



CLEMIS Memorandum

To: Chief Ron Crowell, Rochester Hills Fire Department
From: Cathy Teague, CLEMIS Project Support *ct*
RE: FRMS Interlocal Agreement
Date: June 1, 2005

Attached are two copies of the final Phase 1 - Fire Records Management System ("FRMS") Interlocal Agreement for your review and execution.

If you have any legal questions, please contact Jody Schaffer of Oakland County Corporation Counsel at 248-858-0555. If you have any technical questions, please contact Mike Wilk of Oakland County Department of Information Technology at 248-858-5269.

Please be sure to include a name and address in section 23.2 should a notice be mailed to your municipality.

Get the appropriate signatures from your City / Twp Council / Board member and a witness, and date the contract.

Please return both originals, along with a certified copy of the resolution as required on page eleven of the contract, to the following:

Oakland County Information Technology - CLEMIS
1200 N Telegraph Road, Department 421
Pontiac, MI 48341-0421

Attn: Cathy Teague

One original will be returned to you after it is executed by Oakland County.

**FIRE RECORDS MANAGEMENT AGREEMENT
BETWEEN
OAKLAND COUNTY
AND
ROCHESTER HILLS FIRE DEPARTMENT**

This Agreement ("the Agreement") is made between Oakland County, a Constitutional and Municipal Corporation, 1200 North Telegraph, Pontiac, Michigan 48341 ("County"), and **Rochester Hills Fire Department, 1111 Horizon Court, Rochester Hills, MI 48309** ("CVT"). In this Agreement the County and the CVT may also be referred to individually as "Party" or jointly as "Parties."

PURPOSE OF AGREEMENT. Pursuant to the Urban Cooperation Act of 1967, 1967 PA 7, MCL 124.501 *et seq.*, the County and the CVT enter into this Agreement for the purpose of providing the CVT with access and connectivity to the Fire Records Management System ("FRMS"). FRMS is intended to capture and create fire records from their inception at a 9-1-1 call and continuing the record to include the computer aided dispatch information resulting with a standard records management system. FRMS promotes communication and sharing of fire records among the entities that participate. The entities that participate in FRMS will enjoy the benefits of a single system, common standards, and costs shared through a cooperative relationship with the County. This Agreement is intended to delineate the relationship and responsibilities between the County and the CVTs regarding FRMS.

In consideration of the mutual promises, obligations, representations, and assurances in this Agreement, the Parties agree to the following:

1. **ENTITIES PERFORMING UNDER THIS AGREEMENT.** All County services and obligations set forth in this Agreement shall be provided through the County's Department of Information Technology. All CVT's services and obligations set forth in this Agreement shall be performed by the **Rochester Hills Fire Department**. The Fire Governance Committee will provide direction, counsel, and recommendations concerning the operation of FRMS.
2. **DEFINITIONS.** The following words and expressions used throughout this Agreement, whether used in the singular or plural, within or without quotation marks, or possessive or nonpossessive, shall be defined, read, and interpreted as follows.
 - 2.1. **Agreement** means the terms and conditions of this Agreement, the Exhibits attached hereto, and any other mutually agreed to written and executed modification, amendment, addendum, or change order.

- 2.2. **Claim** means any alleged loss, claim, complaint, demand for relief or damages, cause of action, proceeding, judgment, deficiency, liability, penalty, fine, litigation, costs, and/or expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, and amounts paid in settlement, which are imposed on, incurred by, or asserted against the County, its employees or agents, whether such Claim is brought in law or equity, tort, contract, or otherwise.
- 2.3. **County** means Oakland County, a Municipal and Constitutional Corporation including, but not limited to, all of its departments, divisions, the County Board of Commissioners, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, volunteers, and/or any such persons' successors.
- 2.4. **Day** means any calendar day beginning at 12:00 a.m. and ending at 11:59 p.m.
- 2.5. **Local System Administrator** means a person employed by the CVT and designated by the head of the **Rochester Hills Fire Department** to perform duties related to FRMS and act as a liaison between the CVT and the County.
- 2.6. **Fire Governance Committee ("FGC")** means a committee comprised of representatives from six fire departments, appointed by the Oakland County Fire Chiefs' Organization that shall provide direction, counsel, and recommendations concerning the operation of the Fire Records Management System.
- 2.7. **Fire Records Management System ("FRMS")** captures and creates fire records from their inception at a 9-1-1 call and continues the record to include the computer aided dispatch information resulting with a standard records management system. FRMS promotes communication and sharing of fire records among the entities that participate.
- 2.8. **Oakland County MAN/WAN ("OAKNET")** means the Metropolitan Area Network/Wide Area Network called OAKNET which is operated by the County. The OAKNET links the CVT and the County allowing each to input and access FRMS Data. OAKNET also provides the CVT with access to external state and federal justice agencies.
- 2.9. **City, Village, Township ("CVT")** means **Rochester Hills Fire Department**, a Municipal and Constitutional Corporation including, but not limited to, its Council, Board, any and all of its departments, its divisions, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, subcontractors, volunteers, and/or any such persons' successors.

