



MEMO

County Administrator

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TO: County Commissioners
FROM: Robert W. Wilson
DATE: October 13, 2022
SUBJECT: Red River Regional Dispatch Center Joint Powers Agreement (JPA) Update

Cass and Clay Counties and the Cities of Fargo, West Fargo, and Moorhead have worked to update the governance structure of the Red River Regional Dispatch Center (RRRDC). The partnership among the five local entities to cooperatively coordinate and administer 9-1-1 call-taking and emergency dispatch services across a state boarder has, and continues to be, enormously successful and a unique model of local government cooperation. This governance update was identified as an opportunity for elected policy makers of the member organizations to be more actively involved in the budgeting process, while leaving public safety-focused operational decisions to public safety leaders.

Policy, public safety, legal, and administrative leaders from all member entities have coordinated to update the governance structure of the RRRDC, memorialized in the attached draft Joint Powers Agreement (JPA). To be fully executed this draft must be considered and approved by the governing bodies of the Cities of Fargo, West Fargo, Moorhead, and Cass and Clay Counties. Cass County is hopeful all members will consider and approve the updated JPA in November. Cass County is scheduling a review/discussion of the current draft for the Cass County Commission meeting on October 17th. Other member entities have been invited to attend in-person or virtually and participate in that meeting.

The following is a summary of key elements of the proposed JPA:

- The Authority Board consists of ten members - two members of the policy board of each member organization. The Board Chair rotates annually, and the Vice Chair must not be from the same state as the Chair.
- Certain Board actions, including approval of the annual budget and hiring the director require an affirmative vote of a North Dakota and Minnesota member.
- Other actions, including altering the financing structure of design and construction of a new dispatch center facility require an affirmative vote from a Cass County member.
- The following committees will report to the Authority Board:

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211 Ninth Street South
Fargo, North Dakota 58108

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- **Budget and Finance Committee:** (10 members, two representing each member organization – one from each organization will be the organization’s Finance Director).
 - **Executive Committee:** (10 members, two from each organization. One police department and one fire department representative from each of the cities and two members from each county – at least one of whom is a Sheriff’s representative.)
- This following committees report to the Executive Committee:
 - Law Enforcement Operations Committee:** (10 members, 2 representatives nominated by each organization’s members of the Executive Committee.)
 - **Fire/EMS Operations Committee:** (10 members, 2 representatives nominated by each organization’s members of the Executive Committee.)
 - **Radio Communications Committee:** (10 members, 2 representatives nominated by each organization’s members of the Executive Committee.)
 - **Personnel Committee:** (10 members, 2 representatives from each organization including the Human Resources Director or designee and a police/fire/sheriff’s office representative.)
 - An annual budget will be prepared and submitted to the Authority Board by August 1st of each year.
 - Cass County will serve as the Fiscal Agent for the Dispatch Center.
 - North Dakota entities and Minnesota entities may enter into separate agreements to finance respective portions of design and construction of a new dispatch center facility. It is agreed that Cass County will fund the portion of design and construction costs - consistent with Cass County currently funding the North Dakota entities portion of operational costs.
 - Cost share splits (other than construction costs) are based on the population of each member entity and will be reviewed every three years to ensure fair and equitable financial responsibility.
 - The City of Fargo will act as Human Resources agent for the RRRDC Authority Board.

All partners are also aware of the need for a new RRRDC facility. The current facility is undersized and is in an ill-suited location to provide for the metro area’s long-term public safety dispatching needs. Among the representatives of each organization working most directly on the facility development, it was agreed all member entities should consider adoption of the updated JPA, with an understanding that a separate agreement will be needed for the construction of the new facility when the final design, size and cost of the new facility is completed.

Concurrent to drafting and update to the JPA, member entities have been collaborating to masterplan, finance, design and build a new RRRDC facility. That work continues. The working understanding of that effort includes the following assumptions:

- Cass County will coordinate facility design, site selection and construction of the facility in close coordination with all members.
- Cass County will be responsible for the ND portion of design and construction costs.
- The City of Moorhead and Clay County will contribute 25% of the construction cost – up to \$2.5M towards the cost of construction of a new facility. This agreement will be shared between Moorhead and Clay County on a 40%/60% split.
- Work continues to secure a land lease agreement with Sanford Health to locate the new Dispatch Center on Sanford property to the east of the new hospital near I-94 & Veterans Boulevard.

Cass County greatly appreciates the partnership and continued involvement of all member entities and staff working on various details of these related projects.

JOINT POWERS AGREEMENT

BY AND BETWEEN
CITY OF MOORHEAD, MINNESOTA
AND
CITY OF FARGO, NORTH DAKOTA
AND
CITY OF WEST FARGO, NORTH DAKOTA

AND
CLAY COUNTY, MINNESOTA
AND
CASS COUNTY, NORTH DAKOTA

Dated as of _____, 202__

Relating to:

An Agreement establishing and continuing a permanent joint powers entity called the Red River Regional Dispatch Center Authority to provide the Fargo-Moorhead-West Fargo Metropolitan Area with a regional public safety dispatch facility.

This instrument was drafted by:
Erik R. Johnson & Associates, Ltd., 505 Broadway, Suite 206, Fargo, ND 58102 after a model provided by John Shockley, Ohnstad Twichell Law Firm.

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PREAMBLE

The leaders and representatives of the Member Entities to this Agreement, in order to provide efficient public-safety dispatch capabilities and facilities for the Fargo-Moorhead-West Fargo Metropolitan Area which includes rural communities and area within Cass County, North Dakota and Clay County, Minnesota and to promote accountable governance, provide for the Dispatch Center ownership, operation and maintenance of a regional public safety dispatch center and to encourage Member Entities' participation, do hereby adopt this Agreement and establish the following procedures and governing structure.

JOINT POWERS AGREEMENT

THIS JOINT POWERS AGREEMENT (the “Agreement”) is made and entered into this _____ of _____, _____ (the “Effective Date”), between the City of Moorhead, a political subdivision of the state of Minnesota; the City of Fargo, a political subdivision of the state of North Dakota; the City of West Fargo, a political subdivision of the state of North Dakota; Clay County, a political subdivision of the state of Minnesota; and Cass County, a political subdivision of the State of North Dakota.

WHEREAS, pursuant to Chapter 54-40.3, N.D.C.C. and Minnesota Statutes Section 471.59 (joint exercise of powers), the above-named governmental units have the legal authority to enter into an agreement, through action of their respective governing bodies, to jointly or cooperatively exercise any power common to the contracting powers or any similar powers, including those which are the same except for territorial limits within which they may be exercised; and

WHEREAS, Fargo, Moorhead, Cass County, and Clay County previously entered into a Joint Powers Agreement in 2001, to jointly establish and administer a dispatch center and related dispatch service and a joint dispatch center was established, known as “Red River Regional Dispatch Center”; and,

WHEREAS, this initial Joint Powers Agreement has been amended nine times since 2001 as described on the list attached hereto as Exhibit “A”, copies of which amendments are on file at the administrative offices of the Red River Regional Dispatch Center; and,

WHEREAS , the parties wish to amend the agreement again in order to incorporate into the governance of the dispatch center a board of authority consisting of elected officials from the five said member entities and, among other things, to create a structure for the possible design, build, financing, operation and maintenance of a new dispatch center facility;

NOW THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the City of Moorhead, the City of Fargo, the City of West Fargo, Clay County, and Cass County agree as follows:

ARTICLE I. AMENDMENT

Section 1.01 ORIGINAL JOINT POWERS AGREEMENT. The **Member Entities** previously entered into a **Joint Powers Agreement**, dated as of _____, 2001, which was subsequently amended by a series of amendments described in EXHIBIT A, attached hereto, (collectively said

Joint Powers Agreement, as the same was amended from time to time as described herein, shall be referred to as the “**Original Joint Powers Agreement**”).

Section 1.02 REPEAL, REPLACE AND AMEND IN ENTIRETY. The **Member Entities** hereby acknowledge and agree that the **Original Joint Powers Agreement** is hereby repealed, replaced, and amended in its entirety with the terms and conditions of this **Agreement**. The terms and conditions of this **Agreement** shall be in full force and effect as of the **Effective Date**.

Section 1.03 CONTINUITY OF AGREEMENTS, OBLIGATIONS, ENTITY. The **Member Entities** agree and acknowledge and as more fully set forth in Section 18.02 of this **Agreement** that the **Prior Obligations** of the **Red River Regional Dispatch Center Authority** created under the **Original Joint Powers Agreement** shall continue and be in full force and effect under this **Agreement**. The **Prior Obligations** are attached as Exhibit A to this **Agreement**.

Section 1.04 PRIOR UNDERSTANDINGS. This **Agreement**, when executed by the **Member Entities**, shall be effective as of the **Effective Date**. All prior understandings and agreements heretofore as among the **Member Entities** with respect to the **Dispatch Center**, except as specifically set forth in Sections 22.02 and 22.03 of this **Agreement**, are hereby superseded and replaced in their entirety by this **Agreement**. This **Agreement** fully and completely expresses the agreement of the **Member Entities** with respect to the **Dispatch Center** and shall not be modified or amended except as set forth in Section 23.03 of this **Agreement**.

Section 1.05 FAILURE TO APPROVE. The failure of a **Member Entity** to approve this **Agreement** by or before the ___ day of ___, 202__, shall result in this **Agreement** being null, void and cancelled ab initio and the **Original Joint Powers Agreement** shall, in such event, remain in full force and effect.

ARTICLE II. DEFINITIONS AND INTERPRETATION

Section 2.01 DEFINITIONS. All capitalized and bolded terms used and not otherwise defined herein shall have the meanings given to them in this **Agreement** and as defined in this Section unless a different meaning clearly applies from the context.

“**Agreement**” means this Joint Powers Agreement by and between the City of Moorhead, the City of Fargo, the City of West Fargo, Clay County, and Cass County.

“**Annual Meeting**” means a properly noticed meeting of the RRRDC Authority Board held in January of each year at a time and date to be determined by the RRRDC Authority Board.

“**Approved Budget**” means the annual budget approved by the RRRDC Authority Board for each and every calendar year of this **Agreement**.

“**Best Efforts**” means that a **Member Entity** and its **Governing Body** will act in Good Faith, act in accordance with generally accepted commercial practices, and use reasonable due diligence to undertake all action contemplated by this **Agreement**, in accordance with applicable federal and

state laws, regulations, and rules; however, the obligation to use Best Efforts does not mean a duty to take action that would be in violation of applicable federal or state law.

“Budget & Finance Committee” means a committee of the Red River Regional Dispatch Center Authority created for the purpose of providing operating budget and capital budget recommendations to the RRRDC Authority Board and providing policy recommendations regarding the management of the financial aspects of the Red River Regional Dispatch Center Authority and financial expenditures for the Dispatch Center to the RRRDC Authority Board.

“Cass County” means Cass County, a North Dakota Home Rule County and political subdivision of the State of North Dakota.

“Cass County Commission” means the Cass County Commission, which is the Governing Body of Cass County.

“Cass County Members” means the two (2) individuals appointed by the Cass County Commission to serve on the RRRDC Authority Board.

“Chair” means a voting member of the RRRDC Authority Board who presides over meetings pursuant to Section 5.06 of this Agreement.

“City of Fargo” means the City of Fargo, a North Dakota Home Rule City and political subdivision of the State of North Dakota.

“City of Fargo Members” means the two (2) individual members of the Fargo City Commission representing the City of Fargo on the RRRDC Authority Board, consisting of one (1) individual appointed by the Fargo City Commission and the mayor of the City of Fargo.

“City of Moorhead” means the City of Moorhead, a Minnesota Home Rule City and political subdivision of the State of Minnesota.

“City of Moorhead Members” means the two (2) individual members of the Moorhead City Council representing the City of Moorhead on the RRRDC Authority Board, consisting of one (1) individual appointed by the Moorhead City Council and the mayor of the City of Moorhead.

“City of West Fargo” means the City of West Fargo, a North Dakota Home Rule City and political subdivision of the State of North Dakota.

“City of West Fargo Members” means the two (2) individual members of the West Fargo City Commission representing the City of West Fargo on the RRRDC Authority Board, consisting of one (1) individual appointed by the West Fargo City Commission and the President of the City of West Fargo.

“Clay County” means Clay County, a Minnesota County and political subdivision of the State of Minnesota.

“Clay County Commission” means the Clay County Commission, which is the Governing Body of Clay County.

“Clay County Member” means the two (2) individual members of the Clay County Commission appointed by the Clay County Commission to serve on the RRRDC Authority Board.

“Code” means the Internal Revenue Code of 1986, as amended from time to time, and all rules and regulations from time to time promulgated thereunder.

“Congress” means the Congress of the United States of America.

“Debt Obligation” means any loan, note, bond, or other security instrument issued by one or more of the Member Entities to provide either temporary or permanent financing of the Dispatch Center or any approved acquisition by the Dispatch Center.

“Debt Obligation Fund” means the Debt Obligation Fund created by Section 10.04 of this Agreement.

“Defaulting Member Entity” means any Member Entity that is deemed to be in Default pursuant to Section 21.04 of this Agreement because such Member Entity did not have a Rational Basis for refusing to undertake and complete a Requested Dispatch Center Action.

“Assistant Director” means a position of the Red River Regional Dispatch Center Authority created by Section 14.03 of this Agreement.

“Effective Date” means _____, 2022.

“Event of Default” means the occurrence of any event or the existence of any condition that, with the giving of notice, the passage of time, or both, would constitute an event of default under the terms of this Agreement.

“Director” means the Chief Administrative Officer of the Red River Regional Dispatch Center Authority.

“Dispatch Center” means the RRRDC dispatching facility located at 300 NP Avenue, Fargo, North Dakota, or any additional or alternative facility or facilities for dispatching activities to be acquired, constructed, leased or used as dispatching facilities as authorized by the RRRDC Authority.

“Dispatch Center Element” means a component or part of the Dispatch Center.

“Dispatch Center Property” means real property acquired for the Dispatch Center, including, but not limited to, land, rights-of-way, easements, licenses, and leases.

“Extraordinary Maintenance” means repair, rehabilitation, or replacement of a Dispatch Center Element. Extraordinary does not include regular maintenance.

“Extraordinary Maintenance Costs” means any expense in excess of \$ _____, in 2021 dollars as Adjusted for Inflation, for Extraordinary Maintenance.

“Fargo-Moorhead Metropolitan Area” means Fargo, ND, Moorhead, MN, and surrounding communities; it is further defined by the United States Census Bureau as comprising all of Cass County, North Dakota, and Clay County, Minnesota, which includes the cities of Dilworth, MN, West Fargo, ND, and numerous other towns and developments from which commuters travel daily for work, education, and regular activities.

“Fargo City Commission” means the City of Fargo’s City Commission, which is the Governing Body of the City of Fargo.

“RRRDC EXECUTIVE COMMITTEE” means a committee of the RRRDC Executive Committee created for the purpose of providing policy recommendations regarding the management of the Fire/EMS operational aspects of the RRRDC Executive Committee and related expenditures for the Dispatch Center.

“Fiscal Agent” means Cass County, acting through its Finance Officer.

“Fiscal Year” means one year beginning on January 1 and ending December 31 of each and every year of this Agreement.

“Former Member Entity” means any Member Entity that withdraws or is removed pursuant to Article XXI of this Agreement.

“GAAP” means accounting principles generally accepted in the United States as set forth in the opinions and pronouncements of the Accounting Principles Board, the American Institute of Certified Public Accountants, and the Financial Accounting Standards Board, or in such other statements by such other entity as may be in general use by significant segments of the accounting profession as in effect on the date hereof.

“Good Faith” means observance of reasonable commercial standards of fair dealing in a given trade of business.

“Governing Body” means the body which performs the legislative and governmental functions of a political subdivision, including but not limited to, a board, council, or commission. For example, the Cass County Commission, the Clay County Commission, the Moorhead City Council, the Fargo City Commission and the West Fargo City Commission are, respectively, the Governing Body of each of said entities.

“Governmental Authority” means any national, supra-national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, administrative, public or statutory instrumentality, authority, body,

board, agency, department, county, bureau, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“Government” means the United States of America.

“Interim Fiscal Agent” means the City of Fargo, North Dakota.

“Joint Powers Agreement” means this Agreement dated as of the Effective Date, by and between the Member Entities, as amended from time to time to the extent permitted hereunder.

“OJPA” or “Original Joint Powers Agreement” means the agreement dated July 11, 2011, and subsequently amended, which was entered into between the City of Moorhead, the City of Fargo, Clay County, Cass County, and, subsequently, the City of West Fargo in order to cooperate in the ownership, operation and maintenance of a regional public safety dispatch center.

“Law Enforcement Operations Committee” means a committee of the RRRDC Executive Committee Board created for the purpose of providing policy and procedure recommendations regarding Law Enforcement operations.

“Original Joint Powers Entity” means the entity that was created by the OJPA.

“Lobbyist” means an individual who promotes and lobbies for funding and other decisions of the federal government and state governments, including the United States Congress, and the legislative branches of the State of North Dakota and State of Minnesota.

“Maintenance” means all normal maintenance activity associated with maintaining or preserving the Dispatch Center or a Dispatch Center Element.

“Maintenance Costs” means normal maintenance costs associated with a Dispatch Center Element; however, Maintenance Costs do not include costs for Extraordinary Maintenance.

