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Joint Powers Agreement  
Establishing the  
Dakota Communications Center

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This Agreement is entered into between the following political subdivisions of the State of Minnesota, by and through their respective governing bodies:

City of Apple Valley	City of Lakeville
City of Burnsville	City of Mendota Heights
City of Eagan	City of Rosemount
City of Farmington	City of South St. Paul
City of Hastings	City of West St. Paul
City of Inver Grove Heights	County of Dakota

Individually and collectively, the parties to this Agreement are referred to as the "Members" of the Dakota Communications Center, hereinafter referred to as the "DCC".

### **RECITALS**

WHEREAS, pursuant to Minnesota Statutes § 471.59, the Members are empowered to provide assistance to, and act in coordination with, other political subdivisions within the state of Minnesota as deemed necessary to benefit the public; and

WHEREAS, pursuant to Minnesota Statutes § 465.717, the Members are empowered to incorporate the joint powers entity created by this Agreement as a Minnesota nonprofit corporation if deemed necessary or beneficial to the Members; and

WHEREAS, the Members wish to cooperatively engage in the establishment, operation and maintenance of a countywide public safety answering point and communications center for law enforcement, fire, emergency medical services (EMS), and other public safety services for the mutual benefit of all; and

WHEREAS, by creating the DCC the Members intend to provide a level of public safety communications services to Dakota County communities that is commensurate with industry standards; and

WHEREAS, each Member represents that it is duly qualified and authorized to enter into this Agreement and will comply with its respective obligations and responsibilities as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual undertaking and agreements hereinafter set forth, the Members agree as follows:

### **ARTICLE I PURPOSE**

Through this Agreement and the authority provided by Minnesota Statutes § 471.59 to act cooperatively, the Members hereby create a joint powers entity referred to as the DCC for the following purposes:

To acquire and provide the facilities, infrastructure, hardware, software, services and other items necessary and appropriate for the establishment, operation and maintenance of a joint

law enforcement, fire, EMS, and other emergency communications system for the mutual benefit of the Members and the people of Dakota County;

To provide public safety communications system services to other governmental units that are not Members through a fee for service contract;

To define the rights and obligations of the Members with respect to the establishment, operation and maintenance of the DCC; and

To provide a forum for discussion, study, development and implementation of recommendations of mutual interest regarding public safety communications, information systems, and statistical matters within Dakota County, Minnesota.

## **ARTICLE II TERM**

This Agreement shall be effective upon execution by all the parties hereto and shall continue until terminated as provided in Article XI. No party may withdraw from this Agreement from the date this Agreement is executed by all parties until five (5) years from the initial date of operation of the DCC (the Initial Term). . The Board of Directors shall determine the initial date of operation of the DCC.

## **ARTICLE III POWERS**

The DCC shall have the following powers in its own name:

- A. To take actions necessary and convenient to discharge the duty to implement, maintain, and operate a countywide public safety communications center;
- B. To adopt bylaws and rules or policies consistent with this Agreement that are required to effectively exercise the powers or accomplish the objectives of the DCC;
- C. To adopt an annual operating and capital budget, including a statement of sources of funding and allocation of costs to the Members of the DCC;
- D. To enter into contracts in its own name, including contracts to provide public safety communications services to other governmental units who are not Members;
- E. To acquire, lease, hold and dispose of property, both real and personal, including transfer of property from a Member to the DCC;
- F. To incur debt obligations that do not exceed ten (10) years, liabilities or other obligations necessary to accomplish its purposes that are consistent with any financial and debt policies established by the Board of Directors, or to arrange with one or more of the Members to incur debt or issue bonds for the benefit of the DCC, as permitted by law;
- G. To operate and maintain a communications system that will receive calls for law enforcement, fire, and emergency medical services (EMS) services and dispatch field units in response to such calls;

- H. To hire, discipline or discharge employees required to accomplish the purposes of this Agreement including employing an Executive Director and delegating authority to the Executive Director as determined by the Board of Directors;
- I. To purchase any insurance or indemnity or surety bonds as necessary to carry out this Agreement and the purposes of the DCC;
- J. To seek, apply for and accept appropriations, grants, gifts, loans of money or other assistance as permitted by law from any person or entity, whether public or private;
- K. To sue;
- L. To exercise all powers necessary and incidental to carrying out the purposes set forth in Article I of this Agreement;
- M. To charge fees to Members or other governmental entities for special services or communications system functionality that is not provided to all Members; and
- N. To incorporate the DCC as a Minnesota nonprofit corporation if approved by a majority of the Board of Directors.

## **ARTICLE IV MEMBERSHIP**

### 4.1 Definition of Members

All parties to this Agreement are Members of the DCC. No Member may withdraw from this Agreement during the Initial Term of this Agreement.

### 4.2 Requirement of Good Standing

Continued Membership in the DCC shall be contingent upon the payment by each Member of an annual assessment and any additional fees as determined by the Board of Directors consistent with the financing procedures set forth in Article IX hereunder.

### 4.3 Addition of New Members

Any unit of government within Dakota County that has at least 10,000 residents and maintains a law enforcement agency is eligible for Membership in the DCC. A new Member may be added to the DCC if first approved by the Board of Directors and if the existing Members and the unit of government seeking membership execute an amendment to this Agreement to add the new Member upon the terms as agreed to by them.

Any unit of government that becomes a Member of the DCC after the execution of this Agreement shall be subject to all existing debts and liabilities of the DCC on a proportionate basis to the same extent as all then existing Members. In addition, any new Member shall be solely liable for all costs of adding or modifying hardware, software or services necessary to effectively accommodate the operational needs of the new Member, and of insuring that there is no degradation of existing capability due to the new Member's needs, as determined by the Board of Directors. Each new Member shall pay a proportionate share of the normal,

continuing operating expenses of the DCC as well as a proportionate share of any special assessment, as approved from time to time by the Members. An entity seeking to become a Member may be required to and shall pay one-time initiation, assessment or capital investment fees or establish an escrow account for such fees as determined by the Board of Directors.

