

## **CRESA FOUNDING PUBLIC AGENCY SERVICE AGREEMENT**

### **R.E., 9-1-1 Communications, Regional Radio System and Services**

**THIS AGREEMENT**, entered this day by and between CLARK REGIONAL EMERGENCY SERVICES AGENCY, after this called "CRESA," and Clark County, the Cities of Battle Ground, Camas, La Center, Ridgefield, Vancouver, Washougal, and Yacolt, and Clark County Fire District's 3, 6, 9 dba East County Fire and Rescue, 10, 11 dba Clark County Fire and Rescue, and 13, and North Country EMS and Cowlitz-Skamania Fire District #7, after this called "Parties."

### **W I T N E S S E T H**

**WHEREAS**, CRESA is a public corporation organized and existing under the Washington State Constitution and the laws of the State of Washington, and particularly those set forth at RCW 35.21.730 through RCW 35.21.759; and

**WHEREAS**, the Washington State RCW 38.52 provides for the establishment of emergency communications through enhanced 9-1-1 service and encourages under related laws local plans detail how enhanced 9-1-1 will be implemented in the most efficient and effective manner with priority for state assistance given to those developing consolidated or regional 9-1-1 systems; and

**WHEREAS**, on October 24, 2017, the Clark County Board of Councilors approved an ordinance and charter establishing CRESA as a public corporation to provide emergency communication services; and

**WHEREAS**, the Parties and CRESA are obligated to enter into this Service Agreement pursuant to Section 10 of the Bylaws.

### **NOW, THEREFORE, CRESA AND THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

#### **1. CRESA Services.**

A. Scope of Services. Throughout the term of this agreement, CRESA shall provide the services as outlined below, and perform those services more particularly set forth and defined in the annual CRESA budget (Exhibit A).

- 1) Communications Services. During the term of this Agreement, CRESA will provide the Party twenty-four (24) hour enhanced emergency 911 communications including call receiving, monitoring and emergency dispatching service for Parties citizens, visitors and responders. CRESA shall be the primary public safety answering point for the Party. CRESA shall ensure all Federal Communications Commission (FCC) radio frequency licenses include authorization so the Party can use CRESA's primary dispatch channels.

- 2) Technical Assistance. CRESA may provide technical expertise to the Parties as may be required for proper operations of Parties' systems and for procurement of Parties' communications equipment.
  - 3) Law Enforcement Agency Data Communications. If the Party is a law enforcement agency, CRESA will provide information from the Washington State Patrol Law Enforcement Data Communications System.
  - 4) Party Communications Equipment. Unless otherwise agreed to by the parties, CRESA agrees to be responsible for providing and maintaining all communications equipment necessary to receive radio communications from CRESA, and for communicating with CRESA and between the Parties' personnel. The Parties shall be responsible for purchasing, maintaining, and repairing the Parties' base, mobile, and portable communications equipment including pagers and computers. The Parties shall retain the responsibility and authority for its operational departments and for such equipment and services as required at its place of operations to connect to CRESA's operations. Interconnecting equipment may or may not be included in CRESA's budget as the Board shall determine. However, if interconnecting equipment is included in the CRESA budget and provided to a Party, CRESA shall retain ownership of such equipment.
2. **Compensation.** The Parties shall be billed in accordance with Exhibit B for the upcoming calendar year. Unless otherwise agreed to by an individual Party, the Parties shall make four equal payments, which shall be due by the end of each quarter (March, June, September and December). Should a Party fall two (2) months in arrears from the payment due date, the Party shall be considered delinquent, and in that event, and after providing the required notice and opportunity to cure as set forth in Section 14 of this Agreement, CRESA shall have authority to terminate all services to the Party and all participation of the functions of CRESA, however, said Party shall be liable for its fees to CRESA through December 31<sup>st</sup> of the year of termination of the delinquent Party's services.
3. **Provisions for Use.** The Advisory Council on Criminal Justice Services and the Washington State Patrol have requested that all participating communications centers, such as CRESA, which are terminal users of the Washington State Patrol Law Enforcement Data Communications Systems have certain provisions in their regulations and enabling Agreements concerning responsibility for such communication, therefore, CRESA shall bear full responsibility for ensuring that the law enforcement data communications network and any Criminal History Records Information received by means of such network shall be used solely for the purposes of the administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(3) as now exists or may hereafter be amended. CRESA shall establish rules and regulations governing access to, security for, and operation of the data communications network for any Criminal Justice Records Information received by means of such network.
4. **Term.** The term of this Agreement shall continue unless CRESA is dissolved or as otherwise provided in Section 14 Withdrawal; and Section 15, Termination of the

CRESA Bylaws.