3. **AGREEMENT EXHIBITS**. The Exhibits listed below and their properly promulgated amendments are incorporated and are part of this Agreement.
 - 3.1. **Exhibit A**. Monthly fees for FRMS connectivity. [**Not applicable**]
4. **COUNTY RESPONSIBILITIES**. Subject to the terms and conditions contained in this Agreement, and applicable changes in law, the County shall carry out the following:
 - 4.1. The County shall provide FRMS to the CVT and shall install one personal computer that contains licensed, pre-loaded application software, and shall install one printer at each participating CVT fire station. The County shall determine the type and the features of the personal computer and printer supplied to the CVT by the County.
 - 4.2. The County shall use its best efforts to address failures of the FRMS 24 hours a day, 7 days a week; failures include problems with the FRMS server, software and network.
 - 4.3. The County shall use its best efforts to address problems with the County provided personal computer and printer and to respond to problems concerning non-critical application software (not critical to the delivery of public safety services) by the next business day, after the County is contacted and made aware of such problems. The CVT can designate one of the County provided personal computers as a high availability record management workstation which shall have a software load installed and maintained by the County. The County and CVT shall mutually agree upon the location of such workstation. This designated high availability workstation has a direct connection into the County's Network and is maintained 24 hours a day, 7 days a week.
 - 4.4. FRMS failures on workstations that are integrated into the CVT Local Area Network must be reported to the Local System Administrator and CVT technical support must make a good faith effort to diagnose such failures before the County is contacted. In the event the County's assistance is needed, the CVT technical support must be available to assist the County to resolve such failure.
 - 4.5. The County shall provide the means for the CVT to be connected to FRMS. The CVT shall pay for the FRMS connection according to Section 7, in addition to the annual participation fees in Section 7.
 - 4.6. The CVT acknowledges that a third party through written contract will provide the FRMS connection and the technical support for such connection. The contract will be for a term of three years with an option to extend the contract for two 24 month terms. By signing a three-year contract, the County was able to significantly reduce the costs for FRMS connectivity and waive all installation fees surrounding FRMS connectivity.

- 4.7. The County shall provide training to the CVT and the Local System Administrator(s) concerning FRMS.
- 4.8. The County shall monitor and audit the CVT's compliance with FRMS security requirements set forth by the FGC, when the requirements are promulgated by the FGC. The County may conduct on-site data audits and/or inspections at the CVT to monitor such compliance. The monitoring and auditing of FRMS and OAKNET shall be performed periodically at the discretion of the County, observing CVT policies regarding on-site visit coordination and scheduling.
- 4.9. If the County receives a Freedom of Information Act ("FOIA") request regarding information that the CVT entered into FRMS, the CVT will be contacted as soon as possible and the FOIA request will be sent to Oakland County Corporation Counsel. The CVT will be forwarded a copy of the FOIA request and the County's response as soon as possible. The County may disseminate any data contained on FRMS to any third party, unless prohibited by law.
- 4.10. With respect to the performance of this Agreement, the County has the authority to prioritize its resources, including but not limited to, employees, agents, subcontractors, and equipment and determine when services will be provided.