#### 4.4 Withdrawal of Member

Withdrawal of any Member after the Initial Term of this Agreement shall not terminate this Agreement except as provided in Article XI. Withdrawal shall be accomplished as set forth in Article XII of this Agreement. Withdrawal shall not discharge any liability incurred or chargeable to any Member before the effective date of withdrawal. No Member is entitled to a refund of cost-sharing assessments or other fees imposed by the Board of Directors that have been paid to, or is owed to, the DCC on the effective date of withdrawal.

### **ARTICLE V BOARD OF DIRECTORS**

#### 5.1 Membership on the Board

There is hereby established a Board of Directors of the DCC which shall consist of an elected official from each Member. These Directors shall serve without salary, but may be reimbursed for expenses incurred in connection with DCC business as determined by the Board of Directors. Each Member shall designate one named elected official as a Director consistent with the term and procedures set forth in the Bylaws adopted by the Board of Directors. Each Member may also designate one named elected official as an Alternate Director to attend Board meetings and vote on measures brought before the Board when a Director is absent, consistent with the procedures set forth in the Bylaws. If any Director or Alternate Director ceases to be an elected official of a Member during his or her term, such seat shall be vacant until a successor elected official is appointed by such Member.

#### 5.2 Powers of the Board

The Board of Directors shall have the following powers and duties:

- a. provide policy leadership and approve the general policies of the DCC relating to budget, finance, and legal matters;
- b. contract with a Member or third party for auditing, financial, human resources, legal and other services as needed for the DCC;
- c. adopt Board Bylaws and amend the Bylaws from time to time as it deems necessary;
- d. approve changes to the membership of the DCC;
- e. approve contracting and purchasing policies for the DCC;
- f. approve the annual operating and capital budget, cost allocation formula, Member fees and assessments of the DCC;
- g. hire, discipline, terminate and set the compensation for the Executive Director; and
- h. incur debt and approve financial obligations of the DCC that are significant in amount and non-recurring. Board approval is not required for payment of monthly budgeted expenditures and employee salaries and benefits.

- i. incorporate the DCC as a Minnesota nonprofit corporation as permitted by Minnesota Statutes § 465.717, subdivision 2, if approved by a majority of Members at a meeting of the Board of Directors.

### 5.3 Voting by Directors

Each Member of the DCC shall have one seat on the Board of Directors and is entitled to one vote. The Directors' votes shall be non-weighted (all votes having the same weight) when voting on matters coming before the Board, except as provided below.

The Directors' votes shall be weighted when the Board is exercising its powers under Section 5.2 (f) and (h) of this Agreement. The comparative weight of each Director's vote on those matters is determined by the proportionate share of the DCC annual operating and capital budget for that calendar year that is the responsibility of the Member casting that vote.

The Board of Directors shall arrange for or contract with one or more of its Members or an independent contractor to provide personnel/human resource, accounting and finance, procurement/contracting, payroll administration and legal services for the DCC. The DCC shall not create its own personnel/human resource, accounting and finance, procurement/contracting, payroll administration or legal departments unless approved by a four-fifths (4/5) majority of the Board of Directors by non-weighted votes.

After the first full year that the DCC is in operation, the Board of Directors may amend the cost allocation formula and associated definitions by a 2/3 majority of the weighted vote total of those Members present and voting at a properly noticed Board of Directors meeting.

In case of a tie vote, the Chair of the Board of Directors shall cast a second and deciding vote. No proxy votes or absentee voting shall be permitted except as provided in this Agreement or in the Bylaws of the Board.

### 5.4 Board Meetings

- a. The Board of Directors shall have regular meetings at least twice each calendar year at a date, time and location included in the meeting notices. The Board may schedule more regular meetings as it deems appropriate or as established by the Bylaws adopted by the Board. At least 30 days prior notice shall be provided to each Member, Director and Alternate Director of the date, time and location of such regular meetings.
- b. A special meeting of the Board of Directors may be called by its Chair, or by any four Directors of the Board consistent with the procedures set forth in the Bylaws.

### 5.5 Officers of the Board of Directors

- a. Officers of the Board of Directors shall consist of a Chair and Vice Chair. The Chair and Vice Chair shall be elected from among the Directors of the DCC. The officers shall hold office for the terms and under the conditions set forth in the Bylaws adopted by the Board of Directors.
- b. Chair: The Chair of the Board shall Conduct meetings of the Board of Directors, sign, with the Executive Director, any instrument which the Board of Directors has authorized to be executed, or as authorized by the Bylaws or approved DCC procedural rules of

operation, and perform all duties incident to the office of Chair and such other duties as may be prescribed by the Board of Directors from time to time, provided that such actions are consistent with this Agreement and the Bylaws.

- c. Vice Chair: In the event of the absence of the Chair, or in the event of the inability or refusal of the Chair to act, the Vice Chair of the Board shall perform the duties of Chair.

5.6 Secretary of the Board of Directors: The Executive Director of the DCC shall serve in the administrative role of Secretary to the Board and shall keep the minutes of the meetings of the Board of Directors, see that all notices are duly provided and/or published in accordance with the provisions of this Agreement and the Bylaws adopted by the Board of Directors or as otherwise required by law, act as custodian of the business records of the DCC, and perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board of Directors.

A high-level outline of the governing organizational structure of the DCC is graphically represented in Attachment A.