“Member Entities” shall mean the City of Moorhead, the City of Fargo, the City of West Fargo, Clay County, and Cass County.

“Minnesota Board Members” includes the Clay County Board Members, and the City of Moorhead Members.

“Minnesota Member Entity” means the City of Moorhead and Clay County. Provided, if one of the herein defined Member Entities should fail to approve this Agreement, it will not be deemed a Minnesota Member Entity.

“Moorhead City Council” means the City Council of the City of Moorhead, the Governing Body of the City of Moorhead.

“North Dakota Board Members” includes the City of Fargo Members, the City of West Fargo Members, and the Cass County Members.

“North Dakota Member Entity” means the City of Fargo, the City of West Fargo and Cass County.

“O&M Revenues” means, collectively, all revenues pledged by the Member Entities to fund or finance operations and maintenance of the Dispatch Center.

“OMRR&R” means Operation, Maintenance, Repair, Rehabilitation, and Replacement.

“Operations and Maintenance Fund” means a fund created pursuant to Section 10.04 of this Agreement.

“Person” means any natural or legal person, county, city, municipality, political subdivision, public benefit corporation, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority, or other entity.

“Personnel Committee” means a committee of the RRRDC Executive Committee created for the purpose of providing recommendations regarding Personnel-related matters of the Red River Regional Dispatch Center Authority.

“Prior Obligations” means all commitments previously entered into by the Original Joint Powers Entity, and which are set forth in Exhibit A to this Agreement.

“Radio Communications Committee” means a committee of the RRRDC Executive Committee created for the purpose of providing recommendations regarding Radio communications matters related to the Red River Regional Dispatch Center Authority.

“Rational Basis” means making a decision that is determined by the RRRDC Authority Board to be fair, moderate, suitable under the circumstances, and governed by reason.

“Requested Dispatch Center Action” means a written request, approved by the RRRDC Authority Board, in which the RRRDC Authority Board requests a Member Entity perform an action or actions related to the Dispatch Center pursuant to Section 21.03 of this Agreement.

“Red River Regional Dispatch Center Authority” means the political subdivision created by the OJPA and continued with and through this Agreement, and vested with the powers herein.

“RRRDC Authority Board” means the Governing Body of the Red River Regional Dispatch Center Authority.

“RRRDC Authority Board Member” means an individual duly appointed pursuant to Section 5.01 of this Agreement and who is a voting member of the RRRDC Authority Board.

“RRRDC Authority Board Member Alternate” means a person selected by a Member Entity’s Governing Body to serve on the RRRDC Authority Board in the event that the Member Entity’s RRRDC Authority Board Member(s) is/are unable to serve.

“Sanford Ambulance” means FM Ambulance Services, Inc., a North Dakota corporation, doing business as Sanford Ambulance, a trade name registered with the North Dakota Secretary of State.

“Secretary” means a position of the Red River Regional Dispatch Center Authority created by Section 5.08 of this Agreement.

“Vice Chair” means the member of the RRRDC Authority Board who was elected to the Vice Chair position by the RRRDC Authority Board pursuant to Section 5.07 of this Agreement.

“West Fargo City Commission” means the City of West Fargo City Commission, which is the Governing Body of the City of West Fargo.

Section 2.02 TERMS GENERALLY. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s permitted successors and assigns, (c) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to this **Agreement** in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this **Agreement**, and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 2.03 ACCOUNTING TERMS; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time.

Section 2.04 ADDITIONAL PROVISIONS AS TO INTERPRETATION. All references herein to “Articles,” “Sections,” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this **Agreement**; and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this **Agreement** as a whole and not any particular Article, Section, or

subdivision hereof. All references to the office of the mayor of a city shall be deemed to include the office of the president of the city commission when applied to the **City of West Fargo**.

ARTICLE III. PURPOSE

Section 3.01 GENERAL PURPOSE. This **Agreement** is made pursuant to N.D.C.C. § 54-40.3-01 and Minn. Stat. § 471.59, which authorize the joint and cooperative exercise of power common to the contracting parties. The purpose of this **Agreement** is to allow the **Member Entities** to work collaboratively to own, operate and maintain a regional public safety dispatch center, to maximize efficiencies of the **Member Entities** with respect to Dispatch Center public safety dispatch center related activities, to have the **Member Entities'** employees, architects, engineers, attorneys and professional consultants cooperate in the design, operation and maintenance of the **Dispatch Center**. The **Member Entities** desire to establish and continue a joint powers structure to design, finance, construct, operate and/or maintain the **Dispatch Center** consistent with the provisions of this **Agreement**, N.D.C.C. § 54-40.3-01, and Minn. Stat. § 471.59.

Section 3.02 COMPLIANCE WITH DISPATCH CALL REQUIREMENTS. Given that the **Red River Regional Dispatch Center Authority** responds to calls from Minnesota as well as North Dakota, for the purpose of responding to calls in each jurisdiction the **Red River Regional Dispatch Center Authority** will comply with that state's laws, regulations as applicable to the particular call.

Section 3.03 SEPARATE POLITICAL SUBDIVISION. This **Agreement** is expressly intended to confirm the ongoing existence and operation of a separate political subdivision named the **Red River Regional Dispatch Center Authority**. The **Member Entities** recognize that pursuant to and in conformance with N.D.C.C. § 54-40.3-01 and Minn. Stat. § 471.59, the **Red River Regional Dispatch Center Authority** may not exercise a power unless that power is expressly granted by this **Agreement**. As a result, the **Red River Regional Dispatch Center Authority** will from time to time request that one or several of the **Member Entities** use their **Best Efforts** to exercise their respective powers in furtherance of the **Dispatch Center**.

ARTICLE IV. RESERVED

ARTICLE V. RED RIVER REGIONAL DISPATCH CENTER AUTHORITY

Section 5.01 COMPOSITION OF BOARD. There is hereby established and continued a joint powers board to be known as the "**RRRDC Authority Board**." The **RRRDC Authority Board** is the **Governing Body** of the **Red River Regional Dispatch Center Authority** and shall consist of:

- (a) Two (2) members of the **Fargo City Commission**, provided, one of the two (2) members shall be the current mayor of the **City of Fargo**, and the other member shall be a current member of the **Fargo City Commission** appointed by the **Fargo City Commission**;
- (b) Two (2) members of the **Moorhead City Council**, provided, one of the two (2) members shall be the current mayor of the **City of Moorhead**, and the other member shall be appointed by the **Moorhead City Council**;
- (c) Two (2) members appointed by the **Cass County Commission**, provided, all appointments made by the **Cass County Commission** must be current **Cass County Commissioners**;
- (d) Two (2) members appointed by the **Clay County Commission**, provided, all appointments made by the **Clay County Commission** must be current **Clay County Commissioners**;
- (e) Two (2) members of the **West Fargo City Commission**, provided, one of the two (2) members shall be the current president of the **City of West Fargo City Commission**, and the other member shall be a current member of the **West Fargo City Commission** appointed by the **West Fargo City Commission**.

The **Governing Body** of each **Member Entity** is authorized to designate a **RRRDC Authority Board Member Alternate** to sit in place of an appointed **RRRDC Authority Board Member** when the appointed **RRRDC Authority Board Member** is unable to attend a meeting of the **RRRDC Authority Board**. Any **RRRDC Authority Board Member Alternates** must be either elected or appointed to a **Member Entity's Governing Body**.

Section 5.02 RRRDC AUTHORITY BOARD MEMBERSHIP REQUIREMENTS. The following are the membership requirements of the **RRRDC Authority Board**:

A **RRRDC Authority Board Member**, including a **RRRDC Authority Board Member Alternate**, must be a member of a **Member Entity's Governing Body**

Section 5.03 NOT EMPLOYEES. **RRRDC Authority Board Members** shall not be deemed employees of the **Red River Regional Dispatch Center Authority**. The **Member Entities** acknowledge that it is their sole responsibility to provide all compensation and fringe benefits to their respective employees, elected or appointed officials. **RRRDC Authority Board Members** shall not be allowed to be party to any contract with the **Red River Regional Dispatch Center Authority**.

Section 5.04 INCOMPATIBLE OFFICES. **RRRDC Authority Board Members** may not be appointed to any paid office at the **Red River Regional Dispatch Center Authority** nor shall they be employed by the **Red River Regional Dispatch Center Authority**.

Section 5.05 TERMS OF RRRDC AUTHORITY BOARD MEMBERS. There are no set terms of members of the **RRRDC Authority Board**. The **City of Fargo Members**, the **City of**

Moorhead Members, City of West Fargo Members, the Cass County Members, and the Clay County Members shall serve at the discretion of the **Governing Body** of their respective organization from which they were appointed.

Section 5.06 THE CHAIR. The **Chair** is a member of the **RRRDC Authority Board** for purposes of presiding at its meeting. The **Chair** may vote on all matters before the **RRRDC Authority Board**, but may not cast an additional vote in the event of a tie vote of the **RRRDC Authority Board**. The **Chair** does not have the authority to veto decisions of the **RRRDC Authority Board**. The **Chair** is the head of the **RRRDC Authority Board** for ceremonial purposes and for the purpose of service of civil process. The **Chair** may execute all contracts, **Dispatch Center Agreements**, notes, indentures, warrants, and other instruments on behalf of the **Red River Regional Dispatch Center Authority** and perform any other duties assigned by the **RRRDC Authority Board**. No contract, **Dispatch Center Agreement**, note, indenture, warrant, or other instrument executed by the **Chair**, or **Vice Chair** acting as **Chair** pursuant to Section 5.07 of this **Agreement**, shall become valid and binding upon the **Red River Regional Dispatch Center Authority** until countersigned by the **Director** or the **Assistant Director** acting as **Director** pursuant to Section 14.03 of this **Agreement**.

The **Chair** position shall rotate between the mayors, presidents of the city commission or selected members of the county commissions, as applicable, of each **Member Entity**. Each **Chair** shall serve a one (1) year term, beginning January 1 and ending December 31. Any partial terms served by an individual as **Chair** that result from a vacancy shall be considered part of the one-year term to which said individual is next elected by the **Red River Regional Dispatch Center Authority**. Individuals may serve as **Chair** multiple times if they remain in their respective elected or appointed positions. Provided, the **Chair** must not be from a **Member Entity** from the same state as the **Vice Chair's Member Entity** (i.e. if the **Chair** is from a Minnesota **Member Entity**, the **Vice Chair** shall be from a North Dakota **Member Entity**). The term of the **Chair** shall cease if his or her position as mayor or as a **Cass County Commission** member has ceased for any reason provided, however, that the **Member Entity** is permitted to replace the **Chair** with the individual filling the vacancy of the outgoing **Chair** position within the **Governing Body** of the **Member Entity** (i.e. if a new mayor is elected in the **City of Fargo** while the **City of Fargo's** mayor is serving as **Chair**, then the newly elected mayor of the **City of Fargo** will serve the remainder of the **Chair's** term). The **Red River Regional Dispatch Center Authority** is authorized to elect an acting **Chair** under such circumstances when a vacancy occurs in a manner not contemplated by this section.

Section 5.07 VICE CHAIR. A **Vice Chair** must be elected at the **Annual Meeting** of the **RRRDC Authority Board** by a majority vote of all members of the **RRRDC Authority Board**. The **Vice Chair** must be a **RRRDC Authority Board Member** and must not be a member from the same state as the **Chair**. The **Vice Chair** serves as the **Chair** in the **Chair's** disability or absence from the **RRRDC Authority Board** or when a vacancy in the office of **Chair** exists. When presiding over a meeting in the absence of the **Chair**, the **Vice Chair** may vote on all matters before the **RRRDC Authority Board**, but may not cast an additional vote in the event of a tie vote of the **RRRDC Authority Board**. The **RRRDC Authority Board** must elect a **Vice Chair** at the organizational meeting. Each **Vice Chair** shall serve a one (1) year term beginning the date of selection at the **RRRDC Authority Board** annual meeting and ending either upon re-election for

another one (1) year term or upon the selection of a successor **Vice Chair**. It is the expectation that the Vice Chair for a particular year elected by the RRRDC Authority Board will be the following year's Chair unless the Chair, from term to term, is from the same state (i.e. North Dakota or Minnesota) for successive terms.

Section 5.08 SECRETARY. At the **Annual Meeting** of the **Red River Regional Dispatch Center Authority**, the **RRRDC Authority Board Members** shall appoint a **Secretary**. An employee of one of the **Member Entities**, an individual or contractor, may be appointed as the **Secretary** for the **Red River Regional Dispatch Center Authority**. The **Secretary** shall be responsible for ensuring that minutes are prepared for all **Red River Regional Dispatch Center Authority** meetings. The **Secretary** shall also keep all books and records of the **Red River Regional Dispatch Center Authority** and shall give all notices required by law, and may have other duties assigned from time to time by the **Red River Regional Dispatch Center Authority**. The **Secretary** shall also be responsible for compliance with North Dakota's Open Records Law requirements.

Section 5.09 VOTING BY THE BOARD. Each **RRRDC Authority Board Member** shall have one (1) vote on matters before the **Red River Regional Dispatch Center Authority**. Each **RRRDC Authority Board Member** shall cast a vote on all matters before the **Red River Regional Dispatch Center Authority** unless the **RRRDC Authority Board Member** has a conflict prohibiting him or her from casting a vote. All decisions before the **Red River Regional Dispatch Center Authority** shall be determined by a simple majority vote of the **RRRDC Authority Board Members** present except as set forth in this Section. **RRRDC Authority Board Members** are not permitted to vote by proxy. A **RRRDC Authority Board Member Alternate** will be seated as a **RRRDC Authority Board Member** when the **Member Entity's RRRDC Authority Board Member** is absent from a **RRRDC Authority Board** meeting. When seated pursuant to this Section, **RRRDC Authority Board Member Alternates** will have the same voting rights as regular **RRRDC Authority Board Members**. The following decisions require that at least one (1) affirmative vote must be cast by a **Minnesota Board Member**, at least one (1) affirmative vote must be cast by a **North Dakota Board Member** and, with respect to decisions described in subparagraph (a), (b), (f), (g) or (i), at least one (1) affirmative vote must be cast by a **Cass County Member**:

- (a) Approval of the annual operations budget
- (b) Approval of the annual capital budget.
- (c) Hiring of a Director.
- (d) Establish the authorized level or size of staffing of the Dispatch Center.
- (e) Termination of the Director.
- (f) Approval or modification of the methodology and finance plan developed pursuant to Section 12.06 of this **Agreement** to allocate the costs associated with operating the **Dispatch Center**.

- (g) Approval of the modification of a Section 12.04 or 12.05 population-based cost allocation as recognized in Section 12.07.
- (h) Dissolution of a standing committee, established by this Joint Powers Agreement.
- (i) A decision by the **RRRDC Authority Board**, contemplated by Section 21.05, to remove a **Member Entity** deemed to be in default of this Agreement pursuant to Section 21.04 of this **Agreement**.

Section 5.10 RRRDC AUTHORITY BOARD MEMBER DISCLOSURE OF CONFLICTS OF INTEREST. Before taking any action or casting a vote regarding a matter before the **RRRDC Authority Board**, which would constitute a conflict of interest under North Dakota law or as set forth in this **Agreement**, **RRRDC Authority Board Member(s)** must disclose such conflict(s) and abstain from voting on the matter involving the conflict of interest and from participating in **RRRDC Authority Board** discussions and deliberations on the matter involving the conflict of interest. For purposes of this **Agreement**, conflicts of interest include, but are not limited to, all conflicts of interest under North Dakota and/or Minnesota law and/or membership on a **Governing Body** and/or status as a controlling officer, member of a board of directors, mayor, president, or chief executive of a political subdivision, a public entity, and/or private entity engaged in a legal or administrative action, pending litigation and/or active litigation in which the **Red River Regional Dispatch Center Authority** is an adverse party. Any **RRRDC Authority Board Member** with a conflict of interest shall not be entitled to participate in an executive session of the **RRRDC Authority Board** held pursuant to Section 5.11.

Section 5.11 MEETINGS OF THE BOARD. The **Red River Regional Dispatch Center Authority** shall hold meetings as follows:

- (a) Organizational Meeting. An organizational meeting shall be held within thirty (30) days of the **Effective Date** of this **Agreement** and shall be called at a time to be determined by the **Director**. The **Director** shall ensure that proper notice of this meeting is given.
- (b) Regular Meetings. Thereafter, a schedule of regular meetings, which may include one or more regular meetings each quarter of the year, shall be adopted at the organizational meeting and thereafter each and every year at the **Annual Meeting**. The **RRRDC Authority Board** may determine alternative times and dates for regular meetings.

Annual Meeting. The **RRRDC Authority Board** shall hold its **Annual Meeting** in January of each year at a time and date to be determined by the RRRDC Authority Board.

- (c) Special Meetings. Special meetings of the **RRRDC Authority Board** may be called by the **Chair** and must be called by the **Chair** upon written request of three (3) **RRRDC Authority Board Members**, who must identify the business matters to be discussed at such special meeting. Business at a special meeting is limited to matters contained in the notice of the special meeting. A special meeting may also

be called at the request of the **Governing Body** of a **Member Entity**, who must identify the business matters to be discussed at such special meeting.

