

CONTRACT

Between

DAKOTA COUNTY

and the

METROPOLITAN EMERGENCY SERVICES BOARD

and

THE STATE OF MINNESOTA THROUGH ITS COMMISSIONER OF TRANSPORTATION

for the

DESIGN, PROCUREMENT, CONSTRUCTION AND OPERATION

of an

800 MHz COUNTY/REGIONAL INTEGRATED PUBLIC SAFETY
RADIO COMMUNICATION SUBSYSTEM

Dakota County Contract No. _____

Minnesota Department of Transportation Contract No. _____

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EXHIBIT C. COUNTY EQUIPMENT LOCATED ON MN/DOT TOWERS & SHELTERS

**COOPERATIVE AGREEMENT
FOR THE DESIGN, PROCUREMENT, CONSTRUCTION AND OPERATION OF
AN 800 MHz COUNTY/REGIONAL INTEGRATED SUBSYSTEM**

THIS AGREEMENT (“Agreement”), made and entered into by and between Dakota County, a body politic and corporate, under the laws of the State of Minnesota, hereinafter referred to as the “COUNTY,” 1590 Highway 55, Hastings, MN 55033, and the Metropolitan Emergency Services Board, a regional radio board pursuant to the provisions of Minn. Stat. §403.39 (“MESB”), 2099 University Ave West, Saint Paul, Minnesota 55104, and the STATE OF MINNESOTA through its Commissioner of Transportation, MS-100, Transportation Building, 395 John Ireland Boulevard, St. Paul, MN 55155, hereinafter referred to as “Mn/DOT.”

W I T N E S S E T H:

WHEREAS, a Statewide Public Safety Radio and Communication plan, hereinafter referred to as “the Plan” has been developed and adopted in accordance with Minnesota Statutes §403.36, Subdivision 2, and it provides for the construction, ownership and operation of a statewide public safety radio and communication system; and

WHEREAS, Minnesota Statutes §403.36 provides that the Statewide Emergency Communications Board, hereinafter referred to as “Board” has overall responsibility for the Plan, and for assuring that generally accepted project management techniques are utilized for each phase of the Plan implementation; and

WHEREAS, Minnesota Statutes §403.37 provides that the Board is responsible for oversight of Plan implementation, and for establishing and enforcing performance and operational standards for the statewide public safety radio and communication system; and

WHEREAS, the Commissioner of Public Safety is directed by Minnesota Statutes §403.36, Subdivision 1e, to implement the Plan and to contract with the Commissioner of Transportation to construct, own, operate, maintain, and enhance the elements of the backbone defined in the Plan; and

WHEREAS, the Commissioner of Transportation is directed by Minnesota Statute §403.36, Subdivision 1e, to contract for, or procure by purchase or lease (including joint purchase and lease agreements), construction, installation of materials, supplies and equipment, and other services as may be needed to build, operate, and maintain the backbone of the statewide public safety radio and communication system; and

WHEREAS, Mn/DOT is authorized to enter into this Agreement by Minnesota Statutes §174.02 and §174.70; and

WHEREAS, Minnesota Statutes Chapter 403 authorizes Dakota County and Mn/DOT to enter into this Agreement; and

WHEREAS, the Board has approved Dakota County's Local Plan for integration with the statewide public safety radio and communication system; and

WHEREAS, per Minnesota Statutes § 403.39 and § 403.392, the MESB serves as the regional emergency communication board for the metropolitan region and Dakota County is a member of the MESB's joint powers agreement; and

WHEREAS, the parties wish to enter into an agreement setting forth their respective roles and responsibilities regarding the operation of Dakota County's enhancements to the backbone of the statewide public safety radio and communication system.

NOW, THEREFORE, in consideration of the mutual undertaking and agreements hereinafter set forth, Dakota County, the MESB and Mn/DOT agree as follows:

ARTICLE I. PURPOSE

- 1.01 The purpose of this Agreement is to define the rights and obligations of the COUNTY, MESB and Mn/DOT with respect to the cooperative and coordinated design, procurement, construction, ownership, operation, communication facility sharing, funding and maintenance of a County/Regional Integrated Subsystem to be integrated with the ARMER public safety radio communications system.