## **ARTICLE VI EXECUTIVE COMMITTEE**

### 6.1 Membership on the Executive Committee

There is hereby established an Executive Committee of the DCC, the members of which shall serve without salary and shall oversee the operations and functions of the DCC as set forth in this Article and the Bylaws of the Committee. The Executive Committee shall consist of the chief administrators of each Member. Each Member shall have one seat on the Executive Committee. Each Member may also designate a second employee or staff person as an alternate representative to attend Committee meetings and vote, on behalf of such Member, on matters brought before the Committee when a representative is absent, consistent with the procedures set forth in the Bylaws. Each representative and alternate representative shall serve without salary, but each may be reimbursed for necessary expenses incurred in connection with the DCC business, as determined by the Board of Directors. If any Committee representative ceases to be the chief administrator of a Member, such seat may be occupied by the alternate representative until a successor chief administrator or interim chief administrator is appointed by such Member.

### 6.2 Purpose and Powers of the Committee

The Executive Committee shall have the following powers and duties:

- a. provide direction and oversight of the operations of the DCC, subject to the policy direction established by the Board of Directors, and within the limits fixed by the operating and capital budgets, provided that no financial obligation exceeding the amount of the approved budget shall be incurred by the Executive Committee without the prior consent of the Board of Directors;
- b. carry out the policy decisions of the Board of Directors and make recommendations to the Board of Directors.;



- c. adopt Committee Bylaws and amend the Bylaws from time to time as it deems necessary;
- d. review all administrative decisions concerning personnel, development efforts, operations, cost sharing, expenditure approval, utilization of personnel and equipment, and operational decisions made by the Executive Director as deemed necessary by the Committee;
- e. assist the Board of Directors in the recruitment of candidates for the position of Executive Director and the review of candidate qualifications and provide recommendations to the Board of Directors on the hiring, termination and review of the performance of the Executive Director;
- f. conduct an annual evaluation of the Executive Director's performance and present its findings and recommendations to the Board of Directors before the date the Board approves the annual operating and capital budgets;
- g. establish and assign tasks to advisory subcommittees as the Committee deems necessary;
- h. make recommendations to the Board of Directors on changes to the membership of the DCC;
- i. Review, modify and approve to the proposed annual operating and capital budgets prepared by the Executive Director prior to submittal to the Board of Directors.

### 6.3 Voting by Committee Members

Each Member is entitled to one vote at committee meetings and each vote shall be non-weighted (each vote having equal weight). In the case of a tie, the Chair of the Executive Committee shall cast a second and deciding vote. Only the chief administrator, or the designated alternate representative of a Member in the absence of the chief administrator, shall vote on matters coming before the Executive Committee.

No proxy votes or absentee voting shall be permitted except as provided in this Agreement or in the Bylaws of the Committee.

### 6.4 Meetings

- a. Regular meetings of the Executive Committee shall be held as needed, but at least quarterly. At least 15 days prior notice shall be provided to each committee member of the date, time and location of such meetings.
- b. Special meetings of the Executive Committee may be called by its Chair, or any four members of the Executive Committee acting in concert, consistent with the procedures set forth in the Bylaws or operating procedures adopted by the Committee.

### 6.5 Officers of the Executive Committee

Officers of the Executive Committee shall consist of a Chair and a Vice Chair. The Chair and Vice Chair shall be elected from among the representatives of the Members serving on the Executive Committee. The officers shall hold office for the terms and under the conditions set forth in the Bylaws adopted by the Executive Committee.

- a. Chair. The Chair shall conduct meetings of the Executive Committee and shall serve as the liaison between the Board of Directors and the Executive Committee. The Chair may

sign, with the Executive Director, any instruments which the Executive Committee, acting as a Committee, has authorized to be executed or as authorized by the DCC procedural rules of operation. The Chair shall also perform all duties incident to the office of Chair and such other duties as may be prescribed by the Executive Committee from time to time, provided that such actions are consistent with this Agreement and the Bylaws.

- b. Vice Chair. In the absence of the Chair or in the event of the Chair's inability or refusal to act, the Vice Chair shall perform the duties of Chair. The Vice Chair shall perform such other duties as may be requested by the Chair.

## **ARTICLE VII EXECUTIVE DIRECTOR**

### 7.1 Appointment and Vacancy

- a. The DCC shall have a chief operating officer of the title Executive Director. The Executive Director shall be the administrative head of the DCC and shall report to the Executive Committee for the administration and operation of the DCC. The Executive Director shall be an employee of the DCC.
- b. The Executive Director shall have appropriate administrative and executive qualifications for the position and shall have actual experience in and knowledge of accepted practices for a public safety communications system.
- c. Any vacancy in the office of Executive Director shall be filled as soon as possible after the effective date of such vacancy. In the case of absence or disability of the Executive Director, the Board of Directors may designate any other qualified person to carry out the duties of the Executive Director during such absence or disability.

### 7.2 Powers And Duties

The responsibilities and duties of the Executive Director shall include the following:

- a. To attend meetings of the Board of Directors, the Executive Committee and the Operations Committee;
  - (1) The Executive Director shall have the right to take part in the discussion of all matters coming before the Board of Directors, the Executive Committee and the Operations Committee but shall have no vote thereon;
  - (2) The Executive Director shall be entitled to and be given notice of all meetings, regular and special, of the Board of Directors, the Executive Committee and the Operations Committee;
  - (3) When the Executive Director is unable to attend a meeting, the Executive Director may appoint a DCC staff member to attend.
- b. To appoint, evaluate, promote, demote or remove employees of the DCC pursuant to the approved DCC budget and in accord with the policies and procedures of the DCC;

