

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
WAUKESHA COUNTY AND PARTICIPATING MUNICIPALITIES WITHIN WAUKESHA  
COUNTY TO PURCHASE NEW ELECTION EQUIPMENT AND SOFTWARE**

This Intergovernmental Agreement ("Agreement") is made by and between Waukesha County ("County"), and \_\_\_\_\_ ("Municipality") located within Waukesha County, pursuant to § 66.0301, Wis. Stats.

**WHEREAS**, the Waukesha County Board has adopted Resolution 168-R-003, which endorses and approves the purchase and cost-sharing of new election equipment and software countywide to replace an aging infrastructure; and

**WHEREAS**, County has agreed to make an initial investment in the system infrastructure, not to exceed \$2,318,000.; and

**WHEREAS**, Municipality has agreed that it will contribute one third of the cost for the purchase of its on-site voting equipment and initial training expenses; and

**WHEREAS**, County and Municipality agree that the County shall purchase the voting equipment and software from Election System & Software (ES&S), the only vendor of new certified election equipment by the Government Accountability Board (GAB), the vendor of choice.

**WHEREAS**, Municipality agrees to reimburse the County for thirty-three and a third (33.33) percent of its equipment and software costs within a three (3) year period; and

**WHEREAS**, Municipality has agreed to pay the full cost of all ongoing maintenance of the system equipment;

**NOW, THEREFORE**, in consideration of the above promises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, County and Municipality agree as follows:

1. **PURPOSE.** The parties agree that it is in the interest of the residents of Waukesha County and of Municipality to purchase and implement one unified election vote counting and reporting system. The parties further agree that it is in both parties' interest to share the costs of this new election system. This Agreement is intended to set forth the cost-sharing terms.
2. **AUTHORITY.** This Agreement is entered into by the parties pursuant to Wis. Stats. §66.0301.
3. **EFFECTIVE DATE.** This Agreement shall commence upon the execution by both parties.
4. **RESPONSIBILITIES OF THE COUNTY.**
  - a. The County shall enter into a contract with ES&S for the purchase of a new election voting equipment and software system.
  - b. The County shall monitor and enforce the terms of the vendor contract, including pursuing enforcement actions as needed. County shall determine disbursement of any awarded damages or penalties.
  - c. The County will bill Municipality for its share of costs.

**5. RESPONSIBILITIES OF MUNICIPALITY.**

- a. Municipality shall reimburse the County for 33.33% of the equipment and software costs within three (3) years of receipt of voting equipment as per the repayment schedule selected herein.
- b. Municipality shall contact the Dept. of Administration if they wish a shorter repayment schedule. Any change must be approved by the Dept. of Administration.
- c. Municipality shall participate in all necessary training associated with the new equipment and software.
- d. Municipality shall follow all operating and technical requirements which may be established by the County.
- e. Municipality shall be responsible for all ongoing support/maintenance and license costs (consumables, firmware and updates) of the equipment.

**6. PAYMENT PLAN.**

Municipality agrees to the following repayment schedule (check one):

Reimbursement in full within 60 (TBD) days of billing

Reimbursement in 3 (TBD) equal annual installments. The first installment shall be due within 60 (TBD) days of billing.

- 7. **DUTY TO COOPERATE.** Each party hereto shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws.
- 8. **NO WAIVER.** In no event shall the making of any payment or acceptance of any service required by this Agreement constitute or be construed as a waiver by either party of any breach of the covenants of this Agreement or a waiver of any default of the other party and the making of any such payment or acceptance of any such service by the conforming party while any such default or breach on the part of the other party shall exist, shall in no way impair or prejudice the right of the conforming party with respect to recovery of damages or other remedy as a result of such breach or default.
- 9. **SEVERABILITY.** The various provisions of this Agreement are declared to be severable and the findings of any court that any particular clause or clauses is or are unlawful or unenforceable shall not operate to invalidate the remainder of this Agreement and the same shall continue in effect unless modified by the parties.
- 10. **NO THIRD PARTY RIGHTS.** This is an Agreement between the parties, and nothing herein creates any rights in any third person.
- 11. **NOTICE.** All notices, including billing statements and payments, shall be sent to the Dept. of Administration and the Municipal Clerk (Municipality) unless another individual is identified by a party.
- 12. **LIABILITY.** Each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, boards, commissions, agencies, officers, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions including providing its own defense. In situations including joint liability, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives. It is not the intent of the parties to impose liability beyond that imposed by state statutes. The obligations of the parties under this paragraph shall survive the expiration or termination of this Agreement.

13. **COMPLIANCE.** Each party warrants for itself that it has complied with all applicable statutes, rules, orders, ordinances, requirements and regulations to execute this Agreement and that the person executing this Agreement on its behalf is authorized to do so.

14. **ENTIRE AGREEMENT and AMENDMENTS.** The entire Agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended by any fashion except in writing, executed by the parties.

FOR WAUKESHA COUNTY:

\_\_\_\_\_  
Norman A. Cummings                      Date  
Director of Administration

\_\_\_\_\_  
Kathleen Novack                      Date  
County Clerk

FOR MUNICIPALITY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title