ARTICLE II. COOPERATION

- 2.01 The COUNTY, MESB and Mn/DOT will cooperate and use their best efforts to ensure that the various provisions of this Agreement are fulfilled. The parties agree in good faith to undertake resolutions of disputes, if any, in an equitable and timely manner in accordance with the provisions of this Agreement.

ARTICLE III. DEFINITION OF TERMS

- 3.01 **AUTHORIZED USERS.** "Authorized Users" means those Eligible Users, as described in 3.05 below, who are authorized to operate upon the System.
- 3.02 **BACKBONE.** "System backbone" or "backbone" means a public safety radio communication system that consists of a shared, trunked, communication, and interoperability infrastructure network, including, but not limited to, radio towers and associated structures and equipment.

- 3.03 BACKBONE ANTENNA SITE. "Backbone Antenna Site" is comprised of the following: tower, shelter, LP tank, generators, fence and radio equipment components. Land as defined in this Agreement may or may not be included in the Backbone Antenna Site.
- 3.04 BOARD. "Board" or "radio board" means the Statewide Emergency Communications Board.
- 3.05 ELIGIBLE USERS. "Eligible Users" means those public and private entities and individuals eligible to hold FCC licenses in the Public Safety and Special Emergency Radio Services as defined by 47 C.F.R. Part 90, Subparts B and C, and those entities and individuals eligible to operate radios in the Public Safety and Special Emergency Radio services under the provisions of 47 C.F.R. §90.421.
- 3.06 ITINERANT USE. "Itinerant Use" means limited temporary use of elements of the System by an Authorized User that are not Subsystem Users.
- 3.07 LAND. "Land" for the purpose of this Agreement refers to the parcel of land that the Backbone and Subsystem Antenna Site is located on. Ownership of the land will be defined in this Agreement as either COUNTY or Mn/DOT.
- 3.08 LOCAL PLAN. "Local Plan" means the plan for a Subsystem by the COUNTY which has been adopted by the COUNTY'S governing body and approved by the MESB and the Board and any amendments thereto.
- 3.09 MUTUAL AID USE. "Mutual Aid Use" means limited temporary use of the elements of the System by Authorized Users that are not Subsystem Users in response to a specific incident or call for assistance.
- 3.10 PLAN. "Plan" means the plan adopted by the Board for a statewide public safety communication system in accordance with Minnesota Statutes §403.36, Subdivision 2, including subsequent amendments to the Plan adopted by the Board.
- 3.11 PROJECT DIRECTOR. "Project Director" means the person(s) designated by each party to this Agreement to represent that party's interest on all technical and contractual matters.
- 3.12 REGIONAL EMERGENCY COMMUNICATION BOARD. "Regional Emergency Communication Board" has the meaning provided for in Minnesota Statutes § 403.392.
- 3.14 SUBSYSTEM. "Subsystems" or "public safety radio subsystems" means systems identified in the plan or a plan developed under section [403.36](#) as subsystems

interconnected by the system backbone and operated by a regional radio board or local government units for their own internal operations.

- 3.15 SUBSYSTEM ANTENNA SITE. "Subsystem Antenna Site" can be comprised of the following: tower, shelter, LP tank, generators, fence and radio equipment components, which are added to the Backbone configuration by the COUNTY as part of a Local Plan enhancing the Backbone coverage. Land as defined in this Agreement may or may not be part of the Subsystem Antenna Site.
- 3.16 SUBSYSTEM USERS. "Subsystem Users" means Authorized Users who are associated with the COUNTY and authorized by the COUNTY as regular users of the COUNTY'S Subsystem.
- 3.17 SYSTEM. "System" collectively means the Backbone and Subsystems maintained by a COUNTY. For purposes of this Agreement, reference to System refers to that portion of the backbone where elements of the COUNTY'S Subsystem provide enhanced coverage or capacity to Authorized Users.

ARTICLE IV. TERM

- 4.01 This Agreement shall take effect upon execution by all parties hereto and appropriate state officials and shall remain in effect until such time as either the ARMER backbone or the County/Regional Integrated Subsystem is either removed from service, or is substantially replaced, at the end of its useful life, or this Agreement is terminated or canceled pursuant to Article V of this Agreement, whichever occurs first.