- c. To recommend to the Executive Committee for adoption such policies and procedures as may be deemed necessary or expedient for the efficient operation of the DCC;
- d. To direct and oversee the day-to-day operations of the DCC and its employees and to expend operating and capital budgets consistent with the policies and direction of the Board of Directors;
- e. To enforce, administer, and implement the policies of the DCC as established by the Board of Directors and Executive Committee;
- f. To prepare a quarterly report of the DCC activities and provide copies to the Board of Directors and the Executive Committee;
- g. To prepare a proposed annual operating and capital budget as well as a report of estimated revenues in order to determine the estimated funds necessary to defray the expenses of the DCC for each fiscal year and to present the proposed operating and capital budget to the Executive Committee in the manner set forth under Article IX herein;
- h. To serve as a staff resource to the Executive Committee and the Operations Committee and coordinate the activities of the respective committees as required;
- i. To serve as a Member of regional committees, organizations and forums related to public safety communications and represent the collective interests of the DCC and its Members as required;
- j. To communicate regularly with the Members and other agencies utilizing the DCC communication services about operational, policy and training issues;
- k. To keep minutes of the meetings of the Board of Directors, Executive Committee, and Operations Committee and see that all notices of the Board and Committee are duly provided and/or published in accordance with the provisions of this Agreement and the Bylaws adopted by the Board, Executive Committee and Operations Committee or as otherwise required by law;
- l. To act as custodian of the business records of the DCC; and
- m. To perform such other duties as may be delegated from time to time by the Board of Directors or by the Executive Committee.

## **ARTICLE VIII OPERATIONS COMMITTEE**

### **8.1 Membership on the Operations Committee**

Each law enforcement agency and fire agency of a Member of the DCC and the Dakota County Joint EMS Council shall have one seat on the Operations Committee. Each law enforcement agency, fire agency and the Dakota County EMS Council shall designate a primary member and an alternate member to the Committee. Each law enforcement agency and fire agency of a community that is served by the DCC but is not a Member of the DCC may participate in the Operations Committee as a non-voting, ad-hoc member. The Executive Director shall provide staff support to the Operations Committee and its subcommittees and shall provide information and guidance to the Committee and subcommittees as needed.

## 8.2 Purpose and Powers of the Committee

There is hereby established an Operations Committee of the DCC. The Operations Committee may establish and abolish advisory subcommittees, as it deems necessary. Initially, the Committee will have two subcommittees – the Law Enforcement Subcommittee and the Fire/EMS Subcommittee. The Members of the Operations Committee and its subcommittees shall serve without compensation and shall be available to the DCC Executive Director and Executive Committee to assist in the coordination of:

- Unified radio procedures;
- DCC procedural changes that affect one or more Members of the DCC;
- Field training and back up exercises;
- DCC and Members' records management functions;
- The orderly transmittal of inquiries regarding the handling of specific matters by the DCC.
- Obtaining and preparing recommendations concerning operational input from the Executive Director of the DCC and the Members' public safety departments

The Operations Committee shall have the following powers and duties:

- a. Be the personal contact at each Member's law enforcement or fire/EMS department for the Executive Director for daily procedural and operational issues;
- b. Provide liaison to the DCC Executive Director in the coordination and preparation of unified procedures and policies;
- c. Be a resource for the Executive Committee in researching special topics of interest;
- d. Forward comments and inquiries on the operation of the DCC from their respective agencies to the Executive Director after initial local review and screening;
- f. Coordinate field training and back-up exercises;
- g. Perform any other duties as required by the Executive Committee.

## 8.3 Voting by Committee Members

It is expected that decisions and recommendations of the Operations Committee shall be made by consensus, but where consensus does not exist, the following procedure shall apply:

- a. Each Member of the DCC shall have a maximum of two votes on the Operations Committee – one from the law enforcement agency and one from the fire agency of that Member. A Member that operates a joint law enforcement or fire agency with another Member shall continue to have a voting seat on the Operations Committee for each joint agency. A Member that has only a law enforcement agency or fire agency is entitled to one vote. The Dakota County EMS Council shall have one vote on the Operations Committee. Votes shall be cast by the representative of each agency (or by his/her designated alternate, if such representative is absent) as the official representative to the Operations Committee.
- b. No proxy votes or absentee voting shall be permitted except as otherwise provided in the Bylaws of the Executive Committee.

- c. Membership and voting on subcommittees established by the Operations Committee shall be as required by the Bylaws of the Committee or the resolution of the Committee that establishes the subcommittee. Each Member that maintains a law enforcement agency individually or jointly with another Member shall have one representative and one vote on the Law Enforcement Subcommittee. Each Member that maintains a fire agency individually or jointly with another Member shall have one representative and one vote on the fire agency Subcommittee.

#### 8.4 Meetings and Actions

The Operations Committee shall meet at least six times each year and may schedule additional meetings as deemed necessary and appropriate by the Membership. The meetings will be conducted in compliance with any direction provided to the Committee by the Executive Committee, subject to the policies established by the Board of Directors and the Executive Committee. Except as otherwise stated in the Bylaws, no action of the Operations Committee or its subcommittees shall be in effect until approved or ratified by the Executive Committee or, if deemed necessary by the Executive Committee, until approved or ratified by the Board of Directors.

Any law enforcement, fire or EMS agency that receives dispatch services from the DCC may appear before the Operations Committee or its subcommittees to discuss concerns, complaints or other operational issues concerning the DCC. If the agency is not satisfied with the action or lack of action taken by the Operations Committee, that agency may appear before the Executive Committee to discuss the actions or policies of concern. Prior to appearing before the Executive Committee, the agency shall meet and confer with the Executive Director about the issues to be discussed with the Executive Committee.

### **ARTICLE IX BUDGET**

#### 9.1 Recommended Annual Budget

The Executive Director shall prepare a proposed annual operating and capital budget for the Executive Committee no later than May 1st of each year to allow the Executive Committee members to consult with their respective governing bodies and prepare a recommended annual operating and capital budget for consideration by the Board of Directors. An annual operating and capital budget shall be adopted by the Board of Directors at a regular meeting before September 1<sup>st</sup> each year. If the Board fails to adopt a budget by September 1<sup>st</sup>, the budget from the current year shall be deemed approved for the next year. This requirement to adopt a budget at a regular meeting of the Board by September 1<sup>st</sup> does not apply to the calendar year in which this Agreement is first executed.