5. **CVT RESPONSIBILITIES.**

- 5.1. The head of the CVT shall designate at least one person to act as the Local System Administrator for FRMS. The Local System Administrator will act as a liaison between the CVT and the County and will be the first point of contact for the CVT regarding FRMS. The Administrator's duties shall include, but not be limited to, the following: (1) identifying FRMS training needs; (2) scheduling FRMS training; (3) FRMS application training; (4) monitoring use of FRMS applications with respect to security issues; (5) act as a point of contact or facilitator for security audits conducted by the County; and (6) assist in the implementation of new programs.
- 5.2. The CVT shall participate in FRMS training when requested and provided by the County. The CVT shall pay for all costs associated with training not provided by the County. The Local System Administrator shall receive reasonable advanced notice of the FRMS training.
- 5.3. The CVT shall fully cooperate with the County concerning the County's services under this Agreement.
- 5.4. The CVT may disseminate data that it entered into FRMS to any third party, unless prohibited by law.
- 5.5. The CVT is solely responsible for entering data into FRMS for its jurisdiction.

- 5.6. The CVT shall solely ensure that the data entered into FRMS is accurate and complete. Accurate and complete means that the data does not contain erroneous information, and/or that the CVT shall immediately correct erroneous information upon discovery of any error. To ensure accurate and complete data, the CVT shall conduct regular and systematic audits to minimize the possibility of recording and storing inaccurate or incomplete data. The CVT shall correct or purge inaccurate or incomplete data.
- 5.7. Except as provided in the Agreement, the CVT shall be solely responsible for the costs associated with the personal computer and printer operation, not supplied by the County, at its fire station(s), including but not limited to, personnel, equipment, power, and supplies.
- 5.8. The CVT shall provide the County access to its facilities for periodic inspection and service of FRMS, observing CVT policies regarding on-site visit coordination and scheduling.
- 5.9. After the initial installation of the equipment provided under this Agreement, the CVT shall be responsible for all costs associated with moving such equipment. The CVT shall be responsible for all costs associated with changing, modifying, or moving FRMS connectivity. This section shall not apply if the County requests that the CVT move equipment provided under this Agreement or requests that the CVT change, modify, or move FRMS connectivity.

6. **FIRE GOVERNANCE COMMITTEE RESPONSIBILITIES**

- 6.1. The FGC shall provide direction, counsel and recommendations concerning the operation of FRMS.

7. **FINANCIAL RESPONSIBILITIES**

- 7.1. **FRMS Annual Participation Fees.** In addition to any FRMS connectivity fees in section 7.2, the CVT shall pay annual participation fees to the County for participation in FRMS. Until December 31, 2006, the following annual participation fees are applicable: (1) \$3,500 annually which includes one fire station; and (2) \$300.00 annually for each additional fire station. During 2006, the County and the FGC shall re-evaluate the annual participation fees and establish new annual participation fees.
- 7.2. **Costs for FRMS Connectivity.** The CVT shall connect to FRMS by one of the three following methods:
 - 7.2.1. If the CVT elects to provide its own connectivity to FRMS, then it shall incur no costs for such connectivity. The CVT shall still be responsible for the annual participation fees set forth in Section 7.1.

- 7.2.2. If the CVT elects to have the County provide the means to connect directly with OAKNET for FRMS connectivity, the CVT will not have to pay for FRMS connectivity. This option does not allow a CVT and/or its fire stations to connect back to any CVT application servers.
- 7.2.3. If the CVT elects to have the County provide the means to connect to its local area network before connecting with the OAKNET for FRMS connectivity, the CVT shall pay the County the following:
 - 7.2.3.1. The CVT shall pay no monthly fee for FRMS connectivity within the first year after execution of this Agreement.
 - 7.2.3.2. The CVT shall pay 25 percent of the monthly fee attributable to it for FRMS connectivity within the second year after execution of this Agreement. The monthly fees are set forth in Exhibit A.
 - 7.2.3.3. The CVT shall pay 50 percent of the monthly fee attributable to it for FRMS connectivity within the third year after execution of this Agreement. The monthly fees are set forth in Exhibit A.
 - 7.2.3.4. The CVT shall pay 75 percent of the monthly fee attributable to it for FRMS connectivity within the fourth year after execution of this Agreement. The monthly fees are set forth in Exhibit A.
 - 7.2.3.5. The CVT shall pay the entire monthly fee attributable to it for FRMS connectivity within the fifth year after execution of this Agreement. The monthly fees are set forth in Exhibit A.
- 7.2.4. The CVT elects to connect to FRMS as set forth in **Section 7.2.2**.
- 7.3. The CVT may switch the method by which it connects to FRMS. If the CVT switches the method by which it connects to FRMS, it shall be responsible for any applicable termination fees contained in Section 10 and any applicable costs for FRMS connectivity in Section 7.2.
- 7.4. The County shall submit a quarterly invoice to the CVT in a manner proscribed by the County itemizing all amounts due under this Agreement. The CVT shall pay the invoice submitted to the County thirty (30) days after receipt of the invoice.
- 7.5. Except as provided in this Agreement, the County or CVT is not responsible for any cost, fee, fine or penalty incurred by the other party in connection with this Agreement.
- 7.6. CVT Failure to Pay
 - 7.6.1. To the maximum extent provided by law, should the CVT fail, for any reason, to timely pay the County the amounts required under this