ARTICLE V. CANCELLATION

- 5.01 Any material violation of the terms and conditions of this Agreement shall constitute a default. In the event of a default, the non-defaulting party or parties shall give the defaulting party or parties notice of said default. Upon notice, the defaulting party or parties shall have a period of 30 (thirty) calendar days to cure said default. If the default is not cured to the satisfaction of the non-defaulting party or parties, said party or parties may terminate this Agreement immediately.
- 5.02 All parties to this Agreement shall provide the remaining parties to this Agreement with written notice within five (5) working days of receipt or transmission of any notice of non-performance or default on the part of the defaulting party or company with which the defaulting party to this Agreement has entered into an agreement.

ARTICLE VI.
CONFORMANCE TO SECB STANDARDS, PLANS, NETWORK INTERCONNECTION
AND AUTHORIZATION FOR USE

- 6.01 The County/Regional Integrated Subsystem shall be constructed and operated in conformance with the COUNTY's Local Plan and technical design approved by the MESB and the Board.
- 6.02 The County/Regional Integrated Subsystem, including subscriber equipment operated on the County/Regional Integrated Subsystem, shall comply with operational, technical and performance standards established or adopted by the MESB and the Board.
- 6.03 The COUNTY and Mn/DOT agree to integrate the County/Regional Integrated Subsystem with the ARMER Backbone, utilizing compatible technology.
- 6.04 Any material changes and/or additions to the County/Regional Integrated Subsystem infrastructure shall be based on mutual written agreement between the COUNTY, and Mn/DOT.
- 6.05 Subject to the terms and conditions of this Agreement, the COUNTY and Mn/DOT shall make the County/Regional Integrated Subsystem available for Itinerant Use by Authorized Users in conformance with the Board's Plan or policies.
- 6.06 The COUNTY and Mn/DOT shall allow Authorized Users to have access to the County/Regional Integrated Subsystem. The COUNTY, consistent with its Local Plan, shall determine whether Local Authorized Users may have access to the County/Regional Integrated Subsystem for Day-to-Day Use and subject to the terms and conditions of this Agreement.
- 6.07 Subject to the terms and conditions of this Agreement, the COUNTY and Mn/DOT shall make the County/Regional Integrated Subsystem available for Day-to-Day use by those Authorized Users that the MESB and the Board or an appropriate agency of the State of Minnesota has approved to use the County/Regional Integrated Subsystems for Day-to-Day Use.

ARTICLE VII.
USE OF BACKBONE SYSTEM RESOURCES

- 7.01 Mn/DOT, consistent with both the Board's and MESB's plans and standards, shall provide the COUNTY with use of the ARMER Backbone for Mutual Aid Use, Itinerant Use, Day to Day Use for emergency medical services, Day to Day Use for wide area operational units routinely operating outside the COUNTY, network switching functions, microwave transport, antenna site use, telephone interconnect use, and other services provided to Authorized Users.

- 7.02 Mn/DOT, consistent with both the Board's and MESB's plans and standards, shall use its best efforts to provide the COUNTY with access to, and use of, adequate frequencies, talk groups, unit IDs and other system resources, on a shared basis, within the overall capacities available, necessary to provide an equivalent grade of service afforded to any and all other Authorized Users, including provisions for planned growth.

ARTICLE VIII.

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ARTICLE IX. OWNERSHIP OF FIXED ASSETS

- 9.01 The COUNTY shall own the County/Regional Integrated Subsystem infrastructure equipment, dispatching equipment and subscriber units purchased by the COUNTY with the exception of the equipment transferred to Mn/DOT in Article VIII of this Agreement and any interface card integrated into an equipment rack owned by Mn/DOT. A table highlighting equipment ownership is shown in Exhibit A.
- 9.02 Mn/DOT shall own that equipment necessary to add County/Regional Integrated Subsystem equipment to an ARMER Backbone site that is physically integral to, and constitutes an incremental expansion of, ARMER Backbone equipment. Examples of equipment owned by Mn/DOT includes, but is not limited to, interface cards in master site audio switch and interface cards in Mn/DOT microwave channel bank equipment.
- 9.03 Prior to construction of the County/Regional Integrated Subsystem, the final detailed equipment ownership lists, and identification of all ARMER and COUNTY sites, shall be agreed to by the COUNTY and Mn/DOT.

