AMENDED AND RESTATED EASTSIDE PUBLIC SAFETY COMMUNICATIONS AGENCY INTERLOCAL AGREEMENT

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AMENDED AND RESTATED EASTSIDE PUBLIC SAFETY COMMUNICATIONS AGENCY INTERLOCAL AGREEMENT

THIS AGREEMENT, incorporating all exhibits hereto, is entered into by and between the Cities of Bellevue, Issaquah, Mercer Island, Kirkland and Redmond, (collectively, the "Principals") pursuant to the Interlocal Cooperation Act, Ch. 39.34 RCW and has been authorized by the legislative body of each jurisdiction.

RECITALS

WHEREAS, the Principals are parties to an interlocal agreement establishing the Eastside Public Safety Communications Agency ("EPSCA"), originally entered into in 1992, between the Cities of Bellevue, Kirkland, Mercer Island and Redmond; with an Addendum in 1993 by which the City of Issaquah joined EPSCA (collectively, the "1992 Agreement"); and

WHEREAS, in order to maximize the availability and effectiveness of radio communications at minimum costs the Principals have, through the 1992 Agreement, developed and maintained an integrated emergency and public safety radio communications system in East King County (the "System") which is part of a regional 800 MHz trunked radio communications network implemented on a county-wide basis in King County (the "Network"); and

WHEREAS, the System and Network improve public safety by making emergency and public safety communications in King County more reliable, increasing the capacity of these systems, allowing different governmental agencies in King County to communicate directly with one another, improving the ability of government agencies to respond in a coordinated manner to a major disaster, and enhancing the safety of front-line emergency response personnel; and

WHEREAS, the Principals wish to strengthen and modify the governance and corporate structure of EPSCA and update other provisions of the 1992 Agreement while ensuring EPSCA maintains all its current rights and responsibilities except as modified herein; and

WHEREAS, the 1992 Agreement established a joint board operation for EPSCA and provided that the Executive Board of EPSCA could create a nonprofit corporation to accomplish all or any portion of the purposes of the Agency; and

WHEREAS, this agreement is authorized by the Interlocal Cooperation Act and Non-profit Corporation Act set forth in chapters 39.34 and 24.06, respectively, of the Revised Code of Washington;

NOW THEREFORE, in consideration of the promises and agreements contained in this agreement and subject to the terms and conditions set forth, it is mutually understood and agreed by the parties as follows:

SECTION 1. REORGANIZATION OF EPSCA AS A NONPROFIT CORPORATION. The Eastside Public Safety Communications Agency ("EPSCA") is reorganized as a nonprofit corporation under Chapter 24.06 RCW as authorized by the Interlocal Cooperation Act (Ch. 39.34 RCW) and the 1992 Agreement, and as so reorganized EPSCA shall continue to have all rights and responsibilities assigned it by the Principals as contemplated and accomplished pursuant to the 1992 Agreement, including but not limited to the responsibility for developing, owning, operating and managing the System on behalf of the Principals.

SECTION 2. TERM OF AGREEMENT; REPLACEMENT OF 1992 AGREEMENT. This Agreement shall be of unlimited duration, subject to termination provisions contained herein. From and after its effective date, this Agreement replaces the 1992 Agreement which shall be of no further force or effect.

SECTION 3. DEFINITIONS.

a. Agreement. The "Agreement" is this interlocal agreement, as it may hereafter be amended or modified, together with all exhibits and appendices hereto, as they may hereafter be amended or modified.

b. 1992 Agreement. The "1992 Agreement" is the Interlocal Agreement Establishing the Eastside Public Safety Communications Agency entered into between the Cities of Bellevue, Redmond, Kirkland and Mercer Island, and including the 1993 Addendum admitting the City of Issaquah as a Principal.

c. EPSCA. "EPSCA" means the Eastside Public Safety Communications Agency.

d. Executive Director. The "Executive Director" is the chief operating officer for EPSCA appointed by and serving at the pleasure of the Executive Board.

e. Executive Board. The "Executive Board" is the body described in Section 6 and shall be the executive body of EPSCA.

f. Member. A "Member" or "Executive Board Member" is the individual representing a Principal on the Executive Board, whether the Chief Executive Officer of such Principal or his/her designated alternate.

g. Network. The "Network" is the regional public safety communications network for King County of which the System is a part. The Network is currently based on an 800 MHz frequency platform.

h. Operations Committee. The "Operations Committee" is the advisory body described in Section 7.

i. Participating Agencies. All Principals, and all Subscribers, as they may be so constituted from time to time, are collectively referred to as the "Participating Agencies" or "Participants," and individually referred to as a "Participating Agency" or "Participant."

j. Principal. A "Principal" is a general purpose municipal corporation formed as a city under the laws of the state of Washington which meets the requirements of Section 14.c and has accepted the terms of and is a party to this Agreement, and has paid its share of initial costs as may be required by the Executive Board as a condition to

becoming a Principal. Principals shall receive services offered by EPSCA according to such terms and conditions as may be established by the Executive Board.

k. Public Safety Interlocal Operation. A public safety interlocal operation includes a joint operation of fire districts and cities for provision of public fire services and Emergency Medical Services (EMS)s entered into and operating pursuant to Chapter 39.34 RCW, and may also include a public development authority created pursuant to RCW 35.21.730 et. seq. and/or a regional fire protection service authority created pursuant to Chapter 52.26 RCW, or a nonprofit corporation created for the purpose of facilitating a joint operation between fire districts and cities pursuant to RCW 39.34.030(3).