#### 9.2 Distribution of Recommended Budget

No later than May 1st, copies of the proposed operating and capital budget as recommended by the Executive Director shall be delivered to each Executive Committee Member.

#### 9.3. Review by Executive Committee

Not later than August 1<sup>st</sup> of each year, the Executive Committee shall review the annual operating and capital budget as proposed by the Executive Director and make such

modifications, as it deems proper. Following approval by the Executive Committee, the proposed operating and capital budget shall be submitted to the Board of Directors for final approval.

#### 9.4 Allocation of Costs to Members

The cost of the operations and maintenance, and capital projects of the DCC will be shared by the Members. At the time of approval of the annual operating and capital budget, the Board of Directors shall fix the cost-sharing charges for all Members and any other participants in the DCC in amounts sufficient to provide the funds required by the approved annual operating and capital budget for the following year. Each Member shall take all required actions to authorize the funds necessary to meet its obligations under the approved annual operating and capital budget.

From the effective date of this Agreement as defined in Article II until the completion of the first full calendar year that the DCC is in operation, the allocation of annual operating and capital budget costs to Members shall be based upon the Cost Allocation Model contained in Table 1 of Attachment B, which is incorporated into and made a part of this Agreement. When the Board adopts an operating budget and cost allocation for 2006, it shall also adopt a budget and cost allocation for 2005 to cover the expenses the DCC has incurred or will incur for the period from the effective date of this Agreement to December 31, 2005.

After the first full calendar year that the DCC is in operation, the allocation of annual operating and capital budget costs to Members shall be based on the percentage of the total number of events processed by the DCC in the previous twelve months that are attributable to that Member. An event is defined as a computer aided dispatching system (CAD) event (transaction as logged), a 911 telephone call processed, a ten-digit telephone call for service processed, and, when the DCC is able to capture this information, the number of data system inquiries processed by DCC employees. The calculation of the annual operating and capital cost allocation after commencing operations will be based on the formula in Attachment B, Table 3, which is incorporated into and made a part of this Agreement.

During the first five (5) years that the DCC is in operation, the County of Dakota will provide a cash subsidy toward the operational budget in the amount of \$62,500.00 per month based upon the Allocation of County Subsidy contained in Table 2 of Attachment B. The amount of the County of Dakota subsidy for twelve months of DCC operation will be \$750,000.00. The County of Dakota is not obligated to provide an operational budget subsidy after the initial five (5) years of DCC operations.

#### 9.5 Billing and Delinquent Payments

Invoices for the cost-sharing charges shall be provided to Members monthly. Any Member whose charges have not been paid within thirty (30) days after billing shall be assessed interest on the delinquent payment(s) at a rate determined by the Board of Directors, not to exceed the maximum authorized by law at the time the payment becomes delinquent. The Directors and representatives of a Member that is delinquent on such payment shall not be entitled to vote on any matters coming before the Board of Directors or the Executive Committee until all delinquent payments and interest have been paid.

9.6 Expenditure of the Annual Budget.

The Board of Directors and/or the Executive Committee may establish procedures and limitations as may be necessary to preserve the integrity and purpose of the approved operating and capital budget. After adoption of the annual operating and capital budget by the Board of Directors, the Executive Director and the Executive Committee shall make all expenditures in accordance with such budget. Purchases and/or letting contracts shall be done in accordance with procedural guidelines established by resolution of the Board of Directors, consistent with Minnesota law.

The Executive Director shall have the power to transfer funds within the total annual operating budget in order to meet unanticipated needs or changed situations. The Executive Director shall not transfer funds within the total annual capital budget or between the operating budget and capital budget. The Executive Director shall report any transfer of funds within the annual operating budget to the Board of Directors and the Executive Committee in the Director's next quarterly report.

9.7 Credit or Payment to Members for Services

The Board of Directors may approve contract payments or cost-allocation credits to any Member that provides services, resources or property to the DCC.

**ARTICLE X  
AUDIT**

The Board of Directors shall call for an annual audit of the financial affairs of the DCC, to be performed by an independent Certified Public Accountant retained by the Board in accordance with generally accepted auditing principles. A copy of the annual audit report shall be provided to each Member.

**ARTICLE XI  
TERMINATION AND DISSOLUTION**

11.1 Termination.

This Agreement shall terminate upon the occurrence of any one of the following events:

- a. When 4/5<sup>ths</sup> of the Members agree by non-weighted voting, pursuant to a resolution of their governing bodies, to terminate the Agreement.
- b. When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction.

11.2 Effect of Termination.

Upon the occurrence of one or more of the events in Section 11.1, the DCC shall be terminated and dissolved in accord with the provisions hereof.

- a. Termination shall not discharge any liability incurred by the Board or by the Members during the term of this Agreement.

- b. Each Member shall be liable for its own acts and for the acts of the Board to the extent provided by law and this Agreement.
- c. Property that is owned by the DCC at the time of termination, including any surplus money, shall be divided among the units of government that are Members of the DCC at the time of termination, in proportion to their average respective regular and special assessment payments toward the operating and capital budgets for the preceding three (3) fiscal years. If liabilities exceed all assets, the difference shall be made up by contributions from all Members on a proportionate basis according to the then prevailing annual budget assessment formula.
- d. The Board shall approve a final report of its activities and affairs prior to dissolution of the DCC.
- e. Upon such termination and dissolution, and after payment of all debts, all files and documentation shall be distributed to the Member community that has jurisdiction of the subject matter of the file or documentation without charge or offset. Records of the DCC shall be retained by the County of Dakota consistent with its current document retention schedules.
- f. Equipment and property that is owned by an individual Member or Members that is being used by the DCC at the time of termination shall be returned to the owner(s) upon termination and dissolution of the DCC.

