

SNOHOMISH COUNTY
EMERGENCY RADIO SYSTEM (ERS)
INTERLOCAL COOPERATION AGREEMENT

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SNOHOMISH COUNTY
EMERGENCY RADIO SYSTEM (ERS)
INTERLOCAL COOPERATION AGREEMENT

This Interlocal Cooperation Agreement is entered into by the Cities of Brier, Edmonds, Everett, Lynnwood, Marysville, Mill Creek, Mountlake Terrace, Mukilteo and Woodway, Snohomish County, and the interlocal associations of SNOPAC and SNOCOM.

In consideration of the mutual promises, benefits and covenants contained herein, the parties hereto agree as follows:

ARTICLE 1

RECITALS

1.1 Public Interest. The parties agree that it is in the public interest to design, develop, finance, acquire, install, operate, maintain and repair and replace as necessary a uniformly high-quality, public safety communications service for public safety and other agencies on a county-wide basis within Snohomish County. The system shall be integrated with neighboring county systems, and shall have the flexibility to be expanded in phases throughout Snohomish County.

1.2 New Entity – ERS. The parties agree that it is in the public interest to form a new entity, the Snohomish County Emergency Radio System (“ERS”), and execute this Agreement

defining the powers and obligations of ERS in order to achieve these objectives, and to provide for oversight and management of the system.

1.3 Capital Costs. It is the intent of the parties that the Cities of Brier, Edmonds, Everett, Lynnwood, Marysville, Mill Creek, Mountlake Terrace, Mukilteo and Woodway and Snohomish County shall pay the capital costs of the emergency radio communication system, including reasonable formation costs thereof.

1.4 Operation and Maintenance. Members and Users shall pay for the operation and maintenance of the System through assessments levied by the Dispatch Centers.

ARTICLE 2

DEFINITIONS

2.1 Agreement means this Interlocal Cooperation Agreement.

2.2 Capital Record means the record established pursuant to Section 3.5.

2.3 Cost Allocation Model means the model attached to this Agreement as Exhibit B and by this reference incorporated herein, by which each Member's share of financial obligations and voting weight is determined from time to time. The 1999 cost allocation is attached to this Agreement as Exhibit C and by this reference incorporated herein.

2.4 Cities means the Cities of Brier, Edmonds, Everett, Lynnwood, Marysville, Mill Creek, Mountlake Terrace, Mukilteo and Woodway.

2.5 County means Snohomish County.

2.6 Complaint means the definition given that term in Section 12.1.

- 2.7 Director means a member of the Governing Board.
- 2.8 Dispatch Center means a communication dispatch center established and operated by representatives of one or more Members.
- 2.9 ERS means Emergency Radio System, the entity created by this Agreement.
- 2.10 Governing Board means the Governing Board of Directors of ERS, a board established pursuant to this Agreement.
- 2.11 Majority Vote means a decision of the Governing Board by a simple majority of Directors present and voting.
- 2.12 Members means, initially, the Cities and the County, and from time to time includes entities that are permitted to join ERS as Members and excludes entities that withdraw from ERS as Members.
- 2.13 Microwave Path means channel capacity on one or more microwave links established in the System to provide redundant access from Repeater Sites and the Dispatch Centers to the Network Controller Equipment.
- 2.14 Network Controller or Network Controller Equipment means both the active zone controller and audio switch and, if such exists in the approved design, the redundant backup zone controller and audio switch, and related equipment.
- 2.15 Phase means each phase of the System's development, as described in Exhibit A. "Phase II" includes any Phase subsequent to Phase I.
- 2.16 Project means all authorized costs and activities relating to the design, development, acquisition and installation of the System. "Project" also includes authorized costs

and activities relating to the design, development, acquisition and installation of equipment that interfaces with the System.

2.17 Project Expenditures means the cost of Phase I of the System, as set forth in Exhibit D to this Agreement and by this reference incorporated herein.

2.18 Repeater means a radio transmitter (base station) which is part of the System and which is capable of receiving transmissions from Subscriber Units and re-transmitting the signal over a wide area to other Subscriber Units.

2.19 Repeater Site means locations defined in the System design that will operate one or more Repeaters or a group of simulcast Repeaters that are part of the System.

2.20 SNOCOM means the Southwest Snohomish County Public Safety Communications Agency, an interlocal association of Snohomish County municipalities and special purpose districts.

2.21 SNOPAC means the Snohomish County Police Staff and Auxiliary Services Center, an interlocal association of Snohomish County municipalities and special purpose districts.

2.22 Subscriber Unit means a mobile (vehicular), portable (handheld) or control station (desktop) radio which has been authorized and programmed to operate on the System.

2.23 Supermajority Vote means a decision of the Governing Board approved by Directors representing at least (a) 70% of all Members and (b) 66.6% of all Members by weight, with the weight of each Member's vote based on the Cost Allocation Model.

2.24 System means a system to provide for voice, data, and other methods of communication consisting of: (a) an 800 MHz trunked radio communication system with compatible mobile, portable and control station radios; (b) a VHF paging system; (c) VHF interoperability systems; (d) a 900 MHz mobile data system; (e) a microwave transmission network; (f) network controllers; (g) other related real property, vehicles, equipment and appurtenances; and (h) associated administrative expenses. The description of the System is attached to this Agreement as Exhibit A and by this reference incorporated herein.

2.25 Talk Group means a software-controlled identification system that allows a trunked radio system to provide Repeater access to groups of Subscriber Units. A Talk Group is essentially equal to a single channel in a conventional radio system.

2.26 Technical Committee means the committee of that name appointed by the Governing Board.

2.27 User means an entity other than a Member using the System pursuant to a contract with a Dispatch Center.

2.28 Weighted Vote means a decision of the Governing Board approved by Directors representing at least (a) 30% of all Members and (b) 60% of all Members by weight, with the weight of each Member's vote based on the Cost Allocation Model.

ARTICLE 3

FORMATION, PURPOSE AND POWERS

3.1 Formation. The Cities and the County hereby create ERS, the Emergency Radio System.

3.2 Incorporation.

3.2.1 The Members shall incorporate ERS as a public nonprofit corporation and instrumentality of its Members pursuant to Chapter 24.06 RCW and as a tax-exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The Members may reorganize the form of ERS in such other manner as may be permitted by law by amendment of this Agreement in accordance with Article 18.

3.2.2 The Articles of Incorporation attached to this Agreement as Exhibit E and by this reference incorporated herein shall be executed at the time of execution of this Agreement by the Members, who shall serve as the incorporators.

3.3 Purpose. The purposes of ERS shall be to design, develop, finance, acquire, install, operate, maintain and repair and replace as necessary the System.

3.4 Powers. In furtherance of its purposes, ERS shall have the power:

(a) to acquire, construct, receive, own, manage, lease and sell real property, personal property and intangible property;

(b) to operate and maintain the System and facilities;

(c) to enter into contracts with public and private entities;

(d) to employ and terminate personnel, with or without cause, and contract for personnel and services with public and private entities;

(e) to sue and be sued;

(f) to exercise the power of eminent domain (through its Members, unless and until ERS has such power under applicable law);

(g) to establish and collect rates, fees, charges and assessments in accordance with the Cost Allocation Model; provided, that rates, fees, charges and assessments and manner of payment within areas financed solely by the County in Phase II shall be established by the County;

(h) to establish policies, guidelines or regulations to carry out its powers and responsibilities; and

(i) to exercise all other powers that are within the statutory authority of and may be exercised by its Members with respect to emergency radio communications.

3.5 System Assets. System assets shall be held in the name of ERS. ERS may acquire, construct, receive, own, manage, lease or sell System assets and other assets. The Governing Board shall maintain a Capital Record that reflects each Member's cumulative payment of capital costs. A Member may transfer to ERS its title to, or operational control of, emergency radio communication assets. ERS may control and manage both the assets it owns and the assets that are owned by Members that have transferred control of those assets to ERS. This Agreement does not vest in ERS any authority with respect to Members' other facilities or assets. Members shall be deemed to have an ownership interest in any assets owned by ERS,

whether those assets have been developed by, purchased by, or transferred to ERS. Such interest shall be exercisable only pursuant to Section 4.4 or 5.4. The fact that title to an asset has been transferred to ERS by a Member shall create no special rights of that Member with respect to that asset.