l. Radio. A "Radio" is an 800 MHz (or successor technology) radio served by the System.

m. Radio Unit Charge. A "Radio Unit Charge" is the cost per Radio charged by EPSCA to all Participating Agencies for services of EPSCA enabling radios owned by Participating Agencies to access and use the System.

n. Regional Agreement. The "Regional Agreement" is the Emergency Radio Communication System Interlocal Cooperation Agreement governing the Network operation and allocation of certain regional levy funds, to which EPSCA is a party, entered into in 1993 between EPSCA, King County, Valley Communications Center, the City of Seattle, and the Port of Seattle.

o. Representative. The term "Representative" refers to the individual representing a Principal or a Subscriber on the Operations Committee, or his/her designated alternate.

p. Simple Majority Vote. A "Simple Majority Vote" of the Governing Board means a majority of the votes of the Members present constituting a quorum and voting, with each Member present and voting having one vote.

q. Subscriber. A "Subscriber" is a general purpose municipal corporation, special district, public school district, public hospital district or other entity formed under the laws of Washington which has agreed to pay EPSCA for Radio maintenance services or other services as offered at a rate or rates according to such terms and conditions as may be established by the Executive Board and evidenced by separate contract between EPSCA and such entity. A Principal may convert or be converted to Subscriber status as provided in Sections 12 and 14.

r. Supermajority Vote. A "Supermajority Vote" means Executive Board approval of an item accomplished by securing affirmative votes of both: (1) not less than two-thirds(66%) of all Members of the Executive Board in number; and (2) not less than two-thirds(66%) of the Weighted Vote of all Members of the Executive Board.

s. System. The "System" is the public safety radio communication system operating in East King County developed in common by EPSCA and other governmental agencies in King County, including without limitation the base stations and towers for an 800 MHz system and microwave backbone, as the same may be upgraded over time.

t. Weighted Vote. A "Weighted Vote" means a vote in which each Member's vote is counted according to the proportion its respective Principal's Radios bears to the total number of Radios used by all Principals.

SECTION 4. EPSCA SERVICES. EPSCA has the responsibility and authority for developing, owning, operating, maintaining and managing the System in East King County, as additionally described in Exhibit A and including but not limited to the following more specifically described services:

a. Developing, owning, operating, maintaining and managing the System.
b. Ensuring the System is integrated into the Network and coordinating with regional partners with regards to the operation, maintenance and development of the Network.
c. Ensuring Radios can access the System by developing and deploying the required interfacing technology.

It is expressly contemplated that this scope of services includes the implementation, operation and maintenance of replacement or upgrades of such components of the System as necessary or appropriate to remain integrated with the Network, and excludes the implementation of System capacities or services not necessary or appropriate to remaining integrated with the Network. EPSCA shall also have authority to provide contract services to dispatch centers to maintain dispatch console equipment. Expansion of this scope of services shall require an amendment of this Agreement approved by all the Principals. An expansion of the scope of services is defined as items not within the scope of Section 4 and Exhibit A.

SECTION 5. EPSCA POWERS. Through its Executive Board, EPSCA shall have all powers allowed by law for interlocal agencies created under RCW 39.34.030, as authorized, amended, or removed by the Executive Board, including but not limited to the following:

a. Recommend action to the legislative bodies of the Participating Agencies;
b. Review and approve budget expenditures for EPSCA;
c. Establish policies for expenditures of budget items for EPSCA;
d. Review and adopt a personnel policy for EPSCA (if applicable);
e. Review and approve operating and financial policies for EPSCA;
f. Establish a fund or special fund or funds as authorized by RCW 39.34.030 for the operation of the EPSCA;
g. Conduct regular and special meetings as may be designated by the Executive Board consistent with the state Open Public Meetings Act (Ch. 42.30 RCW);
h. Maintain and manage records in accordance with the state Public Records Act (Ch. 42.56 RCW) and other applicable state and federal laws and regulations;
i. Determine what services shall be offered and under what terms they shall be offered, consistent with Section 4;
j. Retain and terminate an Executive Director;
k. Create committees to review and make recommendations;
l. Approve strategic plans;
m. Approve the addition of new Principals and new Subscribers and the terms of their participating in EPSCA and receipt of EPSCA services;
n. Enter into agreements with third parties for goods and services necessary to fully implement the purposes of this Agreement;

o. Establish Radio User Charges and other charges for services provided to Participating Agencies or other parties;

p. Direct and supervise the activities of the Operations Committee, and the Executive Director;

q. Make purchases or contract for services necessary to fully implement the purposes of this Agreement;

r. Enter into agreements with, and receive and distribute funds, from any federal, state or local agencies;

s. Receive all funds allocated to EPSCA by Participating Agencies;

t. Purchase, take, receive, lease, take by gift, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, in the name of EPSCA;

u. Sell, convey, lease, exchange, transfer, and otherwise dispose of all of its property and assets;

v. Sue and be sued, complain and defend, in all courts of competent jurisdiction in EPSCA's name;

w. Make and alter bylaws for the administration and regulation of its affairs;

x. Hold radio frequency licenses to enable EPSCA to operate and maintain the System; and

y. Any and all other lawful acts necessary to further EPSCA's goals and purposes.

