















Robert's Revised Rules of Order unless otherwise directed by the Board of Directors.

4.3.8 Board members must be present at a meeting to vote and may not vote by proxy, provided that, if provided for in the bylaws, a member may participate in Board meetings and may vote on Board issues via telephone or other electronic voice communication.

4.3.9 The Board of Directors shall comply with applicable requirements of the Washington State Open Public Meetings Act, Chapter 42.30 RCW.

4.3.10 An alternate attending Board of Directors meetings on behalf of a regular member of the Board shall be considered to be a member for purposes of that meeting and entitled to exercise all rights of the member to participate in such meetings, including participating in discussion, making motions, and voting on matters coming before the Board.

4.3.11 Notwithstanding any other provision in this Agreement, the Board of Directors may take action by three affirmative votes when each of the following conditions is met: (1) a matter has been identified for action in the notice or proposed agenda for at least two meetings in a row, and (2) both meetings were regularly scheduled meetings or properly notified and scheduled special meetings in accordance with the bylaws and RCW 42.30, and (3) the same voting member failed to attend both meetings and failed to send an alternate. In this event, for this one action item only, a quorum of the Board of Directors will consist of three members.

#### 4.4 Board of Directors Actions

The PSERN Operator, through its Board of Directors, shall have all powers allowed by law for interlocal agencies created under RCW 39.34.030 and chapter 24.06 RCW, as they now exist or may hereafter be amended, and as authorized, amended, or removed by the Board of Directors, as provided for in this Agreement, and including but not limited to the following:

- a. Amend this Agreement, subject to Section 15.13;
- b. Establish committees and advisory groups to perform activities related to the PSERN System;
- c. Adopt and amend budgets and approve expenditures;
- d. Adopt and amend policies and bylaws for the administration and regulation of the PSERN Operator;
- e. Adopt and amend purchasing and contracting policies consistent with state law;
- f. Direct and supervise the activities of the Operating Board;



- g. Direct the activities of the Executive Director;
- h. If the Board determines that the Executive Director will be directly hired as an employee of the PSERN Operator, then the Board shall hire, set the compensation for, and be authorized to terminate the employment of the Executive Director.
- i. If the Board determines that the Executive Director will be a contracted employee from another governmental agency, the Board will contract for an "at will" employee approved by the Board and who may be terminated from the position by a unanimous vote by the Board.
- j. Evaluate the Executive Director's performance and give the Executive Director a written evaluation of his or her performance at least annually;
- k. Establish a fund or special fund or funds as authorized by RCW 39.34.030;
- l. Establish Service Rates in accordance with Exhibit A or any amendments thereto;
- m. Review and amend terms of use for User Agencies, as necessary;
- n. Conduct regular and special meetings;
- o. Approve PSERN operation and maintenance standards;
- p. Determine the Services the PSERN Operator shall offer and the terms under which they will be offered;
- q. Approve agreements with third parties;
- r. Incur financial obligations in the name of the PSERN Operator to make purchases or contracts for Services to implement the purposes of this Agreement; provided, however, nothing in this Agreement shall authorize the PSERN Operator to issue bonds or incur indebtedness in the name of any Party hereto or that shall be considered a debt or a guarantee of any Party hereto without its express written consent;
- s. 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 the PSERN Operator;
- t. Sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all of its real or personal property, or any interest therein, and assets;

- u. Sue and be sued, complain and defend, in all courts of competent jurisdiction;
- v. Hold licenses for radio frequencies;
- w. Recommend action to the legislative bodies of the Parties and User Agencies;
- w. Delegate the Board of Directors' authority under this Agreement subject to any applicable law and to such limitations and conditions as the Board of Directors may establish;
- x. Enter into agreements with other agencies to accomplish tasks for the PSERN Operator such as agreements for services such as procurement and property leasing;
- y. Contract for staff through agreements with other agencies that specify the employment policies, compensations amounts, and supervisory structure that will apply to such staff;
- z. Exercise any powers necessary to further the goals and purposes of this Agreement that are consistent with the powers of the Parties;
- aa. Add parties to this Agreement and concurrently amend the membership of the Board of Directors, subject to the limitations of Section 15.13;
- bb. Take necessary actions to prepare and plan for a public safety radio system(s) to succeed the PSERN System;
- cc. To the extent permitted by law, accept loans or grants of funds from any federal, state, local or private agencies and receive and distribute funds; and
- dd. The PSERN Operator shall have no power to levy taxes.