ARTICLE X. ANTENNA SITE PROPERTY INTERESTS

- 10.01 The COUNTY shall enter into mutually agreeable leases and licensing agreements with the MESB for use of COUNTY owned antenna sites and network control sites that are necessary for additions to the Backbone System including Subsystems conforming to the MESB's Plan that are to be owned by local governments other than the COUNTY. The COUNTY retains approval authority for, and shall own, any and all improvements made to COUNTY buildings and facilities including, but not limited to, remodeling, expansion structural improvements to COUNTY towers, and upgraded mechanical and electrical systems.
- 10.02 The COUNTY shall negotiate and draft leases and licensing agreements needed to obtain the real property interests for County/Regional Integrated Subsystem antenna sites that

are not owned by the COUNTY and that are necessary for the construction and/or operation of the County/Regional Integrated Subsystem. The COUNTY shall bill the MESB quarterly, by March 31, June 30, September 30, and December 31 of each year, for any charges imposed on it by such leases or licensing agreements which are to be paid by the MESB.

ARTICLE XI. COLLOCATION ON COUNTY PROPERTIES, TOWERS & SHELTERS

11.01 Mn/DOT shall be permitted to install and maintain ARMER and other Mn/DOT Public Safety communications related equipment, more fully described in Exhibit B of this document, on or in the Subsystem Antenna Site as defined in paragraph 3.15 of this Agreement:

1. Empire Tower Site: Mn/DOT owns tower, COUNTY owns shelter and land.

The TERM of use of the above Subsystem Antenna Site(s) shall be in accordance with conditions as described in Article IV of this Agreement. CANCELLATION for use of the above Subsystem Antenna Site(s) shall be in accordance with conditions as described in Article V of this Agreement. COST for the use of the above Subsystem Antenna Site(s) shall be in accordance with conditions as described in Articles XII, XIII and XIV of this Agreement.

11.02 COUNTY retains approval authority for, and shall own, any and all improvements made to the Subsystem Antenna Site(s) described in paragraph 11.01 above including, but not limited to, structural improvements to towers and shelters and upgraded mechanical and electrical systems.

11.03 Except for radio channels (frequencies) covered by Article XVI of this Agreement, Mn/DOT agrees to obtain and maintain the proper FCC licensing and comply with all FCC Rules and Regulations governing the use of the equipment installed at the facilities noted in paragraph 11.01 above.

11.04 Exhibit B of this document describes the Mn/DOT equipment and placement of Mn/DOT equipment at the Subsystem Antenna Site(s) noted in paragraph 11.01 above. Changes to that described in Exhibit B must be submitted to COUNTY in writing. All changes must be approved by COUNTY in writing prior to making any changes.

11.05 Mn/DOT shall have unlimited access 24/7/365.

11.06 COUNTY and Mn/DOT agree that each party, and all subcontractors, will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. COUNTY, and

subcontractors, agree to maintain self-insurance or acquire at its sole expense during the term of this Agreement, commercial general liability insurance.

- 11.07 Mn/DOT shall notify COUNTY in advance of entry to any of the Subsystem Antenna Site(s) noted in paragraph 11.01 above. In case of an emergency, Mn/DOT shall notify COUNTY of entry on the next regular business day. As of the writing of this agreement, the NOTIFICATION shall be made to the contact information below:

800 MHz Radio Systems Coordinator
2860 160th St. West, Rosemount, MN 55068
(952) 891-7886
Ron.Jansen@CO.DAKOTA.MN.US

ARTICLE XII. COLLOCATION ON Mn/DOT PROPERTIES, TOWERS & SHELTERS

- 12.01 COUNTY shall be permitted to install and maintain ARMER and other COUNTY Public Safety communications related equipment, more fully described in Exhibit C of this document, on or in the Backbone Antenna Site(s) as defined in paragraph 3.03 of this Agreement:

1. Empire – Tower owned by Mn/DOT, shelter owned by COUNTY
2. Hastings
3. Cannon Falls

The TERM of use of the above Backbone Antenna Site(s) shall be in accordance with conditions as described in Article IV of this Agreement. CANCELLATION for use of the above Backbone Antenna Site(s) shall be in accordance with conditions as described in Article V of this Agreement. COST for the use of the above Backbone Antenna Site(s) shall be in accordance with conditions as described in Articles XII, XIII and XIV of this Agreement.