SECTION 6. EXECUTIVE BOARD: COMPOSITION AND OPERATION.

a. Composition. EPSCA shall be governed by an Executive Board composed of one (1) representative from each Principal, which representative shall be the Chief Executive Officer of each such Principal or his/her alternate as provided in Section 6.e. Such representatives are referred to as a Member or Members of the Executive Board.

b. Ex Officio Representative. The Chair (or the Vice Chair in his or her absence) of the Operations Committee shall serve as an ex officio, non-voting member of the Executive Board.

c. Conditions for Serving on Executive Board. All Members and their alternates shall serve without compensation from EPSCA. Members may serve only for such time as they are the duly appointed, acting or elected Chief Executive Officer of their respective Principal city.

d. Powers. The Executive Board shall have final decision making authority upon all policy issues and shall exercise the powers described in Section 5. The Executive Board may delegate responsibility for execution of Executive Board policies and directives and for day-to-day operational decision-making to the Executive Director, including the hiring and supervision of additional staff positions authorized by the Executive Board (subject to the terms of Section 10).

e. Alternates. Each Member of the Executive Board may designate one alternate to serve on the Executive Board when such Member is absent or unable to serve, provided that each such alternate must be previously designated and must have operational responsibilities within his or her respective agency.

f. Quorum. A simple majority of the Members (or their alternates) in number (excluding any Member which per Section 18 has given notice of withdrawal or has which been terminated by vote of the Executive Board) shall constitute a quorum of the Executive Board for purposes of doing business on any issue.

g. Voting. The Board shall strive to operate by consensus. All Board decisions on items not listed in Section 6.h or as otherwise specified by Sections 19, 20 and 21 require a Simple Majority Vote for approval. A Member may not split his or her vote on an issue. No voting by proxies shall be allowed.

i. A Member representing a Principal that has given notice of withdrawal or which has been terminated by vote of the Executive Board shall be authorized to cast votes at the Executive Board only on those matters defined in Section 18.e.

ii. The distribution of Weighted Votes on the Executive Board shall be adjusted annually as of each January 1 based on the number of Radios on the System that are in use by the then current Principals as of April 30 of the preceding year.

h. Items Requiring Supermajority Vote for Approval. A Supermajority Vote of the Executive Board shall be required in order to approve the following items or actions:

i. Approval or amendment of EPSCA budget, including Radio user charges or other service charges;

ii. A decision to acquire assets, equipment, real or personal property valued at over $500,000 (subject to the requirements of Section 21);

iii. Admission of a new Principal;

iv. Appointing or removing the Executive Director;

v. Amendment of this Agreement (except for those amendments requiring unanimous consent of Principals under Section 19 of this Agreement);

vi. ;

vii. Adoption or amendment of the EPSCA Bylaws, or amendment of the EPSCA Articles of Incorporation subject to other applicable requirements of Chapter 24.06 RCW; and

viii. Other actions requiring a two-thirds majority vote under Chapter 24.06 RCW, *excluding* termination, dissolution, merger, consolidation, or sale of all or substantially all assets all of which shall require approval by 80% of the weighted votes of Principals in accordance with Sections 20 and 21.

i. Officers. The Executive Board shall have two officers, a Chair and Vice-Chair. It will be the function of the Chair is to preside at the meetings of the Executive Board. The Vice-Chair shall assume this role in absence of the Chair. At the first meeting of the Executive Board following the effective date of this Agreement, the officers shall be elected, and shall serve in this capacity through May 31, 2013, whereupon a new Chair and Vice-Chair shall be elected by the Board. Annually thereafter, the Executive Board shall elect a new Chair and Vice-Chair for one year terms commencing each June 1. In the event of a vacancy in the Chair position, the Vice-Chair

shall assume the Chair for the balance of the term of the departed Chair. In the event of a vacancy in the Vice-Chair position, the Executive Board shall elect a new Vice-Chair to serve to the balance of the term of the departed Vice-Chair. An officer elected to fill the unexpired term of his or her predecessor shall not be precluded from serving one or more full annual terms of office following the end of such unexpired term. Any officer appointed by the Board may be removed by vote of the Board upon 30 days' written notice, with or without cause, in which event the Board shall promptly elect a new officer who shall serve until the next regular officers' board term begins (June 1). The Board shall appoint persons to serve as Secretary and Treasurer of EPSCA, provided that such persons shall not be Members of the Executive Board.

j. Staffing. The Executive Director shall assign agency staff to support the Executive Board as he or she deems appropriate.

k. Meetings. The Executive Board shall meet as often as it deems necessary and not less than once each calendar quarter, at a time and place designated by the Chair of the Executive Board or by a majority of its Members. Not less than fourteen (14) days advance notice of regular meetings shall be given. Special meetings may be called by the Chair or any two (2) Members upon giving all other Members not less than ten (10) days prior notice. In an emergency, the Executive Board may dispense with written notice requirements for special meetings, but must, in good faith, implement best efforts to provide fair and reasonable notice to all Executive Board Members. Members (or alternates) may participate in meetings by telephone conference or other comparable means.

l. Articles and Bylaws. Unless otherwise approved by vote of the Executive Board, upon the request of any Member of the Executive Board, Robert's Revised Rules of Order shall govern any proceeding of the Executive Board.

m. Consultation with Operations Committee. It is the intent of this Agreement to seek the active participation and advice of Participating Agencies in the determination of EPSCA policies and management. To the extent practicable, all items to come before the Executive Board shall have been previously subject to the review, comment and recommendation of the Operations Committee and the Executive Board shall consider such input from the Operations Committee in its deliberations.