- (d) Emergency Meetings. In accordance with applicable law, an emergency meeting may be called by the **RRRDC Authority Board** due to circumstances that in the judgment of the **Chair** and/or **Vice Chair** require immediate **RRRDC Authority Board** consideration. Prior to calling an emergency meeting, the **RRRDC Authority Board** shall contact appropriate media.
- (e) Meeting Location. **RRRDC Authority Board** meetings will be held at a location to be determined, from time to time, by the **RRRDC Authority Board**.
- (f) Parliamentary Rules. All meetings of the **RRRDC Authority Board** shall comply with parliamentary rules and procedures outlined in the most recent edition of ROBERT’S RULES OF ORDER for small boards, except to the extent those rules are inconsistent with any rules adopted by the **RRRDC Authority Board** or are inconsistent with the provisions of this **Agreement** or applicable North Dakota law.
- (g) Notice of Meetings to Alternate Board Members. Each **RRRDC Authority Board Member Alternate**, whether or not a voting member, shall be entitled to receive notices of and attend all meetings of the **RRRDC Authority Board** to receive all reports, and to participate in **RRRDC Authority Board** discussions in the same manner as the **RRRDC Authority Board Members**. Provided, however, that a **RRRDC Authority Board Member Alternate** will not be seated unless the **Member Entity’s** appointed **RRRDC Authority Board Member** is unable to attend the meeting and, during closed sessions of the **RRRDC Authority Board**, the meeting shall be attended only by the **Chair** and **RRRDC Authority Board Members** or seated **RRRDC Authority Board Member Alternates**.
- (h) Executive Sessions. The **RRRDC Authority Board** may hold an executive session to consider or discuss confidential records or other matters as authorized by Chapter 44-04 of the N.D.C.C. **RRRDC Authority Board Members** may be excluded from an executive session in the event that the **Member Entity** or organization from which they are appointed is an adverse party to the **Red River Regional Dispatch Center Authority** in ongoing or pending litigation, which is the subject of the executive session and/or the **RRRDC Authority Board Member** has disclosed a conflict of interest pursuant to Section 5.10 of this **Agreement** that is relevant to or related to the subject of the executive session.

Section 5.12 OPEN MEETING LAW. All meetings of the Red River Regional Dispatch Center Authority shall be held in compliance the North Dakota Open Meetings Law. The Minnesota Member Entities shall, to the extent required by the Minnesota Open Meeting Law, publish all notices and conduct all meetings held by a Minnesota Member Entity concerning the Dispatch Center, in accordance with the Minnesota Open Meeting Law.

Section 5.13 RECORDS RETENTION POLICY. The **Red River Regional Dispatch Center Authority** shall adopt a records retention policy establishing minimum retention periods for its records in compliance with the North Dakota Open Records Law. The **Minnesota Member Entities** shall adopt a records retention policy establishing a minimum retention period for any records held by a **Minnesota Member Entity** related to the **Dispatch Center** in compliance with the Minnesota Government Data Practices Act.

Section 5.14 OPEN RECORDS LAW. The **Red River Regional Dispatch Center Authority** shall comply with the North Dakota Open Records Law in regard to all data collected, created, received and maintained or disseminated. The **Minnesota Member Entities** shall maintain all data collected, created, received, maintained, or disseminated in conformance with the Minnesota Government Data Practices Act.

Section 5.15 QUORUM. A quorum of the **Red River Regional Dispatch Center Authority** necessary for the transaction of any business shall consist of six (6) **RRRDC Authority Board Members** who may transact business. If vacancies cause the membership of the **Red River Regional Dispatch Center Authority** to be fewer than six (6) members, the **Red River Regional Dispatch Center Authority** may not conduct any business until such time that there are at least six (6) **RRRDC Authority Board Members**, provided, however, that if a quorum of **RRRDC Authority Board Members** is not present, the **Members** who are present shall be authorized to adjourn the meeting to such date, time and place as they shall determine and announce at the time of adjournment. The failure of the **RRRDC Authority Board** to meet due to a lack of a quorum shall not be construed so as to invalidate the authority of the **Director** to implement all previously approved contracts, **Dispatch Center Agreements**, or Resolutions of the **Red River Regional Dispatch Center Authority**.

Section 5.16 BYLAWS. The **RRRDC Authority Board** may adopt bylaws governing its operations that are not inconsistent with this **Agreement** and may amend said bylaws as necessary. The bylaws may provide for sub-committees of the **RRRDC Authority Board** as necessary. Any bylaw or modification thereof shall not be effective until approved by a majority vote of the **RRRDC Authority Board**. Bylaws shall be reviewed and updated annually by the **RRRDC Authority Board**.

Section 5.17 OFFICIAL NEWSPAPER. The **RRRDC Authority Board** may designate one or more legal newspapers of general circulation in the **Fargo-Moorhead Metropolitan Area** as its official newspaper for whatever purposes as may be required by statute to be published in an official newspaper.

ARTICLE VI. COMMITTEES

Section 6.01 BOARDS AND COMMISSIONS. Except as otherwise provided by law, or by this **Agreement**, there are no separate administrative boards, committees or commissions. The **RRRDC Authority Board** performs the duties and exercises the powers of administrative boards, committees or commissions. The **RRRDC Authority Board** may establish boards, commissions or committees to advise the **RRRDC Authority Board** with respect to a **Dispatch Center** function or activity, to investigate a subject of interest to the **Red River Regional Dispatch Center Authority**, to perform quasi-judicial functions, or to perform any other task.

Section 6.02 BUDGET & FINANCE COMMITTEE. There is hereby created and continued a **Budget & Finance Committee** of the **Red River Regional Dispatch Center Authority** with the powers and duties set forth in this Article.

Section 6.03 BUDGET & FINANCE COMMITTEE JURISDICTION. The **Budget & Finance Committee** is responsible for making recommendations to the **RRRDC Authority Board** regarding the operating budgets and the capital budgets related to the **Dispatch Center**.

Section 6.04 BUDGET & FINANCE COMMITTEE MEMBERSHIP. The **Budget & Finance Committee** shall consist of ten committee members, each of which shall first be nominated as follows and then approved by the RRRDC Authority Board:

- (a) One person nominated by the two Cass County Members, one of which is the Cass County Finance Director or a member of the Finance Director's office and the other being one of the Cass County Members;
- (b) One person nominated by the two City of Fargo Members, one of which is the Fargo Finance Director or a member of the Finance Director's office and the other being one of the City of Fargo Members;
- (c) One person nominated by the two City of Moorhead Members, one of which is the Moorhead Finance Director or a member of the Finance Director's office and the other being one of the City of Moorhead Members;
- (d) One person nominated by the two Clay County Members, one of which is the Clay County Finance Director or a member of the Finance Director's office and the other being one of the Clay County Members; and,
- (e) One person nominated by the two City of West Fargo Members, one of which is the West Fargo Finance Director or a member of the Finance Director's office and the other being one of the City of West Fargo Members.

Section 6.05 BUDGET & FINANCE COMMITTEE CHAIR. The **Budget & Finance Committee** shall select a chair by majority vote of its members.

Section 6.06 DISSOLUTION OF BUDGET & FINANCE COMMITTEE. In the event that the **RRRDC Authority Board** determines by an affirmative vote of a majority of all **RRRDC Authority Board Members** that the **Budget & Finance Committee** is no longer needed, the **RRRDC Authority Board** may dissolve the **Budget & Finance Committee**.

Section 6.07 MEMBER ENTITY STAFF. **Member Entities** may provide support staff and services for the **Budget & Finance Committee**.

Section 6.08 RRRDC EXECUTIVE COMMITTEE. There is hereby created and continued an **RRRDC Executive Committee** of the **Red River Regional Dispatch Center Authority** with the powers and duties set forth in this Article.

Section 6.09 RRRDC EXECUTIVE COMMITTEE JURISDICTION. The **RRRDC Executive Committee** is responsible for making recommendations to the **RRRDC Authority Board** regarding all matters related to the **Dispatch Center** and for performing any other activities, decisions, tasks, including quasi-judicial functions, or any other matters delegated to it by the **RRRDC Authority Board**.

Section 6.10 RRRDC EXECUTIVE COMMITTEE MEMBERSHIP. The **RRRDC Executive Committee** shall consist of ten committee members, each of which shall first be nominated as follows and then approved by the RRRDC Authority Board:

- (a) Two persons nominated by the two Cass County Members, and at least one of which is a Cass County Sheriff representative;
- (b) A Fargo Police Department representative and a Fargo Fire Department representative nominated by the two City of Fargo Members;
- (c) A Moorhead Police Department representative and a Moorhead Fire Department representative nominated by the two City of Moorhead Members;
- (d) Two persons nominated by the two Clay County Members, and at least one of which is a Clay County Sheriff representative; and,
- (e) A West Fargo Police Department representative and a West Fargo Fire Department representative nominated by the two City of West Fargo Members.

A representative of Sanford Ambulance representative proposed by Sanford Ambulance, who shall be a non-voting member of the committee.

Section 6.11 RRRDC EXECUTIVE COMMITTEE CHAIR. The **RRRDC Executive Committee** shall select a chair by majority vote of its members.

Section 6.12 DISSOLUTION OF RRRDC EXECUTIVE COMMITTEE. In the event that the **RRRDC Authority Board** determines by an affirmative vote of a majority of all **RRRDC**

Authority Board Members that the **RRRDC Executive Committee** is no longer needed, the **RRRDC Authority Board** may dissolve the **RRRDC Executive Committee**.

Section 6.13 MEMBER ENTITY STAFF. **Member Entities** may provide support staff and services for the **RRRDC Executive Committee**.

Section 6.14 LAW ENFORCEMENT OPERATIONS COMMITTEE. There is hereby created and continued a **Law Enforcement Operations Committee** of the **Red River Regional Dispatch Center Authority** with the powers and duties set forth in this Article.

Section 6.15 LAW ENFORCEMENT OPERATIONS COMMITTEE JURISDICTION. The **Law Enforcement Operations Committee** is responsible for making recommendations to the **RRRDC Executive Committee** regarding policies and procedures related to Law Enforcement operations and for performing any other activities, decisions, tasks, including quasi-judicial functions, or any other matters delegated to it by the **RRRDC Executive Committee** or the **RRRDC Authority Board**.

Section 6.16 LAW ENFORCEMENT OPERATIONS COMMITTEE MEMBERSHIP. The **Law Enforcement Operations Committee** shall consist of ten committee members, each of which shall first be nominated as follows and then approved by the **RRRDC Executive Committee**:

- (a) Two persons nominated by the two Cass County members of the **RRRDC Executive Committee**;
- (b) Two persons nominated by the two City of Fargo members of the **RRRDC Executive Committee**;
- (c) Two persons nominated by the two City of Moorhead members of the **RRRDC Executive Committee**;
- (d) Two persons nominated by the two Clay County members of the **RRRDC Executive Committee**; and,
- (e) Two persons nominated by the two City of West Fargo members of the **RRRDC Executive Committee**.

A representative of Sanford Ambulance representative proposed by Sanford Ambulance and approved by the **RRRDC Executive Committee**, who shall be a non-voting member of the committee.

Section 6.17 LAW ENFORCEMENT OPERATIONS COMMITTEE CHAIR. The **Law Enforcement Operations Committee** shall select a chair by majority vote of its members.

Section 6.18 MEMBER ENTITY STAFF. **Member Entities** may provide support staff and services for the **Law Enforcement Operations Committee**.

Section 6.19 RESERVED

Section 6.20 Dissolution of Law Enforcement Operations Committee. In the event that the **RRRDC Authority Board** determines by an affirmative vote of a majority of all **RRRDC Authority Board Members** that the **Law Enforcement Operations Committee** is no longer needed, the **RRRDC Authority Board** may dissolve the **Law Enforcement Operations Committee**.

Section 6.21 FIRE/EMS OPERATIONS COMMITTEE. There is hereby created and continued a **Fire/EMS Operations Committee** of the **Red River Regional Dispatch Center Authority** with the powers and duties set forth in this Article.

Section 6.22 FIRE/EMS OPERATIONS COMMITTEE JURISDICTION. The **Fire/EMS Operations Committee** is responsible for making recommendations to the **RRRDC Executive Committee** regarding policies and procedures related to Fire/EMS operations matters related to the **Dispatch Center** and for performing any other activities, decisions, tasks, including quasi-judicial functions, or any other matters delegated to it by the **RRRDC Executive Committee** or the **RRRDC Authority Board**.

Section 6.23 FIRE/EMS OPERATIONS COMMITTEE MEMBERSHIP. The **Fire/EMS Operations Committee** shall consist of ten committee members, each of which shall first be nominated as follows and then approved by the **RRRDC Executive Committee**:

- (a) Two persons nominated by the two Cass County members of the **RRRDC Executive Committee**;
- (b) Two persons nominated by the two City of Fargo members of the **RRRDC Executive Committee**;
- (c) Two persons nominated by the two City of Moorhead members of the **RRRDC Executive Committee**;
- (d) Two persons nominated by the two Clay County members of the **RRRDC Executive Committee**; and,
- (e) Two persons nominated by the two City of West Fargo members of the **RRRDC Executive Committee**.

A representative of Sanford Ambulance representative proposed by Sanford Ambulance and approved by the **RRRDC Executive Committee**, who shall be a non-voting member of the committee.

Section 6.24 FIRE/EMS OPERATIONS COMMITTEE CHAIR. The **Fire/EMS Operations Committee** shall select a chair by majority vote of its members.

Section 6.25 DISSOLUTION OF FIRE/EMS OPERATIONS COMMITTEE. In the event that the **RRRDC Authority Board** determines by an affirmative vote of a majority of all **RRRDC Authority Board Members** that the **Fire/EMS Operations Committee** is no longer needed, the **RRRDC Authority Board** may dissolve the **Fire/EMS Operations Committee**.

Section 6.26 MEMBER ENTITY STAFF. **Member Entities** may provide support staff and services for the **Fire/EMS Operations Committee**.

Section 6.27 RADIO COMMUNICATIONS COMMITTEE. There is hereby created and continued a **Radio Communications Committee** of the **Red River Regional Dispatch Center Authority** with the powers and duties set forth in this Article.

Section 6.28 RADIO COMMUNICATIONS COMMITTEE JURISDICTION. The **Radio Communications Committee** is responsible for making recommendations to the **RRRDC Executive Committee** regarding policies and procedures related to radio communications operations of the **Dispatch Center** and for performing any other activities, decisions, tasks, including quasi-judicial functions, or any other matters delegated to it by the **RRRDC Executive Committee** or the **RRRDC Authority Board**.

Section 6.29 RADIO COMMUNICATIONS COMMITTEE MEMBERSHIP. The **Radio Communications Committee** shall consist of ten committee members, each of which shall first be nominated as follows and then approved by the **RRRDC Executive Committee**:

- (a) Two persons nominated by the two Cass County members of the **RRRDC Executive Committee**;
- (b) Two persons nominated by the two City of Fargo members of the **RRRDC Executive Committee**;
- (c) Two persons nominated by the two City of Moorhead members of the **RRRDC Executive Committee**;
- (d) Two persons nominated by the two Clay County members of the **RRRDC Executive Committee**; and,
- (e) Two persons nominated by the two City of West Fargo members of the **RRRDC Executive Committee**.

A representative of Sanford Ambulance representative proposed by Sanford Ambulance, who shall be a non-voting member of the committee.

Section 6.30 RADIO COMMUNICATIONS COMMITTEE CHAIR. The **Radio Communications Committee** shall select a chair by majority vote of its members.

Section 6.31 DISSOLUTION OF RADIO COMMUNICATIONS COMMITTEE. In the event that the **RRRDC Authority Board** determines by an affirmative vote of a majority of all **RRRDC Authority Board Members** that the **Radio Communications Committee** is no longer needed, the **RRRDC Authority Board** may dissolve the **Radio Communications Committee**.

Section 6.32 MEMBER ENTITY STAFF. **Member Entities** may provide support staff and services for the **Radio Communications Committee**.

Section 6.33 PERSONNEL COMMITTEE. There is hereby created and continued a **Personnel Committee** of the **Red River Regional Dispatch Center Authority** with the powers and duties set forth in this Article.

Section 6.34 PERSONNEL COMMITTEE JURISDICTION. The **Personnel Committee** is responsible for making recommendations to the **RRRDC Executive Committee** regarding personnel matters, including personnel policies and procedures, related to the **Dispatch Center** and for performing any other activities, decisions, tasks, including quasi-judicial functions, or any other matters delegated to it by the **RRRDC Executive Committee** or the **RRRDC Authority Board**.

Section 6.35 PERSONNEL COMMITTEE MEMBERSHIP. The **Personnel Committee** shall consist of ten committee members, each of which shall first be nominated as follows and then approved by the **RRRDC Executive Committee**:

- (a) Two persons nominated by the two Cass County members of the **RRRDC Executive Committee**, one of which is the Cass County Human Resources Director or a member of the Human Resources Director's office and the other being a Cass County Sheriff representative;
- (b) Two persons nominated by the two City of Fargo members of the **RRRDC Executive Committee**, one of which is the Fargo Human Resources Director or a member of the Human Resources Director's office and the other being either the Fargo Police Chief or the Fargo Fire Chief;
- (c) Two persons nominated by the two City of Moorhead members of the **RRRDC Executive Committee**, one of which is the Moorhead Human Resources Director or a member of the Human Resources Director's office and the other being either the Moorhead Police Chief or the Moorhead Fire Chief;
- (d) Two persons nominated by the two Clay County members of the **RRRDC Executive Committee**, one of which is the Clay County Human Resources Director or a member of the Human Resources Director's office and the other being a Clay County Sheriff representative; and,
- (e) Two persons nominated by the two City of West Fargo members of the **RRRDC Executive Committee**, one of which is the West Fargo Human Resources Director

or a member of the Human Resources Director's office and the other being either the West Fargo Police Chief or the West Fargo Fire Chief.