- 12.02 Mn/DOT retains approval authority for, and shall own, any and all improvements made to the Backbone Antenna Site(s) described in paragraph 12.01 above including, but not limited to, structural improvements to towers and shelters and upgraded mechanical and electrical systems.
- 12.03 Except for radio channels (frequencies) covered by ARTICLE XVI of this Agreement, COUNTY agrees to obtain and maintain the proper FCC licensing and comply with all FCC Rules and Regulations governing the use of the equipment installed at the Backbone Antenna Site(s) noted in paragraph 12.01 above.

- 12.04 Exhibit C of this Agreement describes the COUNTY equipment and placement of COUNTY equipment on the Backbone Antenna Site(s) noted in paragraph 12.01 above. Changes to that described in Exhibit C must be submitted to Mn/DOT in writing. All changes must be approved by Mn/DOT in writing prior to making any changes.
- 12.05 COUNTY shall have unlimited access 24/7/365.
- 12.06 COUNTY and Mn/DOT agree that each party, and all subcontractors, will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. COUNTY, and subcontractors, agree to maintain self-insurance or acquire at its sole expense during the term of this Agreement, commercial general liability insurance.
- 12.07 COUNTY shall notify Mn/DOT in advance of entry to any of the Backbone Antenna Site(s) noted in paragraph 11.01 above. In case of an emergency, COUNTY shall notify Mn/DOT of entry on the next regular business day. NOTIFICATION shall be made to:
- Mn/DOT Radio Operations Center
1500 West County Road B2
Roseville, MN 55113
651-234-7950

ARTICLE XIII. ALLOCATIONS OF ARMER BACKBONE OPERATING COSTS

- 13.01 At the time of this Agreement the Statewide Emergency Communications Board and Department of Public Safety (DPS) have provided funding to Mn/DOT for the operating costs of the State-owned portions of the ARMER Backbone. Therefore, there are no user fees, except for site operating utilities as outlined in Article XIII below, to be collected from the COUNTY by Mn/DOT for the COUNTY's attachment to/or operation on the ARMER Backbone. In the event that operating funding directed to Mn/DOT from DPS is discontinued or the Statewide Emergency Communications Board or MESB assesses user fees, Mn/DOT and the COUNTY shall work cooperatively to renegotiate this section of this Agreement.

ARTICLE XIV. ALLOCATIONS OF COMMUNICATION SITE OPERATING COSTS

- 14.01 Mn/DOT shall not charge rent to the COUNTY for COUNTY equipment collocated at Backbone Antenna Site(s) other than items covered under Article XIV.

- 14.02 The COUNTY shall not charge rent to Mn/DOT for Mn/DOT equipment collocated at Subsystem Antenna Site(s) other than items covered under Article XIV.
- 14.03 COUNTY's costs for the operating utilities are based upon the number of base stations or percentage of racks at site owned by the COUNTY and usage of Mn/DOT's backup emergency generator as outlined below and completed in a separate lease agreement:
- | | |
|--------------------|---------------------|
| 1 to 2 Stations | = \$300.00 per year |
| 3 to 4 Stations | = \$400.00 per year |
| 5 or more Stations | = \$500.00 per year |
- 14.04 MESB shall charge the COUNTY for its portion of rent and/or utilities for the sites in which the COUNTY has equipment and MESB manages the lease.
- 14.05 Since the Regional Authorized Users may operate on the Dakota County/Integrated Subsystem, at the time this Agreement is executed by all parties, the MESB and Mn/DOT shall be responsible for 7/15 of each of the vendor Software Subscription Agreement costs, the 800 MHz system operating costs and the preventative maintenance and repair of the 9 site-15 channel County/Regional Integrated Subsystem. An adjustment to the proportional share of these costs shall be negotiated in the future if the number of channels or site or the allocation of channels or sites between the County/Integrated Subsystem and the state/regional Backbone System changes. The 10th Dakota County Subsystem Site, Welch, utilities and tower rent will be shared costs with the 7/15 portion billed to Mn/DOT and the remaining being the responsibility of the County. If any of the aforementioned changes are made, written notice to all parties will be given prior to any changes in cost. The maintenance responsibilities assumed by the MESB and Mn/DOT shall be performed by appropriately trained Mn/DOT personnel, or Mn/DOT contracted personnel.