Agreement, upon notice from the Oakland County Treasurer to the Treasurer of the State of Michigan (or any other State of Michigan official authorized to disburse funds to the CVT), the State of Michigan is authorized to withhold any funds due the CVT from the State, and assign those funds to partially or completely offset any deficiency by the CVT to the County.

- 7.6.2. To the maximum extent provided by law, should the CVT fail for any reason to timely pay the County the amounts required under this Agreement, the County Treasurer shall be entitled to set-off and retain any amounts due the CVT from Delinquent Tax Revolving Fund (“DTRF”) or any other source of funds due the CVT in the possession of the County, to partially or completely offset any deficiency by the CVT under this Agreement, unless expressly prohibited by law.
- 7.6.3. Neither of these provisions shall operate to limit in any way the County’s right to pursue any other legal remedies against the CVT for the reimbursement of amounts due the County under this Agreement. The remedies in this paragraph are available to the County on an ongoing and successive basis, as the CVT becomes delinquent in its payments.

8. DURATION OF INTERLOCAL AGREEMENT.

- 8.1. The Agreement and any amendments hereto shall be effective when executed by both Parties with concurrent resolutions passed by the governing bodies of each Party, and when the Agreement is filed according to MCL 124.510. The approval and terms of this Agreement and any amendments hereto shall be entered in the official minutes of the governing bodies of each Party.
- 8.2. This Agreement shall remain in effect until cancelled or terminated by either Party pursuant to Section 10.

9. ASSURANCES.

- 9.1. Each Party shall be responsible for its own acts and the acts of its employees, and agents, the costs associated with those acts, and the defense of those acts.
- 9.2. The County is not responsible for any Claims arising directly or indirectly from inaccurate or incomplete entry of information into FRMS by the CVT, its employees, or its agents.
- 9.3. The County is not responsible for any Claims arising directly or indirectly from misuse of FRMS by the CVT, its employees, or its agents.
- 9.4. Neither the County nor CVT shall be liable for any consequential, incidental, indirect, or special damages in connection with this Agreement.

10. TERMINATION OR CANCELLATION OF AGREEMENT.

- 10.1. Either Party may terminate or cancel this Agreement for any reason upon thirty (30) days notice. The effective date for termination or cancellation shall be clearly stated in the notice.
- 10.2. Upon termination and/or cancellation of this Agreement, the CVT has the right to receive a copy data it entered into FRMS.
- 10.3. If the CVT connects to FRMS pursuant to 7.2.2 or 7.2.3 and if the CVT terminates and/or cancels this Agreement for any reason, except breach, within three years after execution of this Agreement, the CVT will be responsible for 70% of the monthly fees contained in Exhibit A for FRMS connectivity. The CVT shall not pay any such fees if this Agreement is terminated and/or cancelled three years after execution of this Agreement.
- 10.4. Except as provided in this Agreement, the Parties shall not be obligated to pay a cancellation or termination fee, if this Agreement is cancelled or terminated as provided herein.
11. **SUSPENSION OF SERVICES.** Upon notice to the CVT and the FGC, the County may immediately suspend this Agreement or the CVT's participation in FRMS, if the CVT has failed to reasonably comply, within the County's discretion, with federal, state, or local law, or any requirements contained in this Agreement. Upon notice to the CVT and the FGC, the County may immediately disconnect any device that, within the County's discretion, represents a possible security threat, performance impact, or inappropriate usage of the County network or its resources. The right to suspend services is in addition to the right to terminate or cancel this Agreement contained in Section 10. The County shall not incur penalty, expense, or liability if services are suspended under this Section.
12. **NO THIRD PARTY BENEFICIARIES.** Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, and/or any other right, in favor of any other person or entity.
13. **COMPLIANCE WITH LAWS.** Each Party shall comply with all federal, state, and local statutes, ordinances, regulations, administrative rules, requirements applicable to its activities performed under this Agreement, and all applicable hardware and software licenses relating this Agreement.
14. **DISCRIMINATION.** The Parties shall not discriminate against their employees, agents, applicants for employment, or another persons or entities with respect to hire, tenure, terms, conditions, and privileges of employment, or any matter directly or indirectly related to employment in violation of any federal, state or local law.
15. **PERMITS AND LICENSES.** Each Party shall be responsible for obtaining and maintaining, throughout the term of this Agreement, all licenses, permits, certificates, and governmental authorizations necessary to perform all its obligations under this

Agreement. Upon request, a Party shall furnish copies of any permit, license, certificate or governmental authorization to the requesting Party.

16. **RESERVATION OF RIGHTS**. This Agreement does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties.
17. **FORCE MAJEURE**. Each Party shall be excused from any obligations under this Agreement during the time and to the extent that a Party is prevented from performing due to causes beyond such Party's control, including, but not limited to, an act of God, war, acts of government (other than the Parties'), fire, strike, labor disputes, civil disturbances, reduction of power source, or any other circumstances beyond the reasonable control of the affected Party. Reasonable notice shall be given to the affected Party of any such event.
18. **IN-KIND SERVICES**. This Agreement does not authorize any in-kind services, unless previously agreed to by the Parties and specifically listed herein.
19. **DELEGATION/SUBCONTRACT/ASSIGNMENT**. The CVT shall not delegate, subcontract, and/or assign any obligations or rights under this Agreement without the prior written consent of the County.
20. **NO IMPLIED WAIVER**. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently effect its right to require strict performance of this Agreement.
21. **SEVERABILITY**. If a court of competent jurisdiction finds a term, or condition, of this Agreement to be illegal or invalid, then the term, or condition, shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.
22. **CAPTIONS**. The section and subsection numbers, captions, and any index to such sections and subsections contained in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning. The numbers, captions, and indexes shall not be interpreted or be considered as part of this Agreement. Any use of the singular or plural number, any reference to the male, female, or neuter genders, and any possessive or nonpossessive use in this Agreement shall be deemed the appropriate plurality, gender or possession as the context requires.
23. **NOTICES**. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be

deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

23.1. If Notice is set to the County, it shall be addressed and sent to: Oakland County Department of Information Technology, Manager of CLEMIS Division, 1200 North Telegraph Road, Building #49 West, Pontiac, Michigan, 48341 and Chairperson of the Oakland County Board of Commissioners, 1200 North Telegraph, Pontiac, Michigan 48341.

23.2. If Notice is sent to the CVT, it shall be addressed to:

23.3. Either Party may change the address and/or individual to which Notice is sent by notifying the other Party in writing of the change.

24. **GOVERNING LAW/CONSENT TO JURISDICTION AND VENUE.** This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

25. **AGREEMENT MODIFICATIONS OR AMENDMENTS.** Any modifications, amendments, recessions, waivers, or releases to this Agreement must be in writing and agreed to by both Parties. Unless otherwise agreed, the modification, amendment, recession, waiver, or release shall be signed by the same persons who signed the Agreement or other persons as authorized by the Parties' governing body.

26. **ENTIRE AGREEMENT.** This Agreement represents the entire Agreement and understanding between the Parties. This Agreement supercedes all other oral or written Agreements between the Parties. The language of this Agreement shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.

IN WITNESS WHEREOF, _____ hereby acknowledges that he has been authorized by a resolution of the _____, a certified copy of which is attached, to execute this Agreement on behalf of the CVT and hereby accepts and binds the CVT to the terms and conditions of this Agreement.

EXECUTED: _____ DATE: _____
PAT SOMERVILLE, MAYOR

WITNESSED: _____ DATE: _____

IN WITNESS WHEREOF, Bill Bullard, Jr., Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners, a certified copy of which is attached, to execute this Agreement on behalf of the Oakland County, and hereby accepts and binds the Oakland County to the terms and conditions of this Agreement.

EXECUTED: _____ DATE: _____
Bill Bullard, Jr., Chairperson
Oakland County Board of Commissioners

WITNESSED: _____ DATE: _____
Ruth Johnson, Clerk, Register of Deeds
County of Oakland