Section 6.36 PERSONNEL COMMITTEE CHAIR. The **Personnel Committee** shall select a chair by majority vote of its members.

Section 6.37 DISSOLUTION OF PERSONNEL COMMITTEE. In the event that the **RRRDC Authority Board** determines by an affirmative vote of a majority of all **RRRDC Authority Board Members** that the **Personnel Committee** is no longer needed, the **RRRDC Authority Board** may dissolve the **Personnel Committee**.

Section 6.38 MEMBER ENTITY STAFF. **Member Entities** may provide support staff and services for the **Personnel Committee**.

ARTICLE VII. RED RIVER REGIONAL DISPATCH CENTER AUTHORITY POWERS

Section 7.01 POWERS. This **Agreement** shall in no way limit or restrict the powers and duties of each **Member Entity**, except as provided herein. The **Red River Regional Dispatch Center Authority** shall have the following duties and powers.

- (a) Receipt of Funds. To apply for and receive grants and **Debt Obligation** proceeds and to accept donations, bequests and contributions from the **Member Entities**.
- (b) Enter Into Contracts. To enter into contracts related to the **Dispatch Center** and to perform all of its obligations pursuant to the terms and conditions of those contracts.
- (c) Director. To hire and terminate a Director.
- (d) Purchasing. To purchase or otherwise acquire real and personal property and to purchase capital equipment and equipment and items necessary for the operations and maintenance of the **Dispatch Center**.
- (e) Expenses. To incur expenses necessary and incidental to effectuation of its purposes and consistent with its powers.
- (f) Sales. To convey, sell, dispose of, or lease any of its equipment or its real or personal property as deemed necessary for the **Dispatch Center**.
- (g) Sue and Be Sued. To commence litigation as deemed necessary and to defend against any claims brought against the **Red River Regional Dispatch Center Authority**.

- (h) Conduct or Arrange for Public Information Meetings. To conduct and arrange for public information meetings.
- (i) Appoint Ex-Officio Board Members. Ex-Officio **RRRDC Authority Board Members** may attend **RRRDC Authority Board** meetings but may not vote unless they are seated as a member of the **RRRDC Authority Board**.
- (j) Appoint and Terminate Dispatch Center Consultants. To employ a **Program Management Consultant**, a **Lobbyist**, to the extent permitted by law, and other professional services support personnel and to provide necessary office space, supplies, equipment and other support.
- (k) Employees. To employ personnel to carry out the purposes of this **Agreement**.
- (l) Management of Dispatch Center. To assist in the planning, design, development and management of the **Dispatch Center**, including **Dispatch Center Property** acquisition and construction of the **Dispatch Center**.
- (m) Finance the Dispatch Center. To provide for the financing of the **Dispatch Center**, including coordination of the issuance of **Debt Obligations** by the **Member Entities**. This power includes the power to request that a **Member Entity** issue **Debt Obligations**.
- (n) Operations and Maintenance of Dispatch Center. To provide for the operations and maintenance of the **Dispatch Center**. This authority includes the authority to hire, retain and terminate private contractors to provide for the operations and maintenance of the **Dispatch Center**. This power includes the power to request that a **Member Entity** operate and/or maintain the **Dispatch Center**. In the event that a **Member Entity** is requested to maintain a portion of the **Dispatch Center**, the **Member Entity** will be reimbursed for such costs in accordance with Article XII of this **Agreement**.
- (o) Budget. As provided in Article VIII, to establish an annual budget and to submit the preliminary budget for review by June 30th of each year of this **Agreement** to the **Governing Bodies** of the **Member Entities**.
- (p) Insurance. To enter into contracts for the purposes of securing insurance coverage regarding the **Dispatch Center** or the operation of the **Red River Regional Dispatch Center Authority**, including general liability, motor vehicles, property, and workers' compensation coverage.
- (q) Economization. To recommend to the **Member Entities** ways to economize the construction, management, operations, financing and maintenance of the **Dispatch Center**.

- (r) Land Acquisition Requests. To request that **Member Entities** obtain access to and title to lands, easements, and rights-of-way necessary for the **Dispatch Center**. This will include requests for a **Member Entity** to exercise its eminent domain authority.
- (s) Amendments. To recommend amendments to this **Agreement** to the **Member Entities**.
- (t) Enforce this Agreement. To enforce the terms of this **Agreement**, including requiring one or more of the **Member Entities** to this **Agreement** to fulfill its obligations as defined herein.
- (u) Delegate Tasks. To delegate tasks to one or more of the **Member Entities** to this **Agreement**, unless prohibited by statute or otherwise.
- (v) Committees and Sub-committees. Pursuant to ARTICLE VI of this **Agreement**, to create committees to provide technical, financial and legal assistance, or other assistance to the **Red River Regional Dispatch Center Authority**.
- (w) Provide for Professional Services. To procure the services of engineers, attorneys, contractors, consultants, and other persons or entities for the planning, design, development, financing, construction, operation and/or maintenance of the **Dispatch Center**.
- (x) Hire Accountants. Procure the services of a public accountant to make an annual audit of the accounts and records of the **Red River Regional Dispatch Center Authority**.
- (y) Contract with Public Entities. To enter into contracts or other arrangements with the United States Government or any department thereof, municipalities, counties, states or any agency thereof, persons, companies or corporations, for cooperation or assistance in designing, developing, and constructing or operating the **Dispatch Center** and acquiring and maintaining the necessary lands, easements and rights-of-way for the **Dispatch Center**, including contracts, joint powers agreements or other arrangements for advancing funds for **Dispatch Center** purposes and for recouping some or all of such funds including, without limitation, entering into such contract(s), joint powers agreement(s) and any other purposes as may be necessary and appropriate for the furtherance of the **Dispatch Center**. This power includes the power to perform all its obligations under such contracts and the power to carry out and implement such contracts. To enter into joint powers agreements with other public entities.
- (z) Contracts with Private Third Parties. To enter into contracts or other arrangements with private utility companies or cooperatives, or other private parties, for cooperation or assistance in the design, construction or operating of the **Dispatch Center**, and any other purposes as may be necessary and appropriate for the

furtherance of the **Dispatch Center**. This power includes the power to perform all its obligations under such contracts and the power to carry out and implement such contracts.

- (aa) RESERVED
- (bb) Permits. To apply for any permits or licenses for the **Dispatch Center**, whether from the Government, the State of North Dakota, or the State of Minnesota.
- (cc) RESERVED.
- (dd) Lobbying. To the extent permitted by law, to lobby for state (in either North Dakota or Minnesota) and/or federal funds for the **Dispatch Center** including lobbying for federal or state (in either North Dakota or Minnesota) authorization or other approvals as may be requested by the **Red River Regional Dispatch Center Authority**.
- (ee) Indemnification. To indemnify and hold harmless the **Member Entities**.
- (ff) Purchase Insurance Policies. To purchase insurance policies or products that provide coverage for contractors, including their consultants, agents, advisors, lobbyists, and employees for work performed in connection with, arising out of, or related to the **Dispatch Center**.
- (gg) RESERVED
- (hh) RESERVED
- (ii) Implicit Powers. In addition to the above specified powers, the **Red River Regional Dispatch Center Authority** shall have those powers implicitly necessary to carry out its duties.
- (jj) Uncertain Powers. If it is not clear whether the **Red River Regional Dispatch Center Authority** has a power to perform a certain action or to make a certain decision, the **Red River Regional Dispatch Center Authority** shall refrain from acting until such times as it receives authority in writing from a majority of **Member Entities**.

**ARTICLE VIII.
FINANCE/BUDGET**

Section 8.01 RRRDC AUTHORITY BOARD TO CONTROL FINANCES. The **RRRDC Authority Board** is responsible for the financial affairs of the **Red River Regional Dispatch Center Authority**. The **RRRDC Authority Board** must provide for the collection of revenues, the safekeeping of assets, the auditing and settlement of accounts, and the safekeeping and disbursements of public monies.

Section 8.02 FISCAL YEAR. The fiscal year of the **Red River Regional Dispatch Center Authority** is the calendar year.

Section 8.03 PREPARATION OF AND SUBMISSION OF THE BUDGET. An annual budget must be prepared and submitted to the **RRRDC Authority Board** by or before August 1 of each and every year of this **Agreement** in accordance with the following schedule:

- (a) The **Director**, with the assistance of the **Executive Committee**, shall prepare and submit an annual budget to the **Budget & Finance Committee** for review no later than May 15th; and,
- (b) Upon receipt and review thereof, the **Budget & Finance Committee** shall recommend and submit an annual budget to the **RRRDC Authority Board** for its consideration at its first regular meeting in June and the **RRRDC Authority Board** shall, upon receipt and consideration thereof, shall approve a preliminary annual budget and submit it to the **Member Entities** by June 30th; and,
- (c) Action on the annual budget by the **RRRDC Authority Board** shall be taken as set forth in this Article including, as provided in Section 8.04, adoption of an **Approved Budget** by resolution.

The budget must provide a complete financial plan for **Red River Regional Dispatch Center Authority** funds and activities for the ensuing fiscal year. The budget is in a form recommended by the **Director** or specified by the **RRRDC Authority Board** with necessary modifications required by law. The budget must show estimated income and proposed expenditures, including debt service and comparative figures for the current fiscal year, actual and estimated, and for the preceding fiscal year. The budget must show proposed expenditures for current operations. The budget must show proposed capital expenditures for the ensuing year and the proposed method of financing those capital expenditures. The annual budget will include expenditures for debt service payments; however, expenditures for debt service payments, are not subject to annual appropriations of the **Red River Regional Dispatch Center Authority**.

Section 8.04 RRRDC AUTHORITY BOARD ACTION ON THE ANNUAL BUDGET. The budget must be considered by the **RRRDC Authority Board** no later than the first regular meeting of the **RRRDC Authority Board** in June. The **RRRDC Authority Board** must consider the budget at subsequent meetings until an **Approved Budget** is adopted by an affirmative vote of the **RRRDC Authority Board**. The failure of the **RRRDC Authority Board** to approve an annual budget shall not impair, excuse, revoke, negate, or terminate the obligation of a **Member Entity** to provide for and make a debt service payment on a **Debt Obligation**. The sums appropriated by

the budget may not exceed the estimated revenues and reserves available to fund the expenditures in the budget. The **RRRDC Authority Board** must adopt the budget by resolution not later than August 1 of each and every year of this **Agreement**, and shall submit the **Approved Budget** to the **Member Entities** by August 15th of each such year. The budget resolution must state the total amount of each budgeted fund, with segregation of objects and purposes of expenditures as deemed necessary by the **RRRDC Authority Board**. The sums fixed in the budget resolution are appropriated for the purposes identified in the budget resolution. The failure of the **Red River Regional Dispatch Center Authority** or the **RRRDC Authority Board** to timely approve an annual budget shall not be construed so as to invalidate the authority of the **Red River Regional Dispatch Center Authority** to continue making payments for continuing obligations, or contracts previously approved by the **Red River Regional Dispatch Center Authority**.

Section 8.05 MEMBER ENTITY ACTION ON THE ANNUAL BUDGET. As provided in this Article, the **RRRDC Authority Board** shall submit to the **Member Entities** the preliminary budget, upon its adoption by resolution, as provided in Section 8.04. **Member Entities** are not required to formally adopt the budget, but may provide advice, comments, and input to the **Red River Regional Dispatch Center Authority**. The budget submitted to the **Member Entities** is intended to provide **Member Entities** with information regarding the financial condition of the **Red River Regional Dispatch Center Authority** and does not require formal approval by the **Member Entities' Governing Bodies**.

Section 8.06 ENFORCEMENT OF THE BUDGET. The **Director** must enforce the budget. The **Director** may not approve a payment or the incurring of an obligation by the **Red River Regional Dispatch Center Authority** unless funds for the payment or obligation are appropriated by the budget and there is a sufficient unexpended balance in the appropriation after deducting prior expenditures and encumbrances against the appropriation; provided, that **Debt Obligations** are not subject to this requirement. An officer, employee, agent or designee of the **Red River Regional Dispatch Center Authority** may not place an order or make a purchase for the **Red River Regional Dispatch Center Authority** unless the order or purchase is authorized in the budget. A **Red River Regional Dispatch Center Authority** check drawn on **Red River Regional Dispatch Center Authority** funds to a person or entity other than the **Red River Regional Dispatch Center Authority** may not be issued or paid until the claim to which the payment relates has been documented by an invoice, payroll timesheet, or other document approved and signed by a person authorized by the **RRRDC Authority Board** to execute documents on behalf of the **Red River Regional Dispatch Center Authority**, who vouches for its correctness and reasonableness. The **Director** must report to the Budget & Finance Committee and the **RRRDC Authority Board** from time to time on the status of the budget and the expenditures from and balances in the budget accounts and funds.

Section 8.07 ALTERATIONS IN THE BUDGET. The **RRRDC Authority Board** may not increase the amounts appropriated in the budget resolution beyond the estimated revenues except to the extent that actual receipts exceed the estimated revenues. The **RRRDC Authority Board** may, by resolution, reduce an appropriation for any purpose in the budget or authorize the transfer of sums from unencumbered appropriations in the budget to other purposes. The **RRRDC Authority Board** may make budget adjustments as needed and from time to time.

Section 8.08 FUNDS TO BE KEPT. There must be maintained in the **Red River Regional Dispatch Center Authority** treasury the funds required by ARTICLE X of this **Agreement** and other funds as may be required by law, the budget resolution or other resolution. The **RRRDC Authority Board** may, by resolution, make inter-fund loans except from trust or funds that are required to be restricted in some manner required by an applicable grant or other funding agreement.

Section 8.09 FINANCIAL MANAGEMENT POLICY. The **RRRDC Authority Board** will adopt a financial management policy upon the recommendation of the **Budget & Finance Committee**. The financial management policy should include reference to the annual audit process and the **RRRDC Authority Board** may, at its discretion, create an audit subcommittee or task the **Budget & Finance Committee** to initiate the process.

**ARTICLE IX.
SOURCES OF REVENUES [RESERVED]**

**ARTICLE X.
FINANCIAL OVERSIGHT/ FISCAL AGENT**

Section 10.01 FINANCIAL OVERSIGHT. Under the oversight of the **RRRDC Authority Board** and the **Budget & Finance Committee**, the Clay County Auditor, the **Cass County** Finance Director, the **City of Fargo** Finance Director, the **City of West Fargo** Finance Director and the **City of Moorhead** Finance Director shall work cooperatively to develop written administrative procedures and establish funds for the management of **Dispatch Center** funds, **Debt Obligation** proceeds, the repayment of the debt service on any **Debt Obligations**, including, but not limited to procedures for handling **Dispatch Center** payment requests, ensuring tax and arbitrage compliance, and all other financial records for the **Dispatch Center** and the **Red River Regional Dispatch Center Authority**. Said written administrative procedures must be kept on file with the **Secretary** and made available for public inspection.

Section 10.02 INTERIM FISCAL AGENT. **Cass County**, acting through the Cass County Finance Director, shall serve as the **Fiscal Agent** for the **Dispatch Center**, to serve for an indefinite term; which may resign as such at any time and which may be removed at any time by the **RRRDC Authority Board**. The **City of Fargo**, having served as the **Fiscal Agent** for many years prior to the **Effective Date**, shall serve as the **Interim Fiscal Agent** for the **Dispatch Center** on a temporary, interim basis and until such time as a transition of the role of **Fiscal Agent** to **Cass County** is completed, said transition to Cass County ending no later than six (6) months after the **Effective Date**. The **Interim Fiscal Agent** shall have the same powers, obligations, and duties as the **Fiscal Agent**.

Section 10.03 APPOINTMENT OF FISCAL AGENT. At such time as **Cass County** is no longer the **Fiscal Agent**, whether by termination at the instance of **Cass County**, the **RRRDC Authority Board**, or otherwise, then in such event, pursuant to Section 5.09 of this **Agreement**, the **RRRDC Authority Board** may appoint a **Fiscal Agent**. The **Fiscal Agent** is chosen by the **RRRDC Authority Board** solely on the basis of cost, experience, and fiscal management qualifications. The **Fiscal Agent** is appointed by the **RRRDC Authority Board** for an indefinite term and may be removed at any time by the **RRRDC Authority Board**.

Section 10.04 FISCAL AGENT. The **Fiscal Agent** shall be responsible for the administration of financial and accounting functions for the **Red River Regional Dispatch Center Authority**. The **Fiscal Agent** may be compensated by the **Red River Regional Dispatch Center Authority** at a rate mutually agreed upon by the **Red River Regional Dispatch Center Authority** and the **Fiscal Agent**. The **Fiscal Agent** shall establish and maintain for the management of **Dispatch Center** funds including but not limited, to annual budgets, revenues, proceeds of **Debt Obligations** and the repayment of the debt service on the **Debt Obligations**.

Section 10.05 MISCELLANEOUS FUND ACCOUNTS. The **Fiscal Agent** is hereby authorized to establish and maintain such other fund accounts or sub-fund accounts as may be required by the terms of the **Debt Obligations** or agreed upon by the **Member Entities**.