ARTICLE XV. PAYMENT AND TRANSFER OF FUNDS

- 15.01 When applicable, MESB shall invoice the COUNTY for the operating utilities from the Backbone Antenna Site(s) payable by the COUNTY. The COUNTY shall make full and prompt payment to the MESB following receipt of an invoice for the COUNTY's share of annual operating utilities and rent for the Backbone Antenna Site(s).
- 15.02 MESB shall invoice the COUNTY for its share of the ARMER system software upgrades from the ARMER system vendor as outlined in Article XVIII.

ARTICLE XVI.
AMENDMENTS TO COUNTY ARMER PARTICIPATION PLAN

- 16.01 Prior to construction for any amendment to the COUNTY's approved ARMER Participation Plan, the COUNTY shall forward the design of the amendment to the MESB and Board for approval.

ARTICLE XVII.
FCC LICENSES

- 17.01 The COUNTY shall, apply to the Federal Communications Commission, hereinafter referred to as "FCC", to become a co-licensee for the additional National Public Safety Planning Advisory Committee (NPSPAC) frequencies added to the County Subsystem and subscriber units. The COUNTY shall pay all costs, and shall provide all administrative support, associated with its portion of the FCC co-licensing applications, subject to the appropriation and encumbrance of funds for such purpose as required by law.
- 17.02 The COUNTY reserves the right to retain sufficient currently licensed voice and non-voice frequencies and to license additional frequencies to accommodate departments electing not to use the 800 MHz system, fire paging, mutual aid, and for non-voice such as SCADA, siren control, mobile data, GPS, etc.

ARTICLE XVIII.
NETWORK OPERATIONS, PRIORITIES AND PROTOCOLS

- 18.01 The COUNTY shall provide the services of a designated County/Regional Integrated Subsystem administrator who shall coordinate with the Mn/DOT network administrator regarding County/Regional Integrated Subsystem operations and overall Backbone System network management issues.
- 18.02 The COUNTY and Mn/DOT shall operate the County/Regional Integrated Subsystem in conformance with the Radio Boards plan for mutual aid usage, roaming between Subsystems, scanning between Subsystems, telephone interconnect, SCADA, mobile data, GPS and other uses potentially effecting system wide performance.
- 18.03 The COUNTY shall have authority and responsibility for the establishment of operating procedures, protocols, priorities, and standards for local government operations including dispatching occurring within the County/Regional Integrated Subsystem.

If conditions occur which affect local system or state/regional operation, Mn/DOT and the COUNTY agree to mutually resolve the issue in accordance with Article XX of this Agreement.

- 18.04 The COUNTY shall determine whether Authorized Users have access to COUNTY assigned talk groups and encryption code groups subject to terms and conditions determined by the COUNTY.

ARTICLE XIX. SYSTEM MAINTENANCE AND UPGRADES

- 19.01 Mn/DOT is responsible for the maintenance and the associated maintenance costs for all equipment owned by Mn/DOT.
- 19.02 The COUNTY is responsible for the maintenance and the associated maintenance costs for all equipment owned by the COUNTY.
- 19.03 The COUNTY shall include any COUNTY owned equipment that is interconnected with the ARMER Backbone in the system Software Subscription Agreement (SSA) with the system vendor. The COUNTY shall be responsible for the incremental costs associated with the addition of COUNTY owned equipment to the SSA. This would include any interconnect console equipment, network management equipment or any other interconnected equipment.
- 19.04 The system will require periodic system upgrades and maintenance that may be system impacting. Some of this work may result in reduced communications during the upgrade or maintenance activity. Mn/DOT shall notify the COUNTY of this work and the COUNTY and Mn/DOT shall work to find a mutually agreeable time to schedule this work in order to minimize impact to the radio users in the COUNTY. The COUNTY shall not reasonably withhold the ability of Mn/DOT to complete upgrades or system maintenance.
- 19.05 System capacity upgrades: It is anticipated that traffic on the system will grow over time, as this occurs the COUNTY and Mn/DOT will use actual system traffic reports to determine how the growth impacts performance of the system. In the event that the usage growth requires system additions, the COUNTY and Mn/DOT will work cooperatively to determine how the expansions are to occur and how any costs associated with the expansion will be split between the COUNTY and Mn/DOT.