SECTION 7. OPERATIONS COMMITTEE.

a. Creation and Membership. An Operations Committee is created to serve in an advisory capacity to the Executive Board. The Operations Committee shall be composed of:

i. The Police Chief or his/her designee from each Principal.

ii. The Fire Chief or his/her designee from each Principal, *provided that* a Principal that receives fire service from a Public Safety Interlocal Operation may appoint a representative from such entity to serve as a member of the Operations Committee.

Additional members of the Operations Committee may be selected by the Executive Board which shall select at least one representative from among the EPSCA Subscribers, if any.

b. Committee Representatives. Persons serving on the Operations Committee are referred to as Representatives (or alternates) and shall serve without compensation from EPSCA.

c. Alternates. Representatives to the Operations Committee may designate one alternate to serve when such Representative is absent or unable to serve provided that such alternates must have operational responsibilities within their respective agencies.

d. Powers. The Operations Committee shall endeavor to promote interagency collaboration, cooperation and information sharing between EPSCA Principals and Subscribers. The Operations Committee shall:

i. Assist in the review and development of proposed Agency operating policies and procedures, system development options, proposed service options, rules and regulations for use of EPSCA System equipment and facilities, and such other matters as the Executive Board may direct.

ii. Review and comment on the draft budget prior to its submittal to the Executive Board, including proposed Radio User Charges, rates, revenues and expenditures. The Operations Committee shall provide written recommendations with respect to the proposed budget to the Executive Board at the time the proposed budget is submitted to the Board.

iii. Make reports and recommendations to the Executive Board from time to time on matters the Operations Committee deems appropriate.

iv. Provide advice, information, and recommendations to either the Executive Board or the Executive Director.

e. Quorum. A quorum at any meeting shall consist of Representatives of the Operations Committee (or their alternates) representing a simple majority of all Principals. Representatives (or alternates) may participate in meetings by telephone conference or other comparable means.

f. Voting. All actions and recommendations of the Operations Committee shall be approved by majority vote of those present and voting. Each person serving on such Committee shall have one vote, except that in the event a Principal vests its Police and Fire executive duties in one individual who is a member of the Operations Committee, said Representative shall be entitled to cast two (2) votes on matters coming before the Committee. No proxy votes shall be allowed except that an Operations Committee Representative representing a specific Principal may vote by proxy the vote of a Representative who represents the same Principal. There shall be no Weighted Voting.

g. Officers. The Operations Committee shall select a Chair and Vice-Chair from among the membership of the Operations Committee. It will be the function of the Chair to preside at the meetings of the Operations Committee, and the Vice-Chair shall assume this role in absence of the Chair. The officers shall be initially elected at the first meeting of the Operations Committee following the effective date of this Agreement, by majority vote of the Representatives on the Operations Committee and shall serve through May 31, 2013. The Operations Committee shall annually elect a Chair and Vice-Chair for one-year terms beginning each June 1. In the event of a vacancy in the Chair

position, the Vice-Chair shall assume the Chair for the balance of the term of the departed Chair. In the event of a vacancy in the Vice-Chair position, the Operations Committee shall elect a new Vice-Chair to serve to the balance of the term of the departed Vice-Chair. An officer of the Operations Committee elected to fill the unexpired term of his or her predecessor shall not be precluded from serving one or more full annual terms of office following the end of such unexpired term.

h. Staffing. The Operations Committee shall be staffed by the Executive Director and such additional agency staffing as the Executive Director may deem appropriate.

i. Meetings. The Operations Committee shall meet not less than once every two months, at a time and place designated by the Chair of the Operations Committee or by a majority of its Representatives. Not less than ten (10) days advance notice of regular meetings shall be given. Special meetings may be called by the Chair of the Operations Committee or Representatives representing at least two or more members of the Committee representing at least two different Principals and upon giving all other Representatives not less than seven (7) days prior notice of such meeting. In an emergency, the Operations Committee may dispense written notice requirements for special meetings, but must, in good faith, implement best efforts to provide fair and reasonable notice to all Representatives.

SECTION 8. [reserved]

SECTION 9. EXECUTIVE DIRECTOR.

a. Responsibilities and Authority. The Executive Board shall be responsible for the appointment and termination of an Executive Director, and shall request a recommendation from the Operations Committee regarding any proposed appointment. The Executive Director shall be responsible to the Executive Board and shall advise it from time to time on a proposed budget and other appropriate matters in order to fully implement the purposes of this Agreement. The Executive Director shall administer EPSCA in its day-to-day operations consistent with the policies adopted by the Executive Board. The Executive Director shall appoint persons to fill other staff positions, subject to confirmation by the Executive Board as the Board may require. Only the Executive Board shall be authorized to hire or retain legal counsel and independent accountants and auditors. Other consultants may be designated in such manner as the Executive Board may determine subject to Sections 5 and 6.

b. Qualifications, Retention and Termination. The Executive Director shall have experience in technical, financial and administrative fields and his or her appointment shall be on the basis of merit only. The Executive Director is an "at will" position and may be terminated from his position as Executive Director upon the Supermajority vote of the Executive Board, without cause.

c. Loaned Staff. It is expressly contemplated that the Executive Director and other staff shall, unless otherwise determined by the Executive Board, be loaned staff who are employees of a Principal, and for whose services the lending Principal shall be fully compensated by agreement between said Principal and EPSCA.

SECTION 10. PERSONNEL POLICY. The Executive Director may, as he or she deems necessary from time to time, submit to the Executive Board a proposed EPSCA personnel policy for the Executive Board's approval, rejection or modification; provided that the Executive Director shall first submit any such proposed policies to the Operations Committee for its review and comment. All modifications or revisions to personnel policies must have the final approval of the Executive Board. No personnel policies shall be required unless EPSCA hires staff directly; any personnel policies applicable to loaned staff shall be consistent with the policies of the staff's Principal employer.