ARTICLE 4

TERM AND TERMINATION OF AGREEMENT

4.1 Term. This Agreement shall be effective, as set forth in Section 21.3, when executed by all the Cities, the County and the Dispatch Centers. This Agreement shall continue in effect for twenty-five years unless earlier terminated in accordance with the provisions of this Agreement.

4.2 Renewal. This Agreement shall be automatically renewed for successive terms of five years unless earlier terminated in accordance with the provisions of this Agreement.

4.3 Termination – Supermajority Vote. This Agreement shall terminate effective upon any date specified by Supermajority Vote.

4.4 Assets – Distribution. Upon termination of this Agreement, the Governing Board shall establish a procedure for realizing the fair market value of ERS assets, which may include offering assets for sale to Members or Users. The proceeds of ERS assets shall be distributed to Members according to their share of ownership as determined by the Capital Record at the time of termination; provided that: (a) a Member shall have the right of first refusal to purchase from ERS at fair market value any ERS assets acquired in Phase I located within the Member's

jurisdiction; and (b) ERS assets acquired in Phase II and paid for entirely by the County upon County request shall be distributed to the County.

ARTICLE 5

WITHDRAWAL OF MEMBERS

5.1 Notice. Any Member may voluntarily withdraw from ERS effective December 31 of any year by providing at least three years' written notice to the Governing Board containing evidence of approval of such action by the Member's legislative authority.

5.2 Payments Prior to Withdrawal. Members shall be responsible for paying the following rates, fees, charges and assessments imposed by ERS after notice of withdrawal has been given but before withdrawal has become effective:

- (a) System operation and maintenance costs;
- (b) capital costs for System assets placed in service before withdrawal has become effective; and
- (c) reserves allocable to System assets placed in service before withdrawal has become effective.

5.3 Obligations Upon Withdrawal. A withdrawing Member shall relinquish all System equipment which the Governing Board determines is necessary to maintain the System at an effective level of service that all remaining Members enjoyed prior to the withdrawal, provided that ERS assets acquired in Phase II and paid for entirely by the County upon County request shall be distributed to the County.

5.4 Rights Upon Withdrawal. A withdrawing Member shall be entitled to have that Member's interest in ERS assets equitably determined as set forth in this Section.

5.4.1 Process. The Members shall use reasonable efforts to determine the value of and method of payment for a withdrawing Member's interest in ERS assets. If after such reasonable efforts, the value of and payment for a withdrawing Member's interest in ERS assets has not been determined, the issue may be treated as a Complaint under Article 12, including Binding Arbitration under Section 12.5.

5.4.2 Equitable Factors. In determining the value of and method of payment for a withdrawing Member's interest in ERS assets, equitable factors, including without limitation the following, shall be considered. The Members acknowledge that the results of this process and application of such equitable factors may result in the realization of less than fair value for a Member's interest in ERS assets.

- (a) The continuing, effective operation of the System;
- (b) The withdrawing Member's interest in ERS assets based on the Capital Record, including payments made prior to withdrawal under Section 5.2 and amounts paid by the withdrawing Member and held in reserves under Section 10.11;
- (c) Amounts owed to the System by the withdrawing Member;
- (d) To the extent radio frequencies licensed to ERS may be available for use other than for the System, and such frequencies are not necessary for the continuing, effective operation of the System, transfer of such frequencies to the withdrawing Member may be considered;

(e) The impact on the budgets of remaining Members and the ability of remaining Members to provide services to the public; and

(f) The value of the System.

5.4.3 Radios. Radios purchased by the withdrawing Member shall be retained by the withdrawing Member.

5.4.4 Other.

(a) Where practicable, and subject to Section 5.4.2(a), the withdrawing Member may be provided access to System facilities upon the payment to ERS of the reasonable cost of access to and use of ERS facilities; and

(b) A withdrawing Member may become a User, subject to all obligations imposed by a Dispatch Center upon a User.

ARTICLE 6

TERMINATION OF MEMBERS

6.1 Notice. A Member may be terminated effective December 31 of any year upon the Governing Board's written determination approved by Supermajority Vote at least 180 days in advance that the Member has not complied with ERS policies, guidelines or regulations, including without limitation Federal Communication Commission rules and regulations.

6.2 Obligations and Rights Upon Termination. Following termination, a Member that has been terminated shall be subject to the same obligations and entitled to the same rights as a withdrawing Member under Sections 5.2 through 5.4.

ARTICLE 7

ADDITION OF MEMBERS

The Cities and the County constitute the original Members of ERS. Additional Members may be added by Supermajority Vote. The Governing Board in its sole discretion shall determine the appropriate payment required of additional Members. Such required payment may take into account past investment and formation costs. The Governing Board shall not approve the addition of any Member within the area financed solely by the County without the County's prior written approval.

ARTICLE 8

GOVERNING BOARD OF DIRECTORS

8.1 Governing Board – Membership. A Governing Board of Directors shall govern ERS and shall have the powers and obligations set forth in this Agreement. The Governing Board shall consist of ten (10) Directors, one (1) Director to be appointed by each Member.

8.1.1 The Governing Board shall continue to consist of ten Directors until amendment of this Agreement.

8.1.2 Each Member may designate alternate representatives to the Governing Board.

8.2 Voting.

8.2.1 Unless otherwise provided in this Agreement, decisions of the Governing Board shall be made by Majority Vote; however, any Director may require that any decision of the Governing Board be made by Weighted Vote. In that event, the decision made by Weighted Vote shall prevail notwithstanding the result of the Majority Vote. No Weighted Vote or Supermajority Vote may be taken unless reasonable notice of the Weighted Vote or Supermajority Vote has been given to all Directors and Members.

8.2.2 The following actions shall require approval by Supermajority Vote:

- (a) addition of any Member;
- (b) addition of any Dispatch Center to the System;
- (c) approval of the System design;
- (d) Project Expenditures in excess of the total set forth in Exhibit D;
- (e) adoption of the annual budget if the increase from the prior year's budget exceeds 10%;
- (f) amendments to this Agreement, including modifications to the makeup of the Governing Board or manner of appointments to the Governing Board;
- (g) amendments to the Articles of Incorporation;
- (h) adoption of or amendment to any bylaws;
- (i) termination of any Member;

- (j) termination of this Agreement; and
- (k) corporate dissolution.

8.2.3 For Majority Votes, only those Directors present and voting shall be counted. No proxies are permitted. A quorum shall consist of a majority of Directors.

8.2.4 For Weighted Votes and Supermajority Votes, each Member shall have the right to be represented either by a Director who directly represents that Member or by the grant of that Member's proxy in writing to a Director who may also represent that Member.

8.3 Powers. The Governing Board shall have the power to take all actions on behalf of ERS.

8.4 Meetings. The Governing Board shall meet as necessary, but at a minimum on a quarterly basis.

8.5 ERS Insurance. The Governing Board shall procure insurance including without limitation general liability, officers and public officials errors and omissions, property, casualty and fire. The Governing Board may authorize contracts with insurance and/or risk pools, or other agencies to provide the insurance coverages deemed by the Governing Board to be reasonable and appropriate for ERS.

8.6 Officers. The officers of ERS shall be a President, a Vice-President, a Secretary and a Treasurer. The President shall serve as chair of the Governing Board and shall perform such other duties as may be determined by the Governing Board. The Vice-President shall perform the duties of the President in the President's absence and shall perform such other duties as may be determined by the Governing Board. The Secretary and Treasurer shall be responsible

for the books and records of ERS and shall perform such other duties as may be determined by the Governing Board. Additional officers may be approved by the Governing Board. Two or more offices may be held by the same person, except for the offices of President and Secretary.

8.7 System Manager. The Governing Board may appoint a System Manager of ERS and establish such other positions as it may deem advisable. The Governing Board may also provide that administrative, technical or professional services be performed by contract.

8.8 Budget. The Governing Board shall approve an annual budget determining the revenues and expenditures of ERS by July 1 of the calendar year prior to that in which that budget will be in effect. The Governing Board may amend the budget. If approved by the County, the Governing Board may establish an operating fund to be administered by the County from which all Governing Board costs and obligations may be paid. All ERS books and records shall be open to inspection by any Member and the Washington State Auditor.

8.9 Project Oversight. The Governing Board shall oversee Project implementation, and shall coordinate with and ensure accountability of Members in their continuing operation of the System following full implementation of the Project.