**ARTICLE XX.
LIABILITY AND INSURANCE**

- 20.01 Each party agrees that it will be responsible for its own acts and the results thereof, to the extent authorized by the law, and shall not be responsible for the acts of the other party and the results thereof. The COUNTY's and Mn/DOT's liability is governed by the provisions of Minn. Stat., Chapter 466 [COUNTY] and Minn. Stat. Chapter 3 [Mn/DOT].

The COUNTY and Mn/DOT each warrant that they are able to comply with the aforementioned liability requirements through an insurance or a self-insurance program and have minimum coverage consistent with the liability limits contained in Minn. Stat., Chapter 466 [COUNTY] and Minn. Stat. Chapter 3 [Mn/DOT].

**ARTICLE XXI.
CONFLICT RESOLUTION**

- 21.01 If a dispute should arise between the parties to this Agreement with respect to this Agreement or any of its provisions, the parties involved agree to attempt to settle such dispute through the use of a mediator mutually acceptable to the disputing parties prior to commencement of any legal action on the part of either party with respect to this Agreement, any of its provisions and/or its enforcement. The costs of such mediation shall be shared in accordance with an Amendment to this agreement entered into prior to mediation that specifically addresses the responsibility of each party for the expenses of such mediation.

**ARTICLE XXII.
CONTRACT ADMINISTRATION**

- 22.01 In order to coordinate the activities of the COUNTY and Mn/DOT so as to accomplish the purposes of this Agreement, the following individuals, or their designees or successors, shall manage this Agreement on behalf of the COUNTY and Mn/DOT:

COUNTY:

County Manager
1590 Highway 55, Hastings, MN 55033
651-438-4418

Mn/DOT:

Director of the Office of Statewide Radio Communications

Dakota County, MESB, Mn/DOT Cooperative Agreement for ARMER Subsystem

MS 730
1500 W. County Rd. B2
Roseville, Minnesota 55113

MESB:

Executive Director
2099 University Avenue West
St. Paul, Minnesota 55104

**ARTICLE XXIII.
NOTICE**

- 23.01 Any notice, report or demand which must be given or made by a party hereto under the terms of this Agreement or any statute or ordinance shall be in writing and shall be sent registered or certified mail. Notices to the COUNTY shall be sent to the County Administrator at the addresses contained in Article XXII to this Agreement and to the Dakota County Attorney's Office, 1590 Highway 55, Hastings, MN, 55033. Notices to Mn/DOT shall be sent to Director of Electronic Communication at the address given in Article XXII. Notices to the MESB shall be sent to the Executive Director at the address given in Article XXII.

**ARTICLE XXIV.
MERGER AND MODIFICATION**

- 24.01 It is understood and agreed that the entire Agreement between the parties is contained herein, and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject hereof. All exhibits attached to this Agreement are incorporated into this Agreement and all items referred to in this Agreement are incorporated by reference and are deemed to be part of this Agreement.

Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties hereto.

**ARTICLE XXV.
AUDITS AND ACCESS TO RECORDS**

- 25.01 The COUNTY, MESB and Mn/DOT agree that each party hereto, the State Auditor, the Legislative Auditor, or any of their duly authorized representatives at any time during normal business hours, and as often as they reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers,

records, etc., which are pertinent to the accounting practices and procedures of the other party hereto and involve transactions relating to this Agreement.

ARTICLE XXVI. DATA PRIVACY

- 26.01 The COUNTY, MESB and Mn/DOT agree to abide by all applicable State and Federal laws and regulations regarding confidential information concerning individuals and/or data including but not limited to information made non-public by such laws or regulations.

ARTICLE XXVII. INDEPENDENT CONTRACTOR

- 27.01 Each party is, and shall remain, an independent contractor with respect to all services performed under this Agreement. Each party shall select the means, method, and manner of performing their respective services herein. Nothing is intended or should be construed in any manner as creating or establishing the relationship of co-partners or joint ventures between the parties hereto or as constituting either party as the agent, representative, or employee of the other for any purpose or in any manner whatsoever. Each party represents that it has or will secure at its own expense all personnel required in performing their respective services under this Agreement. Any and all personnel of either party or other persons engaged in the performance of any work or services under this Agreement shall have no contractual relationship with the other party, and shall not be considered an employee of any other party. Any and all claims that might arise under the Unemployment Compensation Act, the Workers' Compensation Act of the State of Minnesota, or any other applicable Federal or State law, rule, or regulation on behalf of said personnel, arising out of employment or alleged employment, including, without limitation, claims of discrimination against either party, its officers, agents, contractors, or employees shall in no way be the responsibility of the other party. Such personnel or other persons shall neither require nor be entitled to any compensation, rights, or benefits of any kind whatsoever from the other party, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Re-Employment Insurance, disability, severance pay, or PERA.