5. **Indemnification Clause - Parties.** Each Party releases, indemnifies and promises to defend and save harmless CRESA, its officials, officers, employees and agents from and against any and all liability, loss, damages, expense, action, and claims, including costs and reasonable attorney's fees incurred by CRESA, its officials, officers, employees and agents in defense thereof, asserting or arising directly or indirectly on account of negligent acts, errors, or omissions of the Party, its officials, officers, employees and agents. In making such assurances, the Party specifically agrees to indemnify and hold harmless CRESA from any and all bodily injury claims brought by the Party and expressly waives its immunity under Title 51, the Industrial Insurance Act as to those claims which are brought against CRESA, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the Parties and CRESA. Provided, however, this paragraph does not purport to indemnify CRESA against the liability for damages arising out of bodily injuries to person or damages caused by or resulting from the sole negligence or recklessness of CRESA, its officials, officers, employees and agents.
6. **Indemnification Clause - CRESA.** The CRESA does release, indemnify and promise to defend and save harmless each Party, its officials, officers, employees and agents from and against any and all liability, loss, damages, expense, action, and claims, including costs and reasonable attorney's fees incurred by a Party, its officials, officers, employees and agents in defense thereof, asserting or arising directly or indirectly on account of negligent acts, errors, or omissions of the CRESA, its officials, officers, employees and agents. In making such assurances, the CRESA specifically agrees to indemnify and hold harmless each Party from any and all bodily injury claims brought by CRESA and expressly waives its immunity under Title 51, the Industrial Insurance Act as to those claims which are brought against a Party, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the Parties and CRESA. Provided, however, this paragraph does not purport to indemnify a Party against the liability for damages arising out of bodily injuries to person or damages caused by or resulting from the sole negligence or recklessness of the Party, its officials, officers, employees and agents.
7. **Notice of Security Breach.** CRESA shall comply with all notice and other requirements of RCW 42.56.590, as now in effect and may be amended, in the event of a breach of the security of the system as defined by RCW 42.56.590. Such compliance shall be at the sole expense of CRESA.
8. **Insurance.** CRESA and the Parties to this Agreement shall maintain during the life of this Agreement such Commercial General Liability (CGL) coverage as will provide coverage for claims for damages for bodily injury, including death, as well as for claims for damage to property which may arise directly or indirectly from performance of the work under this Agreement. Coverage limits shall be no less than \$1,000,000 per occurrence for Bodily Injury and Property Damage. The parties shall provide each other a Certificate of Insurance or other appropriate documentation evidencing the coverage as set forth above if requested by a party.

9. **Amendments.** It is mutually agreed and understood that no alteration or variation of the terms of this Agreement shall be valid, unless made in writing, and signed by CRESA and the Parties hereto, and that any oral understandings or agreements that are not incorporated herein, shall not be binding on either CRESA or the Parties.
10. **Compliance With Law.** CRESA shall comply with all applicable federal, state and local laws and regulations applicable to the performance of this Agreement, including without limitation all those pertaining to wages and hours, confidentiality, disabilities and discrimination.
11. **Assignment.** CRESA and the Parties may not assign any rights or delegate any duties under this Agreement, whether by assignment, subcontract or other means. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement. Provided however, this prohibition shall not apply to an assignment pursuant to a consolidation of a Party to this agreement with another Party to this agreement.
12. **Maintenance and Audit of Records.** CRESA and the Parties shall maintain books , records, documents and other materials relevant to its performance under this Agreement which sufficiently and accurately reflect any and all direct and indirect costs and expenses incurred or paid in the course of performing this Agreement. These records shall be subject to inspection, review and audit between CRESA and a given Party or its designee, the Washington State Auditor's Office, and authorized federal agencies. CRESA and each Party shall retain all such books, records, documents and other materials as required by the Washington State Records Retention policy as established by the Washington Secretary of State.
13. **Waiver Limited.** A waiver of any term or condition of this Agreement must be in writing and signed by the waiving Party and CRESA. Any express or implied waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence or omission.
14. **Default/Dispute Resolution.** If either CRESA or a Party fails to perform any act or obligation required to be performed by it hereunder, the other shall deliver written notice of such failure to the non-performing party. The non-performing party shall have thirty (30) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, unless otherwise agreed to in writing and executed by both parties on additional time necessary for a reasonable cure; after which time the non-performing party shall be in default ("Default") under this Agreement.

In the event a default continues and/or any dispute arises (for anything other than non-payment) between the parties, either party may request in writing that the issue be resolved by mediation. If the parties are unable to resolve the dispute within ninety (90) days, then either party shall have the right to exercise any or all rights and remedies available to it in law or equity.