#### 4.5 Impasse Resolution Procedure

4.5.1 If a matter requiring Board action is moved at a Board of Directors meeting but fails for lack of a unanimous vote by all four (4) Directors, a voting Director may submit written notice of an impasse to the other Directors and the Executive Director. The notice shall include a statement of the action being sought and the history of any Board deliberation or vote(s) on the matter.

4.5.2 Within seven (7) days of receipt of a notice of impasse, the Board Chair shall designate a mediator to assist the Board in resolving the impasse. The mediator shall be experienced in resolving disputes among public sector and/or nonprofit agencies and may not be an employee or consultant of any of the Parties, unless otherwise agreed to by the Parties.

4.5.3 The Parties agree that it is essential to the success of the PSERN System that any impasse be resolved as quickly as possible and accordingly agree to instruct their respective Directors to cooperate with the mediator in good faith,

including expediting responses to any mediator requests for information and discussion.

4.5.4 The mediator shall promptly investigate the impasse and the respective positions of the voting Directors. The mediator may recommend one or more non-binding alternatives for resolving the impasse. Regardless of the outcome of the mediation, the cost of the mediator's fees and expenses shall be divided into four equal parts to be paid by (1) the County, (2) the City, (3) the EPSCA Cities and the (4) Valley Com Cities. The EPSCA Cities and Valley Com Cities shall each be responsible for apportioning their one quarter share of the costs among their members and for informing the PSERN Operator of the apportionment. The PSERN Operator shall pay the mediator and invoice each Party for its share. Each Party shall pay the PSERN Operator within thirty (30) days of the Party's receipt of the invoice.

4.5.5 If the impasse is not resolved within ten (10) days of the mediator providing his/her recommendation(s), the Elected Executives Committee (EEC) shall meet with the Board of Directors to attempt to resolve the impasse. The EEC shall be composed of the King County Executive; the Mayor of the City of Seattle; one elected official designated by the EPSCA Cities; and one elected office designated by the Valley Com Cities. The Board of Directors and the EEC shall convene to consider the matter and attempt to reach a resolution, which may include re-submitting the matter for a Board of Directors vote, not later than twenty (20) days after the date the mediator provided his/her recommendation(s).

## **5.0 OPERATING BOARD**

The Board of Directors will create an Operating Board of PSERN System User Agencies, which will include at least one fire commissioner as a member, to provide advice and perform other duties as deemed appropriate by the Board of Directors. The obligation to create and maintain an Operating Board shall be included in the PSERN Operator's articles of incorporation or bylaws.

## **6.0 EXECUTIVE DIRECTOR**

If the Executive Director is directly hired as an employee of the PSERN Operator, the Board shall be responsible for the appointment and termination of the Executive Director. If the Board enters into an agreement with another governmental agency to contract for an Executive Director, the agreement shall give the Board the authority to appoint the Executive Director and to terminate the Executive Director from his/her position.

The Executive Director shall report to the Board of Directors and shall regularly advise the Board on matters related to the operation and functions of the PSERN System and the PSERN Operator, including proposed budgets, financial and liability issues, and all other appropriate matters related to the PSERN System and the PSERN Operator. The Executive Director may also request assistance from the Operating Board to address tasks calling for technical and user-related expertise.

## 6.1 Executive Director Duties

The Executive Director shall:

- a. Manage the PSERN Operator's day-to-day activities consistent with applicable policies, procedures, and standards;
- b. Retain appropriate PSERN Operator staff either through the direct hire of such staff or through an agreement with an agency to provide such staff;
- c. Hire, evaluate, supervise, discipline, and terminate staff in compliance with applicable budget, policies, procedures, agreements and standards;
- d. Propose and administer Annual Budgets including a contingency;
- e. Consistent with applicable budget and procurement policies adopted by the Board, approve expenditures and sign contracts in amounts as established by the Board of Directors without additional approval of the Board of Directors;
- f. Track the performance of PSERN systems and Services;
- g. Provide support to the Board of Directors;
- h. Recommend policies, procedures, and standards, and changes thereto, including without limitation policies governing the procurement of goods, services, public works and improvements, staffing and emergency responses;
- i. Provide written monthly reports to the Board of Directors describing the PSERN Operator's budget status, PSERN System performance against targets, partial or full PSERN System outages, purchases equal to or greater than \$10,000, and usage statistics;
- j. Maintain and manage records in accordance with applicable state and federal laws and regulations;
- k. Prepare an annual report for the PSERN Operator as required by RCW 23.95.255; and
- l. Perform other duties as assigned by the Board of Directors.