SECTION 11. OPERATIONAL POLICY AND SYSTEM EVALUATION. The Executive Director shall actively and continuously consider and evaluate all means and opportunities toward the enhancement of operational effectiveness of the System so as to provide maximum and ultimate benefits to the members of the general public. The Executive Director shall present his or her recommendations to the Operations Committee and Executive Board from time to time. The Executive Director shall submit quarterly budget and operation performance reports to the Executive Board in a form acceptable to the Executive Board.

SECTION 12. BUDGET; COST ALLOCATION; PAYMENT OF CHARGES; DELINQUENCIES; RESERVE FUNDS.

a. Budget Fiscal Year. EPSCA budget fiscal year shall be either the calendar year, or two calendar years as the Executive Board may determine. The "budget period" corresponds to the fiscal year or years so determined by the Board.

b. Budget Approval. The Executive Director shall develop the proposed operating budget for the next budget period in consultation with the Operations Committee. The Executive Director shall present a proposed budget to the Executive Board by no later than June 30 prior to the commencement of the budget period, together with the Operations Committee's recommendations with respect to the proposed budget. The Executive Board shall review and revise the budget as it deems appropriate; conduct a public hearing on the draft budget; approve a draft budget, including the proposed Radio Unit Charge; and forward same to Principals, no later than August 31. The budget shall be adopted by Supermajority Vote of the Executive Board effective no later than December 31 prior to commencement of the budget period, after: (1) confirmation of continuing Subscriber and other contracts supporting the budget; and (2) confirmation of the approval by the legislative authorities of Principals of their respective shares of the budget, evidenced by resolution or other appropriate method received by EPSCA no later than November 30 preceding the commencement of the budget period; *provided that,* Principals having not less than 66% of the Weighted Votes of the Executive Board and not less than 66% in number of the Principals must so approve. Failure of a Principal to approve its share of the budget before the commencement of the budget period shall result in the Principal being converted to Subscriber status effective as of the first day of the budget period for which the budget was not approved, per Section14.

c. Budget Modifications. Modifications to the budget must be approved by a Supermajority Vote of the Executive Board as necessary from time to time after each Principal has approved its own budget in order to conform the EPSCA budget to the

budgets adopted by the Principals and account for other operating changes including but not limited to changes in the number of Radios held by Participating Agencies.

d. Cost Allocation. The EPSCA budget for System-related costs shall be generally allocated between all Principals and Subscribers based on the number of Radios each Participating Agency has contracted for with EPSCA. In adopting the budget, the Executive Board shall confirm the total budget amount and the Radio Unit Charge, as well as any other fees or charges necessary to fund the proposed budget. The number of Radios allocated to each Participating Agency with respect to the budget period shall be based on the best information available at the time the budget is adopted.

e. Notification of Radio Unit Charge. Based on the action of the Executive Board, the Executive Director shall notify the Principals and Subscribers of the estimated Radio Unit Charge and any other applicable charges for the following budget period no later than September 15 prior to the beginning of the budget period. The Executive Director shall notify the Principals and Subscribers of the final adopted Radio Unit Charge promptly following final adoption of the budget.

f. Payment of Radio Unit Charges and other charges. Radio Unit Charges shall be payable by Principals in quarterly installments no later than January 15, April 15, July 15 and October 15 of each year, or on such schedule as may otherwise be approved by the Executive Board. Contracts with Subscribers for services will provide for payment of User Fees on a basis as approved by the Executive Board.

g. Delinquencies. Payments not received when due shall bear interest at the rate of 12% per annum, or such lower maximum allowable rate as provided by law, until paid. If a payment is more than three (3) months delinquent, the delinquent Principal shall not be entitled to vote until all delinquent payments together with interest have been paid. A Principal or Subscriber who is six (6) months delinquent in payment loses use of the System until all payments including interest have been made. A Principal who is one year delinquent is deemed to have withdrawn as a Principal and to have withdrawn from the System. Withdrawal does not extinguish the obligation to pay EPSCA for services, together with interest.

h. Terms of Subscriber Contracts. Subscriber contracts shall include terms consistent with these delinquency provisions, that is, interest shall accrue on delinquent payments at the same rate as provided herein, and service may be terminated if fees and interest are not paid in full within six months.

i. Reserve Funds. The Executive Board may establish and fund reserve funds to support operations or capital investments for EPSCA, at levels the Executive Board determines to be appropriate.

SECTION 13. SYSTEM USE.

a. Use Guidelines. Consistent with any use imposed on particular funds by statute, ordinance, contract, this Interlocal Agreement or any bylaws adopted by EPSCA, EPSCA may use any available funds for any purpose authorized by this Agreement in connection with an authorized project.

SECTION 14. CONVERSION OF STATUS OF PARTICIPATING AGENCIES; ADDITION OF NEW PRINCIPALS OR SUBSCRIBERS.

a. Conversion of Principal to Subscriber. As described in Section 12.b, a Principal may be converted to Subscriber for failure to approve its share of the budget. On the date of such conversion, said former Principal shall:

i. lose its representation on the Executive Board;
ii. lose its right to receive a share of EPSCA assets upon dissolution of EPSCA;
iii. become subject to payment of Radio Unit Charges in accordance with the then applicable Subscribers service contract; and
iv. be bound by the terms of the then current Subscriber service contract.