15. **Governing Law and Venue.** This Contract shall be governed by the laws of the State of Washington. Venue for any litigation shall be Clark County, Washington.
16. **Public Disclosure Compliance.** The parties acknowledge that CRESA is an “agency” within the meaning of the Washington Public Records Act, Ch. 42.56 RCW, and that materials submitted by a Party to CRESA become public record. Such records may be subject to public disclosure, in whole or part and may be required to be released by CRESA in the event of a request for disclosure. In the event CRESA receives a public record request for any data or deliverable that is provided to CRESA and that is licensed from the Party, CRESA shall endeavor to notify the Party of such request. The Party shall save and hold harmless CRESA from any costs, attorney fees or penalties assessed under Ch.42.56 RCW for withholding or delaying public disclosure of such information.
17. **Consent and Understanding.** This Agreement contains a complete and integrated understanding of the agreement between the parties and supersedes any understandings, contract, or negotiations, whether oral or written, not set forth herein or in written amendments hereto duly executed by both parties.
18. **Severability.** If any provision of this Agreement is held invalid, the remainder would then continue to conform to the terms and requirements of applicable law.
19. **Effective Date.** This agreement shall go into effect among and between the parties upon the effective date of Ordinance 2017-10-08 that established CRESA as a public authority for the function of providing emergency communications and emergency management services.
20. **Ratification.** Acts taken in conformity with this agreement but prior to its execution are hereby ratified and affirmed.
21. **Execution and Filing.** The parties agree that there shall be multiple original signature pages of this Agreement distributed for signature by the necessary officials of the parties. Upon execution, the executed original signature pages of this Agreement shall be returned to the Clark County Clerk, which shall file an executed original of this Agreement with the Clark County Auditor. The Clark County Clerk shall distribute duplicate conformed copies of the Agreement to each of the parties.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017.

**CLARK REGIONAL EMERGENCY SERVICES AGENCY**

Attest:

By: Don Chaney Chair, CRESA Administrative Board

**CITY OF BATTLE GROUND**

Attest:

By: Philip Johnson, Mayor

By: City Clerk for Battle Ground

Approved as to form:

City Attorney for Battle Ground

**CITY OF CAMAS**

Attest:

By: Scott Higgins, Mayor

By: City Clerk for Camas

Approved as to form:

City Attorney for Camas

**CITY OF LA CENTER**

Attest:

By: \_\_\_\_\_  
Greg Thornton, Mayor

By: \_\_\_\_\_  
City Clerk for La Center

Approved as to form:

\_\_\_\_\_  
City Attorney for La Center

**CITY OF RIDGEFIELD**

Attest:

By: \_\_\_\_\_  
Ron Onslow, Mayor

By: \_\_\_\_\_  
City Clerk for Ridgefield

Approved as to form:

\_\_\_\_\_  
City Attorney for Ridgefield

**CITY OF VANCOUVER**

Attest:

By: \_\_\_\_\_  
Eric Holmes, City Manager

By: \_\_\_\_\_  
City Clerk for Vancouver

Approved as to form:

\_\_\_\_\_  
City Attorney for Vancouver

**CITY OF WASHOUGAL**

Attest:

By: \_\_\_\_\_  
Sean Guard, Mayor

By: \_\_\_\_\_  
City Clerk for Washougal

Approved as to form:

\_\_\_\_\_  
City Attorney for Washougal

**TOWN OF YACOLT**

Attest:

By: \_\_\_\_\_  
Jeff Carothers, Mayor

By: \_\_\_\_\_  
City Clerk for Yacolt

Approved as to form:

\_\_\_\_\_  
City Attorney for Yacolt

**BOARD OF CLARK COUNTY COUNCILORS  
FOR CLARK COUNTY, WASHINGTON**

By: \_\_\_\_\_  
Marc Boldt, Chair

Attest: \_\_\_\_\_  
By: Clerk to the Board

Approved as to form: \_\_\_\_\_  
Attorney for Clark County

**FIRE DISTRICTS**

\_\_\_\_\_  
CLARK COUNTY FIRE & RESCUE

Attest: \_\_\_\_\_

\_\_\_\_\_  
EAST COUNTY FIRE & RESCUE

Attest: \_\_\_\_\_

\_\_\_\_\_  
FIRE DISTRICT 3

Attest: \_\_\_\_\_

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FIRE DISTRICT 6

Attest: \_\_\_\_\_

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FIRE DISTRICT 9

Attest: \_\_\_\_\_

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FIRE DISTRICT 10

Attest:

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FIRE DISTRICT 11

Attest:

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FIRE DISTRICT 13

Attest:

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NORTH COUNTRY EMS

Attest:

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COWLITZ-SKAMANIA FIRE DISTRICT 7

Attest:

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