Section 10.06 FISCAL AGENT TO ACT AS TRUSTEE OF FUNDS. The **Fiscal Agent**, acting as a trustee with a fiduciary duty to the other **Member Entities**, shall manage **Dispatch Center** funds outlined in Sections 10.04 and 10.05. If for any reason the **Fiscal Agent** shall neglect or fail to perform said fiduciary duties, the **RRRDC Authority Board** and the **Member Entities** may intervene and take any action necessary to avoid a default in payment of the debt service on the **Debt Obligations** and ensure the proper management of the various funds described in Sections 10.04 and 10.05.

Section 10.07 FUNDS OPEN TO INSPECTION. At all times during the term of this **Agreement**, the **Fiscal Agent** shall make available for inspection its financial records with respect to the funds described in Section 10.04 of this **Agreement**. The **Member Entities** agree that **GAAP** procedures shall govern.

Section 10.08 NO COMMINGLING OF FUNDS. All funds of the **Red River Regional Dispatch Center Authority** shall be held in separate accounts in the name of the **Red River Regional Dispatch Center Authority** and not commingled with funds of any **Member Entity** or any other person or entity. All funds of the **Red River Regional Dispatch Center Authority** shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the calendar year. The **Red River Regional Dispatch Center Authority** shall contract with a public accountant to make an annual audit of the accounts and records of the **Red River Regional Dispatch Center Authority**. All expenditures shall be made in accordance with the **Approved Budget**. Notwithstanding the foregoing, so long as the **City of Fargo** is acting as **Fiscal Agent**, the obligation to hold **Red River Regional Dispatch Center Authority** funds in separate accounts shall not be applicable, as the **City of Fargo** is unable to comply with such requirements. The **City of Fargo** shall, however, endeavor to account separately for such **Red River Regional Dispatch Center Authority** funds, deposits, and expenditures. In no event shall **Pledged Revenues** be considered funds legally available to the **City of Fargo** in conjunction with separate debt or bond instruments or indentures issued by the **City of Fargo** for non-**Dispatch Center** related activity.

Section 10.09 REPORTS AND AUDITS. The **Fiscal Agent** shall submit a quarterly report to the **RRRDC Authority Board Members** and the **Member Entities** showing any activity

related to the funds described in Section 10.04 of this **Agreement**. The **Fiscal Agent** shall provide the **RRRDC Authority Board** with annual audit reports and other financial records as needed for the **RRRDC Authority Board** to monitor its funds.

Section 10.10 ASSIGNMENT OR DELEGATION OF DUTIES. In the event that the **Fiscal Agent** is unable, unwilling to perform the duties of the **Fiscal Agent**, or it is in the best interests of the **Red River Regional Dispatch Center Authority**, the **RRRDC Authority Board** may assign the duties of the **Fiscal Agent** to a different third party private entity or a **Member Entity**. Prior to assigning the duties to either a private entity or a **Member Entity**, the **Red River Regional Dispatch Center Authority** shall provide written notice of its intent to assign the duties of **Fiscal Agent** at least thirty (30) days prior to undertaking such action to the **Governing Body** of each of the **Member Entities**.

Section 10.11 BUDGET & FINANCE COMMITTEE. The **Fiscal Agent** shall provide reports and make recommendations regarding the management of **Dispatch Center** funds and financing to the **Budget & Finance Committee** prior to submitting those recommendations to the **RRRDC Authority Board**. The **Budget & Finance Committee** may make recommendations regarding the reports and recommendations of the **Fiscal Agent** and submit those reports and recommendations to the **RRRDC Authority Board**.

Section 10.12 INSPECTION. The books and records of the **Diversion Board of Authority** shall be open to inspection by the **RRRDC Authority Board Members** and **Member Entities** at all reasonable times.

ARTICLE XI. ISSUANCE OF DEBT FOR THE DISPATCH CENTER

Section 11.01 INTENT. The **Member Entities** agree and acknowledge that the **Dispatch Center** may require the issuance of **Debt Obligations** by one or more of the **Member Entities** which may be used to pay costs directly associated with the **Dispatch Center**, to refund prior **Debt Obligations**, both temporary and permanent, issued by one or more of the **Member Entities**.

Section 11.02 ISSUANCE OF DEBT FOR DISPATCH CENTER PERMITTED. The **Member Entities** agree and acknowledge that N.D.C.C. § 54-40.3-01, and Minn. Stat. § 471.59 allow two or more Minnesota and North Dakota political subdivisions having in common any portion of their territory to cooperatively exercise their respective powers to issue **Debt Obligations** for the purpose of constructing and acquiring the **Dispatch Center** that will be owned or operated jointly or cooperatively by and through a joint powers agreement.

Section 11.03 PROCEDURE TO ISSUE DEBT OBLIGATIONS. The **Member Entities** agree and acknowledge that the precise terms and conditions of any **Debt Obligations** are unknown as of the **Effective Date**. The specific terms of the **Debt Obligations** will be set forth by written resolution adopted by the **Red River Regional Dispatch Center Authority** and the **Member Entity**, and/or **Member Entities**, issuing the **Debt Obligation**.

Section 11.04 RESERVED-

Section 11.05 DEBT OBLIGATION HELD/ISSUED BY MEMBER ENTITIES. The **Debt Obligations** will be issued by one or more of the **Member Entities**. The **Red River Regional Dispatch Center Authority** shall not be deemed to be the issuer of **Debt Obligations** and the **Red River Regional Dispatch Center Authority** shall not have the authority to pledge the full faith, credit and/or taxing power of a **Member Entity** without concurrent approval of the **Member Entity** issuing the **Debt Obligation**.

Section 11.06 COVENANT. Until the **Debt Obligations** have been fully paid and redeemed as provided in the terms of the **Debt Obligations** or any extensions thereof, have been fully satisfied in accordance with the **Dispatch Center Agreement**, the **Member Entities** hereby covenant and agree that they will use their **Best Efforts** to fully and properly perform each and all of the covenants contained and referred to in this **Agreement** and in the **Debt Obligations** or any extensions thereof.

Section 11.07 CASS COUNTY TO MAINTAIN TAX EXEMPT STATUS. **Cass County** covenants and agrees that it will not take or permit any of its officers, employees, or agents to take any action which would cause the interest payable in connection with the **Debt Obligations** to become subject to taxation under the **Code**, as now existing or as hereinafter amended or proposed or in effect at the time of such action, or otherwise cause the **Debt Obligations** to be treated as private activity bonds. **Cass County** agrees to monitor and take any action necessary to make rebate payments that may be required under the **Code** and related U.S. treasury regulations.

Section 11.08 CLAY COUNTY TO MAINTAIN TAX EXEMPT STATUS. **Clay County** covenants and agrees that it will not take or permit any of its officers, employees, or agents to take any action which would cause the interest payable in connection with the **Debt Obligations** to become subject to taxation under the **Code**, as now existing or as hereinafter amended or proposed or in effect at the time of such action, or otherwise cause the **Debt Obligations** to be treated as private activity bonds. **Clay County** agrees to monitor and take any action necessary to make rebate payments that may be required under the **Code** and related U.S. treasury regulations.

Section 11.09 CITY OF FARGO TO MAINTAIN TAX EXEMPT STATUS. The **City of Fargo** covenants and agrees that it will not take or permit any of its officers, employees, or agents to take any action which would cause the interest payable in connection with the **Debt Obligations** to become subject to taxation under the **Code**, as now existing or as hereinafter amended or proposed or in effect at the time of such action, or otherwise cause the **Debt Obligations** to be treated as private activity bonds. The **City of Fargo** agrees to monitor and take any action necessary to make rebate payments that may be required under the **Code** and related U.S. treasury regulations.

Section 11.10 CITY OF MOORHEAD TO MAINTAIN TAX EXEMPT STATUS. The **City of Moorhead** covenants and agrees that it will not take or permit any of its officers, employees, or agents to take any action which would cause the interest payable in connection with the **Debt Obligations** to become subject to taxation under the **Code**, as now existing or as hereinafter amended or proposed or in effect at the time of such action, or otherwise cause the **Debt Obligations** to be treated as private activity bonds. The **City of Moorhead** agrees to monitor and

take any action necessary to make rebate payments that may be required under the **Code** and related U.S. treasury regulations.

Section 11.11 CITY OF WEST FARGO TO MAINTAIN TAX EXEMPT STATUS. The **City of West Fargo** covenants and agrees that it will not take or permit any of its officers, employees, or agents to take any action which would cause the interest payable in connection with the **Debt Obligations** to become subject to taxation under the **Code**, as now existing or as hereinafter amended or proposed or in effect at the time of such action, or otherwise cause the **Debt Obligations** to be treated as private activity bonds. The **City of West Fargo** agrees to monitor and take any action necessary to make rebate payments that may be required under the **Code** and related U.S. treasury regulations.

ARTICLE XII. DISPATCH CENTER PROCEDURES AND COST SHARE

Section 12.01 INTENT. The **Member Entities** agree and acknowledge that the following general procedures will govern the bidding, contracting and payment procedures for **any projects**.

Section 12.02 NORTH DAKOTA AND MINNESOTA MEMBER ENTITY ALLOCATION. The **North Dakota Member Entities** are authorized to enter into a separate, subordinate agreement as between the **North Dakota Member Entities** to allocate the **Dispatch Center** costs herein allocated to the **North Dakota Member Entities** pursuant to Sections 12.03, 12.04 12.05 or 12.06 of this **Agreement**. The **Minnesota Member Entities** are authorized to enter into a separate, subordinate agreement as between the **Minnesota Member Entities** to allocate the **Dispatch Center** costs herein allocated to the **Minnesota Member Entities** pursuant to Section 12.03, 12.04, 12.05 or 12.06 of this **Agreement**. Any sub-agreements and the rights of the **Member Entities** thereunder, entered into by the **Member Entities** pursuant to this Section, shall be subordinate to the rights created under this **Agreement**.

Section 12.03 COST SHARE – NEW WORLD MAINTENANCE AND LICENSE FEES. The costs associated with the Software Maintenance Agreement and ongoing license fees will be pro-rated between Fargo, West Fargo, Moorhead, Cass County and Clay County based on the cost-share formula as follows, said formula having been agreed-to and established by the Sixth Amendment to the JPA (See generally, Exhibit A):

- (a) Fargo – 36.65%
- (b) Moorhead – 17.68%
- (c) Cass County – 18.42%
- (d) Clay County – 15.84%
- (e) West Fargo – 11.42%

Section 12.04 COST SHARE – OTHER THAN ANNUAL OPERATIONS. **Costs** for matters other than the annual New World Maintenance fees, as described in **Section 12.03**, and other than for annual operations, as described in **Section 12.05**, shall be split and apportioned between the **Member Entities** in the following manner:

- A. Fargo – 50.4%
- B. Moorhead – 17.8%
- C. Cass County – 8.0%
- D. Clay County – 8.3%
- E. West Fargo – 15.5%

Said allocation percentages being based upon the Metro-COG formula and upon the desire to provide dispatch services on behalf of other non-member agencies. [Note: The cost-allocation formula was updated to current population after the 2010 and 2020 U.S. Census data became available. Based upon 2020 U.S. Census results, population of each of the five **Member Entities** are: Clay County-65,318; Cass County-184,525; Total Cass/Clay-249,843]; Moorhead-44,505; Fargo-125,990; West Fargo-38,626]

Section 12.05 COST SHARE – ANNUAL OPERATIONS. It is further provided; however, that with respect to the allocation of the annual operations costs, as they are typically reflected in the annual operations budget, **Costs** shall be split and apportioned between the **Member Entities** in the following manner:

- A. Fargo – 0.0%
- B. Moorhead – 17.8%
- C. Cass County – 73.9%
- D. Clay County – 8.3%
- E. West Fargo – 0.0%;

said **Costs** allocation to Cass County for the shares for the City of West Fargo and the City of Fargo being covered by a North Dakota 9-1-1 fee collected by Cass County, said arrangement having been memorialized in the Eighth Amended JPA (a/k/a the Fifth Amendment to the Third Amended and Reconstituted Joint Powers Agreement (Jan. 2015)). See generally Exhibit A.

Section 12.06 COST SHARE FOR NEW DISPATCH CENTER. As of the Effective Date, the **Red River Regional Dispatch Center Authority** is considering arrangements for the design, financing, construction and fit-up of a new dispatch facility (the “**New Dispatch Center**”) intended to replace the dispatch facility located at 300 NP Avenue, Fargo, North Dakota. With respect to the sharing of Costs associated with the design, financing and construction of the **New Dispatch Center**, cost-share and other provisions related to the **New Dispatch Center** are set forth in **Article XXIV**, below.

Section 12.07 PERIODIC REVIEW OF COST SHARE ALLOCATIONS BASED UPON POPULATION. Subject to Section 12.02, the Board of Authority will review the operational cost allocations derived from population calculations or estimates, such as the allocations set forth in Sections 12.04 and 12.05, every three (3) years to determine if changes in population distributions warrants revision of the allocation of costs. The failure of the Board of Authority to undertake such review or to approve any proposed revision shall not invalidate the then-existing cost share allocation set forth herein or any cost share allocation subsequently approved as provided in this Agreement.

Section 12.08 DISPUTES WITH CONTRACTORS. The **Member Entities** and the **Red River Regional Dispatch Center Authority** shall coordinate with respect to any disputes with contractors regarding contracts let for the **Dispatch Center** business purposes. Such coordination shall include any potential or ongoing litigation with the contractor. If a **Member Entity** has a claim made against it for a contract for construction of an element of the **Dispatch Center**, the **Red River Regional Dispatch Center Authority** shall reimburse the **Member Entity** for any and all legal fees or other costs or damages the **Member Entity** incurs arising from or related to the contract dispute. Claims made or brought against a **Member Entity** arising out of contracts let for the **Dispatch Center** shall be venued in accordance with the applicable construction contract venue selection language and/or applicable federal or state rules, regulations, or laws.

ARTICLE XIII. OPERATIONS AND MAINTENANCE

Section 13.01 DISPATCH CENTER MAINTENANCE. The **Member Entities** agree and acknowledge that the **Dispatch Center** will require management, operations and maintenance. **RRRDC Authority Board** will oversee the long-term management, operations, and maintenance of the **Dispatch Center**. The **Red River Regional Dispatch Center Authority** shall reimburse **Member Entities** for all reasonable costs incurred by the **Member Entity** arising from or directly related to management, operation, improvement, modification, or maintenance of the **Dispatch Center**.

Section 13.02 OPERATIONS. The **Director** and the **RRRDC Authority Board** are authorized to provide amounts within the annual budget for the annual administration and operations of the **Dispatch Center**. The **RRRDC Authority Board** shall by written resolution enact specific procedures and policies to govern the operation of the **Dispatch Center**.

Section 13.03 RESERVED.

Section 13.04 MAINTENANCE. The **RRRDC Authority Board** may request one or more **Member Entities** to perform maintaining of the **Dispatch Center**.

Section 13.05 OPERATIONS AND MAINTENANCE EMPLOYEES. The **Red River Regional Dispatch Center Authority** may hire employees or contract with private entities, to provide for

the maintenance of the **Dispatch Center**. The **Director** shall provide the **RRRDC Authority Board** with regular updates regarding operations and maintenance of the **Dispatch Center**.

Section 13.06 ADOPT PROCEDURES. The **RRRDC Authority Board** may adopt procedures, protocols, and standard operating procedures for the **Dispatch Center** by written resolution. The procedures, protocols, and standard operating procedures shall be developed in cooperation by the administrative staffs of the **Member Entities**. The resolution or resolutions approving the procedures, protocols, and standard operating procedures shall be submitted to the **Member Entities** a minimum of forty-five (45) days prior to consideration by the **RRRDC Authority Board**. The **Member Entities** may comment upon the draft resolution by submitting written comments to the **RRRDC Authority Board**. The **RRRDC Authority Board** may then approve the resolution establishing the procedures, protocols, and standard operating procedures in accordance with the voting requirements of Section 5.09 of this **Agreement**. The **RRRDC Authority Board** will have authority to operate the **Dispatch Center**, and the **Member Entities** shall cooperate with the operations policies of the **RRRDC Authority Board**.

Section 13.07 REQUESTS TO PERFORM MAINTENANCE. The **Red River Regional Dispatch Center Authority** may request that a **Member Entity** undertake maintenance of a **Dispatch Center Element**.

Section 13.08 CONTRACTS FOR MAINTENANCE OF DISPATCH CENTER ELEMENTS. Contracts for maintenance of **Dispatch Center Elements** shall identify the **Member Entity** undertaking the maintenance or the **Red River Regional Dispatch Center Authority** as the owner under the contract. The form of the Contract shall be approved by the **Director**. All contracts for maintenance of **Dispatch Center Elements** shall be approved at a public meeting and by resolution of either the **Member Entity's Governing Body** or the **RRRDC Authority Board**. Copies of all contracts held by a **Member Entity** pursuant to this section shall be provided to the **Secretary**.

Section 13.09 PROCESSING OF PAY REQUESTS AND CHANGE ORDERS FOR MAINTENANCE CONTRACTS. Pay request and change orders relating to contracts for maintenance of **Dispatch Center Elements** shall be reviewed and approved by either **Member Entity** or the **Red River Regional Dispatch Center Authority** which ever entity is identified as the owner under the contract. Provided that whether a **Member Entity** or the **Red River Regional Dispatch Center Authority** is identified as the owner under the contract, change orders exceeding ten percent (10%) or twenty-five thousand dollars (\$25,000), whichever amount is smaller, of the original contract amount for the maintenance of **Dispatch Center Elements** shall be approved by the **Director**. Copies of all pay requests and change orders held by a **Member Entity** pursuant to this section shall be provided to the **Secretary**.

Section 13.10 RESERVED.

Section 13.11 DISPUTES WITH CONTRACTORS REGARDING MAINTENANCE CONTRACTS. The **Member Entities** and the **Red River Regional Dispatch Center Authority** shall coordinate with respect to any disputes with contractors regarding contracts let for the maintenance of a **Dispatch Center Element**. Such coordination shall include any potential or ongoing litigation

with the contractor. If a **Member Entity** has a claim made against it for a contract for maintenance of a **Dispatch Center Element**, the **Red River Regional Dispatch Center Authority** shall reimburse the **Member Entity** for any and all legal fees or other costs or damages the **Member Entity** incurs arising from or related to the contract dispute. Claims made or brought against a **Member Entity** arising out of a contract for maintenance of a **Dispatch Center Element** shall be venued in accordance with the applicable maintenance contract venue selection language and/or applicable federal or state rules, regulations, or laws.

ARTICLE XIV. DIRECTOR

Section 14.01 THE DIRECTOR. The **Director** is the chief administrative officer of the **Red River Regional Dispatch Center Authority**. The **Director** is chosen by the **Red River Regional Dispatch Center Authority** solely on the basis of training, experience, executive and administrative qualifications. The **Director** is appointed by the **RRRDC Authority Board** for an indefinite term and may be removed at any time by the **RRRDC Authority Board**; however, the **RRRDC Authority Board** is authorized to enter into an employment agreement with the **Director** containing provisions that address termination for cause, termination without cause, or both.

Section 14.02 POWERS AND DUTIES OF THE DIRECTOR.

- (a) The **Director** is the head of the administrative branch of the **Red River Regional Dispatch Center Authority** and is responsible to the **RRRDC Authority Board** for the administration of the **Red River Regional Dispatch Center Authority's** affairs.
- (b) The **Director** will be responsible for compliance of, and enforcement of, this **Agreement** and the resolutions of the **Red River Regional Dispatch Center Authority**.
- (c) The **Director** appoints employees on the basis of merit and fitness and subject to the applicable personnel policies or rules of the **Red River Regional Dispatch Center Authority** and the **Approved Budget**. The **Director** may remove or suspend appointed employees subject to applicable personnel policies or rules. The **Director** shall maintain authorized Full Time Equivalent (FTE) positions for the organization consistent with **RRRDC Authority Board** approvals and budgetary constraints. The **Director** may delegate tasks and projects to **Red River Regional Dispatch Center Authority** employees or **Member Entity** staff, including the **Human Resources Agent**.
- (d) The **Director** must attend meetings of the **RRRDC Authority Board**. The **Director** may take part in discussion at **RRRDC Authority Board** meetings but may not vote.

- (e) The **Director** may recommend to the **RRRDC Authority Board** for adoption measures necessary for the efficient administration of the **Red River Regional Dispatch Center Authority's** affairs.
- (f) The **Director** must keep the **RRRDC Authority Board** fully advised of the financial condition of the **Red River Regional Dispatch Center Authority**. The **Director**, working with the Fiscal Agent, the Budget & Finance Committee and the Executive Committee, must prepare and submit the annual budget.
- (g) The **Director** will confer with the Executive Committee and with the other committees as may be necessary and appropriate.
- (h) The **Director** will implement the **RRRDC Authority Board's** policies regarding operation and maintenance of the **Dispatch Center**.
- (i) The **Director** performs other duties prescribed by this **Agreement** or the **RRRDC Authority Board**.
- (j) The **Director** may be employed by the **Red River Regional Dispatch Center Authority** pursuant to a written employment agreement.
- (k) The **Director** may make recommendations regarding the **Fiscal Agent** or the **Human Resources Agent**, but does not have the power to suspend and/or remove the **Fiscal Agent** or the **Human Resources Agent**.
- (l) The **Director** shall consult with the **Assistant Director(s)** on matters related to the **Dispatch Center**.

Section 14.03 ASSISTANT DIRECTOR. The **Assistant Director** shall serve as the **Director**, when the office of **Director** is vacant and unfilled and, in addition, shall be authorized to execute functions of the **Director**, at such other times and in other situations as may be authorized by the **RRRDC Authority Board**.

Section 14.04 HUMAN RESOURCES AGENT. The **City of Fargo** acting through the City of Fargo Human Resources Director, shall serve as the **Human Resources Agent** for the **Dispatch Center**, to serve for an indefinite term; which may resign as such at any time and which may be removed at any time by the **RRRDC Authority Board**. The **Human Resources Agent** shall be responsible for providing assistance and support to the **Director** as may be necessary and appropriate regarding the human resources functions of the **Red River Regional Dispatch Center Authority**. At such time as the **City of Fargo** is no longer the **Human Resources Agent**, whether

by termination at the instance of **City of Fargo**, the **RRRDC Authority Board**, or otherwise, then in such event, pursuant to Section 5.09 of this **Agreement**, the **RRRDC Authority Board** may appoint a **Human Resources Agent**. The **Human Resources Agent** is chosen by the **RRRDC Authority Board** solely on the basis of cost, experience, and human resources management qualifications. The **Human Resources Agent** is appointed by the **RRRDC Authority Board** for an indefinite term and may be removed at any time by the **RRRDC Authority Board**. The **Human Resources Agent** may be compensated by the **Red River Regional Dispatch Center Authority** at a rate mutually agreed upon by the **Red River Regional Dispatch Center Authority** and the **Human Resources Agent**.

Section 14.05 ADMINISTRATIVE ORGANIZATION. The **RRRDC Authority Board** may, by resolution, establish **Red River Regional Dispatch Center Authority** departments, offices and agencies and prescribe their functions. A power or duty conferred by this **Agreement** on an office or agency may not be transferred by the **RRRDC Authority Board** to a different office or agency.

Section 14.06 PURCHASES AND CONTRACTS. The **Director** is the chief purchasing agent of the **Red River Regional Dispatch Center Authority**. Purchases and contracts are made by the **Director** in accordance with procedures specified by **RRRDC Authority Board** resolution. The **Director** may enter into a purchase or contract in an amount on behalf of the **Red River Regional Dispatch Center Authority** that is in excess of such amount as determined by the **Red River Regional Dispatch Center Authority**. Such purchase or contract amounts in excess of the established authorized threshold require the approval by the **RRRDC Authority Board**. Other contracts and bonds, instruments and documents to which the **Red River Regional Dispatch Center Authority** is a party must be signed by the **Chair** and the **Director** on behalf of the **Red River Regional Dispatch Center Authority**. The **RRRDC Authority Board** may, by resolution, adopt additional regulations for making **Red River Regional Dispatch Center Authority** contracts. **Red River Regional Dispatch Center Authority** contracts must be made in accordance with law.

ARTICLE XV. INSURANCE AND LIABILITY

Section 15.01 LIABILITY COVERAGE. To the fullest extent permitted by law, actions by the **Member Entities** pursuant to this **Agreement** are intended to be and shall be construed as a “cooperative activity” and it is the intent of the **Member Entities** that they shall be deemed a “single governmental unit” for the purpose of liability. The **Red River Regional Dispatch Center Authority** shall maintain liability coverage with the North Dakota Insurance Reserve Fund with a minimum limit equal to the maximum liability limit in N.D.C.C. § 32-12.1-03 and/or Minn. Stat. § 466.04, Subdivision 1, whichever amount is greater. Alternatively, the **Red River Regional Dispatch Center Authority** may maintain equivalent private liability coverage. Such policy may be provided through a commercial general limited liability (“CGL”) policy. Such private liability policies must comply with the following requirements:

- (a) Minimum Limits. Each policy shall have a limit at least equal to the maximum municipal liability limits in N.D.C.C. § 32-12.1-03 and/or Minn. Stat. § 466.04, Subdivision 1, whichever amount is greater. If the policy contains a general aggregate limit, the general aggregate limit shall not be less than three million dollars (\$3,000,000).
- (b) Type of Coverage. The CGL insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury and advertising industry, and contractually assumed liability.
- (c) Additional Covered Parties. Each **Member Entity**, and each **Member Entities'** officers, employees, and volunteers, shall be named as additional covered parties on each policy for all claims arising from **Dispatch Center** activities or operations.

Section 15.02 ADDITIONAL POLICIES AUTHORIZED. The **Red River Regional Dispatch Center Authority** may, in its discretion, procure coverage for the **contractors** or other parties as needed and deemed necessary by the **RRRDC Authority Board**.

Section 15.03 AUTO LIABILITY AND PROPERTY DAMAGE. The **Red River Regional Dispatch Center Authority** may in its discretion procure coverage for auto liability and damage or loss of property. Each party shall be responsible for damages to or loss of its own equipment that is used for **Red River Regional Dispatch Center Authority** activities. Each **Member Entity** waives the right to, and agrees that it will not, bring any claim or suit against the **Red River Regional Dispatch Center Authority** or any other **Member Entity** for damages to or loss of its equipment arising out of participation in or assistance with the **Red River Regional Dispatch Center Authority** operations or activities, even if the damages or losses were caused wholly or partially by the negligence of the other **Member Entities** or their officers, employees or volunteers.

Section 15.04 WORKERS' COMPENSATION COVERAGE. In the event that the **Red River Regional Dispatch Center Authority** hires employees, it shall maintain workers' compensation coverage of its employees. Each **Member Entity** shall be responsible for injuries or death of its own personnel. Each **Member Entity** will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel if they participate in or assist **Red River Regional Dispatch Center Authority** operations or activities. Each **Member Entity** waives the right to, and agrees that it will not, bring any claim or suit against the **Red River Regional Dispatch Center Authority** or any other **Member Entity** for any workers' compensation benefits paid to its own employee or dependents, that arise out of participation in or assistance with **Red River Regional Dispatch Center Authority** operations or activities, even if the injuries were caused wholly or partially by the negligence of any other **Member Entity** or its officers, employees, or volunteers.

Section 15.05 DEFENSE AND INDEMNIFICATION. The **Red River Regional Dispatch Center Authority** agrees to defend and indemnify the **Member Entities** and the individual **RRRDC Authority Board Members** for any liability claims arising from the **Red River**

Regional Dispatch Center Authority activities or operations, decisions of the **Red River Regional Dispatch Center Authority**, or arising out of or regarding the **Dispatch Center**. Nothing in this **Agreement** shall constitute a waiver of the statutory limits of liability set forth in N.D.C.C. § 32-12.1-03 and/or Minn. Stat. § 466.04 or a waiver of any available immunities or defenses. Nothing herein shall be construed to provide insurance coverage or indemnification to an officer, employee, or volunteer of any **Member Entity** for any act or omission for which the officer, employee, or volunteer is guilty of malfeasance in office, willful neglect of duty or bad faith.

Section 15.06 RESERVED-

Section 15.07 INDEMNIFICATION. In the event that a claim is made against a **Member Entity** arising out of or related to the **Dispatch Center**, and the **Member Entity** seeks defense and indemnification from the **Red River Regional Dispatch Center Authority** pursuant to Section 15.05 of this **Agreement**, the **Red River Regional Dispatch Center Authority** shall first apply any and all available and/or applicable insurance proceeds against said claim. In the event that such insurance proceeds are insufficient to satisfy the costs associated with such claim, and only after the application of insurance proceeds, said costs shall then be paid by funds made available to the **Red River Regional Dispatch Center Authority** by the **Member Entities**. Any amounts remaining to be paid shall then be allocated to the **Member Entities** in proportion to the cost allocation set forth in Article XII of.

Section 15.08 UNINSURED LIABILITY. Any excess or uninsured liability shall be borne in accordance with the cost-share formula for maintenance set forth in Article XII of this **Agreement**, by all **Member Entities**; however, this does not include the liability of any individual officer, employee, or volunteer which arises from his or her own malfeasance, willful neglect of duty or bad faith.

Section 15.09 CERTIFICATE OF INSURANCE. All insurance policies and certificates required under this **Agreement** shall be open to inspection by any **Member Entity** and copies of the policies or certificates shall be submitted to a **Member Entity** upon written request.

ARTICLE XVI.
OWNERSHIP OF PROPERTY ACQUIRED FOR THE DISPATCH CENTER

Section 16.01 INTENT OF THE MEMBER ENTITIES. The **Member Entities** agree and acknowledge that the **Dispatch Center** may require the acquisition of lands, easements and/or rights-of-way, within one or more of the various jurisdictions of the **Member Entities**. The **Member Entities** desire to set forth the responsibilities for each of the **Member Entities** with respect to the ownership of easements, rights-of-way and lands related to and/or connected with the **Dispatch Center**. Said easements, rights-of-way and lands related to the **Dispatch Center** may be titled in the names of the various **Member Entities**.

Section 16.02 PUBLIC PURPOSE. The **Member Entities** acknowledge, agree and declare that the acquisition of easements, rights-of-way and land for the **Dispatch Center** is for a public need and purpose.

Section 16.03 RESERVED.

Section 16.04 RESERVED.

Section 16.05 RESERVED.

Section 16.06 NATURE OF OWNERSHIP. The **Member Entities** acknowledge, agree and covenant that to the extent a **Member Entity** owns **Dispatch Center Property**, it shall hold **Dispatch Center Property** for the benefit of the **Dispatch Center** and the **Red River Regional Dispatch Center Authority** and it shall at all times control and maintain ownership of the **Dispatch Center Property** to ensure that the **Dispatch Center Property** is available for the **Dispatch Center**. The **Member Entities** acknowledge, agree and covenant that they shall not take any action with respect to the **Dispatch Center Property** which would undermine the financing, construction, operation and maintenance of the **Dispatch Center**.

Section 16.07 REQUEST FOR ACQUISITION OF DISPATCH CENTER PROPERTY. In the event that the **Red River Regional Dispatch Center Authority** requests that a **Member Entity** undertake the acquisition of **Dispatch Center Property**, the **Red River Regional Dispatch Center Authority** will provide a written request to the **Member Entity** and an estimated budget for the requested acquisition. The **Member Entity** shall proceed with acquiring the **Dispatch Center Property** by either voluntary action or eminent domain if the cost of the requested purchase or the eminent domain litigation is within the budget provided by the **Red River Regional Dispatch Center Authority**. Provided that if the cost of the **Dispatch Center Property** acquisition exceeds the budget set forth by the **Red River Regional Dispatch Center Authority**, the **Member Entity** shall request authorization from the **Red River Regional Dispatch Center Authority** to proceed with the **Dispatch Center Property** acquisition and shall not proceed with acquiring the **Dispatch Center Property** until the **Member Entity** receives approval from the **Red River Regional Dispatch Center Authority**. Copies of all public documents held by **Member Entities** reflecting actions undertaken by the **Member Entity** pursuant to this section shall be provided to the **Secretary**.

Section 16.08 EMINENT DOMAIN ACTIONS. In the event that a **Member Entity** is required to commence an eminent domain action to acquire **Dispatch Center Property**, the eminent domain action will be venued in a court having jurisdiction over such action, and as determined by the **Member Entity** commencing the eminent domain action.

Section 16.09 REIMBURSEMENT FOR DISPATCH CENTER PROPERTY ACQUIRED AFTER EFFECTIVE DATE. The **Member Entities** agree and acknowledge that each **Member Entity** will be reimbursed for **Dispatch Center Property** that it acquires after the **Effective Date** of this **Agreement** pursuant to requests of the **Red River Regional Dispatch Center Authority**. Reimbursement to **Member Entities** will include, but not be limited to, the purchase price of the **Dispatch Center Property**, appraisal costs, negotiation costs, title preparation and examination

costs, relocation and re-establishment costs, legal fees associated with the acquisition, court costs, closing costs arising from and related to the acquisition of **Dispatch Center Property**, environmental remediation, cultural mitigation, and any other costs required by the Uniform Act. Each **Member Entity** that acquires **Dispatch Center Property** shall submit its request for reimbursement to the **Director** and to the **Fiscal Agent** for payment. The **Red River Regional Dispatch Center Authority** will review and determine if such costs are eligible for reimbursement and then shall reimburse the **Member Entity** for the allowable costs incurred in connection with **Dispatch Center Property** acquisition.

Section 16.10 SALE OF EXCESS DISPATCH CENTER PROPERTY. The **Member Entities** agree and acknowledge that excess real property may be acquired in connection with real property needed for the **Dispatch Center**. In the event that excess real property is acquired, the **Member Entity** shall coordinate the sale, conveyance, or lease of such property with the **Director** and that **Member Entity's** chief administrative staff. **Member Entities** shall not sell, trade, and/or exchange excess **Dispatch Center Property** without prior written approval from the **RRRDC Authority Board**. All monies generated, less reasonable administrative expenses incurred by the **Member Entity**, from the sale, conveyance, or lease of excess **Dispatch Center Property** by a **Member Entity**, shall be remitted to the **Red River Regional Dispatch Center Authority**.

Section 16.11 PRO-RATA SAFE HARBOR. In the event that a **Member Entity** and the **Red River Regional Dispatch Center Authority** jointly acquire a parcel and only a portion or percentage of said property is needed for the **Dispatch Center**, the **Member Entity** and the **Red River Regional Dispatch Center Authority** will cooperate in the sale of excess property and sale proceeds will be applied and refunded to the **Member Entity** and the **Red River Regional Dispatch Center Authority** based upon the pro-rata **Member Entity** contribution and the **Red River Regional Dispatch Center Authority** contribution.

Section 16.12 DISPATCH CENTER PROPERTY OWNERSHIP UPON WITHDRAWAL AND OR REMOVAL OF A MEMBER ENTITY. In the event that a **Member Entity** withdraws or is removed from the **Red River Regional Dispatch Center Authority** pursuant to Sections 21.05 and/or 21.06 of this **Agreement** that **Member Entity** shall convey, transfer and assign any and all **Dispatch Center Property** which has been titled in the name of the **Former Member Entity** to the **Red River Regional Dispatch Center Authority** within forty-five (45) days of withdrawing or being removed from the **Red River Regional Dispatch Center Authority** and this **Agreement**.

**ARTICLE XVII.
THIRD PARTY BENEFICIARIES [RESERVED.]**

**ARTICLE XVIII.
EFFECT OF AMENDMENT**

Section 18.01 INTENT. This **Agreement** is intended to be an amendment to, and a replacement of, the **Original Joint Powers Agreement** dated as of _____, _____ as amended, and that this **Agreement** shall serve as the amended and reconstituted joint powers agreement between the **Member Entities**.

Section 18.02 EFFECT. This **Agreement** is effective on the **Effective Date** and is a revision and comprehensive amendment to the **Original Joint Powers Agreement** as it existed on, as amended. Nothing in this **Agreement** is to be construed to modify, abrogate or abridge (a) the rights, duties, liabilities, privileges, or immunities of the **Red River Regional Dispatch Center Authority**, (b) the **Prior Obligations**, (c) pending or contemplated litigation, , or (d) the current Bylaws and Resolutions of the **Red River Regional Dispatch Center Authority**. This amendment is not to be construed to affect, modify, or repeal any law of the State of North Dakota or the State of Minnesota applicable to the **Red River Regional Dispatch Center Authority**.

Section 18.03 PRIOR OBLIGATIONS. The **Prior Obligations** have been fully disclosed to the **Member Entities**.

ARTICLE XIX. TERM AND TERMINATION OF THE AGREEMENT

Section 19.01 TERM. This **Agreement** shall be for an indefinite term and shall continue until terminated or rescinded in accordance with the terms and conditions of this **Agreement**.

Section 19.02 TERMINATION. This **Agreement** may only be terminated by the mutual consent of all the **Member Entities**, but not including any **Former Member Entities**, evidenced by identical resolutions adopted by the **Governing Bodies** of each **Member Entity**. Provided that this **Agreement** may not be terminated prior to the retirement of any **Debt Obligation** issued to finance the **Dispatch Center**, and/or until all obligations and liabilities under the **Dispatch Center Agreement** have been irrevocably discharged in full. Any termination will be without prejudice to any obligations or liabilities of any parties already accrued prior to termination.

Section 19.03 DISTRIBUTION OF FUNDS AND PROPERTY. Upon the termination of this **Agreement**, and only after all obligations and liabilities under the **Dispatch Center Agreement** have been irrevocably discharged in full, the **Red River Regional Dispatch Center Authority** shall provide for the distribution of all **Red River Regional Dispatch Center Authority** assets in the following manner: (a) **Dispatch Center Property** contributed by a **Member Entity** shall be transferred to and titled in the name of **Cass County**, unless **Cass County** has become a **Former Member Entity** in which case the transferee shall be determined by agreement of the **Member Entities**, (b) any remaining **Dispatch Center Property**, which is determined to be unnecessary for the **Dispatch Center**, may be sold or liquidated prior to distribution; and (c) any remaining assets shall be divided in proportion to the contributions of the **Member Entities** in and conformance with the cost allocation formula for other-than-annual-operations set forth in Article XII, Section 12.04 of this **Agreement**. If the **Member Entities** do not agree on the fair market value of a non-liquid asset, the **Red River Regional Dispatch Center Authority** may submit the item to a professional appraiser, whose written opinion of the fair market value shall be conclusive.

ARTICLE XX. DISPUTE RESOLUTION

Section 20.01 INTENT AND PROCEDURE. The **Member Entities** shall cooperate and use their **Best Efforts** to ensure that the various provisions of this **Agreement** are fulfilled. The

Member Entities agree to act in **Good Faith** to undertake resolution of disputes in an equitable and timely manner and in accordance with the provisions of this **Agreement**. If disputes cannot be resolved informally by the **Member Entities**, the following procedure shall be used.

Section 20.02 MEDIATION. If there is a failure between the **Member Entities** to resolve a dispute on their own, the **Member Entities** shall first attempt to mediate the dispute. The **Member Entities** shall agree upon a single mediator, or if they cannot agree, shall obtain a list of court appointed mediators from the **Cass County** District Court Administrator and select a mediator by alternatively striking names until one remains. The **City of Fargo** shall strike the first name, followed by the **City of Moorhead**, followed by **Cass County**, followed by **Clay County**, followed by the **City of West Fargo**, this process shall continue in that recurring order until one name remains.

Section 20.03 LITIGATION IF DISPUTE NOT RESOLVED. If the dispute is not resolved within forty-five (45) days after the end of mediation proceedings, the **Member Entities** may litigate the matter.

Section 20.04 WAIVER OF JURY TRIAL. THE MEMBER ENTITIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THAT ANY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, COUNTERCLAIM OR DEFENSE BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN ANY CONNECTION WITH THIS AGREEMENT, OR WITH RESPECT TO ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL MEMBER ENTITIES ENTERING INTO THIS AGREEMENT. THIS PROVISION APPLIES ONLY TO SUITS BETWEEN THE MEMBER ENTITIES ARISING OUT OF OR RELATED TO THIS AGREEMENT AND DOES NOT APPLY TO THIRD PARTY CLAIMS OR SUITS BY OR ON BEHALF OF THE MEMBER ENTITIES FOR DISPATCH CENTER PROPERTY ACQUISITION AND/OR CONSTRUCTION CONTRACT CLAIMS AND DEFENSES.

ARTICLE XXI. RIGHTS UPON REFUSAL AND WITHDRAWAL

Section 21.01 INTENT. The **Member Entities** recognize and agree that in order to work collaboratively and in an integrated manner and within the legal constraints of the N.D.C.C. § 54-40.3-01, and Minn. Stat. § 471.59, the **Red River Regional Dispatch Center Authority** will request that individual **Member Entity** will take appropriate and necessary actions to acquire property, lobby and obtain grants, impose and collect sales and use taxes, levy and collect special assessments as may be applicable and other incidental actions that the **Red River Regional Dispatch Center Authority** cannot undertake pursuant to the authorities granted to it by N.D.C.C. § 54-40.3-01, and Minn. Stat. § 471.59 and in this **Agreement**. The **Member Entities** also recognize and agree that, in order to successfully complete the **Dispatch Center**, individual **Member Entities** may have to issue **Debt Obligations** and are relying upon the other **Member Entities** to be long-term partners who will act in **Good Faith** and in a reasonable manner and will

undertake whatever actions, within the scope of their respective legal authorities are necessary to expedite completion of the **Dispatch Center**. The **Member Entities** recognize and agree that they may be requested to make politically unpopular decisions and that it would not be fair or reasonable to withhold taking necessary action absent a **Rational Basis** for said inaction. As a result, the **Member Entities** desire to create a procedure by which a **Member Entity** may be removed from this **Agreement** for failing to take necessary and reasonable action without a **Rational Basis** for making such non-action.

Section 21.02 SUSPENSION. Upon the occurrence of any non-performance of a **Member Entity's** obligations under this **Agreement** which has not been cured within thirty (30) days after notice to the breaching **Member Entity**, a majority of the non-breaching **Member Entities**, in accordance with Section 21.05 of this **Agreement**, if applicable, may suspend the breaching **Member Entity's** rights under this **Agreement** until they receive assurances from the breaching **Member Entity** satisfactory to the non-breaching **Member Entities** that the breaching **Member Entity** will cure such **Event of Default** and perform its obligations under this **Agreement**. During any period of non-performance and/or suspension of a **Member Entity**, its obligations and liabilities under this **Agreement** shall remain in full force and effect.

Section 21.03 RRRDC AUTHORITY BOARD REQUEST. The **RRRDC Authority Board** may from time to time and in its discretion request that a **Member Entity** perform the following actions, which include but are not limited to: (a) acquiring rights of entry, either voluntarily or through court action; (b) acquiring easements, rights-of-way, land, disposal areas and relocations of property areas, either voluntarily or through court action; (c) actively participating in requesting, obtaining and providing grant and state legislative appropriations for the **Dispatch Center**; (d) imposing, collecting and remitting sales and use taxes or other sources of revenue for the **Dispatch Center** and/or in connection with the issuance of **Debt Obligations** by another **Member Entity**; (e) creating improvement districts, levying and collecting special assessments; (f) issuing **Debt Obligations** either individually and/or in cooperation with another **Member Entity**; and (g) levying and collecting 9-1-1 fees and charges (collectively referred to as the "**Requested Dispatch Center Actions**").

Requested Dispatch Center Actions shall be in writing and approved by motion of the **RRRDC Authority Board**, signed by the **Chair**, and attested by the **Director**. **Requested Dispatch Center Actions** shall be delivered to the **Governing Body** of the **Member Entity**. The **Member Entity** will have thirty (30) days to respond in writing to the **RRRDC Authority Board** whether it intends to undertake and complete the **Requested Dispatch Center Actions**.

Section 21.04 REFUSAL TO UNDERTAKE AND COMPLETE REQUESTED DISPATCH CENTER ACTIONS. If the **Member Entity** does not intend to undertake and complete the **Requested Dispatch Center Action**, it must evidence such refusal by a motion of the **Member Entity's Governing Body**. Such motion must specifically state in writing and on the record the reason(s) that the **Member Entity** is refusing to undertake and complete the **Requested Dispatch Center Action**. The **Member Entity** must, within ten (10) business days of its **Governing Body's** decision, submit its written reasons for not undertaking and completing the **Requested Dispatch Center Actions** to the **RRRDC Authority Board**. The **RRRDC Authority Board** shall then have thirty (30) days to determine if the written reasons given by the **Member Entity** for not

undertaking and completing the **Requested Dispatch Center Actions** have a **Rational Basis**. The decision regarding whether the failure to undertake a **Request Dispatch Center Action** had a **Rational Basis** shall be made by an affirmative vote of not less than five (5) members of the **RRRDC Authority Board**. The **RRRDC Authority Board's** determination that a **Member Entity** did not have a **Rational Basis** for refusing to undertake and complete the **Requested Dispatch Center Action** shall be deemed a **Default** by that **Member Entity**. If the **RRRDC Authority Board** determines that a **Member Entity** is in **Default** pursuant to this Section, the **RRRDC Authority Board** may institute proceedings in accordance with Section 21.05 of this **Agreement** to remove the **Defaulting Member Entity** from the **Red River Regional Dispatch Center Authority**.

Section 21.05 REMOVAL OF MEMBER ENTITY. In the event that a **Member Entity** is deemed to be in **Default** pursuant to Section 21.04 of this **Agreement**, the **RRRDC Authority Board** may vote to remove the **Defaulting Member Entity** from **Red River Regional Dispatch Center Authority** and this **Agreement** by an affirmative vote of two-thirds (2/3) of the members of the **RRRDC Authority Board**. The decision to remove a **Defaulting Member Entity** shall be in writing and signed by the **Chair** and attested by the **Director**. The decision of the **RRRDC Authority Board** shall then be submitted to all of the **Member Entities' Governing Bodies** within ten (10) business days of the decision by the **RRRDC Authority Board** determining that a **Member Entity** is in **Default**. The **Governing Bodies** of the **Member Entities** shall then have thirty (30) days to determine whether the **Defaulting Member Entity** shall be removed from the **RRRDC Authority Board** and this **Agreement**. A **Defaulting Member Entity** can only be removed from the **Red River Regional Dispatch Center Authority** and this **Agreement** pursuant to this Section by an affirmative vote of a simple majority of all the **Member Entities**. The **Defaulting Member Entity** will be counted for purposes of determining the number of **Member Entities**, and the **Defaulting Member Entity** will be included in the determination of whether a majority of all **Member Entities** voted. Upon the affirmative vote of a majority of all the **Member Entities** the **Defaulting Member Entity** shall be removed from the **Red River Regional Dispatch Center Authority** and this **Agreement**. The removal of a **Member Entity** pursuant to this provision shall not be deemed as construed to alter any of the obligations of the **Member Entity** established, created, or accrued prior to its removal.

Section 21.06 VOLUNTARY WITHDRAWAL. A **Member Entity** may petition the **RRRDC Authority Board** to voluntarily withdraw from the **Red River Regional Dispatch Center Authority**. The **RRRDC Authority Board** may grant the request of the **Member Entity** if the **RRRDC Authority Board** determines by an affirmative vote of a simple majority of all of the **RRRDC Authority Board Members** that the request *would not* prejudice the other **Member Entities** with respect to the financing, constructing, operating and/or maintaining the **Dispatch Center** and/or the ability to perform under the **Dispatch Center Agreement**. The decision to grant the request of a **Member Entity** to voluntarily withdraw from the **Red River Regional Dispatch Center Authority** and this **Agreement** shall be in writing, signed by the **Chair**, and attested by the **Director**. The decision of the **RRRDC Authority Board** shall then be submitted to all of the **Member Entities' Governing Bodies** within ten (10) business days of the decision by the **RRRDC Authority Board** determining that a **Member Entity** may voluntarily withdraw from the **Red River Regional Dispatch Center Authority** and this **Agreement**. The **Governing Bodies** of the **Member Entities** shall then have thirty (30) days to determine whether the **Member**

Entity shall be removed from the **RRRDC Authority Board** and this **Agreement**. A **Member Entity** can only be removed from the **Red River Regional Dispatch Center Authority** and this **Agreement** pursuant to this Section by an affirmative vote of a simple majority of all the **Member Entities**. The **Member Entity's** petition to withdraw from the **Red River Regional Dispatch Center Authority** will be included in the determination of whether a majority of all **Member Entities** voted. Upon the affirmative vote of a majority of all the **Member Entities** the **Member Entity** shall be removed from the **RRRDC Authority Board** and this **Agreement**. Unless otherwise specifically determined by motion or resolution of the **Red River Regional Dispatch Center Authority**, the withdrawal of a **Member Entity** shall be deemed to take effect January 1st of the year following the decision authorizing such withdrawal.

Section 21.07 MEMBERSHIP OF THE BOARD UPON REMOVAL OR WITHDRAWAL. In the event a **Member Entity** is removed from the **Red River Regional Dispatch Center Authority** and this **Agreement** pursuant to Section 21.05 of this **Agreement**, and/or a **Member Entity** voluntarily withdraws from the **Red River Regional Dispatch Center Authority** and this **Agreement** pursuant to Section 21.06 of this **Agreement**, that **Member Entity** shall be known as a **Former Member Entity** and and the **RRRDC Authority Board**, the make-up of which is described in Section 5.01, shall be reduced in number accordingly.

Section 21.08 NO IMPAIRMENT OF DEBT OBLIGATION AND/OR DISPATCH CENTER AGREEMENT. In the event that a **Member Entity's** rights are suspended under this **Agreement** pursuant to Section 21.02 of this **Agreement**, and/or a **Member Entity** withdraws from or is removed from the **Red River Regional Dispatch Center Authority**, such action shall not impair, revoke, repeal, or amend the **Defaulting Member Entity's** obligations, if any, under **Debt Obligations** issued for the **Dispatch Center** by the **Defaulting Member Entity** and/or obligations the **Defaulting Member Entity** may have under the **Dispatch Center Agreement**. Further, in the event this **Agreement** is terminated, such termination will not be construed so as to terminate any **Debt Obligation** issued by a **Member Entity**.

Section 21.09 Payment to Departing Member of Equivalent of Equity - Valuation. The **Member Entities** recognize that their participation in this **Agreement** and consequently in the **Red River Regional Dispatch Center Authority** established by this **Agreement** does not create or establish any form of equity in the joint powers entity, however, this **Agreement**, in Section 19.03 of this **Agreement**, provides for a distribution of assets in the event of Termination of this **Agreement** and, in the same manner, in the event that a **Member Entity** is removed from the **Red River Regional Dispatch Center Authority**, the removed **Member Entity** shall be entitled to receive payment for the departing **Member Entity's** share of the fair market value of the assets of the **Red River Regional Dispatch Center Authority**, offset by liabilities, said payment to be determined by agreement between the departing **Member Entity** and remaining **Member Entities**. The agreement by the remaining **Member Entities** shall be determined by approval of a majority of the remaining said **Member Entities**. If the **Member Entities** do not agree on the fair market value of a non-liquid asset, the **Red River Regional Dispatch Center Authority** may submit the item to a professional appraiser, whose written opinion of the fair market value shall be conclusive. Said payment shall be made to the departing **Member Entity** within six (6) months of the date of removal but in no event shall such payment be payable until any **Dispatch Center Property** that had been contributed by a **Member Entity** has been transferred to, and titled in, the

Red River Regional Dispatch Center Authority or one of its remaining **Member Entities** as determined by the **Red River Regional Dispatch Center Authority**. A withdrawing **Member Entity** is deemed to have forfeited any right to receive payment for said withdrawing **Member Entity's** share of the assets of the **Red River Regional Dispatch Center Authority** and, therefore, in the event that a **Member Entity** withdraws from the **Red River Regional Dispatch Center Authority**, no payment is to be made to the withdrawing **Member Entity** for any share of the fair market value of said assets. As provided in Article XXIV, this Section is subject to the recoupment rights of the **City of Moorhead** and of **Clay County** as provided in Section 24.07.