8.10 Governing Board Actions. The Governing Board shall:

- (a) approve the System design and modifications to the System design;
- (b) approve System operation and maintenance standards;
- (c) approve the Project implementation schedule;

(d) receive and review quarterly reports on Project implementation progress and modifications to the Project implementation schedule;

(e) approve the recalculation of the Cost Allocation Model;

(f) establish appropriate financial policies for ERS;

(g) maintain books and records for ERS in accordance with applicable generally accepted accounting principles;

(h) approve repair and/or replacement of System equipment;

(i) allocate the cost of repair and/or replacement through the Dispatch Centers, provided that allocation of such costs to Members shall be in accordance with the Cost Allocation Model;

(j) establish procedures for the operations and meetings of the Governing Board;

(k) appoint such committees as it deems appropriate; and

(l) manage the dispute resolution process and investigate any allegation of breach of this Agreement.

ARTICLE 9

TECHNICAL COMMITTEE

9.1 Technical Committee – Membership. The Governing Board shall appoint a Technical Committee, which shall consist of such committee members as may be determined in writing by the Governing Board. The Technical Committee shall have only such authority as

determined in writing by the Governing Board. If so requested by the Governing Board, the System Manager and Dispatch Centers shall provide technical support to the Technical Committee.

9.2 System Design. The Governing Board shall approve the System design by Supermajority Vote. The Technical Committee shall submit to the Governing Board recommendations regarding System design. The System design at a minimum shall include:

- (a) performance standards;
- (b) a Project implementation schedule;
- (c) the identification of Repeater Sites and their mobile and portable coverage areas;
- (d) the identification of the capacity, functioning and location of the Network Controller Equipment; and
- (e) the identification of Microwave Paths used to link Repeater Sites and Communications Centers to the Network Controller Equipment.

9.2.1 The System design shall assure access to the System in the following access priority order:

Priority 1: public safety (police, fire and emergency medical services) Users; Users able to interact with control stations in public school districts and public hospitals within the County; and other public agencies served by compatible radio communication systems as of the effective date of this Agreement;

Priority 2: other public agencies with emergency response duties; and

Priority 3: other entities, as determined by the Governing Board.

Access to the System shall be reserved for Members, consistent with the priorities herein, and made available to Users only upon Governing Board approval and finding of available capacity.

9.2.2 The Technical Committee may submit to the Governing Board for its approval by Supermajority Vote recommendations regarding modifications to the System design.

9.3 Operation and Maintenance Standards. The Governing Board shall adopt operation and maintenance standards for the System. The Technical Committee shall submit to the Governing Board recommendations regarding operation and maintenance standards. Operation and maintenance standards at a minimum shall include:

- (a) minimum technical standards for System equipment and Subscriber Units;
 - (b) protocols for the modification of Talk Group assignments and their usage and radio programming;
 - (c) procedures for installation of System equipment;
 - (d) minimum periodic maintenance standards for System equipment;
- and
- (e) problem reporting and resolution practices for System equipment.

9.4 Contracting. The Governing Board may delegate authority to the Technical Committee to authorize contracts if the Governing Board first establishes policies in writing that at a minimum provide for a maximum dollar amount and term of such contracts.

9.5 Authority Reserved. Nothing in this Agreement shall limit the Governing Board's authority to review, modify or reverse actions taken by the Technical Committee.

ARTICLE 10

FINANCES

10.1 Cost Allocation Model. The Cost Allocation Model shall be used to determine each Member's share of financial obligations and voting weight from time to time. The Governing Board shall cause the Cost Allocation Model to be recalculated annually to reflect population, area and calls for service from January 1 through December 31 of each year. The Cost Allocation Model may be modified only by amendment of this Agreement in accordance with Article 18.

10.2 Formation Costs. Reasonable formation costs incurred by Members and Dispatch Centers in forming ERS shall be allocated to Members in accordance with the Cost Allocation Model, and shall include without limitation staffing costs paid from the Emergency Services Communication System Fund administered by the Snohomish County Enhanced Emergency Services Communication Board (Enhanced 911 Board), legal costs and costs incurred pursuant to the Memorandum of Understanding dated February 14, 1997, among the Cities of Everett and Marysville, SNOPAC and SNOCOM.

10.3 Phase I Financing.

10.3.1 The financing of System assets in Phase I shall be by cash payment by each Member or, upon approval by the County, by County financing. County financing on

behalf of Members shall be subject to repayment pursuant to separate agreements. The County shall have no obligation to provide such financing for any Member unless and until a separate agreement providing for such financing is in effect with that Member.

10.3.2 Access to the System in Phase I, other than by Members, shall be by written agreement with Dispatch Centers. Any payment by a User of capital costs shall be calculated and allocated as set forth in Exhibit B. No payment by a User of capital costs shall entitle that User to any ownership of ERS assets. Any dispute over any allocation of a User payment for access to Phase I shall be treated as a Complaint.

10.3.3 Unless approved by Supermajority Vote, Project Expenditures shall not exceed the total set forth in Exhibit D.

10.4 Phase II Financing. The financing of System assets in Phase II shall be by County financing; provided that such financing may be deferred or terminated at the sole discretion of the County. The County shall determine the appropriate payment for Phase II capital costs required of each User pursuant to separate interlocal agreements. The Governing Board shall not allow any User access to the System in Phase II without prior County approval.

10.5 Annexation. If a Member or User city annexes territory during the term of this Agreement, unless otherwise agreed by that city and the County, the city shall assume and pay to the County an equitable allocation of System capital costs incurred by the County. If the annexing city is a Member, any such payment shall be reflected for the Member and the County in the Capital Record. The failure of the annexing city and the County to reach any such agreement may be treated as a Complaint.

10.6 Limited Obligation. The Members assume no obligation to provide financial support in the future for the Project or the System except as specifically set forth in this Agreement or in the separate financing and User agreements hereafter entered into between the County and Members or Users.

10.7 Record Maintenance. Each Member and Dispatch Center agrees to establish and maintain accounts and records in accordance with applicable generally accepted accounting principles as may be deemed necessary by the Governing Board to ensure proper accounting for its Project costs and compliance with this Agreement.

10.8 County Services. If approved by the County, the County shall act as ERS's agent to procure System assets. Such procurement shall be:

- (a) consistent with the approved System design;
- (b) subject to Governing Board review;
- (c) subject to the record-keeping, audit and reporting requirements of this Agreement; and
- (d) in accordance with applicable County procurement statutes and regulations.

10.9 Integration. The Dispatch Centers shall act as ERS's agent to integrate the System into Member and User operations in accordance with approved standards of operation and maintenance.

10.10 ERS Expenses. System expenses, including operation and maintenance and reimbursement of County administrative costs, shall be identified in the ERS annual budget. By

July 1 of each year, the Governing Board shall cause the allocable share of expenses to be billed to the Members through the Dispatch Centers in accordance with the Cost Allocation Model. The Dispatch Centers shall include such expenses in their following year's budget and pay ERS on a schedule approved by the Governing Board.

10.11 Reserves. ERS shall annually collect reserves adequate to provide for the repair and reasonable replacement of System equipment. Collection of reserves shall be included in the annual budget pursuant to a repair and replacement formula established by the Governing Board, provided that allocation of reserves collected from Members shall be in accordance with the Cost Allocation Model. "Reasonable replacement" of System equipment includes provision for (a) the replacement of malfunctioning System equipment; (b) reasonable spare System equipment; and (c) reasonable emergency System equipment. The Governing Board may establish a schedule for replacing a substantial portion or the entirety of the System only by amendment of this Agreement in accordance with Article 18.

ARTICLE 11

MEMBER AND USER OBLIGATIONS

11.1 System Use. Each Member and User shall use the System exclusively for approved System purposes and other Project purposes and in strict accordance with all applicable federal law and regulations. Members and Users acknowledge participation in a non-profit, cost-shared government radio system for which they would be separately eligible. Members and

Users agree to abide by all Federal Communication Commission rules and regulations concerning the use of shared radio facilities.

11.2 Priority Access. Consistent with the approved System design, Members shall have priority access to the System. Upon approval by the Governing Board, Dispatch Centers may provide access by contract to Users in the following priority:

Priority 1: public safety (police, fire and emergency medical services) Users; Users able to interact with control stations in public school districts and public hospitals within the County; and other public agencies served by compatible radio communication systems as of the effective date of this Agreement;

Priority 2: other public agencies with emergency response duties; and

Priority 3: other entities, as determined by the Governing Board.

