

Agenda Item # 23.b.i.
Date 9-11-2019

INTERLOCAL COOPERATION AGREEMENT

THIS AGREEMENT is entered into as of this ___ day of ___, 2019, by and between the parties (hereafter individually "Party" and collectively "Parties) identified as follows:

City of Fremont (including the Fremont Police Department and Fremont/Dodge County Communications Center)

Dodge County (including the Dodge County Sheriff's Department)

City of West Point (including West Point Police Department)

WHEREAS, the Parties and their representative law enforcement agencies and/or communications center:

1. Wish to share and use a common server and its data storage capabilities;
2. Have not only common goals, staffing needs, training needs and other needs in common in the area of law enforcement and communications, but also overlapping demands for technological storage and software needs;
3. Understand that the City of Fremont, through its Fremont/Dodge County Communications Center, previously entered in an agreement with Zuercher Technologies, LLC for a Public Safety Software System and the City of Fremont is the host agency.
4. Expressed a desire to utilize a common data storage and software storage center that is hosted by the City of Fremont and managed by Zuercher Technologies, LLC for a Public Safety Software System and to be allowed access to the system managed by Zuercher.
5. Understand that all Parties will enter into their own, respective, agreements with Zuercher Technologies, LLC regarding a Software License and Service Agreement.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS;

- I. Purpose. The Parties shall hereby enter in an agreement allowing access for each Party to the Public Safety Software System hosted by the City of Fremont and managed by Zuercher Technologies, LLC.
- II. Authority: The authority for this Agreement is that authority granted by law, including without limitation the general powers of each Party, the Nebraska Interlocal Cooperation Act, Article 8 of Chapter 13, Neb. Rev. Stat § (1943);
- III. Cost Sharing/Budget and Finance:
All costs associated with the maintenance of the servers and/or any devices utilized as the storage unit will be shared in a usage based ratio. Each party will pay based on the number of users on the system. Cost of maintenance ascribed to the server(s) in question divided

by the total number of users and that equates to the cost per user. The cost per user is multiplied by the number of users for that party and that equates to the yearly maintenance share. This value will be increased yearly by 5%.

- IV. Terms of Agreement. This Agreement shall be effective beginning on September ____, 2019, and shall automatically renew yearly thereafter every September __. (“Renewal Term”).
- V. Withdraw:
- A. Process.
1. A Party may withdraw from the Agreement by a written “Notice of Withdraw” to the non-withdrawing Parties.
 2. The Notice must include the effective date of termination, which shall be no sooner than thirty (30) days from the date of the Notice of Withdraw.
- B. Liability. If a Party withdraws from this Agreement, it shall not be relieved of liability incurred prior to withdrawing, including but not limited to any responsibilities for funding the then current or future costs.
- VI. Liability Insurance: The Parties agree to be self-insured or to carry liability insurance written on an “occurrence” basis (as distinguished from “claims made” basis) covering all law enforcement and/or communication center personnel/equipment assigned by each Party and insuring against liability for bodily injury, personal injury and property damage, in an amount not less than the maximum liability of such Party under applicable law. No Party represents in any way that the insurance specified herein, whether in scope of coverage or limits, is adequate or sufficient to protect any other Party or its interests. Each Party is solely responsible to determine its need for and to procure additional coverage which may be needed in connection with this Agreement. The procuring of insurance as required by this Agreement shall not be construed to limit any Party’s liability hereunder or to fulfill the indemnification provisions of this Agreement.
- VII. Entire Agreement. This Agreement contains the entire agreement of the Parties. No representations were made or relied upon by any Party other than those that are expressly set forth herein. The provisions of this Agreement may not be explained, supplemented, or qualified through evidence of trade usage or prior course of dealings. No agent, employee or other representative of any Party is empowered to alter any of the terms hereof except as provided herein.
- VIII. Amendments/Modification. This Agreement may be modified for any reason, including but not limited to adding another Party. Said modification shall be made by written addendum, approved and executed by the Parties. No alteration or variation of the terms and conditions of this Agreement shall be valid unless made pursuant to an addendum. Every addendum shall specify the date on which its provisions shall be effective.
- IX. Assignment. None of the Parties may assign its rights under this Agreement.

- X. Successors and Assigns Bound by Covenants. All covenants, stipulations, and agreements herein shall inure to the benefit of the Parties and extend to and bind the legal representatives, successors, and assigns of the Parties
- XI. Waiver. The failure of a Party to insist on strict performance of any covenants or conditions, or to exercise any option herein conferred on any one or more instances, shall not be construed as a waiver or relinquishment of any such covenant, condition, right, or option, but the same shall remain in full force and effect. For a waiver of a right or power to be effective, it must be in writing signed by the waiving Party. An effective waiver of a right or power shall not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power. In addition, any act by a Party which it is not obligated to do hereunder shall not be deemed to impose any obligation upon that Party to do any similar act in the future or in any way change or alter any of the provisions of this Agreement.
- XII. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect.
- XIII. Indemnification/Liability. To the extent permitted by law, each Party (as “indemnitor”) agrees to indemnify, defend, and hold harmless each of the other Parties (as “indemnitee(s)”) from and against any and all claims, losses, liability, costs, or expenses, including reasonable attorney’s fees (hereinafter collectively referred to as “claims”) arising out of bodily injury, including death, or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee(s), are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers. These indemnification provisions are not intended to waive a Party’s sovereign immunity. A Party’s liability is governed by and limited to the extent provided by the Nebraska Political Subdivisions Tort Claims Act or other applicable provisions of law.
- XIV. Notification of Claims and Lawsuits. In the event that a claim or lawsuit is brought against a Party for any matters related to this Agreement, it shall be the duty of that Party to notify the other Parties of said claim or lawsuit.
- XV. Sovereign Immunity. Nothing in this Agreement shall be construed as an express or implied waiver of the sovereign immunity of any Party in any forum or jurisdiction.
- XVI. No Third Party Rights. This Agreement is not intended to, nor shall it provide third parties, excluding any assignment as provided herein, with any remedy, claim, liability, reimbursement, cause of action or other right or privilege; except that this Agreement’s indemnification provision shall also inure to the benefit of a Party’s employees, officers, agents and servants.
- XVII. Notice and Authorized Representatives. Notice, required under this Agreement, shall be delivered in writing and shall be effective upon receipt by the authorized representative.

Delivery shall be made by certified mail, return receipt requested. For purposes of Notice, following individuals are the authorized representatives of the Parties:

DODGE COUNTY

County Sheriff
Dodge County Sheriff's Office
428 N. Broad St.
Fremont, NE 68025
(402) 727-2702

CITY OF FREMONT

Chief of Police
Fremont Police Department
725 North Park Ave.
Fremont, NE 68025
(402) 727-2687

and

Communications Director
Fremont/Dodge County 911
725 North Park Ave.
Fremont, NE 68025
(402) 727-2677

CITY OF WEST POINT

Chief of Police
West Point Police Department
444 S. Main St.
West Point, NE 68788
(402) 372-2415

- XVIII. Joint Work Product. This Agreement is the joint work product of the Parties; accordingly, in the event of any ambiguity, no presumption shall be imposed against or in favor of any Party by reason of document preparation.
- XIX. Authority. Each of the persons signing below warrant and represent that they have the authority to enter into this Agreement and to bind the parties hereto.
- XX. No Separate Legal Entity. This Agreement does not create a separate legal entity under the Interlocal Cooperation Act. For purposes of that Act, this Agreement shall be administered jointly by the Parties, in the event of a conflict, the majority decision of the Cooperating Agencies shall govern.
- XXI. Multiple Counterparts: This agreement, involving numerous parties, may be executed in multiple counterparts each of which may bear the signatures of less than all of the parties hereto, and it shall be in full force and effect even if so executed.
- XXII. Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience, and in no way define or limit the scope of any section.

COUNTY OF DODGE, NEBRASKA,
A Nebraska Political Subdivision

By: _____
Dodge County Board Chairman

Date: _____

Attest:

Fred Mytty, County Clerk

Approved as to Form:

Dodge County Attorney

CITY OF FREMONT, NEBRASKA,
A municipal corporation and Nebraska Political
Subdivision

By: Mayor

Date: _____

Attest:

City Clerk

Approved as to Form:

Fremont City Attorney

CITY OF WEST POINT, NEBRASKA,
A municipal corporation and Nebraska Political
Subdivision

By: Mayor

Date: Bruce A. Schlett

Attest:

Mary Kemal
City Clerk

Approved as to Form:

Stephen D. Proffan
West Point City Attorney

Shared System Acknowledgement

This Shared System Acknowledgement (this "Acknowledgement") entered into as of this ____ day of _____ 20____ by and between Fremont/Dodge County 911 ("hosting agency"), having its principal place of business at 725 North Park Avenue, Fremont, NE 68025, and West Point Police Department ("participating agency"), having its principal place of business at 444 South Main Street, West Point, NE 68788. Now, therefore, in consideration of the mutual covenants and promises contained in this Acknowledgement, the Parties agree as follows:

Whereas Fremont/Dodge County 911 (hosting agency) has entered into an agreement with Zuercher Technologies, LLC for a Public Safety Software System, the terms being defined by Software License and Service Agreement;

Whereas West Point Police Department (participating agency) states its intention to also enter into a Contract with Zuercher Technologies, LLC;

Whereas this additional Contract being dependent on an agreement by the hosting agency to allow the participating agency to access the Zuercher Suite system which it hosts;

Whereas, this access is to permit the exchange of such Zuercher Suite data as is determined by the hosting agency and the participating agency;

Whereas, the formula and agreement to share server maintenance costs are set forth in the Interlocal Agreement;

The following agencies hereby agree to this shared access of the hosting agency's Zuercher Suite system.

Fremont/Dodge County 911

Name

Title

Signature

Date

West Point Police Department

Brett Vance

Sergeant

Signature

Date