## **ARTICLE XII WITHDRAWAL OF A MEMBER**

At any time after the Initial Term of this Agreement, any Member may withdraw from the DCC subject to the provisions of this Article.

- a. Such withdrawing Member shall give written notice before July 1<sup>st</sup> of any year and at least 18 months prior to the intended date of withdrawal, in the form of a certified copy of a resolution passed by its governing body, a copy of which must be mailed or delivered to the Executive Director of the DCC and the Chairs of the Executive Committee and Board of Directors.
- b. Sixty (60) days notice provided by the Executive Director or the Board of Directors to any Member of its nonpayment of cost allocation fees as set forth herein, and/or the refusal or declination of any Member to be bound by any obligation of the DCC, shall also constitute notice of withdrawal of such Member, and if the Member fails to cure nonpayment or refuses to comply with an obligation within the Sixty days (60), withdrawal of that Member from the DCC shall become effective on the Sixty First day after mailing of said notice. The Force Majeure provisions of Article XV apply to a non-payment of charges and fees and the refusal or declination of a Member to act.
- c. Withdrawal of a Member shall also constitute withdrawal of its representatives to the Board of Directors, the Executive Committee and the Operations Committee and subcommittees.
- d. The withdrawing Member shall forfeit any and all interest, right and title to DCC property and assets of any type whatsoever.



- e. The withdrawing Member shall be liable for all costs incurred by the DCC as a result of the Member's separation and withdrawal. This may include, but is not necessarily limited to, legal fees, court costs and interest-on late payment of obligations.
- f. The withdrawing Member shall continue to be responsible for:
  - 1. One hundred (100%) percent of that Member's pro rata share of the operating costs of the DCC that are incurred up to the date of withdrawal, and One hundred (100%) percent of that Member's pro rata share of any capital debts, liabilities or obligations of the DCC that were incurred prior to the date of providing notice of intent to withdraw and are due and payable before the effective date of withdrawal.
  - 2. For any contractual obligations it has separately entered into with the DCC.

### **ARTICLE XIII INSURANCE AND INDEMNIFICATION**

#### 13.1 Insurance and Limitations on Liability

The DCC shall purchase insurance for the operation, equipment and facilities of the DCC and workers compensation insurance for DCC employees, as the Board of Directors or Executive Committee deems necessary. Such insurance shall name each Member as an additional insured, and may name other entities that purchase communications services from the DCC as additional insureds if deemed appropriate. By purchasing insurance the Members do not intend to waive, and shall not be interpreted to constitute a waiver by any Member of limitations on liability or immunities provided by any applicable Minnesota law, including Minnesota Statutes, Chapter 466.

If the DCC incurs a legal liability that is not covered by insurance, is within its statutory liability limitations and to which no liability exemption or immunity applies, that liability shall be paid by contributions from all Members on a proportionate basis according to the then prevailing annual operating budget assessment formula. If the Board of Directors incorporates the DCC as a nonprofit corporation, the Members shall collectively be responsible for any liability not covered by insurance only to the extent required by law.

#### 13.2 Third Party Action Against a Member

Each Member that is subject to a claim of any nature commenced by a person or entity that is not a Member of the DCC, which arises as a consequence of the acts or omissions of such Member's personnel in responding to, or providing emergency services pursuant to a dispatch by the DCC shall, at such Member's sole expense, indemnify and save free and harmless any other Member, and its officers, employees and agents from any cost, expense, attorney fees, judgment or liability of any nature when any other Member is subject to the same claim solely as a consequence of such other Member being a Member of the DCC.

#### 13.3 Third Party Action Against the DCC

In the event the DCC and/or its Directors, officers, employees and agents are subject to a claim of any nature which arises as a consequence of the acts or omissions of Member's personnel in responding to or providing emergency services pursuant to a dispatch by the DCC, such

Member shall at its sole expense, indemnify and save free and harmless from any cost, expense, attorney fees, judgments or liability of any nature the DCC and/or its officers, Directors employees and agents unless it is determined that the officers, Directors, employees and/or agents of the DCC acted in a negligent or intentionally wrongful manner in connection with dispatching the personnel of the Member.

#### 13.4 Member Action Against the DCC

In the event that any Member should file suit or an action against the DCC, all representatives of that Member shall be prohibited from attending any meetings or discussions or having access to the results of such meetings related to the defense of the suit or action. The Member's representatives shall have no direct access to any written communication concerning the matter except by legal process, and no representative of the Member shall be allowed to vote on any issue related to the suit or action.

### **ARTICLE XIV RESOLUTION OF DISPUTES**

The Members agree to engage in good faith efforts to resolve any disputes that arise over the establishment, operation or maintenance of the DCC. Members that have concerns about the operations of the DCC may appear at meetings of the Operations Committee, Executive Committee and Board of Directors to discuss issues of concern.

### **ARTICLE XV FORCE MAJEURE**

A Member shall not be liable to the DCC or another Member for the failure to perform an obligation under this Agreement due to unforeseeable acts or events outside the defaulting party's reasonable control, providing the defaulting Member gives notice to the Board of Directors and Executive Committee as soon as possible. Acts and events may include acts of God, acts of terrorism, war, fire, flood, epidemic, acts of civil or military authority, and natural disasters.

### **ARTICLE XVI MISCELLANEOUS PROVISIONS**

- 16.1 *Entire Agreement:* This Agreement shall supersede all prior oral or written statements, agreements and understandings between or among the parties hereto with respect to the establishment and operation of a county-wide public safety communications center.
- 16.2 *Attorneys' Fees:* In the event of litigation relating to the Agreement, the prevailing party (e.g. the party whose position is substantially upheld) shall be entitled to recover from the losing party any costs or reasonable attorney's fees incurred by the prevailing party in connection with such litigation.
- 16.3 *Severability:* If any provision of this Agreement shall be held to be invalid by a court of competent jurisdiction, the remaining terms of this Agreement to the extent not

inconsistent with any such holding, shall not be affected thereby if such remaining terms would then continue to conform with the requirements of applicable laws.