## 6.2 Qualifications and Status of the Executive Director

The Executive Director shall have experience or comparable equivalent skills in the technical, financial and administrative fields of public safety radio and his or her appointment shall be on the basis of merit only. If the Executive Director is directly hired by the PSERN Operator, he/she will serve in an "at will" position that may not be modified by any PSERN Agency policy, rule, or regulation regarding discipline or

termination of PSERN Agency employees, and accordingly, the Executive Director may only be terminated from his or her position by the Board of Directors.

## **7.0 EMERGENCY PROCEDURES**

In the case of an emergency, the Executive Director shall have the authority to issue a determination of emergency under applicable law. The Executive Director shall communicate to the Board of Directors each decision made pursuant to any emergency determination as soon as reasonably possible and shall issue a written finding of the existence of the emergency no later than two weeks following the award of any contract executed pursuant to the emergency determination.

## **8.0 PSERN OPERATOR EMPLOYMENT**

### **8.1 Employees Generally**

The Board of Directors shall require the PSERN Operator to comply with all applicable federal, state and local laws, ordinances and regulations pertaining to all current and future employees. In addition, the PSERN Operator shall be an equal opportunity employer and make reasonable efforts to maintain a diverse work force.

### **8.2. Employment of Current Regular Employees**

#### **8.2.1 Offer of Employment**

8.2.1.1 As of the Effective Date of this Agreement, there are 3.0 FTE City of Seattle employees and 8.0 FTE King County employees who are employed to primarily work on KCERCS infrastructure and whose job duties will be assumed by the PSERN Operator after FSA ("Qualified Employees"). It is the intention of the Parties that each of those Qualified Employees have the option of working for the PSERN Operator and that the PSERN Operator and the County and City of Seattle will work cooperatively to transition the employees who accept such option to work for the PSERN Operator on a schedule that does not adversely impact public safety functions prior to FSA.

#### **8.2.1.2 Directly Hired Employees**

If the Board of Directors determines that PSERN Operator staff shall be directly hired by the PSERN Operator and to implement the intent of Section 8.2.1., then no later than the date to be set by the Board of Directors, the PSERN Operator will offer employment to each of the Qualified Employees for similar employment with the PSERN Operator. The offer shall remain open for no more than thirty (30) days unless otherwise determined by the Board of Directors. Each Qualified Employee who accepts the offer shall become a "Transferring Employee." The PSERN Executive Director shall use best efforts to ensure each Transferring Employee a smooth and prompt transition to employment with the PSERN Operator.

The Board of Directors shall require the PSERN Operator to use its best efforts to offer the Transferring Employees opportunities for professional advancement and a package of employee benefits that are similar to the opportunities and benefits available to the Transferring Employees at their current agency at the time of transition to PSERN employment.

#### 8.2.1.3 Agency-Provided Employees

If the Board of Directors determines that PSERN Operator staff will be contracted for through an agreement with another governmental agency, then no later than the date set by the Board of Directors, the agency providing such staff will offer employment to each of the Qualified Employees for similar employment with the agency for PSERN Operator work. The offer shall remain open for no more than thirty (30) days unless otherwise determined by the agency providing the PSERN Operator staff. Each Qualified Employee who accepts the offer shall become an "Agency Employee." The agency providing PSERN Operator staff shall use best efforts to ensure each Agency Employee a smooth and prompt transition to employment with the agency and work for the PSERN Operator.

#### 8.2.2 Retirement Benefits

If the Board of Directors determines that PSERN Operator staff shall be directly hired, then the PSERN Operator will participate in the Public Employees' Retirement System (PERS) and will offer PERS retirement benefits through the Washington State Department of Retirement Systems to Transferring Employees and Transitional Employees.

### 8.3 Temporary Employment of PSERN Transitional Employees

8.3.1 Any PSERN Transitional Employee who requests temporary employment with the PSERN Operator shall be employed as a temporary employee by the PSERN Operator or if the PSERN Operator does not directly hire its employees, then by the agency providing staff for the PSERN Operator.. The period of temporary employment shall not exceed eighteen (18) months from the time of transition to such employment or a shorter duration if requested by the PSERN Transitional Employee. The time of transition shall be within 60 days after FSA unless another date is agreed to by the PSERN Operator and the PSERN Transitional Employee.