ARTICLE XXII. MISCELLANEOUS COVENANTS

Section 22.01 SUB-JOINT POWERS AGREEMENTS. The **Member Entities** acknowledge and agree that because the **Dispatch Center** benefits property located in both the states of Minnesota and North Dakota, the **Member Entities** may enter into sub-agreements with non-member or **Member Entities** for the purpose of fulfilling their obligations, allocating total costs of the **Dispatch Center**, and/or exercising the authority defined therein. The **Member Entities** agree and acknowledge that they will submit drafts of sub-joint powers agreements adopted under this Section to the **Red River Regional Dispatch Center Authority** for review and comment prior to approval.

ARTICLE XXIII. GENERAL PROVISIONS

Section 23.01 COMPLETE AGREEMENT. Except as more fully set forth in Section 12.02 of this **Agreement**, this **Agreement** contains all negotiations and agreements between the **Member Entities**. No other understanding regarding this **Agreement**, whether written or oral, may be used to bind any **Member Entity**.

Section 23.02 SUPPLEMENTAL AGREEMENTS. The **Member Entities** may enter into supplemental and/or additional agreement(s) that may be necessary for fulfilling the purpose and objectives of the **Red River Regional Dispatch Center Authority**. Copies of those supplemental agreements will be provided to the **Secretary**.

Section 23.03 WRITTEN AMENDMENT REQUIRED. No amendment, modification, or waiver of any condition, provision or term will be valid or of any effect unless made in writing signed by the **Member Entity** or **Member Entities** to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any **Member Entity** of any default of another **Member Entity** will not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein will limit the remedies and rights of the **Member Entities** thereto under and pursuant to this **Agreement**. Any amendment to this **Agreement** will be in accordance with the terms and conditions of a **Dispatch Center Agreement**.

Section 23.04 INTERPRETATION. This **Agreement** will be construed as if it had been prepared by all **Member Entities**.

Section 23.05 GRAMMATICAL CONSTRUCTION. Whenever the singular noun is used herein, the same includes the plural where appropriate, and the words of any gender include any other gender where appropriate.

Section 23.06 ASSIGNMENT. No **Member Entity** may transfer or assign this **Agreement** or any of its rights or obligations under this **Agreement** without the express written consent of all the other **Member Entities**.

Section 23.07 SEVERABILITY AND SAVINGS CLAUSE. Each provision, section, sentence, clause, phrase, and word of this **Agreement** is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this **Agreement**. Deadlines for certain meetings and other actions, such as the annual meeting, as set forth in this **Agreement** are intended to establish a schedule for routine governance of the **Red River Regional Dispatch Center Authority**; however, the failure of the **Red River Regional Dispatch Center Authority**, its appointed officers, or the **RRRDC Authority Board Members** to strictly adhere to such deadlines shall not be construed so as to invalidate the subsequent legal authority of the **Red River Regional Dispatch Center Authority**, or its appointed officers, the **RRRDC Authority Board**, or the **RRRDC Authority Board Members**, nor shall the same support any claim that actions taken by the same are *ultra vires* or invalid in any way, so long as such actions are otherwise authorized. Further, the **Red River Regional Dispatch Center Authority** is authorized, by motion or resolution, to vary from such deadlines or schedule as may be necessary or appropriate.

Section 23.08 FORCE MAJEURE. No **Member Entity** will be liable to another **Member Entity** during any period in which its performance is delayed or prevented, in whole or in part, by circumstance beyond its reasonable control. Circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind), fire, war, act of a public enemy or terrorist, act of sabotage, strike or other labor dispute, riot, misadventure of the sea, inability to secure materials and/or transportation, or a restriction imposed by legislation, an order or a rule or regulation of a governmental entity. If such a circumstance occurs, the **Member Entity** claiming the delay must undertake reasonable action to notify the other **Member Entity** of the same.

Section 23.09 NEW MEMBERS. Another **Governmental Authority** may be added to this **Agreement** upon the approval of all **Member Entities**. Once approved, the rights and obligations of the new member shall be set forth in a written amendment to this **Agreement** and the new member shall be fully obligated and bound by the terms of this **Agreement**, as amended.

Section 23.10 NOTICE. All notices, certificates or other communications required under this **Agreement** will be deemed sufficiently given when delivered or deposited in the United States mail in certified form with postage fully prepaid and addressed as follows:

If to **City of Fargo**:

City Auditor
City of Fargo

225 4th St. N.
Fargo, ND 58102

If to **Cass County**: Finance Director
Cass County
P.O. Box 2806
Fargo, ND 58108

If to **City of Moorhead**: City Manager
City of Moorhead
P.O. Box 779
Moorhead, MN 56561-0779

If to **Clay County**: County Administrator
Clay County
3510 12th Avenue South
Moorhead, MN 56560

If to **City of West Fargo**: City Administrator
City of West Fargo
800 4th Avenue E, Suite 1
West Fargo, ND 58078

Section 23.11 AGREEMENT BINDING ON SUCCESSORS. This **Agreement** will be binding upon and inure to the benefit of the **Member Entities** hereto and their respective personal representatives, successors and assigns.

Section 23.12 NORTH DAKOTA LAW APPLIES. This **Agreement** will be controlled by the laws of the State of North Dakota.

Section 23.13 MEMBER ENTITY PERMITTING AUTHORITY. Nothing in this **Agreement** shall be construed as limiting the right or ability of a **Member Entity** to approve or disapprove of a permit of which it has jurisdiction to grant or deny, including but not limited to a building permit, zoning permit, flood plain development permit, or other similar permit required for construction or maintenance of the **Dispatch Center** within that **Member Entity's** jurisdiction.

Section 23.14 MEMBER ENTITIES' COMPLIANCE WITH APPLICABLE STATE LAW. This **Agreement** shall not be construed or interpreted so as to relieve a **Member Entity** from complying with any state law applicable to the **Member Entity**. The **Member Entities** specifically agree and acknowledge that this **Agreement** does not except a **Member Entity** from the applicable state law governing that **Member Entity** (for example, the **City of Fargo** must still comply with North Dakota law and the City of Moorhead must still comply with Minnesota law).

Section 23.15 WAIVER OF VENUE/SELECTION. The **Member Entities** stipulate and agree that the District Court of **Cass County**, North Dakota, will be the sole and exclusive venue for any lawsuit pertaining to this **Agreement**, and the **Member Entities** consent to the personal jurisdiction in said court in the event of any such lawsuit. This provision shall not be construed to apply to litigation commenced by a **Member Entity** for acquisition of **Dispatch Center Property** or defense of a contract claim. This choice of law section applies exclusively to lawsuits pertinent to the terms and conditions of this **Agreement**.

Section 23.16 EXECUTION IN COUNTERPARTS. This **Agreement** will be executed in five (5) counterparts, each of which shall be an original, all which shall constitute but one and the same instrument. All **Member Entities** shall receive a fully-executed counterpart.

ARTICLE XXIV.
NEW DISPATCH CENTER – INITIAL AUTHORIZATION AND COST-SHARE
TERMS

Section 24.01 The terms of this Article XXIV relate to the acquisition of land, whether by fee title acquisition or long-term lease of land, and the design, construction and financing of a new dispatch center that is intended to replace the existing dispatch center located at 300 NP Avenue in Fargo, North Dakota.

Section 24.02 AUTHORIZE ACQUISITION OF LAND FOR NEW DISPATCH CENTER. The **RRRDC Board of Authority** is hereby authorized and directed to go forward with the selection and acquisition or long-term lease of land and the design, construction and financing of the replacement dispatch center, including fixtures, furniture and equipment (FF & E) subject to the terms and limitations of this Article.

Section 24.03 CONSTRUCTION DELEGATED TO CASS COUNTY -- It is anticipated that the new dispatch center will be constructed within the state of North Dakota; therefore, the County of Cass is requested and authorized to undertake the task of acquiring the land where the new dispatch center is to be located, to undertake the process of preparing the project so that bids for construction may be solicited and for undertaking all matters necessary for construction of the replacement dispatch center and for acquisition and installation of FF & E. This Section shall be deemed to constitute the authorization, as contemplated in Section 16.07, for said new dispatch center.

Section 24.04 COST SHARE. The maximum share of cost for land acquisition and costs of construction to be borne by the **Minnesota Member Entities** may not exceed the lesser of the following: (a) 25% of the sum of the cost of land acquisition and the Total Cost of Construction, as defined below, or (b) \$2,500,000. The remainder of said costs shall be borne by **Cass County**. As to the said **Minnesota Member Entities**' cost share, Clay County will contribute Sixty Percent (60%) of the said maximum cost share—up to a maximum of \$1,500,000—and the City of Moorhead will contribute Forty Percent (40%) of said maximum cost share—up to a maximum of \$1,000,000.

- (a) The term “Total Cost of Construction” shall be the sum of the following project elements:

(i) All design professional fees, including architectural and engineering fees, including related costs.

(ii) All publicly-bid components of construction, including the lowest apparent bid for the general contractor, the electrical contractor and the mechanical contractor or, in the alternative, the lowest apparent combined bid if applicable.

(iii) All estimates or bids for FF & E as well as for digital hardware for dispatch consoles and supporting equipment but not including costs of operating software, such as the new world system software, which costs shall be part of the annual operating costs for the RRRDC.

(iv) Where actual fees or bid prices or costs are not yet known, a reasonable estimate shall be used for purposes of this calculation.

(v) Any other costs or categories of cost that are identified by the **RRRDC Board of Authority**.

(b) To the extent that land for the new dispatch center contemplated by this Article is acquired by long-term lease, payments made to the landlord under such lease and payments to third parties under such lease, such as taxes, insurance premiums, utilities charges and the like, shall be treated as annual operations costs and, therefore, shall not be treated as a cost of construction and, therefore shall not be included in the “Total Cost of Construction” as defined above.

(c)

(d) Proceeds from the sale of the existing Dispatch Center, located at 300 NP Avenue, in Fargo, North Dakota, shall be deposited with the Dispatch Center with said proceeds to be applied toward the reduction of the cost of construction and shall not be included in the “Total Cost of Construction” as defined above.

Section 24.05 DECISION-MAKING PROCESS. It is anticipated that Cass County will seek public bids in accordance with North Dakota statutory requirements such as N.D.C.C. Chapter 48-01.2. At such time as publicly-solicited bids are opened, the apparent Total Cost of Construction, subject to the selection of bid alternates, approved change orders or other contract amendments, can be calculated for purposes of decision-making. Notwithstanding the terms of Section 5.09, which provides that certain decisions require at least one (1) affirmative vote must be cast by a Minnesota Board Member, at least one (1) affirmative vote must be cast by a North Dakota Board Member and, that, with respect to decisions described in **Section 5.09**, paragraphs (a), (b), (f) or (g), at least one (1) affirmative vote must be cast by a Cass County Member; with respect to any decision as to whether or not the actual construction of the new dispatch center is to be approved and authorized by the **RRRDC Board of Authority**, the Approval of construction bids and the award of construction contracts must be obtained by the **RRRDC Board of Authority**, subject to the following limitations:

(i) Any approval of the general contractor bid combined with the electrical contractor bid and the mechanical contractor bid must also receive the approval by motion or resolution by the board of Cass County commissioners.

(ii) To the extent that the Total Cost of Construction, subject to the selection of bid alternates, approved change orders or other contract amendments, will exceed \$12,500,000, no bids may be awarded unless suitable arrangements are made between Cass County, the City of West Fargo and the City of Fargo by which West Fargo and Fargo would contribute additional funds to cover such excess amount, whether such arrangements include a cash injection of funds by West Fargo and Fargo or a commitment to cover appropriate shares of debt-service payments on funds borrowed (whether by loan or sale of bonds).

Section 24.06 PAYMENT IN ADVANCE OF MINNESOTA ENTITIES' SHARE—FINANCING/DEBT SERVICE. Full payment by the Minnesota Member Entities' combined share, as described in **Section 24.04**, shall be paid in advance, before the earliest time that **Cass County** must enter into any binding commitments for the acquisition of land or for the construction of the new dispatch center. As such, with the Minnesota Member Entities having paid in full their maximum cost share for the project, to the extent that any portion of the cost of construction of the new dispatch center will be financed through one or more loans or the sale of bonds, with respect to debt and service payments, the **Minnesota Member Entities** would have no obligation to participate in such debt service.

Section 24.07 RRRDC DISSOLUTION, REMOVAL OF MINNESOTA MEMBER ENTITIES—MINIMUM RECOUPMENT. Notwithstanding any provision elsewhere in this Agreement, including **Section 19.03** or **Section 21.09**, in the event the RRRDC is dissolved or in the event either or both the **Minnesota Member Entities**, **Clay County** and the **City of Moorhead**, cease to be a Member Entity due to removal from the RRRDC, as may occur under **Article XXI**, then said **Member Entities**, or either of them, shall be entitled to a minimum recoupment from the RRRDC in accordance with the declining balance schedule set forth in **Exhibit B**, hereto, which represents a reverse-amortization schedule, without interest, over a period of twenty (20) years in which Clay County's proportionate share of the said declining balance shall be Forty Percent (40%) and the **City of Moorhead** share being Sixty Percent (60%) thereof. Said schedule is expressed in terms of a percentage of a whole sum. For purposes of the schedule, the percentage for the applicable year shall be applied to the combined share of **Clay County** and the **City of Moorhead** of the Total Construction Cost and the cost of land acquisition, as the same are described in this Article. Also, for purposes of this Section, "Year 1" shall be deemed to be the period, of whatever length of time, that ends on the first anniversary date of the date of initial occupancy of the new dispatch center, with subsequent years ending on each such anniversary date thereafter.

Section 24.08 In case of a dissolution of the RRRDC, payment of one or both of the **Minnesota Member Entities'** recoupment amount shall either be made from proceeds recovered from the liquidation of RRRDC assets or by an in-kind payment made by the RRRDC or by one of its Member Entities by transfer or deed of real or personal property of value equivalent to the

recoupment sum owed to said **Minnesota Member Entity or Entities**, in the same manner as contemplated by Section 19.03.

To the extent that the terms of this Article conflict with the terms of the rest of this Agreement, the terms of this Article shall be applicable; provided, however, that in all other respects nothing in this Article shall be interpreted or construed to abrogate, reduce or limit any powers, rights or obligations of any of the Member Entities.

IN WITNESS WHEREOF, the **Member Entities**, by action of their **Governing Bodies**, caused this **Agreement** to be executed in accordance with the authority granted in N.D.C.C. § 54-40.3-01, and Minn. Stat. § 471.59.

Signature Page for the City of Fargo

The Governing Body of the City of Fargo approved this Agreement on the ___ of _____, 202_.

CITY OF FARGO a North Dakota
municipal corporation

By: _____
Timothy Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

Signature Page for the City of Moorhead

The Governing Body of the City of Moorhead approved this Agreement on the ____ of _____, 202_.

CITY OF MOORHEAD, MINNESOTA, a
municipal corporation

By: _____
Michelle “Shelly” Carlson, Mayor

ATTEST:

Dan Mahli, City Manager

Signature Page for Cass County

The Governing Body of Cass County approved this Agreement on the ___ of _____, 202_.

COUNTY OF CASS, NORTH DAKOTA, a
corporate body

By the CASS COUNTY BOARD OF
COMMISSIONERS

By: _____
Rick Steen, Chair

ATTEST:

_____, County Auditor

Signature Page for Clay County

The Governing Body of Clay County approved this Agreement on the ___ of _____, 202_.

CLAY COUNTY, MINNESOTA, a
corporate body

By the CLAY COUNTY BOARD OF
COMMISSIONERS

By: _____
Kevin Campbell, Chairman

ATTEST:

Stephen Larson, Clay County Administrator

Signature Page for the City of West Fargo

The Governing Body of the City of West Fargo approved this Agreement on the ____ of _____, 202_.

CITY OF WEST FARGO a North Dakota
municipal corporation

By: _____
Bernie Dardis, President

ATTEST:

_____, City Auditor

**EXHIBIT A – LIST OF AMENDMENTS TO
ORIGINAL JOINT POWERS AGREEMENT**

Nov 2001	Initial Joint Powers Agreement (JPA) for RRRDC
Mar 2002	First Amendment to JPA
Jan 2008	Second Amendment to JPA
Dec 2008	Third Amendment to JPA (3rd Amended and Reconstituted JPA)
Nov 2010	Fourth Amendment to JPA (1st Amendment to 3rd Amended and Reconstituted JPA)
Sept 2011	Fifth Amendment to JPA (2nd Amendment to 3rd Amended and Reconstituted JPA)
Sept 2012	Sixth Amendment to JPA (3rd Amendment to 3rd Amended and Reconstituted JPA)
Dec 2013	Seventh Amendment to JPA (4th Amendment to 3rd Amended and Reconstituted JPA)
Jan 2015	Eighth Amendment to JPA (5th Amendment to 3rd Amended and Reconstituted JPA)
Jan 2022	Ninth Amendment to JPA (6th Amendment to 3rd Amended and Reconstituted JPA)

EXHIBIT B

Minnesota Member Entities' Recoupment – Reverse Amortization Schedule

See attached