- 16.4 *Counterparts:* This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall be deemed to constitute one and the same agreement.
- 16.5 *Waiver:* Any right or remedy that a party may have under this Agreement may be waived in writing by such party without the execution of a new or supplementary agreement, but any such waiver shall not affect the future exercise of the rights of such party hereunder (to the extent not previously waived in writing) or any other rights of the parties not specifically waived. No waiver of any right or remedy by any party at any one time shall be deemed to be a waiver of any such right or remedy in the future.
- 16.6 *Amendments. Modifications:* This Agreement may be amended or modified only by a written document, duly executed by all parties that are Members of the DCC on the date the amendment is executed.
- 16.7 *Section Headings:* The descriptive headings of the articles, sections and subsections of this Agreement are for convenience only and shall not affect the meaning or construction of any of the provisions hereof.
- 16.8 *Governing Law:* The respective rights, obligations and remedies of the parties under this Agreement and the interpretation thereof shall be governed by the laws of the State of Minnesota which pertain to agreements made and to be performed in the State of Minnesota.
- 16.9 *Binding Effect:* This Agreement shall be binding upon and shall inure to the benefit of the parties hereto.
- 16.10 *Further Assurances:* Each party hereto shall from time to time execute, acknowledge and deliver such further instruments and perform such additional acts at no cost to such party as the other party may reasonably request to further effectuate or confirm the intent of this Agreement.
- 16.11 *Good Faith:* In exercising its rights and fulfilling its obligations hereunder, each party shall act in good faith. Each party acknowledges that this Agreement contemplates cooperation between and among the parties.

IN WITNESS WHEREOF, the undersigned governmental units, by action of their governing bodies, have caused this Agreement to be executed in accordance with the authority of Minnesota Statute §471.59.

Approved by the City Council

Date August 25, 2005

**CITY OF APPLE VALLEY**

By *Stephanie Langen-Roland*  
Date of Signature August 25, 2005  
Attest *Pamela A. Grackstetter*  
Date of Signature August 25, 2005

Approved by the City Council

Date 9/6/05

**CITY OF BURNSVILLE**

By *[Signature]*  
Date of Signature \_\_\_\_\_

By *[Signature]* *[Signature]*  
Date of Signature 9/6/05 *[Signature]* CITY MANAGER

Approved by the City Council

Date 9/6/05

**CITY OF EAGAN**

By [Signature]  
Date of Signature 9/6/05

Attest Mania Petuseh  
Date of Signature 9/6/05

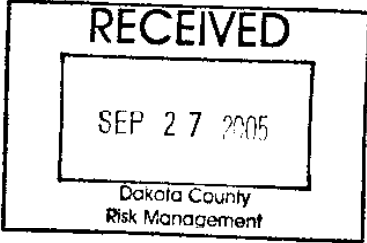
Approved by the City Council

Date Sept 6, 2005

**CITY OF FARMINGTON**

By Kevin A. Hoderberg  
Date of Signature Sept 28, 2005

Attest Bob Rife  
Date of Signature Sept 29, 2005



Approved by the City Council

Date 09/06/05

**CITY OF HASTINGS**

By [Signature]

Date of Signature 10/17/05

Attest [Signature]

Date of Signature 11/10/2005



Approved by the City Council

Date 9/12/05

**CITY OF INVER GROVE HEIGHTS**

By George Townelle, MAYOR  
Date of Signature 9/12/05

Attest Patricia J. Jorgensen, CITY CLERK  
Date of Signature 9/12/05

Approved by the City Council

Date September 6, 2005

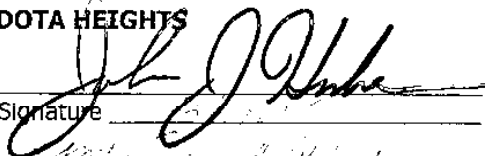
**CITY OF LAKEVILLE**

By *Robert D. Johnson*  
Date of Signature 9/6/05  
Attest *Maureen Huggins*  
Date of Signature 9/6/05

Approved by the City Council

Date \_\_\_\_\_

**CITY OF MENDOTA HEIGHTS**

By   
Date of Signature \_\_\_\_\_  
Attest \_\_\_\_\_  
Date of Signature \_\_\_\_\_

Approved by the City Council

Date Sept. 6, 2005

**CITY OF ROSEMOUNT**

By *William N. Devito*  
Date of Signature 9-6-05

Attest *Linda Pentink*  
Date of Signature 9-6-05

Approved by the City Council

Date 9/6/05

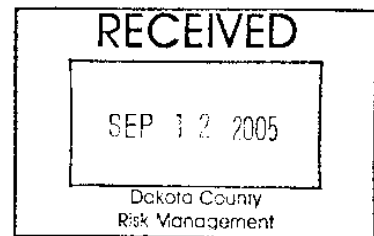
**CITY OF SOUTH ST. PAUL**

By *Beth A. Blumson*

Date of Signature 9/6/05

Attest *Cristy DeWolens*

Date of Signature 9/6/05



Approved by the City Council

Date \_\_\_\_\_

**CITY OF WEST ST. PAUL**

By *Paul Zent*  
Date of Signature *September 14, 2005*  
Attest *Diane K. Meissner*  
Date of Signature *Sept. 14, 2005*



Approved by Dakota County Board

Resolution No. 05-446

Dakota County Attorney's Office  
Dakota County Judicial Center  
1560 Highway 55  
Hastings, MN 55033  
651-438-4438