The conversion of a Principal to Subscriber shall not discharge or relieve any such Subscriber of its previously incurred obligations as a Principal to EPSCA.

b. Election to Convert to Subscriber. A Principal also may elect to convert to Subscriber status effective January 1 of any year by giving written notice of its intent to the Executive Board no later than July 1 of the preceding year. Such conversion shall be effective as proposed without further action of the Executive Board, barring any basis for terminating the Principal and action thereon by the Executive Board.

c. Additional Principals. A governmental entity meeting the qualifications of a Principal in Section 3.j and this subparagraph (c) may be admitted as an EPSCA Principal upon Supermajority Vote of the Executive Board as required under Section 6.h. *In addition to meeting the conditions of Section 3.j, a City seeking to become a Principal* must:

i. Have a population of not less than 5,000;
ii. Have at least 50% of its geographical area located within the recognized geographical service area of the Agency's service area as identified in EPSCA's 800 MHz licenses;
iii. accept the terms of this Agreement and the EPSCA Bylaws;
iv. not be another Subregion or a voting member of any other Subregion participating in the King County 800 MHz Regional Communications System all as defined in the Regional Agreement; and
v. Not have held Principal status with EPSCA within the five (5) years immediately preceding the date of application to become a Principal.

A Subscriber meeting the qualifications of a Principal may apply to the Executive Board to be converted to Principal status.

d. Other Conditions for Additional Principals. As a condition of becoming a Principal, whether by conversion or new admission, the Executive Board may require payment or other contributions or actions by the new Principal as the Executive Board may deem appropriate, and may set such start date for service as it deems appropriate, it being the intention of this provision that the addition of new Principals shall not cause pre-existing Participants to incur additional cost.

e. Additional Subscribers. The determination of whether to accept new Subscribers shall be made by the Executive Board in a manner similar, and subject to such terms and conditions, as that for accepting new Principals per Section 14.d, it being the intention that the addition of new Subscribers shall not cause pre-existing Participants to incur additional cost.

SECTION 15. CONTRACTS AND SUPPORT SERVICES. The Executive Board or the Executive Director with advice of the Operations Committee shall as necessary contract with appropriate local governments or other third parties for the use of space for its operations, and for staff and auxiliary services including, but not limited to, records, payroll, accounting, purchasing and data processing.

SECTION 16. RETAINED POWERS OF PARTICIPATING AGENCIES. Each Participating Agency shall retain the responsibility and authority for its operational departments and for such equipment and services as are required at its place of operation to connect to EPSCA's operations, including but not limited to Radios, dispatching equipment, and dispatch and related services. Interconnecting equipment and services will not be included in EPSCA's budget and operational program, except as the Executive Board may determine.

SECTION 17. INVENTORY AND PROPERTY.

a. Ownership of Property. The System, including property both real and personal, purchased or otherwise acquired pursuant to or in connection with this Interlocal Agreement shall be owned in the name of the Eastside Public Safety Communications Agency; provided, however, that for valuable consideration received, the Executive Board may convey ownership of specific equipment or components of the System to Principals or Subscribers. EPSCA may, but shall not be required to, own, operate and/or lease radio and/or dispatch facilities under contracts with Principals and Subscribers.

b. Equipment and furnishings for EPSCA's operation shall be acquired as provided by law. If any Participating Agency provides equipment or furnishings for EPSCA's use, title to the same shall rest with the respective local entity unless that equipment or furnishing is acquired by EPSCA.

c. The Executive Director shall maintain and annually update an inventory of equipment and furnishings owned by, leased or temporarily assigned to EPSCA, and the values thereof. The Executive Director shall also maintain and annually update by April 30 of each year an inventory of all Radios under service contract to EPSCA from Subscribers and Principals.

d. In the event of dissolution or termination of EPSCA, assigned or loaned items shall be returned to the lending entity and all other items or funds derived from the sale thereof shall be distributed to Principals as described in Section 20.

SECTION 18. WITHDRAWAL BY OR TERMINATION OF PRINCIPAL.

a. Any Principal may withdraw its membership and terminate its participation in this Agreement by providing written notice and serving that notice on the EPSCA Executive Board on or before December 31 in any year. After providing appropriate notice as provided in this section, that Principal's membership withdrawal shall become effective on the last day of the calendar year following delivery and service of appropriate notice to all other Principals.

b. A Principal who withdraws, is terminated, changes or is changed to Subscriber status shall hold the remaining Principals harmless against any resultant

increased capital and/or operating costs allocated to them, for a project approved by the Executive Board prior to notice of withdrawal or notice of change to Subscriber status, to the extent said increased capital and/or operating costs are not recouped through Radio Use Charges or other fees paid by Subscribers for services provided as a result of or through said project. After recouping such costs, the Executive Board may authorize reimbursement based on a depreciated value of the withdrawing or converting Principal's contribution

c. Time is of the essence in giving notice of termination and/or withdrawal.

d. The termination and/or withdrawal of a Principal shall not discharge or relieve any Principal of its obligations to EPSCA.

e. An Executive Board Member representing a Principal that (1) has given notice of withdrawal, or (2) has been terminated by vote of the Executive Board which termination is effective at a future date, shall be authorized to cast votes at the Executive Board only on budgets items to be implemented prior to the withdrawal or termination date.