11.3 User Access. ERS may provide access to Users through a written agreement between a User and a Dispatch Center. Each such written agreement shall, at a minimum:

11.3.1 Require Users to use, operate, and maintain equipment in a manner which is consistent with the approved System design and approved operation and maintenance standards;

11.3.2 Require Users to pay such rates, fees, charges and assessments as deemed appropriate by the Governing Board for the System and its ongoing operations and maintenance; provided, that rates, fees, charges and assessments and manner of payment within areas financed solely by the County in Phase II shall be established by the County;

11.3.3 Include the following provision: "Access to the radio communications system provided through this agreement is conditioned upon approval of the Emergency Radio System ("ERS") and continued availability of radio system capacity in excess of that required to maintain an acceptable level of service for the Members of the ERS. Additional Users may be added to ERS at any time. The parties to this agreement acknowledge that the User being provided access to the radio communications system by this agreement is being added subject to service termination should a conflict arise concerning system capacity for Members or other Users of ERS. Such termination may be with 180 days' written notice, in the absence of any imminent threat to essential radio system services for Members or other Users of ERS; or, it may be without notice, if the Governing Board of ERS determines that termination of service is required to preserve essential radio system services to the Members or other Users of ERS or to preserve performance standards. Users have limited recourse to the dispute resolution procedures set forth in the ERS Agreement, a copy of which is delivered together with this agreement. Users acknowledge participation in a non-profit, cost-shared government radio system for which they would be separately eligible. Users agree to abide by all Federal Communication rules and regulations concerning the use of shared radio facilities. Violations of Federal Communication Commission rules and regulations may constitute grounds for immediate termination of system access.";

11.3.4 Include as an exhibit a copy of this Agreement; and

11.3.5 Include other provisions determined appropriate by the Governing Board.

11.4 User Dispute Resolution. Dispatch Centers may adopt reasonable dispute resolution procedures for Users, which the Dispatch Centers may require to be exhausted prior to recourse to the dispute resolution procedures set forth in Article 12. User recourse to the dispute resolution procedures set forth in Article 12 shall be limited to complaints alleging that a Dispatch Center is acting or has acted in a manner that is inconsistent with: the approved System design; the approved System implementation schedule; the approved operation and maintenance standards; this Agreement; or the written agreement between a Dispatch Center and a User pertaining to System use. A User whose complaint has gone through binding arbitration as part of the Dispatch Center's dispute resolution procedures shall not have recourse to the dispute resolution procedures set forth in Article 12.

11.5 Records. All records, accounts and documents relating to matters covered by this Agreement shall be subject to inspection, copying, review or audit by the Governing Board, and each Member and Dispatch Center shall provide to the Governing Board, at all reasonable times, right of access to its facilities for said purposes. The authority of the Governing Board to inspect, copy, review or audit records shall be limited to inspection, copying, review or audit directly related to evaluation of quarterly reports on Project implementation progress and modifications to the Project implementation schedule, and to allegations of breach of this Agreement.

11.6 Equipment. All equipment used in conjunction with the System shall be subject to inspection, technical review or analysis by ERS.

11.7 Reports. Each Dispatch Center shall provide the Governing Board with quarterly reports on Project implementation progress and modifications to the Project implementation schedule. Each Dispatch Center agrees to cooperate with the Governing Board in the evaluation of Dispatch Center performance under this Agreement and to make available all information reasonably required by the Governing Board's evaluation process.

• ARTICLE 12

DISPUTE RESOLUTION, BREACH AND REMEDIES

12.1 Complaint. If a complaint, dispute or controversy ("Complaint") arises between or among any of the Members, Dispatch Centers and ERS, or between ERS and a User, any Director may refer the Complaint to the Governing Board. No Complaint may challenge a vote of the Governing Board except on the grounds that the vote was taken in violation of this Agreement or other applicable law. The recourse of Users to the dispute resolution procedures set forth in this Article is limited as set forth in Section 11.4.

12.2 Procedures. The Governing Board shall establish appropriate dispute resolution procedures within four months of the effective date of this Agreement.

12.3 Mediation. The parties to the Complaint and the Governing Board shall submit to at least four hours of mediation with a mediator agreed upon by the parties to the Complaint and the Governing Board. As part of the mediation, the Governing Board shall develop a proposed remedy for the Complaint.

12.4 Review Panel. Complaints that remain unresolved by mediation shall be subject to review by a Review Panel comprised of the chief executive officer of each of the Members, or

equivalent, or a designee who shall be organizationally senior to the Member's representative to the Governing Board.

12.5 Binding Arbitration. If the Review Panel fails or declines to propose a remedy, or if a party to the Complaint contests a remedy proposed by the Review Panel, the dispute shall be subject to binding arbitration by a single arbitrator in accordance with Chapter 7.04 RCW.

12.6 Limited Review. A party to a complaint may appeal the arbitrator's decision only through an internal appeal process established by the association providing the arbitrator.

12.7 Settlement. Arbitration proceedings may be terminated by execution of a written settlement agreement by the parties to the Complaint.

12.8 Governing Board Jurisdiction Retained. Notwithstanding any other provision in this Article, except as provided in Section 12.9 below, at any point in the dispute resolution process, the Governing Board may adopt and impose an interim emergency remedy to ensure maintenance of essential communications services until the Complaint is resolved.

12.9 Interim Relief. Nothing in this Agreement shall prohibit any party from seeking injunctive relief for the preservation of property.

12.10 Costs. All costs incurred by a complaining Member or User arising out of the dispute resolution process shall be borne by the complaining Member or User and shall not be recoverable from ERS. Costs incurred by ERS in the dispute resolution process shall be considered System operation and maintenance costs to be allocated to the Members and Users through the Dispatch Centers in accordance with Section 10.10.

ARTICLE 13

FREQUENCIES

The Members agree that all 800 MHz frequencies used in the System shall be licensed exclusively in the name of ERS and used in accordance with the approved regional System design.

ARTICLE 14

HOLD HARMLESS AND INDEMNIFICATION

14.1 Indemnification. Each Member and Dispatch Center shall defend, indemnify and hold harmless the other Members, the Dispatch Centers, the Governing Board and the Technical Committee for losses attributed to that Member or Dispatch Center's own comparative negligence; provided, that except for acts or omissions that are dishonest, fraudulent, criminal or malicious, any such loss resulting from the acts or omissions of any Member, Dispatch Center or Director or Technical Committee member while acting within the scope of authority under this Agreement shall be considered System operation and maintenance costs to be allocated to the Members and Users through the Dispatch Centers in accordance with Section 10.10.

14.2 Costs. All costs, judgments, or awards of damages arising from the sole or comparative negligence of ERS shall be allocated to the Members in accordance with the Cost Allocation Model.

14.3 Corporate Liability. Upon the incorporation of ERS, Members shall not be liable for the obligations of ERS.

ARTICLE 15

DISPATCH CENTERS

15.1 ERS – Dispatch Center Relationship. This Agreement is intended, in part, to provide Members the services identified herein through regional Dispatch Centers. The current model of Dispatch Center organization functions well for the Members, and consolidating and coordinating dispatch service facilitates the provision of this governmental service. However, during the term of this Agreement, there may be revisions or changes to Dispatch Center membership or more or fewer Dispatch Centers.

15.2 Dispatch Centers. The initial Dispatch Centers are those established and operated by SNOCOM, SNOAC and the City of Marysville. Dispatch Centers may withdraw from the System upon two years' notice to the Governing Board. Additional Dispatch Centers may be added to the System upon approval of the Governing Board by Supermajority Vote.

ARTICLE 16

RIGHTS AND OBLIGATIONS RESERVED

This Agreement reserves to each Member and shall not be construed in derogation of any rights, powers, privileges, authority, liabilities, obligations and duties set forth in or provided by any previous agreement executed by a Member relating in any way to the design, development, acquisition, installation, operation, maintenance, repair or replacement of a radio communication system or any part or component thereof or property right therein.

ARTICLE 17

IMPASSE RESOLUTION

17.1 System Implementation. The Governing Board shall be declared at impasse in the event that the Governing Board is not able to approve a System design within six months of the effective date of this Agreement.

17.2 System Modification. The Governing Board shall be declared at impasse in the event that the Governing Board is not able to reach agreement on a recommended System design modification within three months of the submittal of such modification to the Governing Board.

17.3 Rules and Procedures. The Governing Board shall be declared at impasse if the Governing Board is not able to reach agreement on administrative rules and procedures, including dispute resolution procedures, within four months of the effective date of this Agreement.

17.4 Impasse Resolution. In the event that the Governing Board is at impasse, resolution of the impasse shall be treated in the same manner as a Complaint.

