**INTERGOVERNMENTAL AGREEMENT BETWEEN**

**DANE COUNTY AND OTHER MUNICIPALITIES WITHIN DANE COUNTY CREATING A COUNTY-WIDE INTEROPERABLE VHF-BASED EMERGENCY RADIO SYSTEM KNOWN AS “DANECOM”**

This Intergovernmental Agreement (“Agreement”) is made by and between Dane County (“County”), and the Town of Medina (“Town”) pursuant to § 66.0301, Wis. Stats.

 **WHEREAS**, the Dane County Board adopted Resolution 88, 2010-2011, endorsing an implementation of a trunked, digital, standards-based simulcast emergency radio system that features narrow-banding of the county’s VHF system (“system”); that will include modernization of the microwave backbone of the system; and

 **WHEREAS**, the County agreed to make an investment in the system infrastructure, not to exceed $18 million; and

**WHEREAS,** the County subsequently agreed to invest $6.7 million additional dollars in improvements to the system with no additional operating and maintenance costs to participating municipalities, and then built the system, which is now in operation; and

 **WHEREAS**, the Governing Board established by Dane County Board of Supervisors Resolution 88, 2010-2011 has the authority delineated therein; and

 **WHEREAS**, the County and participating municipalities have agreed to pay a proportionate share of the costs of the operating and maintenance costs of the system, with the annual total cost to municipalities other than the County not to exceed $825,000, and the Town wishes to participate; and