8.3.2 While employed as temporary employees performing work for the PSERN Operator, PSERN Transitional Employees shall be entitled to a salary and package of benefits similar to what the Transitional Employee received prior to his or her transition to PSERN Operator work. The full cost of compensation, including salary and benefits, provided to PSERN Transitional Employees shall be paid by the PSERN Operator, either directly or pursuant to an agreement with another agency for the provision of staff.

8.3.3 While employed as temporary employees performing work for the PSERN Operator, PSERN Transitional Employees must meet all employment requirements applicable to permanent PSERN Operator employees or employees of the applicable employing agency. Nothing in this Agreement shall preclude the PSERN Operator's or applicable employing agency's ability to take employment action, up to and including termination of employment, regarding a PSERN Transitional Employee who fails to meet any requirement of his/her employment.

8.3.4 Nothing in this section shall preclude the PSERN Operator or an applicable employing agency from hiring a PSERN Transitional Employee serving as a temporary employee to a permanent position.

#### 8.4 No Third-Party Beneficiaries.

Employees affected by this Agreement are not intended to be third-party beneficiaries to this Agreement and cannot sue to enforce its terms.

### 9.0 Service Level Requirements

#### 9.1 Contractor Services

The PSERN Operator shall ensure the following services are provided by the Contractor throughout the expected service life of the PSERN System:

- (i) technical support;
- (ii) infrastructure repair;
- (iii) System updates; and
- (iv) System upgrades.

#### 9.2 Minimum Performance

The PSERN Operator shall ensure the following minimum performance requirements for the PSERN System:

- (i) DAQ 3.4;
- (ii) 97% reliability;
- (iii) 97% portable on-street coverage in the Primary Bounded Area;
- (iv) 95% portable on-street coverage in the Highway Buffer Covered Areas;
- (v) grade of service of 1.0;
- (vi) 99.999% availability of backhaul;
- (vii) at least 17db added signal above the baseline PSERN design within the three (3) polygon coverage areas shown in Exhibit B; and
- (viii) provide 97% portable on-street coverage with 97% SAR (service area reliability) in the three (3) polygon coverage areas shown in Exhibit B.

### 10.0 RESERVED

## 11.0 WITHDRAWAL AND REMOVAL

### 11.1 Withdrawal of a Party

11.1.1 A Party may withdraw from this Agreement effective on the last day of a calendar year by giving written notice to the Board at least two years prior to the proposed effective date for withdrawal.

11.1.2 Any Party that has given notice of its intent to withdraw must meet with the Executive Director or his or her designee to develop a departure plan that is intended to ensure an orderly separation of the Party from the PSERN Operator in a manner that is consistent with this Agreement. The departure plan may include the transfer of funds and equipment or other assets and such plan must be approved by unanimous vote of the Board of Directors.

#### 11.1.3 Costs of Withdrawal

11.1.3.1 A Party that withdraws shall remain responsible for any obligations that arose prior to the effective date of the withdrawal and for any that are specified under Section 15.17 as surviving a withdrawal.

11.1.3.2 As a condition of withdrawal, the withdrawing Party must pay any direct costs resulting from the withdrawal. The Board of Directors may also set a different withdrawal date as it deems appropriate; however, the withdrawal date shall not be later than one year after the withdrawing Party's proposed withdrawal date.

11.1.3.3 Any costs or other amounts owed by a withdrawing Party under this Agreement or any other agreement between the withdrawing Party and the PSERN Operator shall be paid prior to the effective date of the withdrawal or, if such amounts are not then known or established, then within thirty (30) days after the amount is known or established. However, the withdrawing Party shall not be responsible for amounts not known or established within one hundred (100) days of the date of withdrawal.

11.1.4 A member of the Board of Directors representing a Party that has given notice of withdrawal which is effective at a future date, shall be authorized to cast votes with the Board of Directors only on budgets and other items to be implemented prior to the withdrawal date unless permission to vote on a matter is granted by all remaining Board members.

11.1.5 A Party that has given its notice of withdrawal may revoke its notice of withdrawal by delivering a written notice of such revocation to the Board of Directors. The Board, in its sole discretion, may by unanimous vote of the remaining members of the Board, determine to accept or deny the revocation and under what conditions any acceptance shall be permitted.

11.1.6 If a Party withdraws from this Agreement, the withdrawing Party will forfeit any and all rights it may have to PSERN System real, personal, or intellectual



property and any rights to participate in the PSERN Operator, unless otherwise provided by the Board of Directors.

#### 11.2 Removal of a Board Member.

The Board of Directors may, by majority vote and for cause, remove a Board member from the Board of Directors and terminate the Board member's right to participate in governance of the PSERN Operator. Immediately after the vote removing a Board member, the Party's alternate shall become its Board of Directors member. If the Party has not designated an alternate, the vacancy provisions in Section 4.2.4 shall apply. Cause for removal may include failure to act in good faith in participating in the Board of Directors and willful, arbitrary failure to perform the Board member's obligations as set forth in this Agreement.

### **12.0 DISSOLUTION AND TERMINATION**

12.1 Three (3) or more Directors may, at any one time, call for a vote on the complete dissolution of the PSERN Operator and termination of this Agreement. Upon both: (a) the affirmative vote of a majority of the full Board for dissolution and termination; and (b) the affirmative vote of a majority of the Parties' legislative bodies for dissolution and termination, the Board shall establish a task force to determine how the PSERN System assets and liabilities will be divided upon such dissolution and termination. For purposes of this section, each Party shall determine what constitutes an affirmative vote of its legislative body.

12.2 Approval of the plan for disposition of the PSERN System assets and liabilities (the "Disposition Plan") shall require a unanimous affirmative vote of the full Board. If the Board fails to approve the Disposition Plan within one (1) year of the last legislative body vote under Section 12.1.b, the Parties shall proceed with the impasse resolution procedures in Section 4.5.

12.3 Following the approval of the Disposition Plan, the PSERN Operator shall wind up business in accordance with the Disposition Plan and any other terms set by the Board. The Board shall set the date for termination of this Agreement by affirmative majority vote of the full Board.

### **13.0 LEGAL RELATIONS**

#### 13.1 Employees and No Third Party Beneficiaries

13.1.1 Nothing in this Agreement shall make any employee of one Party an employee of another Party for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded by virtue of their employment. No Party assumes any responsibility for the payment of any compensation, fees, wages, benefits or taxes to or on behalf of any other Party's employees. No employees or agents of one Party shall be deemed, or represent themselves to be, employees of another Party.

13.1.2 It is understood and agreed that this Agreement is solely for the benefit of the Parties and gives no right to any other person or entity.

### 13.2 Indemnification.

Each Party to this Agreement shall protect, defend, indemnify, and save harmless the other Parties and their respective officials and employees, from any and all claims, arising out of, or in any way resulting from, the indemnifying Party's willful or negligent acts or omissions arising out of this Agreement. No Party will be required to indemnify, defend, or save harmless any other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of that other Party. Where such claims, suits, or actions result from concurrent negligence of two or more Parties, these indemnity provisions shall be valid and enforceable only to the extent of each Party's own negligence. Each of the Parties agrees that its obligations under this Section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the Parties, by mutual negotiation, hereby waives, with respect to each of the other Parties only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. Any loss or liability resulting from the negligent acts, errors, or omissions of the Board of Directors, Operating Board, Executive Director and/or staff, while acting within the scope of their authority under this Agreement, shall be borne by the PSERN Operator exclusively.

### 13.3 Insurance

The Board of Directors, Executive Director, and PSERN Operator shall take such steps as are reasonably practicable to minimize the liability of the Parties, including but not limited to the utilization of sound business practices. The Board of Directors shall determine which, if any, insurance policies or self-insurance programs for governmental entities authorized in the State of Washington may be reasonably and practicably acquired to cover liability exposures and other potential losses arising from the operations of the PSERN Operator and the activities of the Parties pursuant to this Agreement (which may include Directors and Officers, Commercial General Liability, Auto, Workers' Compensation, Stop Gap/Employer's Liability, errors and omissions, crime/ fidelity insurance, CyberRisk, property damage or loss), and shall direct the acquisition of same.

## 14.0 PUBLIC RECORDS

14.1 The Executive Director shall keep records related to the PSERN System and PSERN Operator as required by law and in accordance with the policies, procedures and retention schedules as may be established by the Board of Directors.

14.2 Each Party shall keep records related to the PSERN System and PSERN Operator as required by law and in accordance with such the policies, procedures and retention schedules as may be established by the Party, and each Party shall be responsible for responding to public disclosure requests addressed to it in accordance with the Washington Public Records Act, Chapter 42.56 RCW, and such procedures as may be established by the Party.