SECTION19. AMENDMENT OF AGREEMENT. This Agreement may be amended upon approval of a Supermajority Vote of the Executive Board in accordance with Section 6.h, except that any amendment affecting the terms and conditions of membership on the Executive Board, voting rights of Executive Board members, powers of the Executive Board, Principal contribution responsibilities, hold harmless and indemnification requirements, provisions regarding duration, termination or withdrawal, expansion of the scope of services provided by EPCA (Section 4), or the conditions of this Section shall require consent of the legislative authorities of all Principals. This section shall not be construed to require unanimous consent for the addition of a new Principal or agreement to serve an additional agency or department of a Principal.

SECTION 20. TERMINATION OF AGREEMENT; DISSOLUTION OF AGENCY.

a. This Agreement may be terminated upon the vote of Principals holding at least eighty percent (80%) of the weighted vote of all the Principals. The termination shall be by direction of the Executive Board wind up business by a specified date which date shall be at least one (1) year from the date of the vote to terminate. Upon the final termination date, this Agreement shall be fully terminated.

b. Upon termination of this Agreement, all property acquired during the life of the Agreement remaining in ownership of EPSCA shall be disposed of in the following manner:

i. All real and personal property purchased pursuant to this agreement and all unexpended funds or reserve funds, net of all outstanding EPSCA liabilities, shall be distributed to those Principals still participating in EPSCA on the day prior to the termination date and shall be apportioned between Principals based on the ratio that the average of each Principals' paid Radio Use Charges over the preceding five (5) years bears to the total of all then remaining Principals' user fees paid during such five-year period.

ii. In the event outstanding liabilities of EPSCA exceed the value of personal and real property and funds on hand, all Principals shall contribute to such liabilities in the same manner as which they would share in the distribution of properties and funds.

c. Notwithstanding the foregoing, in the event of withdrawal or termination of Principals such that not more than three (3) Principals remain party to this Agreement, then the Agreement shall terminate one (1) year from the first date that only three (3) Principals remain.

d. Notwithstanding the foregoing, the Agreement may not be terminated if to do so would abrogate any outstanding obligations of EPSCA unless provision is made for those obligations.

SECTION 21. MERGER OR CONSOLIDATION, OR SALE OF ALL OR SUBSTANTIALLY ALL ASSETS OF EPSCA. Approval of the merger or consolidation of EPSCA with another entity, or the sale of all or substantially all assets of EPSCA, shall require the approval of Principals holding at least eighty percent (80%) of the weighted votes of all Principals.

SECTION 22. DISPUTE RESOLUTION.

a. Whenever any dispute arises between the Principals or between the Principals and EPSCA (referred to collectively in this section as the "parties") under this Agreement which is not resolved by routine meetings or communications, the parties agree to seek resolution of such dispute by the process described in this section, which shall also be binding on Subscribers.

b. The parties shall seek in good faith to resolve any such dispute or concern by meeting, as soon as feasible. The meeting shall include the Chair of the Executive Board, the Executive Director, and a representative(s) of the Principal(s), if a Principal(s) is involved in the dispute, and/or a person designated by the Subscriber(s), if a Subscriber(s) is involved in the dispute.

c. If the parties do not come to an agreement on the dispute or concern, any party may demand mediation through a process to be mutually agreed to in good faith between the parties within 30 days, which may include binding or nonbinding decisions or recommendations. The mediator(s) shall be individuals skilled in the legal and business aspects of the subject matter of this Agreement. The parties shall share equally the costs of mediation and assume their own costs.

d. If the mediation process cannot be agreed upon within 30 days, or if all parties subject to the dispute agree within 30 days to proceed immediately to arbitration, then the dispute or concern shall be settled by binding arbitration in accordance with Rules of the American Arbitration Association and Mediation Service, or other agreed upon arbitration rules. The location of the arbitration shall be mutually agreed, and its proceedings will be governed by the laws of Washington. The arbitrator(s) shall be individual(s) skilled in the legal and business aspects of the subject matter of this Agreement. The cost of the arbitration shall be in the discretion of the arbitrator(s), provided, however, that no party shall be obliged to pay more than its own costs and the cost of the arbitrator, if there is one arbitrator, or the costs of its own appointed arbitrator and the third arbitrator, if there are three arbitrators.

SECTION 23. INTERGOVERNMENTAL COOPERATION. EPSCA shall cooperate with local, state and federal governmental agencies in order to maximize the utilization of grant funds for equipment and operations and to enhance the effectiveness of public safety dispatch and public safety records operations and to minimize costs of said public service delivery.

SECTION 24. INDEMNIFICATION AND HOLD HARMLESS.

a. Each Principal shall defend, indemnify and hold other Principals, their officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of that Principal's acts or omissions in connection with the performance of its obligations under this Agreement, except to the extent the injuries or damages are caused by another Principal.

b. Each Principal shall defend, indemnify and hold EPSCA and its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of that Principal's acts or omissions in connection with the performance of its obligations under this Agreement, except to the extent the injuries and damages are caused by EPSCA.

c. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of a party hereto and EPSCA, its officers, officials, employees, and volunteers, the party's liability hereunder shall be only to the extent of the party's negligence. It is further specifically and expressly understood that the indemnification provided in this Section constitutes the party's waiver of immunity under Industrial Insurance Title 51 RCW, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

d. Each party shall give the other parties proper notice of any claim or suit coming within the purview of these indemnities. The indemnitor will assume the defense of any claim, demand or action against such indemnitees and will, upon the request of the indemnitees, allow the indemnitees to participate in the defense thereof, such participation to be at the expense of the indemnitees. The indemnitees will in any case cooperate fully with the indemnitor in the defense and will, at their expense, provide all relevant documents, witnesses and other assistance within their possession or control upon the reasonable request of the indemnitor. Settlement by the indemnitees without the indemnitor's prior written consent shall release the indemnitor from the indemnity as to the claim, demand or action so settled. Termination of this Agreement, a Principal's withdrawal from EPSCA, or a Principal's conversion to Subscriber status (collectively for purposes of this subparagraph "Termination"), shall not affect the continuing obligations of each of the parties as indemnitors hereunder with respect to those indemnities and which shall have occurred prior to such Termination.