ARTICLE 18

AMENDMENTS

Any Member may request changes to this Agreement. This Agreement may be amended only in writing approved by Supermajority Vote.

ARTICLE 19

GENERAL TERMS

19.1 Agreement Complete. This Agreement is a complete expression of the terms herein and any oral or written representations or understandings not incorporated herein are excluded.

19.2 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement.

19.3 Survivability. Notwithstanding any provision in this Agreement to the contrary, the provisions of Sections 4.4, 5.3, 5.4, 6.2, 14.1 and 14.2 shall remain operative and in full force and effect, regardless of the withdrawal or termination of any Member or the termination of this Agreement.

19.4 Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the Member claimed to have waived or consented.

19.5 Subsequent Breach. Waiver of any default 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 and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval of all Members.

19.6 Rights Reserved. Except as specifically provided herein, each Member retains all rights and claims that may exist now or in the future against another Member.

19.7 Notice. Any notice to the Governing Board shall be in writing and shall be addressed to the President and to the System Manager. In the absence of a System Manager, notice shall be given to the managers of the Dispatch Centers. Any notice to a Director or Member shall be sent, respectively, to the address specified by the Director or the chief executive officer of the Member.

19.8 Partial Invalidity. If any of the provisions of this Agreement are held to be invalid, illegal or unenforceable, the remaining provisions shall remain in full force and effect.

19.9 Assignment. No Member may sell, transfer or assign any of its rights or benefits under this Agreement without Governing Board approval.

ARTICLE 20

RECORDING

This Agreement shall be recorded with the Snohomish County Auditor.

ARTICLE 21

EXECUTION

21.1 Multiple Counterparts. This Agreement may be executed in multiple counterparts.

21.2 Authority. The undersigned represent that this Agreement is duly authorized by the respective County, Cities and Dispatch Centers set forth below.

SNOHOMISH COUNTY

Bob Inewa
County Executive

CITY OF BRIER

Wayne E. Kaska
Mayor

CITY OF EDMONDS

Barbara S. Farley
Mayor

CITY OF EVERETT

Edward Hammer
Mayor
ATTEST:

Sharon S. Marks
City Clerk

CITY OF LYNNWOOD

Luis Robert
Mayor

APPROVED AS TO FORM:

Snohomish County Prosecuting Attorney

APPROVED AS TO FORM:

Brier City Attorney

APPROVED AS TO FORM:

Edmonds City Attorney

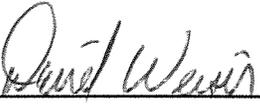
APPROVED AS TO FORM:

MARK T. SOINE
Everett City Attorney

APPROVED AS TO FORM:

Lynnwood City Attorney

CITY OF MARYSVILLE

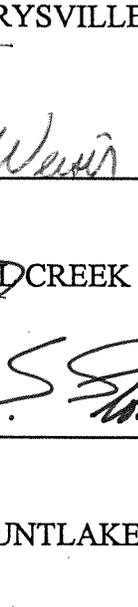


City Manager

APPROVED AS TO FORM:

Marysville City Attorney

CITY OF MILL CREEK



City Manager

APPROVED AS TO FORM:

Mill Creek City Attorney

CITY OF MOUNTLAKE TERRACE



City Manager

APPROVED AS TO FORM:

Mountlake Terrace City Attorney

CITY OF MUKILTEO

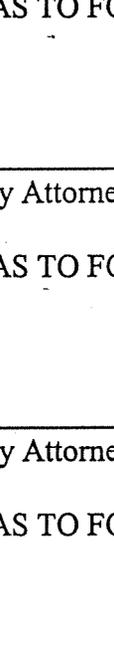


City Manager *MAYOR*

APPROVED AS TO FORM:

Mukilteo City Attorney

CITY OF WOODWAY

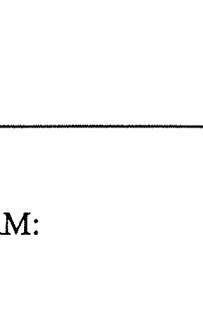


Mayor

APPROVED AS TO FORM:

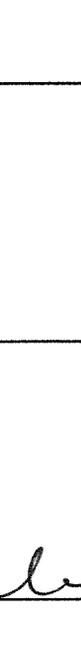
City Attorney

SNOCOM



Executive Director

SNOPAC



Executive Director

CITY OF LYNNWOOD

APPROVED AS TO FORM:

Mayor

Lynnwood City Attorney

CITY OF MARYSVILLE

APPROVED AS TO FORM:

City Manager

Marysville City Attorney

CITY OF MILL CREEK

APPROVED AS TO FORM:

City Manager

Mill Creek City Attorney

CITY OF MOUNTLAKE TERRACE

APPROVED AS TO FORM:

City Manager

Mountlake Terrace City Attorney

CITY OF MUKILTEO

APPROVED AS TO FORM:

Mayor

Mukilteo City Attorney

CITY OF WOODWAY

APPROVED AS TO FORM:

Mayor

City Attorney

SNOCOM

SNOPAC

Executive Director

Executive Director

EXHIBIT A

SYSTEM DESCRIPTION

A.1 Introduction.

The Emergency Radio System (the "System") will provide a significantly improved level of communications capability when compared to existing radio systems. The System will provide effective and coordinated public safety communications on a day-to-day basis, provide significant operational enhancements, increase user safety, and provide an increased level of interoperability and coordination among the four dispatch centers in Snohomish County (three city/county dispatch centers and one WSP dispatch center). The System will be developed in a manner that maximizes the price advantages realized in large-scale and long-term purchasing agreements. It is expected to demonstrate the wisest possible use of taxpayer dollars when compared to other communications systems, and to realize the benefits of improved public safety communications for all county residents.

A.2. System Elements.

The System will consist of the following tangible elements: (a) a county-wide 800 MHz trunked radio system with compatible mobile, portable, and control station radios; (b) a county-wide VHF paging system; (c) county-wide VHF radio interoperability systems (including enhancements to existing VHF infrastructure in the Phase II service area to improve back country and search and rescue operations); (d) an upgraded county-wide 900 MHz mobile data system; (e) a county-wide microwave transmission network to link system facilities; and (f) related real property, vehicles, equipment, and appurtenances.

A.3. System Design Features.

The System will be designed to provide the full range of available radio system features and to improve upon the overall area coverage offered by existing radio systems. The System will be designed to maximize performance and to eliminate or minimize radio system redundancies. The System will be designed on a county-wide basis and will function with equal effectiveness throughout populated areas of the County.

The System will be designed to provide participating agencies (Members and Users) effective communications in the event of a major disaster. Should a significant portion of the System fail, restoration of complete System operation will be the highest priority of the Governing Board, System Manager, and technical support staff.

The 800 MHz radio system will operate in simulcast mode from multiple sites, supported by new or upgraded towers and buildings. The system will also include separate low capacity

trunked "filler" radio sites in difficult service areas. All conventional and filler sites will be integrated into a single system at the system controller/audio switch, allowing radios that are in transit to automatically "roam" while maintaining effective communications.

The VHF paging system will consist of a multiple site simulcast system. The paging system will be alpha-numeric. It will be designed to provide improved police, fire, and EMS paging.

The VHF radio interoperability systems will link non-participating agencies (federal, state, and other local agencies) to the System, and will link participating agencies (Members and Users) during transition to full System operation. Interoperability with the King County Regional Radio System and the trunked radio system operated by the Boeing Company will be provided using 800 MHz radios compatible with the Motorola trunked radio technology used by those systems.

The existing 900 MHz mobile data system owned by Snohomish County Public Utility District No. 1, which is used by participating agencies (Members and Users) under existing agreements with dispatch centers, will be upgraded pursuant to one or more agreements to be approved by ERS. The upgraded system will provide enhanced coverage and capacity required to support use of that system by participating agencies (Members and Users).

The microwave transmission network will be loop-protected, except insofar as the County may determine that loop-protection is not possible in Phase II. The network will provide excess capacity for additional ERS radio systems, PSAP links, or other point-to-point government communication needs.

The System will provide encrypted communications through an infrastructure design that supports digital communications, except that the County may determine that encrypted communications are not possible in Phase II. Two deployable encryption-capable repeaters will be available to participating agencies for specialized operations or for use outside of the System's service areas.

The three dispatch centers operated by SNOCOM, SNOPAC, and the City of Marysville will be upgraded with new console equipment required to operate the System. That equipment will be connected to the ERS microwave network via a protected spur microwave facility or, where possible, directly to the high capacity loop. All operational system features will be provided through participating dispatch centers.