**WHEREAS**, the Town wishes to participate in use of the system;

 **NOW THEREFORE, LET IT BE RESOLVED** that the parties do mutually agree as follows:

1. **PURPOSE**. The parties find that it was in the interest of the residents of the County and the respective municipalities, including the Town, to create an improved, narrow-banded VHF system. The intent is to provide fair use and adequate protection to citizens through use of the DaneCom system.
2. **AUTHORITY**. This Agreement is entered into by the parties pursuant to Wis. Stats. § 66.0301.
3. **EFFECTIVE DATE**. This Agreement shall commence upon the execution by the parties.
4. **RESPONSIBILITIES OF THE COUNTY**. The County shall:
5. Manage, administer, and control the system, including the additions in Fitchburg, except that the DaneCom Governing Board (hereinafter “Governing Board”) will continue to oversee the cost-sharing model for recurring operations and maintenance expenses and related matters as set forth in this agreement.
6. Bill municipal parties for their respective share of operating and maintenance costs as determined by the Governing Board established by County Resolution 88, 2010-2011 and the provisions of this Agreement. Exact charges will be determined and billed by the County no later than January 15th (for the February 15th payment) and July 15th (for the August 15th payment) each year. The County shall only include the operational and maintenance costs for goods and services that have been actually received by the County when calculating the amount of each invoice that is billed to the municipalities.
7. If any municipality chooses not to join and pay its respective share of operating and maintenance costs, those costs will be redistributed as follows:
	1. If the municipality is a city or village, 70% of that municipality’s costs will be redistributed to the remaining cities and villages using the 50/50 formula described in Section 7A herein. The County will pay 30% of the non-participating municipality’s costs.
	2. If the municipality is a town, and if 80% (eighty percent or 28), of the County’s 34 towns have executed this agreement, 70% of that non-participating town’s costs will be redistributed to the remaining towns using the 50/50 formula described in Section 7A herein. The County will pay 30% of the non-participating town’s costs.
8. Allow eligible users in accordance with 47 C.F.R. § 90.421.
9. To the extent practicable, provide full access to, and allocate capacity of, the system to all parties to this Agreement for all communications needs of that party, without providing any special consideration to County agencies. Nothing herein is intended to prohibit the allocation of resources based on a reasonable prioritization based on a case-by-case evaluation of the level of public safety risk, or similar factors.
10. **RESPONSIBILITIES OF THE TOWN.** The Town shall:
11. Connect no local additions to the system by wire without a separate written Intergovernmental Agreement (“IGA”) with the County. County shall not unreasonably withhold its approval of such additions. Examples of additions include, but are not limited to, transmitter or receiver sites, dispatch consoles or interoperability gateways.
12. Operate only authorized equipment on the system in accordance with reasonably established protocols and standard operating procedures.
13. Pay operating and maintenance costs on a semi-annual basis payable on February 15 and August 15 of each year.
14. **RESPONSIBILITIES OF BOTH PARTIES**: Both parties shall:
15. Pay their proportionate share of the operating and maintenance cost of the system as determined by the Governing Board on a semi-annual basis. All capital, operational and maintenance costs related to any additions by the Town will be paid solely by the Town.
16. Follow all operating and technical requirements established by the County.
17. Execute an amended agreement to reflect cost-sharing model changes reasonably based on equalized value, population, actual or estimated usage and/or other relevant and customary factors as established by the Governing Board if and when they are made.
18. **OPERATIONS AND MAINTENANCE COST ALLOCATION**.
19. It is understood that annual operating and maintenance costs for municipalities will be apportioned using a 50/50 (half equalized value, half per capita, adjusted annually per Wisconsin Department of Revenue and Department of Administration websites) through the year 2015.
20. The formula for allocating operation and maintenance costs will be reevaluated by the Governing Board and may be changed by the Governing Board for the years following 2015 to provide a more equitable allocation using the factors described in Section 6C.
21. The annual total contribution by parties other than the County will not exceed $825,000.
22. Thirty percent (30%) of the total operating and maintenance expenses shall be allocated to the County each year through 2015 except as noted in Sections 4C (a) and 4C (b). Thereafter, any reallocation to the County shall not exceed 50% of the total operating cost.
23. **GOVERNANCE**.
24. Except as provided in sub. B, the Governing Board shall, throughout the term of this Agreement, consist of three members appointed jointly by the Dane County Executive and County Board Chair, three members appointed by the Dane County Cities and Villages Association, two members appointed by the Dane County Towns Association, and one member each from the Dane County EMS Association, the Dane County Fire Chiefs Association, and the Dane County Chiefs of Police Association. Appointees must reside in entities that are participants in the interoperable radio communications system.
25. In the event the percentage of the total contribution to operation and maintenance cost to be made by any of the three municipal groups having the right to appoint members to the Governing Board increases above its initial contribution percentage by fifteen (15) or more as a result of modifications to the contribution formula approved by the Governing Board, the appointing authority for that group shall have the right to appoint one additional member to the Governing Board for each 15% increase over the number of appointments provide in sub. A. If the contribution percentage of any group shall decrease by ten (10) or more, the appointing authority for that group shall have one fewer appointment for each 10% decrease from the number provided in sub. A. The number of appointments made by the Dane County EMS Association, the Dane County Fire Chiefs Association, and the Dane County Chiefs of Police Association shall remain unchanged. Appointments shall take effect on January 1 in the year revised compensation formula takes effect.
26. The County will use operating, technical and equipment requirements established by the existing Wisconsin System for Interoperable Communications (WISCOM) wherever appropriate and possible.
27. **WITHDRAWAL**. The Town may withdraw from this Agreement upon 18 months notice prior to the beginning of the calendar year in which withdrawal takes place.
28. **LIABILITY**. The parties, each and for itself, shall be responsible for injuries, claims or losses arising from or caused by the acts or omissions of its agents or employees acting within the scope of their employment, in accordance with Wis. Stats. §§ 893.80 and 895.46(1).
29. **DUTY TO COOPERATE**. Each party hereto shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws.
30. **NO WAIVER**. In no event shall the making of any payment or acceptance of any service required by this Agreement constitute or be construed as a waiver by either party of any breach of the covenants of this Agreement or a waiver of any default of the other party and the making of any such payment or acceptance of any such service by the conforming party while any such default or breach on the part of the other party shall exist, shall in no way impair or prejudice the right of the conforming party with respect to recovery of damages or other remedy as a result of such breach or default.
31. **ENTIRE AGREEMENT and AMENDMENTS**. The entire Agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended by any fashion except in writing, executed by the parties. This section does not apply to separate IGAs entered into between the County and any other party with respect to additions made to the system by or for that party.
32. **SEVERABILITY**. The various provisions of this Agreement are declared to be severable and the findings of any court that any particular clause or clauses is or are unlawful or unenforceable shall not operate to invalidate the remainder of this Agreement and the same shall continue in effect unless modified by the parties.
33. **NO THIRD PARTY RIGHTS**. This is an Agreement between the parties, and nothing herein creates any rights in a third person.

DANE COUNTY

Dated this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 2017

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Joseph Parisi

County Executive

Dated this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 2017

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Town of Medina

 (name/title)

(and for co-signer from same municipality)

Dated this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 2017

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Town of Medina

 (name/title)