SECTION 25. INSURANCE. EPSCA shall obtain and provide insurance, to the extent practicable, against loss or liability for the actions of EPSCA's Executive Board, Operations Board, Executive Director and staff. To the extent practicable, all

Participating Agencies shall be named as additional insureds on any policy, including pool insurance.

SECTION 26. NOTICE. Notices required to be given to EPSCA under the terms of this Agreement shall be directed to the following unless all parties are otherwise notified in writing:

Chair, EPSCA Executive Board
c/o his/her Principal agency's address

Notices to Principals or Subscribers, Members or Representatives required hereunder may be given by mail, overnight delivery, facsimile or email (with confirmation of transmission), telegram, or personal delivery. Any Principal wishing to change its mail or email address shall promptly notify the Chair of the Executive Board. Notice or other written communication shall be deemed to be delivered at the time when the same is postmarked in the mail or overnight delivery services, sent by facsimile or email (with confirmation of transmission), sent by telegram, or received by personal delivery.

SECTION 27. VENUE. The venue for any action related to this Agreement shall be in the Superior Court in and for King County, Washington at Seattle.

SECTION 28. FILING. As provided by RCW 39.34.040, this Agreement shall be filed prior to its entry in force with the King County Department of Records and Elections, or, alternatively, listed by subject on a Principal's web site or other electronically retrievable public source.

SECTION 29. NO THIRD PARTY BENEFICIARIES. There are no third-party beneficiaries to this Agreement. No person or entity other than a party to this Agreement shall have any rights hereunder or any authority to enforce its provisions, and any such rights or enforcement must be consistent with and subject to the terms of this Agreement.

SECTION 30. SEVERABILITY. The invalidity or any clause, sentence, paragraph, subdivision, section or portion of this agreement shall not affect the validity of the remainder of the Agreement.

SECTION 31. RATIFICATION. All prior acts taken by the Principals and EPSCA consistent with this Agreement are hereby ratified and confirmed.

SECTION 32. EXECUTION, COUNTERPARTS AND EFFECTIVE DATE. This Agreement and any amendments thereto, shall be executed on behalf of each Principal by its duly authorized representative and pursuant to an appropriate motion, resolution or ordinance. This Agreement may be executed in any number of counterparts, each of which shall be an original, but those counterparts will constitute one and the same instrument. This Agreement shall be deemed adopted and effective as of March 1, 2013, subject to prior filing of same as required by Section 28 hereof, and further subject

to the Agreement having been executed on or prior to such date by all Principals party to the 1992 Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by each Principal on the dates set forth below.

City of ~~Bellevue~~ Kirkland

City Manager

Date 2/27/13

Approved as to Form:

Asst. City Attorney

Date: 2-27-13

City of Issaquah

Mayor

Date February 27, 2013

Approved as to Form:

City Attorney

Date: 2-28-13

City of ~~Kirkland~~ Bellevue

City Manager

Date

Approved as to Form:

City Attorney

Date:

City of Mercer Island

City Manager

Date 2-27-2013

Approved as to Form:

City Attorney

Date: 2-27-2013

City of Redmond

Mayor

2/26/13

Date

Approved as to Form:

City Attorney

Date: 2/28/13

Exhibit A

Additional Detail on EPSCA Scope of Services

This Attachment provides additional detail on the scope of services described in Section 4 of the Agreement that EPSCA is authorized to provide. Capitalized terms not defined here have the meanings as defined in the Agreement.

1. Developing, owning, operating, and maintaining the System and any subsequent System upgrades or replacements as necessary or appropriate to ensure the System is integrated with the Network. This includes, without limitation, developing, implementing and ensuring compliance with the rules and regulations regarding use and access of the System by Principals and Subscribers.
2. Participating in the regional development and implementation of any successor or upgraded System or Network.
3. Maintaining dispatch console systems via individual contract with 9-1-1 dispatch centers serving Principals or Subscribers of EPSCA.
4. Provide Principals and Subscriber agencies with technical assistance and guidance with regards to radios and connectivity to the System.
5. Report to user agencies through the Operations Committee regarding new advances, direction, or opportunities with regards to public safety radio communications.
6. Represent EPSCA's interests through participation in regional, state and national forums regarding public safety radio communications, including but not limited to: the Regional Communications Board (RCB) established under the Regional Agreement, and the Radio Executive Policy Committee (REPC) formed to design, build and operate an upgraded regional (multi-county) public safety communications network.
7. Continuously strive to provide improved service levels, capacity and coverage to Principals and Subscribers.
8. Endeavor to find additional revenue streams to help offset costs of providing service to Principals and Subscribers.

to the Agreement having been executed on or prior to such date by all Principals party to the 1992 Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by each Principal on the dates set forth below.

City of Bellevue

City Manager

February 28, 2013

Date

Approved as to Form:

City Attorney

Date:

City of Issaquah

Mayor

Date

Approved as to Form:

City Attorney

Date:

City of Kirkland

City Manager

Date

Approved as to Form:

City Attorney

Date:

City of Mercer Island

City Manager

Date

Approved as to Form:

City Attorney

Date: