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INTERGOVERNMENTAL AGREEMENT

REGIONAL RADIO SYSTEM PARTNERSHIP

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") to form the Regional Radio System Partnership ("Partnership") is made and entered into, pursuant to Oregon Revised Statutes ("ORS") 190.003 to 190.085, and Revised Code of Washington ("RCW") 39.34.030 by and among the City of Portland, an Oregon municipal corporation, the Washington County Consolidated Communications Agency, an Oregon intergovernmental entity formed pursuant to ORS Chapter 190, Clackamas 800 Radio Group, an Oregon intergovernmental entity formed pursuant to ORS Chapter 190, and Clark Regional Emergency Services Agency, a Washington inter-local entity formed pursuant to RCW 39.34.030 (herein the "Partners").

RECITALS

WHEREAS, the Partners each provide 800 MHz trunked two-way radio voice and data systems and related communication system resources to serve their respective service territories, all of which are located within the Portland, Oregon Urban Area Security Initiative (UASI) Region; and

WHEREAS, the Interoperable Communications Strategic Plan for the Portland Urban Area and each of its counties states that a primary objective of the region is to develop a shared vision of radio communications resources and multi-jurisdictional response, facilitate rapid and efficient voice, data and paging communications, provide immediate and coordinated assistance among agencies for day-to-day and emergency operations, improve the ability of public safety professionals to mitigate emergencies through shared systems and cooperative operations, and identify short and long term leveraging opportunities for cost effective infrastructure investments to meet regional requirements; and

WHEREAS, this Regional replacement and upgrade project is being planned and will be implemented in cooperation with the State of Oregon Wireless Interoperability Network ("OWIN") Project which includes the implementation of a new 700/800 MHz digital radio system with P25 Standards to support Regional and State at the highest level of interoperability; and

WHEREAS, the Partners hereto desire to create an intergovernmental entity to provide governance for the regional components of the replacement radio system prior to its procurement and implementation in order to oversee administration, financial management, and policy for the implementation and ongoing support of this new replacement radio system; and

WHEREAS, each Partner agrees that regardless of radio system overall life span, imminent replacement decisions in one jurisdiction will impact others, and that maintaining the existing level of interoperability and improving interoperability through collaborative, regional governance across state boundaries is necessary to provide dependable coverage, reliability, and service for all users of the Regional Radio System; and

WHEREAS, the Partners, believe that the initial step in building a Regional Radio System is to acquire, own, operate, and maintain the regional core radio components and connections to link the local assets of each Partner so that they can incrementally regionalize the system while providing the Partners with autonomy over their local assets; and

WHEREAS, Partnership formation to attain the goal of regionalization and interoperability provides

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cost effective and efficient acquisition of system replacements and improvements through economies of scale, coordination and cooperative purchasing as well as increased ability to obtain grants from federal and state governments; and

WHEREAS, Partnership formation will create regional decision-making and ownership of regional system assets to increase overall system redundancy and reliability and reduce duplicative systems; and

WHEREAS, creation of this Regional Governance Agreement and Partnership for the radio system may also be expanded to include other emergency service technologies in the future; and

WHEREAS, the participating jurisdictions now desire to enter into this Agreement, and being fully advised, and

NOW THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, it is agreed as follows:

1. ESTABLISHMENT OF PARTNERSHIP:

There is hereby established the Regional Radio System Partnership, for the purpose as described below and subject to the terms and conditions herein. The Partnership is established initially to plan for the development, implementation, governance, and operation of a unified Regional Public Safety Radio System to serve the geographic area encompassed by Clackamas, Multnomah, and Washington Counties of Oregon State and Clark County of Washington State (along with future Partners) and to integrate with the Oregon statewide OWIN system and the Washington State Homeland Security Region IV Interoperable Radio System. Thereafter, the Partnership may expand the system and pursue other services as agreed to by the Partners.

2. STATEMENT OF PURPOSE:

A. General

The Partnership is formed to create a governing structure to oversee and complete the planning, funding, construction, operation and maintenance of the Regional 700/800 MHz radio system replacement and develop, implement, and operate a unified regional public radio and data system to serve the Partners, while retaining the autonomy of those Partners over their local assets. The Partnership will also foster collaborative efforts among the Partners, including but not limited to planning, training, interoperability of voice and data communications systems, operational and physical backup and redundancy, and obtaining and managing resources such as grants to support Partnership efforts. Except as limited by the federal, state and local laws, regulations, codes, or ordinances of the individual Partners, this Partnership is vested with all powers, rights, duties, including expenditure of appropriate funds necessary in performing those functions, which may include but are not limited to, the following:

1. Cooperatively develop a Regional Radio System Strategic Plan to revitalize public safety communications.
2. Complete Regional Radio System design and cost estimate.

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3. Define and agree on which resources will be shared among Partners.
4. Develop a long-term plan for the implementation of radio system replacement while maintaining current operability and interoperability during transition.
5. Develop and implement a coordinated long-term plan for capital and operating funding of a regional system, including methods to allocate costs.
6. Establish an inventory of partner assets and conduct any necessary valuation of existing capital assets (hardware, software, equipment, real property and fixtures, frequency licenses, etc.) individually owned by the Partners, that will be contributed to the Partnership or to be used for the regional system.
7. Create and implement any necessary Standard Operating Procedures (SOPs) and technical standards for operational, physical backup, and redundancy plans.
8. Operate and maintain system(s) owned by the Partnership in a manner that resolves operational interface issues with each Partner's local assets.
9. Enter into agreements with other agencies as deemed necessary and proper by the Partnership.
10. Ensure that existing radio coverage and functionality is maintained while continuing to improve the coverage across the region.
11. Acquire the core components of the Regional Radio System and shared system components.
12. Undertake to make decisions on regional components in a manner that has no adverse impact on non regional components or to reasonably mitigate such impacts.
13. Apply for grants and other available funding sources to fund regional components.

B. Adoption of Strategic, Implementation, and Financial Plans

The Partnership shall collaborate on the completion of a Regional Radio System Strategic Plan ("Strategic Plan"), Implementation Plan ("Implementation Plan"), and Financial Plan. The Strategic Plan shall include a strategy and overall benefits to the region to revitalize radio communications on a regional basis. The Implementation Plan shall include a detailed technical design, estimated budget for the capital costs of acquiring, constructing and deploying the technical design, estimated budget for the operation and maintenance of the Regional Radio System and a Technology Management Plan. The Financial Plan ("Financial Plan") shall include funding concepts, use of grant funds, and the apportionment of capital, operating, and maintenance costs. The Partners agree to work in good faith to complete and adopt such plans by the Partners on or before December 31, 2009.

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The plans will require approval by all of the Partners for adoption, except as provided in Section 2D.

C. Development of Plans

Upon execution of this Agreement, the Governing Body of the Partnership shall determine the scope and cost of developing the Strategic Plan, Implementation Plan and Financial Plan, and apportion that cost among the Partners as they shall unanimously agree. The Partners shall fund their proportionate share to develop the Plans and those plans shall be presented to the Partners for approval in accordance with Sections 2.B. and 2.D.

D. Initial Decision by Partners Regarding Adoption of Plans

The Parties agree that the Regional Radio System will function best if all Partners adopt the Plans and continue as Partners under this Agreement. The Partners also recognize that at the time of initial decision on the Plans, for legitimate and reasonable operational and financial reasons, a Partner may choose to decline to continue as a Partner and withdraw.

If a single Partner declines to adopt the Strategic Plan, Implementation Plan (including the Technology Management Plan) or Financial Plan, the declining Partner shall notify the Board of its reasons for declining such Plan. If the declining Partner's concerns cannot be resolved within 90 days of the date such notice is given, unless an extension of time is granted by the Board, the declining Partner shall withdraw from membership of the Partnership, and the future costs of the radio system shall be reapportioned within 180 days to the remainder of the members. The Partners shall in good faith attempt to resolve the issues causing a Partner(s) to decline adoption of the Plans. A declining Partner may elect to become an Associate Member or to withdraw completely. Any and all funds committed to the Partnership under this agreement prior to adoption of the Implementation Plan and Financial Plan shall be non-refundable to the individual Partners.

At least three Partners must approve the Plans for the Partnership to continue. If two or more Partners decline to adopt the Plans, each shall notify the Board of its reasons for declining. Thereupon, the Partners shall meet as reasonably necessary to resolve the issues and adopt the Plans as revised over the next 180-day period from the date of notice. If the issues cannot be resolved and two or more Partners decline to adopt the Plans, the Partnership shall be dissolved.

Upon adoption of the Strategic Plan, Implementation Plan and Financial Plan by the Partners, the Partnership shall receive funds from each Partner according to the Financial Plan and budget and proceed with the Implementation Plan.

E. Amendment of Plans

Any amendment of the Plans after Initial Adoption shall require approval of each Partner. If a Partner declines to adopt an amendment to a Plan, the declining Partner shall notify the Board of its reasons for declining such Plan. If the declining Partner's concerns cannot be resolved within 90 days of the date such notice is given, unless an extension of time is granted by the Board, the declining Partner

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may elect to become an Associate Member or to withdraw completely from the Partnership. If two Partners decline to adopt amendment to the Plan, then the amendment will not be effective, but those Partners who wish to proceed may do so on a Project basis so long as there is no financial or negative operational impact to the Regional Radio System or the Partners not participating as set forth in Section 5.

3. DEFINITIONS:

The following is a definition of terms used herein:

- A. "Associate Member" shall mean a Partner who withdraws from the Partnership but still receives direct service from the Regional Radio system. An Associate Member shall be an ex officio member with no voting rights.
- B. "Board" shall mean the governing body of the Partnership.
- C. "Capital Cost" shall be the estimated and budgeted amount under the Implementation Plan, including but not limited to the direct cost for project management, planning, design, engineering, procurement, labor and materials for installation, testing, commissioning, and initial training. Funds for Capital Cost will be contributed by the Partners, taking into account application of grant funding and credit for contributed assets, if any. The Partners agree to request such grant funding whenever possible.
- D. "Days" means calendar days, including weekdays, weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later, unless otherwise specified by the Agreement.
- E. "Dissolution Plan" is the plan upon discontinuance of this Agreement, including (1) the manner of distribution of any Partnership Assets and/or liquidation of such assets and distribution of any proceeds; and (2) the manner of distribution of any obligations and/or responsibilities of the Partnership
- F. "Financial Plan" The Plan adopted and periodically amended by the Partners that apportions capital, operation, maintenance, repair and replacement costs and use of grant funding among the Partners. It shall also establish criteria for setting a user fee for withdrawing Partner(s) who become Associate Member(s).
- G. "Implementation Plan" The Plan approved and periodically amended by the Partners, which includes detailed technical designs, estimated budget for the capital costs of acquiring, constructing, and deploying the technical design, estimated budget for the operation and maintenance and a Technology Management Plan for operating, maintaining repair and replacement of the Regional Radio System.
- H. "Operation and Maintenance Cost" shall be the budgeted amount required for the operation and maintenance of the Regional Radio System which may include, but not be limited to, the direct cost for: license fees, vendor support costs, software and hardware upgrade and/or replacement costs, maintenance, personnel, direct costs, facilities use and rental costs, and training for the upcoming year. Operating Cost shall be allocated to the Partners according to a formula set by the Board by a unanimous vote of all Partners.

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- I. OWIN. State of Oregon Wireless Interoperability Network.
- J. "Participating Partner" shall mean a Partner who takes part in decisions or activities of the Partnership in which the Partner has discretion to participate.
- K. "Partners" shall mean the City of Portland ("Bureau of Technology Services COP"), Clackamas 800 Radio Group ("C800"), Clark Regional Emergency Services Agency ("CRESA"), and Washington County Consolidated Communications Agency ("WCCCA") and other such entities as may be admitted as Partners at a later date in accordance with this Agreement.
- L. "Partner Asset" or "Local Asset" shall mean hardware, software, equipment, real property and fixtures, frequency licenses, etc. acquired or leased by any Partner but which is not designated as a Partnership Asset.
- M. "Partnership Assets" or "Regional System Asset" is real or personal property, fixtures, hardware, software, equipment, and frequency licenses, acquired or leased by the Partnership and designated as a regional asset.
- N. "Quorum of the Board" shall be fifty (50) percent of the Partners, plus one.
- O. "Regional Radio System" shall mean the tangible assets and/or systems acquired or purchased to develop, implement and operate a unified regional 700/800 MHz public safety radio system and to integrate with the State of Oregon OWIN system and Washington State Homeland Security Region IV. The initial assets to be acquired to achieve the Partners' desired level of operability and interoperability are System controllers, radios, and other equipment including connections to computers, hardware and software that control a radio tower's ability to access licensed frequencies.
- P. "Project" shall mean the specific plan or plans to acquire, implement and manage the development of the Regional Radio System and payment therefore, as set forth in the adopted Implementation Plan.
- Q. "Project Agreement" An Agreement between the Partners for design, acquisition, construction, implementation and payment of Regional Radio System improvements or between two or more Partners for an asset that is not part of the Regional Radio System after vote by the Board.
- R. "Radio Units" shall mean Radio Units, whether portable, mobile, control station or data radios enabled or programmed on the Regional Radio System.
- S. "Unanimous Vote" or "Unanimously" shall mean that approval by all Partners is required.
- T. "Strategic Plan" Is the Plan setting forth the vision, strategy and benefits for Regional Radio Interoperability. Implementation of the vision and strategy shall be set forth in the Implementation Plan and Financial Plan.
- U. "Technology Management Plan" That portion of the Implementation Plan that provides technical guidance for operation, maintenance, repair and replacement of

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the Regional Radio System.

- V. "User Fees" The fees set by the Partnership for Associate Members of the Regional Radio System. The criteria for User Fees are set forth in the Financial Plan. Nothing in this Agreement shall affect the fees, charges, relationship or agreements between a Partner or Associate Member with its underlying jurisdictions.
- W. "Withdrawal Plan" is a plan providing (1) the manner of withdrawal and distribution of that Partner's Local Asset and the provisions of continued use by the Partnership if such use is incurring at the time of withdrawal; (2) valuation of the withdrawing Partner's interest in Regional Radio System Assets; (3) continued payment by the withdrawing Partner of obligations or debt and credits, if any, and (4) the terms and conditions of the withdrawing Partner's status as an Associate Member.

4. GOVERNING BODY:

There is hereby established a governing body and it shall have the duties as provided below.

- A. The Partnership shall be governed by a Board consisting of one representative appointed by each Partner. The Board shall elect a Chair, Vice-Chair, and Secretary-Treasurer which shall each serve for a one year term. The Chair, or in the Chair's absence the Vice-Chair, shall preside over all Board meetings.
- B. The Partners, through the Board, shall govern the operation of the Partnership. Each Partner shall have one vote. Each Partner shall appoint, at its pleasure, one primary representative, and one alternate representative who may attend all Board meetings. The primary and alternate Board representatives may jointly participate in all discussions of the Board; provided however that the vote of the Partner shall be cast only by the primary representative, unless the primary representative is absent, in which event the alternate representative may cast the Partner's vote. No Board Member may grant proxy voting power to another Board Member from another Partner except as provided for voting by the primary or alternate Board Member from one Partner. A tie vote shall not be sufficient to pass a measure.
- C. The Board shall meet monthly, but in no event less than once per quarter. It may meet more frequently as determined by the Chair or as requested by any Partner.
- D. All meetings of the Board shall be held in accordance with Oregon Public Meeting Laws, ORS 192.610 et seq and the Open Public Meetings Act, Chapter 42.30 RCW.
- E. A Quorum of the Board is required for the Board to take any official action.
- F. Unanimous shall mean all current members of the Partnership
- G. Unless otherwise provided herein, all Board actions shall require approval by the same number of votes required to approve a matter as if all Board members were present.
- H. The Board Chair shall be responsible for providing notices of meetings and keeping of minutes as required by Oregon Public Meetings Laws.

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- I. The Board Chair or designee shall represent the Partnership as required/directed.
- J. The Board shall undertake the following:
- Adopt By-Laws
 - Create and approve a Strategic Plan (including the Technology Management Plan)
 - Create and approve an Implementation Plan
 - Create and approve a Financial Plan
 - Develop and approve Administrative and Operational functions to direct and oversee the Plans
 - Provide for annual audit of the Partnership
 - Create and approve annual objectives and work plans
 - Adopt general policy guidelines
 - Approve all contracts
 - Provide oversight and direction regarding Partnership operations
 - Approve Regional Radio System policies
 - Establish committees and appoint committee members as needed
 - Obtain legal services as needed
 - Adopt Plan Amendments
 - Review all Plans at least once every four years
 - Take other action as necessary
- K. The Board shall be responsible for adoption of the Partnership's annual budget in accordance with Oregon and Washington law.
- L. Amendments to Plans shall require unanimous vote by the Board, except as provided in Section 2E.
- M. The Board shall approve new Partners through an amendment to this Agreement and by Unanimous Vote.
- N. OWIN or an Associate Member may have a Board representative as an ex officio member. Ex officio members may not vote.
- O. The Board, at its first organizational meeting, or as soon thereafter as reasonable, shall adopt rules governing its procedures, and including at a minimum 1) time and place of regular meetings; 2) method and manner of calling special meetings; 3) method, term and manner of election of Board officers; and 4) procedures for executing documents on behalf of the Partnership.

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5. PROJECTS:

According to adopted Strategic, Implementation, and Financial Plans, the Partnership may implement Projects which further improve, expand, enhance and support the purpose of the Partnership, including, but not limited to, acquisition of 700 MHz licenses in the name of the Partnership, acquisition of real property for sites of Regional Radio Assets, purchase of hardware, software and equipment, and to achieve interface with OWIN.

A Partner may propose improvements to the Regional Radio System by giving notice to the Board, describing the proposed improvement; estimated cost; how the proposed improvement fits with the Regional Radio System Plans, timing and implementation, and such other relevant factors in order for the Board to make an informed decision. Within 30 days, the Board shall meet to discuss the proposal and determine if there is interest in pursuing as a project. If so, the Board shall develop a scope of work, Project Agreement and Plan Amendment, if necessary. If the Board determines that it is not appropriate and necessary for the Regional Radio System, it may decline to undertake the project. Nothing herein shall prevent the proposing Partner, or any other Partners, from making such improvements to their local systems independently as described in the proposal, so long as they are solely responsible for the costs. A sole Partner or set of Partners so proceeding shall provide in the Project Agreement that Partners not participating in such improvements shall be held harmless there from and the improvement shall not, in any way, interfere with or negatively impact the Regional Radio System.

6. PROJECT AND FUNDING:

- A. Any improvement to the Regional Radio System, shall be in accordance with the adopted Plans of the Partnership, and shall be funded by the Participating Partners, grants, and any other sources. Capital and Operating Costs shall be allocated among the Participating Partners as determined by a Unanimous vote of the Board.
- B. As stated in the Recitals of this Agreement, the Partners recognize and agree that one of the reasons to form this Partnership is to enhance the ability of the Region to obtain grant funding from Federal and State sources. It is presumed that grants will be applied for by the Partnership for Regional use and benefit to reduce the requirements for local share or match to the greatest extent possible in an equitable manner. The Partnership shall have first opportunity to apply for grant funding. Each Partner agrees to inform the Board of potential grant sources and thereupon the Board shall determine if the Partnership should pursue that source. If the Partnership declines to pursue that source, then the individual Partner may seek those grant funds on its own and, if successful, may choose to apply the grant funds for the benefit of the Partnership or to its local match or share if it is an allowable use of grant proceeds.
- C. A Partner shall be reimbursed for any out-of-pocket expenditure of funds made on behalf of the Partnership in an emergency. A Partner may be reimbursed for any out-of-pocket expenditure of funds made on behalf of the Partnership as long as such expenditures were within the approved budget and have approval by a majority of the Board. If outside of budgeted amounts, the Board must unanimously approve reimbursement.

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7. MANAGEMENT AND OPERATION:

The Board shall determine the best method for the acquisition, administration, management, and operation of the Regional Radio System Assets. The Partnership shall pay, as part of the annual budget, the reasonable costs of efforts in managing and supporting the Regional Radio System Assets. Such costs shall be Unanimously approved.

8. COMMITTEES:

The Board may establish committees from time to time as it deems necessary. Generally, the Board will consider establishment of committees in the following areas:

- A. Engineering/Technical
- B. Policy
- C. Customer/User
- D. Finance/Budget

When a committee is established by the Board, each Partner is entitled to have one voting representative on the committee. There is no limit on the number of attendees a Partner may send to committee activities. The Board may allow an OWIN Representative on any committee as an ex officio member. Ex officio members may not vote. Each committee shall provide advice, counsel, and recommendations to the Board as requested by the Board.

Each Partner shall designate one voting committee member or alternate. A majority of the voting committee members creates a quorum. All decisions require a majority vote of those voting members in attendance.

9. CAPITAL CONTRIBUTION, CAPITAL COST DETERMINATION, AND INITIAL PARTNER LIABILITY:

As part of adoption of the Financial Plan, the Board shall establish the application of Partnership grant proceeds, cost allocation formulas, rates, and appropriate service charges for such services provided to Partners, or Associate Members for procuring and maintaining Regional Radio System Assets which will be paid by the Partners. The Partnership shall retain, at a cost shared equally among the Partners, a valuation expert to value any contributed asset(s) of the Partners that are deemed necessary or advantageous for use in the Regional System. The Board will determine how to manage costs of developing and implementing the Strategic Plan, Implementation Plan, and Financial Plan. The Partnership may enter into a lease with any Partner for use of an asset which also provides for that Partner's local system functions. The terms and lease payment therefore shall be mutually agreed upon and set forth in the lease. If an asset is leased to the Partnership for monetary consideration, it shall not be considered a contribution of value by that Partner to the Partnership. Nothing herein shall prevent a Partner from leasing or allowing use of an asset by the Partnership for no monetary consideration and have it deemed as an asset contribution to the Partnership. The allocation formula shall be adopted Unanimously and signed in writing by the Partners as an amendment. Any amendment also requires a Unanimous Vote.

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10. PARTNERSHIP OPERATION AND MAINTENANCE FUNDING:

The Partnership shall be self-sufficient in its operation and obtain operation and maintenance funding from the Partners. Operating costs shall be allocated among the Partners according to the Financial Plan and budgeted in amounts required for operation and minor equipment replacement for each upcoming year. To the extent available, individual Partner grant funds may, and all Partnership grant funds will, be applied to the benefit of all Partners.

11. PAYMENT:

- A. Thirty days prior to the date each payment is due for Capital Cost or Operating Cost, the Board Chair or designee will send each Partner an invoice detailing the amount due for the next payment period.
- B. All other charges or fees incurred by the Partnership on behalf of a Partner will be invoiced to the Partner monthly, and the Partner shall pay the amount of each invoice within thirty (30) days of its date to the Partnership.
- C. The Partnership may declare a default by giving a Partner ten (10) days written notice by certified mail if that Partner defaults in its payment to the Partnership. Upon receipt of such notice, Partner shall have thirty days within which to make such payment to the Partnership, and, if not paid, the Partnership shall employ the dispute resolution process of Section 14. Remedies for the Partnership to be considered as part of the dispute resolution process shall include, but not be limited to the amount owed, plus any additional cost incurred by the other Partners in making payment of obligations of the defaulting Partner, simple interest payments at the rate of the State of Oregon Local Government Investment Pool from the date of invoice until paid, and other collection costs incurred by the Partnership, notwithstanding Section 14. Further, for the period of time a Partner is in default, that Partner shall not have any voting rights under this Agreement. If the defaulting Partner refuses to participate in dispute resolution, and the default continues, the Board may convene and vote to (1) treat the defaulting Partner as an Associate Member of the system and charge user fees as the Board determines appropriate in its sole discretion or (2) the Board shall determine the timing for termination of accessibility and use of the Regional Radio System for that defaulting Partner. The Partnership's rights shall be as set forth in Section 16.

12. NEW PARTNERS:

The Board shall develop a process for admitting new Partners as part of the Regional Radio System Partnership. Any new Partners shall be approved by a Unanimous Vote. When developing the process for allowing new Partners, the Board shall consider:

- A. The Regional Radio System is primarily a public safety related system. Partnership or use privileges will be afforded to political jurisdictions with public safety departments or functions or otherwise eligible to use public safety licensed frequencies under the Federal Communication Commission's ("FCC") Part 90 Rules.
- B. Other political jurisdictions or entities providing ancillary services such as utilities, public works or public schools, will be encouraged to become members of the

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applicable Partner's local radio system. Neither the Partnership nor any Partner shall offer to provide service to a nonpartner who is located within the jurisdiction of any Partner hereto. All Partners shall have the first right to provide service in its geographical jurisdiction.

- C. If a new Partner is added, the Board shall determine by Unanimous Vote the terms and conditions of entry, including capital and operating cost recovery from the new Partner as deemed reasonable by the Partnership in its sole discretion.
- D. Upon entry and after compliance with the terms and conditions of 12.C., New Partners shall be required to be bound by the terms and provisions of this Partnership Agreement. It is presumed that local entities that use the radio system shall receive service through the geographically applicable Partner or Associate Member.

13. DURATION, WITHDRAWAL AND TERMINATION:

This Agreement is perpetual and the Partnership shall continue from year to year provided, however,

- A. Any Partner may withdraw from the Partnership upon providing written notice to the Chair of the Board not later than June 30th of any year for withdrawal effective July 1st of the following calendar year. In such case, the withdrawing Partner will not be responsible for any operation and maintenance costs or obligations for that fiscal year commencing on July 1st, of that following calendar year, which is the effective date of withdrawal, unless that Partner elects to become an Associate Member. If a Partner withdraws prior to that succeeding July 1st, that Partner shall still be responsible for its share of operation and maintenance for that existing budget year.
- B. Within 30 days of notice of withdrawal, the Board shall meet with the withdrawing Partner to agree upon the Withdrawal Plan which shall include valuation of the withdrawing Partner's proportionate share of Partnership Assets. If the Board and the withdrawing Partner cannot agree on the terms and conditions of the Withdrawal Plan, the issue shall be submitted to Dispute Resolution under Section 14.
- C. If a Partner withdraws from the Partnership prior to the satisfaction of its portion of the Partner's allocated Capital Cost under the Financial Plan and after application of a credit for the Partner's proportionate interest in the Partnership Assets there is an amount owing for Capital Costs, the withdrawing Partner shall pay its portion of those Capital Costs. If the Partner elects to completely withdraw from the Partnership, then the amount owing shall be paid either within one year of withdrawal or on the same terms and basis as if the withdrawing Partner was still a member, until satisfied. The withdrawing Partner shall elect which option and nothing herein shall prevent the Partners from unanimously approving other terms and conditions. If the Partner elects to continue as an Associate Member, Associate Members will pay the debt separately or may have it included in the user fee. In the latter, the remaining Partners will assume the debt. The withdrawing Partner will be eligible to use the System as an Associate Member and shall pay such user fees, which include the capital costs owed and assumed by the remaining Partners, plus operation, maintenance, repair, and replacement, and otherwise comply with such terms and conditions unanimously set by the remaining Partners consistent with the

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adopted plans.

- a. Upon withdrawal as a Partner, assets acquired by the Partnership shall remain Partnership Assets. Partners, so withdrawing from participation in the Partnership, who own any asset that was used by the Partnership (but not owned), shall own that property but may not remove it from use by the remaining Partners, if such property is necessary for continuation of the Regional Radio System, and so long as the Partnership is in existence. Under these circumstances, the Partnership shall become fully responsible for maintenance of such personal property. The Partners may negotiate a reasonable charge for use of the asset. The withdrawing Partner may concurrently use the asset for its local system. No Partner's concurrent use shall interfere with the use and operation of the Regional System.
 - b. A withdrawing Partner may remove those 800 MHz licenses and frequencies which it contributed to the Partnership, so long as it does not adversely impact the ability of the Regional Radio System to provide service to the remaining partners without interruption or degradation. If such impacts would occur, the Partnership and withdrawing Partner will negotiate a mutually acceptable user agreement. Withdrawing Partner shall have no right to any 700 MHz frequencies or licenses acquired by the Partnership.
- D. If a Partner withdraws and there is no outstanding capital cost owing, or the amount of the amount of the outstanding capital cost owing is less than the value of the proportionate interest of the withdrawing Partner in the Partnership Assets, the withdrawing Partner may elect to be paid for its interest in Partnership Assets. Payments shall be made by the Partnership to the withdrawing Partner not later than one year from the date of the Withdrawal Plan or as otherwise mutually agreed. If the Partner withdraws and remains as an Associate Member, it may elect to receive payment as set forth above or to have that amount credited against the amount owed for user fees as those fees are subsequently incurred.
- E. Right of Joinder. A former Partner who withdraws and becomes an Associate Member shall have a right to rejoin the Partnership. The right to re-join the Partnership shall be exercised by written notice to the Partnership. The rejoinder date shall coincide with the commencement date of the next fiscal year so long as that date is at least 180 days from the date of notice. Within 30 days after receipt of notice of intent to rejoin, the Partners and User shall meet to negotiate the terms of a Joinder Agreement. Any required contribution of capital or other payment shall be mutually agreed, but in no event will installment payments extend over a period longer than three years.
- F. The Partnership may be dissolved upon unanimous agreement of all Partners. A Plan of Dissolution shall be adopted unanimously which provides for the distribution of assets, licenses and frequencies. A Partner shall be entitled to return of any 800 MHz license and frequency that it originally contributed.
- G. The Partners agree that while each Partner retains an at-will right to disassociate (withdraw) from the Partnership following initial adoption of the Plans under Section 2D, this Partnership shall continue and not be dissolved so long as two Partners remain. To the extent applicable, the provisions of ORS 67.250 to 67.265 shall

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apply for the continuation of the Partnership except as modified by this Agreement. Upon withdrawal of two or fewer Partners, the Partnership shall not dissolve and the Partnership shall continue for the remaining two Partners until one of those remaining Partners withdraws or they choose to dissolve.

Similarly, the Parties agree that pursuant to RCW 25.05.015, a Partner retains the at-will right to disassociate (withdraw) from the Partnership following initial adoption of the Plans under Section 2D, and that the Partnership shall continue and not be dissolved so long as two Partners remain. To the extent applicable, the terms of RCW 25.05.250 to 25.05.270 shall apply for the continuation of the Partnership, except as modified by this Agreement. Upon withdrawal of two or fewer Partners, the Partnership shall not dissolve and the Partnership shall continue for the remaining two Partners until one of those remaining Partners withdraws or they choose to dissolve.

- H. No amendment may be made of this section lengthening the time required for notices except upon unanimous approval of the Partners.

14. DISPUTE RESOLUTION:

In the event any Partner to this Agreement disagrees and/or disputes any application of a term or provision herein, or any term, obligation or responsibility as set forth in a Project Statement, Project Agreement or this Agreement, any such dispute or disagreement shall be addressed as provided herein:

- A. The disputing Partner shall set forth the dispute issue in a written statement and shall present it to the Board. The written statement shall at a minimum set forth: (1) the applicable term, provision or condition of this Agreement and/or any particular Project which is in dispute; (2) the basis of the dispute; (3) any impacted Partners and the extent of impact if possible; and (4) a proposed resolution. The disputing Partner shall present the written statement to the Board as soon as reasonably practicable after the dispute arises, but no later than 30 days from the event.
- B. The Board shall appoint a Board representative(s) to meet and confer with the disputing Partner, and any Partner(s) directly impacted by the dispute. The appointment of the Board representative(s) shall be at the sole discretion of the Board, and the Board shall appoint a representative(s) not directly impacted by the dispute. The Board may hire a third party mediator or other dispute resolution provider. Representative(s) may negotiate the dispute to resolution, and if resolution requires further action of the Partnership, the representative(s) may present a recommendation for such action to the Board.
- C. The Board shall hire a third party mediator or other dispute resolution provider if the dispute involves all Partners.
- D. In the event the dispute is not resolved in accordance to Section 14 B, the dispute shall be presented to a mediator mutually acceptable to the Board and disputing Partner. The Board and the disputing Partner shall have twenty (20) calendar days to agree on a mutually acceptable mediator. Should they fail to do so in such time, either may request the Presiding Judge of the Circuit Court in Multnomah County to appoint a mediator. The Partnership shall bear the cost of the mediator.

EXHIBIT A

- E. In the event the dispute is not resolved at mediation, the matter shall be submitted to binding arbitration in accordance with the Uniform Arbitration Act (ORS 36.600 to 36.740). The Partnership and disputing Partner shall share equally in the cost of the arbitrator.

All participants in a dispute resolution process provided above shall be responsible for their own attorneys' fees, costs and expenses, except as provided in Section 11 above.

15. INDEMNIFICATION:

To the extent permitted by the Constitutions and laws of Oregon and Washington, each Partner shall hold harmless and indemnify the other Partners for the negligent acts, actions or omissions to act of that Partner's respective entity, commissioners, officers, employees, and agents in the performance of their respective responsibilities and duties under this Agreement. Notwithstanding the foregoing, no Partner shall in any way be liable to hold harmless or indemnify any other Partner for any costs or claims arising directly, or indirectly, out of any Project to which they are not a Participating Partner.

16. DIVISION OF PARTNERSHIP PROPERTY UPON DISSOLUTION:

If the Partners dissolve the Partnership, a Dissolution Plan will be developed. All Partners shall receive a share of any sale proceeds of any Partnership Property as provided in the applicable Dissolution Plan, after payment of debt and subject to any funding source limitations and/or restrictions. The value shall be set by appraisal or as unanimously agreed. Assets contributed by a Partner shall be distributed to that Partner unless the Partner declines. If the Partnership paid to enhance the asset to be returned, the receiving Partner will proportionately pay the value of the enhancement or betterment to the other Partners. A Partner shall have the right to make an offer of purchase for a Partnership asset. The Board will consider such offer, but the offering Partner shall not participate in any decision regarding that asset.

17. CONFIDENTIALITY:

- A. Maintenance of Confidentiality. The Partners shall treat as confidential any Confidential Information that has been made known or available to them or that a Partner has received, learned, heard or observed; or to which Contractor has had access. The Partners shall use Confidential Information exclusively for the Partner's benefit and in furtherance of this Agreement. Except as may be expressly authorized in writing by the affected Partner, in no event shall a Partner publish, use, discuss or cause or permit to be disclosed to any other person such Confidential Information. Partner shall (1) limit disclosure of the Confidential Information to those directors, officers, employees and agents of the Partner who need to know the Confidential Information, (2) exercise reasonable care with respect to the Confidential Information, at least to the same degree of care as Partner employs with respect to protecting its own proprietary and confidential information, and (3) return immediately to the Partner who provided the information, upon its request, all materials containing Confidential Information, in whatever form, that are in Partner's possession or custody or under its control. A Partner is expressly restricted from and shall not use Confidential intellectual property of the providing Partner without that Partner's prior written consent.

EXHIBIT A

- B. The Partners acknowledge that each Partner is subject to the Oregon or Washington Public Records Acts and Federal law. Third persons may claim that the Confidential Information may be, by virtue of its possession by a Partner, a public record and subject to disclosure. Subject to the following conditions, a Partner receiving a public records request agrees not to disclose any information that includes a written request for confidentiality and as described above, specifically identifies the information to be treated as Confidential. A Partner's commitments to maintain certain information confidential under this agreement are all subject to the constraints of Oregon or Washington and federal laws. Within the limits and discretion allowed by those laws, the Partners will maintain the confidentiality of information.
- C. The Partners acknowledge that unauthorized disclosure of Confidential Information will result in irreparable harm to the providing Partner. In the event of a breach or threatened breach of this Agreement, the Partner may obtain equitable relief prohibiting the breach, in addition to any other appropriate legal or equitable relief.

18. WAIVER:

No waiver or any breach of Agreement shall be held to be a waiver of any other or subsequent breach of this Agreement.

19. REMEDIES:

The remedies provided in this Agreement are cumulative, and may be exercised concurrently or separately. The exercise of any one remedy shall not constitute an election of one remedy to the exclusion of any other.

20. SURVIVAL:

All obligations relating to confidentiality; indemnification; publicity; representations and warranties; proprietary rights; perpetual licenses, including licensing obligations as stated in this Agreement shall survive the termination or expiration of this Agreement.

21. NO THIRD PARTY BENEFICIARIES:

The parties expressly agreed that nothing contained in the Agreement shall create any legal right or inure to the benefit of any third party.

22. ASSIGNMENT:

The rights and obligations of each party under this Agreement may not be assigned in whole or in part without the prior written consent of all the Partners, such consent shall not be unreasonably withheld.

23. NOTICE:

Notices to any Partner shall be provided as set forth below in writing and sent by either certified US mail, return receipt requested, or by personal delivery to:

EXHIBIT A

City of Portland
c/o Director
Bureau of Technology Services
City of Portland
1120 SW 5th Ave, Room 450
Portland, OR 97204

Clackamas 800 Radio Group
c/o Chair
C800
2200 Kaen Road
Oregon City, OR 97045

Clark Regional Emergency Services Agency
c/o Director
710 W 13th Street
Vancouver, WA 98660-2810

Washington County Consolidated Communications Agency
c/o Director
P.O. Box 6375
Beaverton, OR 97007

24. AMENDMENTS:

Except as a section or subsection may otherwise specifically provide, limit, or prohibit, this Agreement may only be changed, modified, or amended upon three-fourths (³/₄) or more vote of all Partners.

25. EFFECTIVE DATE:

This Agreement shall be effective on September 1, 2008.

26. SEVERABILITY:

The terms of this Agreement are severable and a determination by an appropriate body having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part, shall not affect the remainder of this Agreement.

27. INTERPRETATION:

The terms and conditions of this Agreement shall be liberally construed in accordance with the general purposes of this Agreement and according to Oregon and Washington law.

28. DEBT LIMITATION:

This Agreement is expressly subject to the debt limitation upon any of the Partners, as provided for in the Oregon Constitution and ORS, and for purposes of Clark County, Washington, any applicable Washington Constitution and Washington statutory provisions, and is contingent upon funds being appropriated. Any provisions herein, which conflict with applicable law, are deemed inoperative to that extent.

EXHIBIT A

29. **EXECUTION IN COUNTERPARTS:**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute the same agreement.

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EXHIBIT A

Signature Authorization for Intergovernmental Agreement.

Partnership Members are:

City of Portland's Bureau of Technology Services
C800
Clark Regional Emergency Services Agency
Washington County Consolidated Communications Agency

CITY OF PORTLAND

By: _____
Printed Name: Gary Blackmer
Title : City Auditor
Date of Signing: _____

APPROVED AS TO FORM

C. Kali Wray 7/21/08
City Attorney

By: _____
Printed Name: Tom Potter
Title : Mayor
Date of Signing: _____

APPROVED AS TO FORM

Linda Henry
CITY ATTORNEY

CLACKAMAS 800 RADIO GROUP

By: _____
Printed Name: _____
Title : _____
Date of Signing: _____

APPROVED AS TO FORM

Attorney for Clackamas 800 Radio Group

CLARK REGIONAL EMERGENCY SERVICES AGENCY

By: _____
Printed Name: _____
Title : _____
Date of Signing: _____

APPROVED AS TO FORM

County Counsel

WASHINGTON COUNTY CONSOLIDATED COMMUNICATIONS AGENCY

By: _____
Printed Name: _____
Title : _____
Date of Signing: _____

APPROVED AS TO FORM

Attorney for WCCCA