A.4. Phased Construction.

The System will be designed as a county-wide entity, but will be constructed in two phases. ERS will proceed with construction of Phase I following approval of the final system

design. Construction of Phase II is contingent upon funding by the County, and ERS will proceed with construction of Phase II only if authorized by the County.

A.4.1. Phase I Service Area.

The Phase I service area is bounded to the North by the northerly boundary of the City of Marysville, to the South by the boundary of Snohomish and King Counties, to the West by Puget Sound, and to the East by SR 9. The 800 MHz system in this service area will include approximately nine channels operating from approximately eight sites. Stand alone filler sites will be provided for the Edmonds/Lynnwood waterfront areas and Everett rail tunnel.

A.4.2. Phase II Service Area.

The Phase II service area is the remainder of the County. Construction of Phase II is contingent upon funding by the County, and may be developed in stages or limited to particular features or parts of the Phase II service area as directed by the County. The 800 MHz radio system will consist of approximately seven channels operating from approximately seven simulcast sites. Low capacity trunked filler or conventional 800 MHz sites will provide back-country coverage as required for effective coverage. While the number of filler sites needed to serve the most rural portions of the County has not yet been determined, a stand alone filler site will serve the Darrington area and a stand alone filler site will serve the Index area. All trunked filler and conventional 800 MHz facilities will be fully integrated into the county-wide radio system. The infrastructure supporting VHF interoperability in the Phase II service area will be upgraded to ensure high-performance, county-wide interoperability. The VHF system supporting back country and search and rescue operations will be upgraded to provide for added voting receivers and simulcast operation and to comply with regulatory changes resulting from the FCC "refarming" rulemaking.

A.5. User Benefits.

The System will be engineered for enhanced reliability, redundancy, and survivability in the event of a disaster. Specific performance and capability enhancements for participating agencies (Members and Users) include the following:

- Consistent and reliable portable and mobile radio coverage within each participating agency's service area;
- Increased radio system channel capacity and reduced channel congestion;
- Capacity for emergency signaling of dispatchers by officers in trouble;

- Ability to employ individual radio identifier codes for positive identification of users;
- Ability to disable stolen or lost radios;
- Highly survivable infrastructure designed to provide uninterrupted services;
- Newer, more reliable radio equipment and infrastructure;
- Enhanced trunked and conventional 800 MHz and VHF interoperability for all participating agencies.-

EXHIBIT B

COST ALLOCATION MODEL

B.1. Formula. Except as otherwise provided in the Agreement or in this Exhibit B, the allocation of each Member's capital costs, operation and maintenance costs, and voting weight for purposes of Weighted Votes and Supermajority Votes shall be calculated annually by percent based on the following formula:

$$\text{Percent Allocation} = \left(0.25 \times \frac{P_x}{P_t}\right) + \left(0.25 \times \frac{A_x}{A_t}\right) + \left(0.50 \times \frac{C_x}{C_t}\right) \times 100$$

where, for the prior calendar year:

P_x = the population in the Member's Service Area,

P_t = the total population in the Service Area of all Members,

A_x = the Member's Service Area in square miles,

A_t = the total Service Area of all Members in square miles,

C_x = the calls for service provided by ERS in the Member's Service Area,

C_t = the total calls for service provided by ERS in the Service Area of all Members, and

"Service Area" means the geographic area within the boundaries of a Member actually served by ERS, with the County's Service Area excluding incorporated areas.

This formula is intended to produce a percent allocation of allocable capital costs, allocable operation and maintenance costs, and voting weight (with 100% representing all Members voting) to Members based 25% on that Member's share of the total population of the Service Area of all Members, 25% on that Member's share of the total Service Area of all Members, and 50% on that Member's share of the total calls for service provided by ERS made by all Members.

B.2 Phase I Capital Costs. The allocation for each Member in Phase I includes the population, Service Area, and calls for service (including fire and emergency medical service) of each Member. On the effective date of this Agreement, calls for fire and emergency medical service (collectively, "Fire Calls") are provided by non-User fire protection districts in the Service Areas of the County, Marysville and Mill Creek. Therefore, Fire Calls are not included in the calls for service element in the cost allocation for 1999 (C_x in Exhibit C) for the County, Marysville and Mill Creek. In the event that a provider of fire or emergency medical services in the Service Area of the County, Marysville, or Mill Creek becomes a User in Phase I ("New

User”), the New User shall make a Minimum Capital Payment, comprised of three components, as follows:

Minimum Capital Payment = Population Component + Area Component + Call Component

$$\text{Population Component} = \left(0.125 \times \frac{P_u}{P_t}\right) \times \text{Phase I Capital Costs}$$

$$\text{Area Component} = \left(0.125 \times \frac{A_u}{A_t}\right) \times \text{Phase I Capital Costs}$$

$$\text{Call Component} = \left(0.50 \times \frac{C_u}{C_u + C_t}\right) \times \text{Phase I Capital Costs}$$

where, for the prior calendar year:

P_u = the population in the New User’s Service Area,

P_t = the total population in the Service Area of all Members,

A_u = the New User’s Service Area in square miles,

A_t = the total Service Area of all Members in square miles,

C_u = Fire Calls in the New User’s Service Area,

C_t = the total calls for service provided by ERS in the Service Area of all Members, and

“Service Area” means the geographic area within the boundaries of a Member or the New User actually served by ERS, with the County’s Service Area excluding incorporated areas.

The New User shall pay the Population and Area Components of the Minimum Capital Payment to the Member whose Service Area overlaps that of the New User. If the Service Area of the New User overlaps the Service Areas of more than one Member, the Population and Area Components shall be prorated between or among the Members according to population and area. Any Member entitled to payment of the Population and Area Components may waive its right to receive all or any amount of such payments.

The New User shall pay the Call Component, and any amount determined by the Governing Board in excess of the Minimum Capital Payment, to ERS. ERS shall allocate those payments to the Members in accordance with the Cost Allocation Model Formula set forth in Section B.1.

The Governing Board may adjust the Phase I Capital Costs used in calculating the Minimum Capital Payment to account for inflation. No payment by a New User of capital costs (including the Minimum Capital Payment) shall entitle that New User to any ownership of ERS assets.

Except as expressly set forth in this Section B.2, all other payments of capital costs by Users shall be determined by the Governing Board and allocated in accordance with the Cost Allocation Model Formula set forth in Section B.1. All payments of capital costs by Users that are allocated to Members, including payments of the Minimum Capital Payment, shall be reflected in the Capital Record.

B.3. Phase II Costs. The financing of System assets in Phase II shall be by County financing, provided that such financing may be deferred or terminated at the sole discretion of the County. The County shall determine the appropriate payment for Phase II capital costs required of each User pursuant to separate interlocal agreements. Rates, fees, charges and assessments and manner of payment within areas financed solely by the County in Phase II shall be established by the County. Unless otherwise directed by the County, payments made by Users to the Dispatch Centers shall be credited to the account of the County. Upon termination of the Agreement, or voluntary or involuntary withdrawal by the County, ERS assets acquired in Phase II and paid for entirely by the County shall, upon County request, be distributed to the County.

B.4. Subscriber Units. Each Member and User shall bear the cost of its own Subscriber Units (radios), provided that the Governing Board may authorize the purchase of radios for Users deemed by the Governing Board to be integral to the System, the cost of which will be allocated among Members and/or Users as determined by the Governing Board.

EXHIBIT C

1999 COST ALLOCATION¹

Member	Population (P _x)	Area (A _x)	Calls for Service (C _x)
Brier	6,295	2.11	6,241
Edmonds	38,610	8.95	35,572
Everett	84,330	28.56	170,723
Lynnwood	33,110	7.67	56,634
Marysville ²	19,740	8.63	33,477
Mill Creek ²	10,692	3.56	10,177
Mountlake Terrace	20,360	4.11	25,728
Mukilteo	16,810	6.32	18,620
Woodway	990	1.11	612
County ²	138,304	66.78	89,388

Total (P _t , A _t , C _t) ³	369,241	137.80	447,172
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Member	$0.25 \times \frac{P_x}{P_t}$	$0.25 \times \frac{A_x}{A_t}$	$0.50 \times \frac{C_x}{C_t}$	Member Share	
				Percent	Dollars ⁴
Brier	0.43	0.38	0.70	1.51%	\$ 266,562.65
Edmonds	2.61	1.62	3.98	8.22%	1,453,300.08
Everett	5.71	5.18	19.09	29.98%	5,303,555.57
Lynnwood	2.24	1.39	6.33	9.97%	1,762,951.90
Marysville	1.34	1.57	3.74	6.65%	1,175,578.82
Mill Creek	0.72	0.65	1.14	2.51%	443,617.37
Mountlake Terrace	1.38	0.75	2.88	5.00%	884,665.18
Mukilteo	1.14	1.15	2.08	4.37%	772,476.63
Woodway	0.07	0.20	0.07	0.34%	59,587.15
County	9.36	12.12	9.99	31.47%	5,567,841.86

¹ Based on data from January 1 to December 31, 1998.

² Fire Calls are excluded from calls for service. See Section B.2.

³ Sources: Population: Puget Sound Regional Council, Population & Housing Estimates, 1998.
 Calls for Service: Calendar year 1998 totals from SNOPAC (including Marysville) and SNOCOM.
 Area: Snohomish County P.D.S./G.I.S. Cartography, May 1999.

⁴ See Exhibit D.

Total ⁵	25.00	25.00	50.00	100.00%	\$ 17,690,138.00
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⁵ All figures are rounded to the nearest one hundredth.

EXHIBIT D

PROJECT EXPENDITURES

(excluding formation costs)

Phase I Capital Cost Summary (See Notes 1 & 2)

Radio and Microwave Infrastructure	\$ 6,876,500
Facility Costs	4,554,000
Console Costs	879,750
Shared Resources (portable repeater, generator)	67,500
Services	4,310,000
Technical Support Capital Costs	<u>160,000</u>
Subtotal	\$ 16,847,750
5% Project Contingency	<u>842,388</u>
Total Budget/Phase I	<u><u>\$ 17,690,138</u></u>

Phase II Capital Cost Summary (See Note 2)

Radio and Microwave Infrastructure	\$ 4,955,500
Facility Costs	4,165,000
Console Costs (may be moved to Phase I)	136,000
Shared Resources (portable repeater, generator)	67,500
Services	2,560,000
Technical Support Capital Costs	<u>100,000</u>
Subtotal	\$ 11,984,000
5% Project Contingency	<u>599,200</u>
Total Budget/Phase II	<u><u>\$ 12,583,200</u></u>

Notes:

1. Phase I costs do not include the cost of the proposed deployable communications/command vehicle.
2. The costs for user/member agency pagers, mobile, portable, and control station radios are not included in the above figures.

EXHIBIT E

ARTICLES OF INCORPORATION

OF

SNOHOMISH COUNTY EMERGENCY RADIO SYSTEM

The undersigned Members, in order to form a not for profit corporation under Chapter 24.06 of the Revised Code of Washington ("RCW"), hereby sign and deliver the following Articles of Incorporation.

ARTICLE I — NAME

The name of this corporation is:

SNOHOMISH COUNTY EMERGENCY RADIO SYSTEM

ARTICLE II — DURATION

The period of duration of Snohomish County Emergency Radio System ("ERS") shall be coextensive with the term of the Snohomish County Emergency Radio System Interlocal Corporation Agreement ("Agreement"). The Agreement is attached to these Articles of Incorporation as Exhibit A and by this reference incorporated herein.

ARTICLE III — PURPOSES

ERS is organized on behalf of and as an instrumentality of its governmental members exclusively for educational, charitable, religious, scientific and/or literary purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as it may be amended from time to time (the "Code"), and more particularly to exercise essential governmental functions within the meaning of Section 115 of the Code, including without limitation to design, develop, finance, acquire, install, operate, maintain and repair and replace as necessary a uniformly high-quality, public safety communications service for all county and city public safety agencies on a county-wide basis within Snohomish County, as set forth in the Agreement.

The purposes of ERS include only those related to emergency radio communications, as set forth above, and do not include the provision of other general services to the public.

ARTICLE IV — PROHIBITED ACTIVITY

Notwithstanding any of the provisions of these Articles of Incorporation, ERS shall not conduct or carry on activities not permitted to be conducted or carried on by an organization exempt from federal income tax under Sections 115 and 501(c)(3) of the Code or by an organization, contributions to which are deductible under Section 170(c)(2). No part of the net earnings of ERS shall inure to the benefit of any director, officer or private individual. No substantial part of the activities of ERS shall be devoted to the carrying on of propaganda, or otherwise attempting to influence legislation except as may be permitted to Section 501(c)(3) organizations by the Code, and ERS shall not participate in, or intervene in (including the publication or distribution of statements regarding) any political campaign on behalf of or in opposition to any candidate for public office. ERS shall not have or issue shares of stock, shall not make any disbursement of income to its directors or officers, and shall not make loans to its officers or directors.

ARTICLE V — POWERS

In general, and subject to such limitations and conditions as are or may be prescribed by law, or in the Agreement, these Articles of Incorporation or in the Bylaws of ERS, ERS shall have all powers which now or hereafter are conferred under Chapters 24.06 and 39.34 RCW and other applicable law and the Agreement upon a corporation organized for the purposes set forth above, or are necessary or incidental to the powers so conferred, or are conducive to the attainment of the purposes of ERS. In the event of a conflict, the Agreement shall be given priority over these Articles of Incorporation and these Articles of Incorporation shall be given priority over the Bylaws.

ARTICLE VI — MEMBERS

Members must be parties to the Agreement. The rights and responsibilities of the Members and the manner of their election, appointment, or admission to membership and termination of membership shall be as provided for in the Agreement. ERS shall have one class of Members, except that each Member may be treated as a separate class for calculating weighted and supermajority voting as provided for in the Agreement.

ARTICLE VII — DISTRIBUTIONS UPON DISSOLUTION

No director, trustee or officer of ERS, nor any private individual, shall be entitled to share in the distribution of any of the corporate assets upon dissolution of ERS or the winding up of its affairs. Upon dissolution of ERS, after paying, satisfying, and discharging, or making adequate provision therefor, of all liabilities and obligations of ERS, and after returning, transferring, or conveying assets held by ERS requiring return, transfer, or conveyance on

condition of the dissolution, all remaining assets of ERS shall be distributed by the Governing Board (which shall be deemed a "board of directors" as that term is used in RCW 24.06.125), as provided for in the Agreement.

ARTICLE VIII — DISSENTING MEMBERS

"Dissenting members," as that term is used in RCW 24.06.245 through 255, will be entitled to the rights and allocation of assets set forth in the Agreement, but may be limited to "a return of less than the fair value" of their membership as that term is used in RCW 24.06.255.

ARTICLE IX — BYLAWS

Provisions for the regulation of the internal affairs of ERS shall be as set forth in the Agreement or in the Bylaws of ERS.

ARTICLE X — REGISTERED AGENT

The address of the initial registered office of ERS is 1111 Third Avenue, Suite 3400, Seattle, Washington 98101-3299. The name and address of its initial registered agent is FPS Corporate Services, Inc., 1111 Third Avenue, Suite 3400, Seattle, Washington 98101-3299.

ARTICLE XI — DIRECTORS

The initial Governing Board shall consist of ten Directors. The names and addresses of the persons who are to serve as initial Directors are:

Bob Drewel, County Executive
Snohomish County
3000 Rockefeller Avenue
Everett, Washington 98201

Wayne E. Kaske, Mayor
City of Brier
2901 - 228th Street SW
Brier, Washington 98036

Barbara S. Fahey, Mayor
City of Edmonds
121 - 5th Avenue North
Edmonds, Washington 98020

Ed Hansen, Mayor
City of Everett
3002 Wetmore
Everett, Washington 98201

Tina Roberts, Mayor
City of Lynnwood
19100 - 44th Avenue West
P.O. Box 5008
Lynnwood, Washington 98046

David A. Weiser, Mayor
City of Marysville
4822 Grove Street
Marysville, Washington 98270

Robert S. Stowe, City Manager
City of Mill Creek
15728 Mill Creek Boulevard
Mill Creek, Washington 98012

Connie L. Fessler, City Manager
City of Mountlake Terrace
23204 - 58th Avenue West
P.O. Box 72
Mountlake Terrace, Washington 98043

Don Doran, Mayor
City of Mukilteo
4480 Chennault Beach Road
Mukilteo, Washington 98275

Jan Taylor Drummond, Mayor
City of Woodway
23920 - 113th Place West
Woodway, Washington 98020

Each Member shall appoint, remove or replace its Director in such manner as the Member deems appropriate, provided that such action is not inconsistent with the Agreement.

ARTICLE XII — INCORPORATORS

The names and addresses of the incorporators are:

Snohomish County
3000 Rockefeller Avenue
Everett, Washington 98201

City of Brier
2901 – 228th Street SW
Brier, Washington 98036

City of Edmonds
121 – 5th Avenue North
Edmonds, Washington 98020

City of Everett
3002 Wetmore
Everett, Washington 98201

City of Lynnwood
19100 – 44th Avenue West
P.O. Box 5008
Lynnwood, Washington 98046

City of Marysville
4822 Grove Street
Marysville, Washington 98270

City of Mill Creek
15728 Mill Creek Boulevard
Mill Creek, Washington 98012

City of Mountlake Terrace
23204 – 58th Avenue West
P.O. Box 72
Mountlake Terrace, Washington 98043

City of Mukilteo
4480 Chennault Beach Road
Mukilteo, Washington 98275

City of Woodway
23920 – 113th Place West
Woodway, Washington 98020

ARTICLE XIII — LIMITATION OF DIRECTOR LIABILITY

Except to the extent otherwise required by applicable law (as it exists on the date of the adoption of this Article or may be amended from time to time), a director of ERS shall not be personally liable to ERS for monetary damages for conduct as a director, except for liability of the director (i) for acts or omissions which involve intentional misconduct by the director or a knowing violation of law by the director, (ii) for any transaction from which the director will personally receive a benefit in money, property or services to which the director is not legally entitled, or (iii) for any act or omission occurring before the date when this provision becomes effective.

If the Washington Nonprofit Miscellaneous and Mutual Corporation Act (the "Act") is hereafter amended to expand or increase the power of ERS to eliminate or limit the personal liability of directors, then, without any further requirement of action by the directors of ERS, the liability of a director shall be eliminated or limited to the full extent permitted by the Act. No amendment to or repeal of this Article shall adversely affect any right of protection of any director of ERS occurring after the date of the adoption of this Article and prior to such amendment or repeal.

ARTICLE XIV — INDEMNIFICATION

ERS shall indemnify any director (as that term is defined in RCW 23B.08.500, as presently in effect and as hereafter amended) or officer of ERS, who is involved in any capacity in a proceeding (as defined in RCW 23B.08.500, as presently in effect and as hereafter amended, a "Proceeding") by reason of the position held by such director or officer in ERS, to the full extent allowed by applicable law, as presently in effect and as hereafter amended, except in relation to matters as to which such director or officer shall be adjudged in such Proceeding to be liable for negligence or misconduct in the performance of duty; provided, however, that ERS shall only indemnify a director or officer seeking indemnification in connection with a Proceeding (or a part of a Proceeding) initiated by such director or officer if such Proceeding or part of a Proceeding was authorized by the Governing Board or if such Proceeding or part of a Proceeding was brought by a director or officer to enforce a claim for indemnification under this section and a court or an arbitrator determines that the director or officer is entitled to all of the relief claimed.

By means of a resolution or of a contract specifically approved by the Governing Board, ERS may indemnify an employee or agent to such degree as the Governing Board determines to be reasonable, appropriate, and consistent with applicable law and to be in the best interests of ERS.

The Governing Board shall have the right to designate the counsel who shall defend any person or entity who may be entitled to indemnification, to approve any settlement, and to approve in advance any expense.

Reasonable expenses incurred by a director or officer, who is involved in any capacity in a Proceeding by reason of the position held in ERS, shall be advanced by ERS to the full extent

allowed by applicable law, as presently in effect and as hereafter amended. Reasonable expenses incurred by an employee or agent who is involved in any capacity in a Proceeding by reason of the position held by such person or entity in ERS may be, but is not required to be, advanced by ERS prior to the final disposition of such Proceeding to the full extent allowed by applicable law, as presently in effect and as hereafter amended. Expenses shall not be advanced to any director, officer, employee or agent unless that person first promises in a writing delivered to ERS to repay all amounts advanced by ERS in the event that it is later determined that such person is not entitled to be so indemnified.

ERS may purchase and maintain insurance on behalf of any person who is a director, officer, employee, or agent of ERS or is serving at the request or consent of ERS as an officer, employee, or agent of another corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan against any liability incurred by such person because of such person's status, whether or not ERS would have the power to indemnify such person against such liability under the provisions of this Article. In addition, ERS may enter into contracts with any director or officer of ERS in furtherance of the provisions of this Article and may create a trust fund, grant a security interest, or use other means (including without limitation a letter of credit) to ensure the payment of such amounts as may be necessary or desirable to effect the indemnification and advances contemplated in this Article.

The right to indemnification conferred by this Article shall be interpreted to conform with, and shall not create any right that is inconsistent with, applicable law, as presently in effect and as hereafter amended. To the full extent allowed by applicable law (as presently in effect and as hereafter amended), the right to indemnification conferred by this Article shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors, and administrators of such a person. The rights conferred in this Article shall not be exclusive of any other rights which any person may have or acquire under any applicable law (as presently in effect and as hereafter amended), the Articles of Incorporation, the Bylaws of ERS, a vote of the Governing Board, or otherwise.

If the Act is hereafter amended to expand or increase the power of ERS to indemnify, to pay expenses in advance of final disposition, to enter into contracts, or to expand or increase any similar or related power, then, without any further requirement of action by the directors of ERS, the powers described in this Article shall be expanded and increased to the fullest extent permitted by the Act.

Notwithstanding any other provision of this Article, no indemnification shall be provided to any person if in the opinion of counsel payment of such indemnification would cause ERS to lose its tax exempt status, if any, from federal income taxation.

No amendment to or repeal of this Article shall adversely affect any right of protection of any director, officer, employee or agent for events occurring after the date of the adoption of this Article and prior to such amendment or repeal.

ARTICLE XV — NOTICE OF MEETINGS

Notice of regular meetings other than annual may be made by providing each Member with the adopted schedule of regular meetings for the ensuing year at any time after the annual meeting and ten days prior to a regular meeting and at any time when requested by a Member or by such other notice as may be prescribed by the Agreement or the Bylaws.

DATED this _____ day of _____, 1999.

INCORPORATORS:

SNOHOMISH COUNTY

APPROVED AS TO FORM:

County Executive

Snohomish County Prosecuting Attorney

CITY OF BRIER

APPROVED AS TO FORM:

Mayor

Brier City Attorney

CITY OF EDMONDS

APPROVED AS TO FORM:

Mayor

Edmonds City Attorney

CITY OF EVERETT

APPROVED AS TO FORM:

Mayor

Everett City Attorney

ATTEST:

City Clerk

CITY OF LYNNWOOD

APPROVED AS TO FORM:

Mayor

Lynnwood City Attorney

CITY OF MARYSVILLE

APPROVED AS TO FORM:

City Manager

Marysville City Attorney

CITY OF MILL CREEK

APPROVED AS TO FORM:

City Manager

Mill Creek City Attorney

CITY OF MOUNTLAKE TERRACE

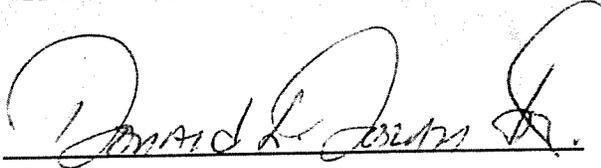
APPROVED AS TO FORM:

City Manager

Mountlake Terrace City Attorney

CITY OF MUKILTEO

APPROVED AS TO FORM:



Mayor



Mukilteo City Attorney

CITY OF WOODWAY

APPROVED AS TO FORM:

Mayor

City Attorney

CONSENT TO SERVE AS REGISTERED AGENT

FPS Corporate Services, Inc. ("FPS"), hereby consents to serve as Registered Agent in the State of Washington for **Snohomish County Emergency Radio System**, a Washington not for profit corporation, ("ERS"). FPS understands that as agent for ERS, it will be its responsibility to receive service of process in the name of ERS; to forward all mail to ERS; and to immediately notify the office of the Secretary of State in the event of its resignation, or of any changes in the registered office address of ERS for which it is agent.

FPS CORPORATE SERVICES, INC.

(date)

By: _____
Colleen M. Marcin, Vice President

NAME OF REGISTERED AGENT: FPS Corporate Services, Inc.

ADDRESS OF REGISTERED AGENT: 1111 Third Avenue, Suite 3400
Seattle, Washington 98101-3299