**ARTICLE XXVIII.
MINNESOTA LAWS GOVERN AND SEVERABILITY**

- 28.01 The laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations and performance obligations between the parties herein. The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement unless the part or parts that are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to the parties. One or more waivers by said party of any provision, term, condition or covenant shall not be construed by the other parties as a waiver of a subsequent breach of the same by other parties.

**ARTICLE XXIX.
CONTRACTOR INSURANCE**

- 29.01 The COUNTY agrees that any construction contracts let by the COUNTY for the Construction of the COUNTY/REGIONAL Integrated Subsystem as provided in this Agreement shall include clauses that will:
- 1) require the contractors to defend, indemnify, and save harmless the MESB, Mn/DOT, the COUNTY, and their officers, agents and employees from claims, suits, demands, damages, judgments, costs, interests, expenses (including, without limitation, reasonable attorney's fees, witness fees and disbursements incurred in the defense thereof) arising out of or by reason of the negligent or otherwise wrongful act or omission, including breach of a specific contractual duty, of said contractor, its officers, employees, agents or subcontractors; and
 - 2) require the contractors to provide and maintain insurance as follows:
 1. Comprehensive General Liability Insurance Policy with minimum limits in an amount not less than the statutory tort liability limits in Minn. Stat. §§ 3.736 and 466.03, combined single limit (CSL), with coverage pertaining to operation and premises of contractor;
 2. Automobile Liability Insurance including owned, non-owned and hired vehicles in an amount not less than the statutory tort liability limits in Minn. Stat. §§ 3.736 and 466.03, combined single limit (CSL) for total bodily injuries and/or damages arising from any one accident. If automobiles are not used, we must receive a letter from you stating this;

3. Professional Liability Insurance (when required) in an amount not less than the statutory tort liability limits in Minn. Stat. §§ 3.736 and 466.03, combined single limit (CSL);
4. Excess Umbrella Liability Policy in the amount not less than the statutory tort liability limits in Minn. Stat. §§ 3.736 and 466.03 will be additionally required if any of the above policies have lower limits than stated;
5. Workers' Compensation Insurance as required by Minnesota laws;

And to provide Mn/DOT and COUNTY with Certificates of Insurance naming MESB, Mn/DOT and COUNTY as additional insureds, and

3) Require the contractor to be an independent contractor for the purposes of completing the work provided for in this Agreement.

ARTICLE XXX. APPLICABLE PROVISIONS OF LAW

- 30.01 Applicable provisions of Minnesota State Law, Federal Law and any applicable local ordinance shall be considered a part of this Agreement as though fully set forth herein. Specifically, COUNTY agrees to comply with all federal, state and local applicable laws and ordinances relating to nondiscrimination, affirmative action, public purchases, contracting, employment including workers' compensation and state labor wage provisions, and surety deposits required for construction contracts. Notwithstanding the foregoing or any other provision of this Agreement, Mn/DOT does not agree to be subject to or bound by local ordinances.

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COUNTY BOARD APPROVAL

The State of Minnesota through its Commissioner of Transportation having signed this Agreement and the Dakota County Board has duly approved this Agreement on the ____ day of _____, 20__, and pursuant to such approval, the proper COUNTY officials having signed this Agreement, the parties hereto agree to be bound by the provisions herein set forth.

DAKOTA COUNTY

By: _____
County Manager

Dated: _____

Approved as to form:

By: _____
Assistant County Attorney

Dated: _____

METROPOLITAN EMERGENCY COMMUNICATIONS BOARD

By: _____
Chair of the Board

Dated: _____

Approved as to form:

By: _____
MESB Counsel

Dated: _____

STATE OF MINNESOTA

Through its Commissioner of Transportation

By: _____

Dated: _____

Title: Director

APPROVED:

MNDOT CONTRACT MANAGEMENT

By _____

Title _____

Date _____