**COUNTY OF DAKOTA**

By Joseph Adams

Date of Signature 9-20-05

Attest: Mary S. Sebide 9-20-05

Approved as to Form (Asst County Atty):

By Jim Sperry

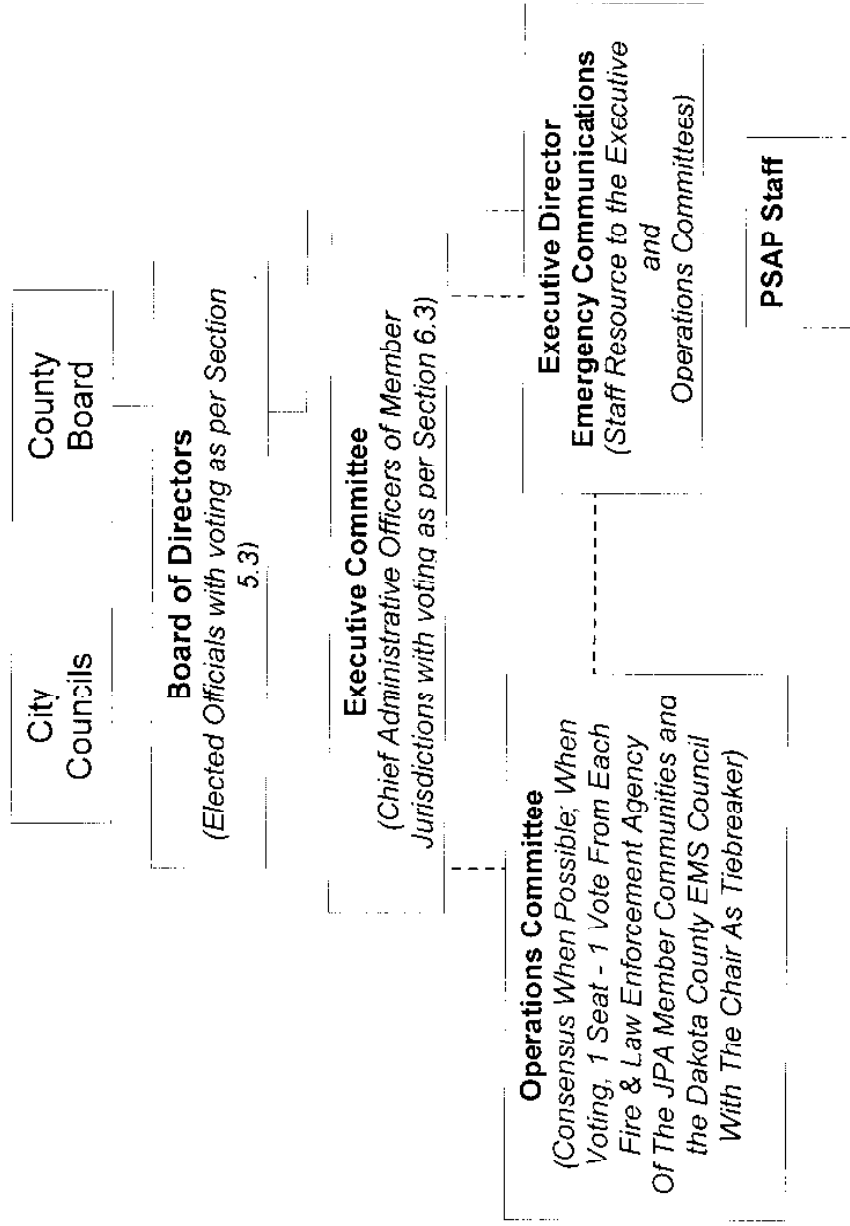
Date of Signature September 19, 2005

Approved as to Execution (Asst County Atty):

By Jim Sperry

Date of Signature September 21, 2005

**Attachment A: Dakota Communications Center Joint Powers Agreement  
Organizational Structure**





## Attachment B

**Table 1 - Budget Cost Allocation Model for Joint Dispatch Applies to all time periods prior to operation**

Community	Apple Valley	Burnsville	Dakota County	Eagan	Farmington	Hastings	Inver Grove Heights	Lakeville	Mendota Heights	Rosemount	South Saint Paul	West Saint Paul
% of Total Activity	12.60	17.09	6.97	18.00	4.83	4.08	6.39	11.48	1.74	4.89	5.87	6.04

Percentages calculated based on end of year activity totals for 2004; these percentages were calculated during the HiPP Joint Dispatch Project and presented as back-up data to the City and County resolutions for participation in a Countywide Joint Dispatch Operation (Cost Model 2 Revision 050405).

**Table 2 – Allocation County Subsidy**

The County has agreed to provide a subsidy for the first five years (60 months) of operation for the joint dispatch entity. This subsidy will be \$750,000 for the first twelve months. After the first full year of Joint Dispatch Operation, the County Subsidy amount will be adjusted by the U.S. Dept. Labor Bureau of Labor Statistics Consumer Price Index – All Urban Consumers for Minneapolis-St Paul for the previous calendar year. The table below illustrates the aggregate amount of the subsidy at a run rate of \$62,500 per month; this table is to be used to determine the subsidy amount on a pro-rated basis for the first calendar year period that joint dispatch is “operational”.

Annual Months of Operation	1	2	3	4	5	6	7	8	9	10	11	12
Amount of County Subsidy	\$62,500	\$125,000	\$187,500	\$250,000	\$312,500	\$375,000	\$437,500	\$500,000	\$562,500	\$625,000	\$687,500	\$750,000

**Table 3 – Calculation of Annual Operating Cost Allocation after Joint Dispatch is Operational**

Annual Share of Operating Costs = [Total Operating Costs – (Calculated County Subsidy)] x Percent of Total Activity for Community