14.3 The Executive Director shall be responsible for responding to public disclosure requests addressed to the PSERN Operator in accordance with the Washington Public Records Act, Chapter 42.56 RCW, and such procedures as may be established by the Board of Directors.

## **15.0 GENERAL**

### **15.1 RESERVED**

#### 15.2 Filing of Agreement

Pursuant to RCW 39.34.040, prior to its entry into force, this Agreement shall be filed with the King County Recorder's Office or, alternatively, listed by subject on a Party's web site or other electronically retrievable public source.

#### 15.3 Time of the Essence

The Parties recognize that time is of the essence in the performance of the provisions of this Agreement.

#### 15.4 Compliance with Laws

During the term of this Agreement, the Parties hereto agree to comply with all federal, state, and local laws as necessary to carry out the terms of this Agreement. Further, to the extent that any emergency communication Services involve the retention, security, confidentiality or other handling of certain "protected" health information under the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations thereunder by the U.S. Department of Health and Human Services and other applicable laws including chapter 70.02 RCW, the Washington Uniform Health Care Information Act, as amended, the Parties agree to comply with such laws and execute documents as necessary to implement the requirements under such laws.

#### 15.5 Specific Performance

In the event a Party fails to perform an obligation under this Agreement, the other Parties or any one of them shall have the right to bring an action for specific performance, damages and any other remedies available under this Agreement, at law or in equity.

#### 15.6 No Waiver

No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver, excuse, or consent shall be in writing and signed by the Party or Parties claimed to have waived or consented. If the waiving or consenting Party is the PSERN Operator, then the writing must be signed by all of the voting members of the Board of Directors. Waiver of any default of this Agreement shall not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement

shall not be deemed to be a waiver of any other or subsequent breach. Waiver of such default and waiver of such breach shall not be construed to be a modification of the terms of this Agreement unless stated to be such through written approval of all Parties.

#### 15.7 Parties Not Relieved of Statutory Obligation

Pursuant to RCW 39.34.030(5), this Agreement shall not relieve any Party of any obligation or responsibility imposed upon it by law except that, to the extent of actual and timely performance thereof by the Board of Directors, the performance may be offered in satisfaction of the obligation or responsibility.

#### 15.8 Nondiscrimination

The Parties shall comply with the nondiscrimination requirements of applicable federal, state and local statutes and regulations.

#### 15.9 No Assignment

No Party shall transfer or assign a portion or all of its responsibilities or rights under this Agreement, except with the prior authorization of the Board of Directors.

#### 15.10 Merger, Consolidation or Sale of All or Substantially All Assets

Approval of the merger or consolidation of the PSERN Operator with another entity, or the sale of all or substantially all assets of the PSERN Operator, shall require a unanimous vote of the Board of Directors.

#### 15.11 Dispute Resolution

If one or more Parties believe another Party has failed to comply with the terms of this Agreement, the affected Parties shall attempt to resolve the matter informally. If the Parties are unable to resolve the matter informally, any Party may submit the matter to mediation under Section 4.5. In any event, if the matter is not resolved, then any Party shall be entitled to pursue any legal remedy available.

#### 15.12 Entire Agreement

The Parties agree that this Agreement, including any attached exhibits, constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties. No other agreement, written or oral, expressed or implied, exists between the Parties with respect to the subject matter of this Agreement, and the Parties declare and represent that no promise, inducement, or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them.

#### 15.13 Amendments

15.13.1 Except as provided in this Section, the Agreement may be amended by the Board of Directors from time to time in order to carry out the corporate

purposes of the PSERN Operator. Any such modification shall be in writing and executed by the Chair of the Board of Directors after providing not less than thirty (30) days' advance written notice to all Parties of such proposed modification, and upon unanimous approval of the Board of Directors. However, the following terms of this Agreement may only be amended in writing after approval of each of the legislative bodies of Seattle, King County, EPSCA, and Valley Com; however, for purposes of this legislative determination, EPSCA and Valley Com will each be responsible to determine what constitutes legislative approval or disapproval from their member cities, before tendering their single vote on amendment:

- a. Expansion of the PSERN Operator's scope of services or Party funding obligations described in Section 3.0.
- b. The composition of the Board of Directors.
- c. Addition of new Parties.
- d. Voting rights of members of the Board of Directors.
- e. Powers of the Board of Directors.
- f. Hold harmless and indemnification requirements.
- g. Provisions regarding duration, dissolution, termination or withdrawal.
- h. The conditions of this Section.

15.13.2 Nothing in this Section 15.13 shall be construed to require legislative authority consent for the agreement to serve an additional User Agency.

#### 15.14 Notices

15.14.1 Any notice under this Agreement shall be in writing and shall be addressed to the Parties as listed below. Any notice may be given by certified mail, courier delivery, or personal delivery. Notice is deemed given when delivered. Email, acknowledgement requested, may be used for notice that does not allege a breach or dispute under this Agreement. Email notice is deemed given when the recipient acknowledges receipt.

15.14.2 The names and contact information set forth in this Agreement shall apply until amended in writing by a Party providing new contact information to each other Party and the date the amendment is effective.

#### 15.15 Conflicts

15.15.1 In the event that any conflict exists between this Agreement and any exhibits hereto, the Agreement shall control.

15.15.2 In the event of a conflict between any provision of this Agreement and a provision of the Implementation Period ILA, the Implementation Period ILA shall control unless otherwise determined by the Board of Directors pursuant to vote under Section 4.3.1.

#### 15.16 Choice of Law; Venue

This Agreement and any rights, remedies, and/or obligations provided for in this Agreement shall be governed, construed, and enforced in accordance with the substantive and procedural laws of the State of Washington. The Parties agree that the Superior Court of King County, Washington shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

#### 15.17 Severability

The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated by a court of competent jurisdiction to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision, or part shall be severed from the remaining portions, provisions, or parts of this Agreement and the remaining provisions shall remain in full force and effect.

#### 15.18 Survival Provisions

The following provisions shall survive and remain applicable to each of the Parties notwithstanding any termination or expiration of this Agreement and notwithstanding a Party's withdrawal or removal from this Agreement.

Section 13	Legal Relations
Section 14	Public Records
Section 15.16	Choice of Law; Venue

#### 15.19 Counterparts

This Agreement shall be executed in counterparts, any one of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

#### 15.20 Execution

This Agreement shall be executed on behalf of each Party by its duly authorized representative, pursuant to an appropriate motion, resolution, or ordinance of such Party.

IN WITNESS WHEREOF, authorized representatives of the Parties have signed their names and indicated the date of signing in the spaces provided below.

**KING COUNTY**

**CITY OF AUBURN**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest:

\_\_\_\_\_

\_\_\_\_\_

City Clerk

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

\_\_\_\_\_  
City Attorney

**CITY OF BELLEVUE**

**CITY OF FEDERAL WAY**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest:

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Clerk

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Attorney

**CITY OF ISSAQUAH**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

**CITY OF KENT**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

**CITY OF KIRKLAND**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

**CITY OF MERCER ISLAND**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney



**CITY OF REDMOND**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

**CITY OF RENTON**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

**CITY OF SEATTLE**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

**CITY OF TUKWILA**

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

## **Exhibit A**

### **Cost Allocation Model**

For the first year of PSERN System operation, rates to be paid by each User Agency and Dispatch Center will be computed as provided in this Exhibit A. The PSERN System annual operating budget and the number of public safety radios, other radios, and consoles will be known quantities at the time the rates are computed.

#### Division of Budget Between Radios and Consoles

Percentage of annual budget to be paid with radio user fees = X.

Percentage of annual budget to be paid with console user fees = Y.

$X = \frac{[83\% \text{ of employee-related costs in the PSERN System annual operating budget} + \text{annual vendor costs for radio-related equipment}]}{\text{PSERN System annual operating budget}} \times 100.$

$Y = \frac{[17\% \text{ of employee-related costs in the PSERN System annual operating budget} + \text{annual vendor costs for console-related equipment}]}{\text{PSERN System annual operating budget}} \times 100.$

#### Public Safety and Other Radio Rates

X% of the PSERN System annual operating budget will be paid with public safety radio rates and other radio rates combined.

The other radio rate shall be 78% of the public safety radio rate.

$X\% \text{ of PSERN System annual operating budget} = [12 \times \text{the monthly public safety radio rate} \times \text{the number of public safety radios}] + [12 \times \text{the monthly other radio rate} \times \text{the number of other radios}].$

#### Console Rates

Y% of the PSERN System annual operating budget will be paid with console rates.

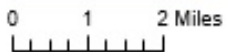
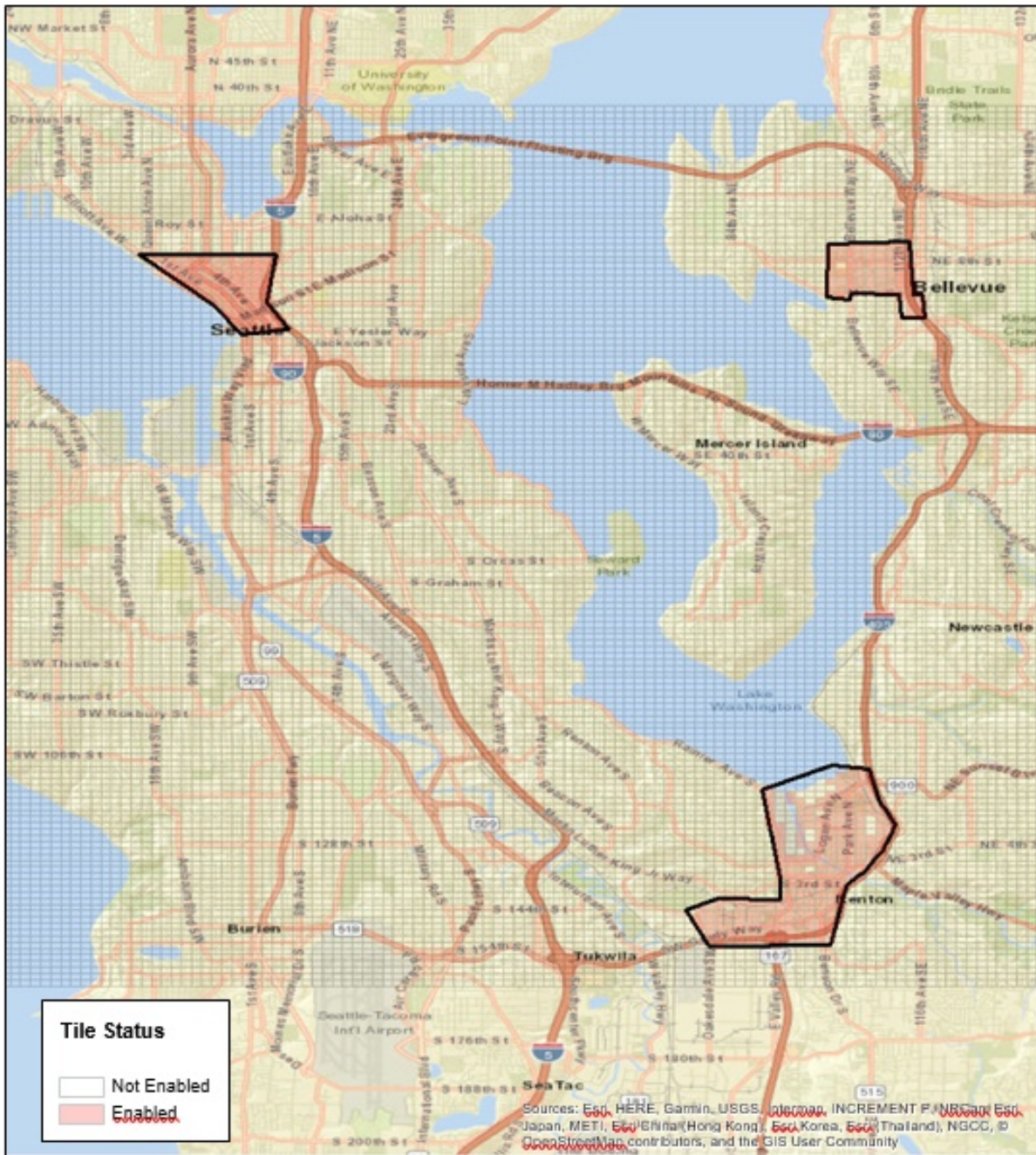
$Y\% \text{ of PSERN System annual operating budget} = 12 \times \text{the monthly console rate} \times \text{the number of consoles}.$

**END OF EXHIBIT A.**

# Exhibit B Polygon Coverage Areas with Added Signal



Puget Sound Emergency Radio Network  
May 17, 2019



Portable CATP Grid: 0.1 mile x 0.1 mile  
430 Tiles Enabled (50.1% inside S.A.)

PSERN 2018  
PSERN 2018 Baseline  
TBDH48  
TBDH48-ZBK15G3

Motorola Solutions Confidential Restricted

Pricing 7-1