hereinafter referred to as "JOHNSON COUNTY" in consideration of the mutual covenants and stipulations herein after set out the parties, collectively and severally, to this interlocal agreement consent to be bound as follows:

WHEREAS, CASA is the Engineering Research Center for Collaborative Adaptive Sensing of the Atmosphere at the University of Massachusetts, which is a National Science Foundation Engineering Research Center, with the University of Massachusetts, Amherst, MA as the lead University and the Board of Regents of the University of Oklahoma, Norman, OK, The Board of Governors of the Colorado State University System, by and through Colorado State University, Fort Collins, CO, and the University of Puerto Rico-Mayaguez, Mayaguez, Puerto Rico as Core Institutions, (hereinafter “CASA”); and

WHEREAS, CASA has operated a four-radar, lower-atmospheric observing system located in Oklahoma for detecting, predicting, warning and responding to hazardous weather. The primary funding comes from the National Science Foundation (“NSF”) and ends September 2013. CASA seeks to demonstrate the system’s public safety and economic benefits in a densely populated urban environment; and

WHEREAS, NCTCOG is a regional planning commission that serves the 16-county region of North Central Texas, which is centered around the two urban centers of Dallas and Fort Worth. This area experiences severe weather events such as flash flooding, severe storms and tornadoes during 9 out of 12 months each year; and

WHEREAS, the HOST is JOHNSON COUNTY, TEXAS, a local government that wishes to host a CASA Radar Tower Site provided through CASA (or its collaborators) within its jurisdiction; and

WHEREAS, JOHNSON COUNTY, TEXAS is acting as HOST of a CASA Radar Tower Site; and

WHEREAS, certain cities, government entities or political subdivisions desire to cooperate with Johnson County, Texas and utilize the benefits of the CASA Radar and to participate in the funding of the CASA Radar Tower Site.

NOW, THEREFORE, the parties hereby agree as follows:

ARTICLE I - SCOPE OF SERVICES AND OBLIGATIONS

A. DEFINITIONS

Each of the political subdivisions, cities, government entities or political subdivisions other than JOHNSON COUNTY and NCTCOG are known herein as "PARTICIPATING ENTITIES".

B. SERVICES TO BE PERFORMED BY JOHNSON COUNTY

1. JOHNSON COUNTY will perform services and actions as described in the Collaborative Adaptive Sensing Of Atmosphere ("CASA") Radars Site Host Agreement Between The North Central Texas Council of Governments (NCTCOG) and Johnson County entered into on or about April 25, 2013 (hereafter the "JOHNSON COUNTY-NCTCOG AGREEMENT").
2. JOHNSON COUNTY will serve as contract manager and operator of the local CASA Radar Tower Site.
3. JOHNSON COUNTY will act as the intermediary between CITY OF KEENE AND NCTCOG and any other PARTICIPATING ENTITIES.
4. JOHNSON COUNTY will coordinate the installation, construction and maintenance of the site including any bidding of work, solicitation of funds, interaction with radar or equipment vendors, construction of tower, providing power and data connectivity to the site, liaising with the CASA research group and providing updates to the PARTICIPATING ENTITIES.
5. JOHNSON COUNTY will not be providing any direct data access to PARTICIPATING ENTITIES; however, by becoming and maintaining the condition of being a PARTICIPATING ENTITY said PARTICIPATING ENTITY may access data through the NCTCOG that would not otherwise be available to the PARTICIPATING ENTITY.
6. JOHNSON COUNTY will pay the portion of the construction and operation costs not paid by other PARTICIPATING ENTITIES.
7. JOHNSON COUNTY will make available to the PARTICIPATING ENTITIES all records pertaining to the management and operation of the CASA Radar Tower Site during reasonable hours and at reasonable times. Records shall be maintained at the JOHNSON COUNTY EMERGENCY MANAGEMENT OFFICE and copies made at additional cost.

C. OBLIGATIONS OF PARTICIPATING ENTITIES

1. The PARTICIPATING ENTITIES will provide a cost share monetary contribution for installation as well as ongoing annual costs.
2. The PARTICIPATING ENTITIES may also, with permission of JOHNSON COUNTY, assist in additional or other activities in the installation and operation of the site. Such assistance shall not be deemed an in-kind substitute for the agreed cash contribution of the PARTICIPATING ENTITY.
3. The PARTICIPATING ENTITY'S monetary contribution may offset a portion of the subscription fee that would otherwise be payable to NCTCOG.
4. CITY OF KEENE will pay \$2,003.28 to JOHNSON COUNTY, TEXAS prior to MAY 15, 2014 as CITY OF KEENE'S portion of the construction and installation costs. Said fee shall be paid by CITY OF KEENE to JOHNSON COUNTY at the Johnson County Treasurer's Office.
5. **CITY OF KEENE WILL PAY to JOHNSON COUNTY** 4.22 % per year of the ongoing operation costs of providing power and data connection services to the CASA Radar Tower Site as CITY OF KEENE'S share of the ongoing operation costs of the CASA Radar site. Said fee shall be paid by CITY OF KEENE to JOHNSON COUNTY at the Johnson County Treasurer's Office. Said payment for the preceding year's costs shall be due at the Treasurer's Office by January 1, 2015 and on January 1st of each successive year. An invoice shall be provided to CITY OF KEENE by JOHNSON COUNTY at least 30 days prior to the due date.
6. Payment of the above described fees shall be based on percentage of population constituted by each participating municipality relative to the total participating population of the County.
7. The initial entities and their respective shares are as set forth below. From time to time additional entities may choose to participate in the program or entities may choose to cease participating in the program. Upon adding or deleting participating entities then, the amount of payment will be adjusted accordingly to reflect such payment. The addition or deletion of an entity should only occur at the anniversary date for the agreement and not mid-year.

Entity	Percentage (%)	Contribution for Installation \$
Alvarado	2.61%	\$ 1,241.80
Burleson	25.34%	\$ 12,037.40
Cleburne	20.26%	\$ 9,625.00
Godley	.70%	\$ 331.04
Joshua	4.08%	\$ 1,938.98
Keene	4.22%	\$ 2,003.28
Johnson Co.	42.78%	\$ 20,322.51
Johnson County Emergency Services District		\$ 2,500.00

*(The Johnson County ESD is contributing **\$2,500.00** toward the construction and installation only. The ESD is not scheduled or expected to make an annual contribution for operating costs due to its jurisdictional overlap.)*

ARTICLE II - COMPLAINTS AND/OR LEVEL OF SERVICE; AMENDMENTS

- A. Any complaints regarding the level of service provided by JOHNSON COUNTY to CITY OF KEENE shall be directed to the County Judge and any complaint regarding CITY OF KEENE shall be referred to its City Manager or Chief Executive Official of the government entity or political subdivision who, in either case, shall take appropriate action as indicated. However, in the event a conflict or complaint arises that the Chief Executive Official or the County Judge are not able to resolve, then the complaints and/or questions of service or other matters shall be referred to the City Council or other governing body and the Johnson County Commissioners Court to seek a resolution. This provision does not limit the statutory and constitutional rights of the parties to seek the relief to which either party might be entitled by law or equity.
- B. This agreement shall be amended only through written agreement duly authorized by the Johnson County Commissioners Court and such City Council or governing body of the political subdivisions or entities that are parties to this Agreement.

ARTICLE III. - FORCE MAJEURE

- A. If by reason of force majeure either party hereto shall be rendered unable wholly or in part, to carry out the obligations under this agreement, then such party shall give notice and full details of such force majeure in writing to the other party. The duties of the party giving such notice, so far as it is affected by such force

majeure, shall be suspended during the continuance of the inability then claimed, as herein after provided, but not a longer period, and any such-party shall endeavor to remove or overcome such inability with all reasonable dispatch.

- B. The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts, other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States, or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability.
- C. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having difficulty, and that the above requirements that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or acceding to the demands of the demands of the opposing party or parties which such settlement is unfavorable to it in the judgment of the party having the difficulty.
- D. It is specifically expected and provided, however, that in no event shall any force majeure relieve CITY OF KEENE of its obligation to make payments as required under Article II of this contract or from its obligations to JOHNSON COUNTY.

ARTICLE IV. - TERM

- A. This agreement shall be in full force and effect from the date specified below but may be renewed under the expressed procedure outlined in Article VIII for the adoption and execution of this agreement for subsequent periods of one (1) calendar year each. However lacking express termination, renewal or amendment of this Agreement then the term of this agreement is for 12 months, commencing **April 1, 2014** and ending **March 31, 2019**. This Agreement shall automatically renew and extend for an additional one year period on the **first day of April** of each succeeding year thereafter unless one party gives written notice to the other party not less than 60 days prior to the first day of **April** of such succeeding anniversary. This renewal and extension is subject to the availability of funds for the contract year, to the allocation of funds to meet the terms of this Agreement, and subject to the approval of the Johnson County Commissioners Court. This Agreement need not be specifically identified in the budget or budget process. Upon renewal and extension of this Agreement, all dates and sums set forth herein shall be deemed modified as necessary to reflect the new and extended term of the Agreement. Payment of funds by **CITY OF KEENE** and acceptance of funds by COUNTY shall be deemed consideration and shall be deemed as acts by the parties continuing the duties and obligation of the Agreement for a successive year.

- B. It is hereby agreed that either of the parties hereto may terminate this agreement upon giving written notice sixty (60) days prior to the date of termination. Duties to make payment for services performed shall survive the termination of this agreement and shall not expire until the resolution and disposition of any claims made or liability incurred or potentially incurred by Johnson County as a result of this agreement.

ARTICLE V. - VESTED RIGHTS

Any payments made by CITY OF KEENE shall be solely for services performed or costs incurred under the provisions of the agreement and CITY OF KEENE shall not accrue any vested rights to any facilities, equipment or real or personal property of JOHNSON COUNTY. It is further understood that this agreement is contingent upon an agreement between Johnson County and NCTCOG. In the event of the termination of the agreement between Johnson County and NCTCOG then CITY OF KEENE will have no vested rights to claims against Johnson County whatsoever. Johnson County makes no warranties or guarantees of the reliability or availability of data accumulated or assimilated by the CASA Radar site or system.

ARTICLE VI. - ADOPTION AND EFFECTIVE DATE

This agreement shall become effective after each of the entities who are parties hereto have passed, approved such orders or actions as are necessary to authorize the governing body or executive officer of the City Council or governing body of the entity and Commissioners Court to enter into this agreement and authorizing its execution and attestation by their respective officers. **The effective date of this agreement shall be the date set forth above in Article IV.**

ARTICLE VII. - VENUE

Venue for any action arising out of this agreement shall be in Johnson County, Texas if in State Court, or in the Northern District of Texas, Dallas Division if in Federal Court.

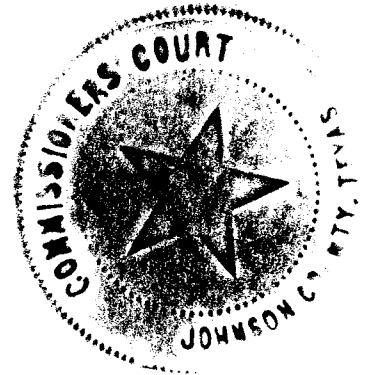
For the faithful performance of the terms of this Agreement, the parties hereto in their capacities as stated, execute this agreement, affix their signatures and bind themselves.

JOHNSON COUNTY

Roger Harmon 3-17-14
Judge Roger Harmon Date

Attest: *Becky Williams*
Johnson County Clerk or Deputy County Clerk

3-17-14
Date



CITY OF CITY OF KEENE, TEXAS

John A. Kennerman 3-27-14
Date

Mayor (Describe Title and Capacity of Official)

Attest: *Keisha Day*
City Secretary

3-27-14
Date