

## INTERGOVERNMENTAL AGREEMENT

### *Marion Area Multi-Agency Emergency Telecommunication Center [METCOM]*

**THIS AGREEMENT** is made and entered into by and between the Aumsville Fire District, Aurora Fire District, City of Aumsville, City of Aurora, City of Donald, City of Gates, City of Gervais, City of Hubbard, City of Idanha Detroit, City of Jefferson, City of Mill City, City of Mt. Angel, City of Scotts Mills, City of Silverton, City of St. Paul, City of Stayton, City of Sublimity, City of Turner, City of Woodburn, Drakes Crossing Fire District, Gates Fire District, Hubbard Fire District, Idanha Detroit Fire District, Jefferson Fire District, Lyons Fire District, Marion County, Mill City Fire District, Monitor Fire District, Mt. Angel Fire District, Silverton Fire District, St Paul Fire District, Stayton Fire District, Sublimity Fire District, Turner Fire District and Woodburn Fire District (collectively, the "Principals").

### **RECITALS**

**WHEREAS**, the Principals wish to establish and maintain a Public Safety Answering Point and consolidated emergency service communications center, to be known as the Marion Area Multi- Agency Emergency Telecommunications Center or METCOM; and

**WHEREAS**, ORS 190.010 et seq. authorizes governmental entities to agree to the joint provision of communications services and to create an Agency to provide these services; and

**WHEREAS**, the Principals have investigated the means by which consolidation of some or all existing emergency service communication operation in Marion County may be accomplished for the purpose and benefit of enhancing public safety; and

**WHEREAS**, the Principals, through creation of METCOM, seek to deliver excellent emergency service communications in a highly efficient manner; to access potential economies of scale through consolidation of activities; to promote interagency collaboration, communication and interoperability; and to continuously identify means to enhance service delivery; and

**WHEREAS**, the establishment and maintenance of such services will be of benefit to the citizens of the Principals and the public in general; and

**WHEREAS**, substantial investigation and communication of alternative approaches to calculate User Fees will result in a fee formula which the parties agree is fair and equitable; and

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

## **SECTION 1 – DEFINITIONS**

The terms used in this Agreement shall have the meanings set forth in this section.

- A. Agreement – This Intergovernmental Agreement for Communications Services.
- B. Absentee Ballot – A Ballot that is disseminated to the full Governing Board with supporting documentation for a public meeting with the intent of providing the opportunity for all members to vote if unable to attend the meeting and unable to send their alternate. The Absentee Ballot is considered counted towards a Quorum.
- C. Chair – The officer elected by the Governing Board to preside over the Board meetings.
- D. Designated Voting Representative – The individual who has been authorized by a Participating Agency to vote on issues before the Governing Board.
- E. Executive Director – The Chief Administrative Officer of METCOM.
- F. Executive Board – Comprised of the elected positions of Chair, Vice Chair and Second Vice Chair.
- G. Fire / EMS Service Committee – The advisory board composed of a Designated Voting Representative from each Principal and Subscriber that has a fire or emergency medical service department or agency as described in Section 6.
- H. Fiscal Year – One funded year of operations, beginning on July 1 and ending on June 30 of the following year.
- I. Governing Board – The governing body of METCOM composed of a Designated Voting Representative from each Principal and Subscriber as described in Section 5.
- J. Joint Operating Board – The advisory body described in Section 6, which consists of the combined membership of the Fire/EMS Service Committee and Police Service Committee.
- K. Majority – More than one-half of all the votes cast by those present and constituting a quorum.
- L. NORCOM –North Marion County Communications Center.

- M. Participating Agencies - All Principals and all Subscribers, as they may be so constituted from time to time. Each is individually referred to as a "Participating Agency" or "Participant".
- N. Police Service Committee – The advisory board composed of a Designated Voting Representative from each Principal and Subscriber that has a police, sheriff or similar department or agency as described in Section 6.
- O. Public or Private Safety Agency - Any unit of state or local government, a special-purpose district or a private firm that provides or has authority to provide fire-fighting, police, ambulance or emergency medical services.
- P. Principal – A general purpose municipal corporation or government agency, a fire district, a public safety organization, or a state or county agency, which has accepted the terms of and is a party to this Agreement.
- Q. Public Safety Answering Point (PSAP) – A 24-hour communications facility established as an answering location for 9-1-1 calls originating within a given service area, receiving all calls directly from the public, and processing those calls by direct dispatch, call relay or transfer to the appropriate Public or Private Safety Agency. Also known as a Primary PSAP.
- R. SCCC - Santiam Canyon Communications Center.
- S. Subscriber - A general purpose municipal corporation, private organization, government agency, a fire district, a public or private safety agency or a state or county agency which has contractually agreed to pay METCOM for emergency communications services or other services as offered at a rate or rates according to such terms and conditions as may be established by METCOM, but is not a Principal under this Agreement.
- T. Super-Majority– At least two-thirds of all the members of the board or governing body entitled to cast a vote.
- U. User Fees – Those fees charged to Participating Agencies for services provided by METCOM.
- V. User Fee Formula – A fee calculation used to identify user fees for disciplines [police/fire/EMS/Other Principals] for service provided known as User Fees.
- W. User Fee Smoothing – A process by which Participating Agencies negotiate for sharing increases to user fees as a transition period over time.

- X. Vice Chair – The officer elected by the Governing Board to act as the Chair in his or her absence.
- Y. 9-1-1 Service Area – The geographical area identified through the METCOM’s jurisdiction as the Primary PSAP and on file with the Oregon Emergency Management Office that contains the entire central office servicing area from which the METCOM as the Primary PSAP will have the capability to answer calls placed to 9-1-1.

**SECTION 2 – CREATION OF PSAP**

- A. There is hereby created a consolidated public safety communications agency, hereinafter called Marion Area Multi Agency Emergency Telecommunications Center, to be known as METCOM. METCOM shall have the responsibility and authority for emergency service communications and all related functions incidental thereto for the purpose of communication and dispatching in the furtherance of public safety and emergencies within the boundaries of its 9-1-1 Service Area.
- B. The Intergovernmental Agreements between Participants of the North Marion County Communications Center (NORCOM) and Santiam Canyon Communications Center (SCCC) are hereby repealed and replaced in their entireties by this Agreement.
- C. METCOM is hereby vested with all powers, rights and duties necessary for performing the functions of a 9-1-1 Public Safety Answering Point (PSAP) under Oregon Law and initiating appropriate response pursuant to ORS 403.100 et seq. including, but not limited to, contracting for such services.

**SECTION 3 – DUTIES AND SERVICES**

- A. METCOM is designated as the Principals’ PSAP for the identified 911 Service Area (METCOM Boundary Area) and shall have the responsibility and authority for answering, receiving, dispatching and transferring emergency service communications and all related functions incidental thereto for communicating and dispatching services between the public and the Participating Agencies’ directly served public safety departments in the furtherance of improved public safety and emergency response, including but not limited to the following services:
  - 1. Receiving 9-1-1 Calls and routing calls for police, fire and medical services on a 24/7 basis;
  - 2. Receiving and disbursing 9-1-1 telephone tax revenue in accordance with the ORS 403.200, OAR 104-080-0060 and any other applicable law.

3. Receiving and disbursing revenues and expenditures from User Fees in accordance with operating policies and procedures and applicable law.
4. Directing a response to said calls by either dispatching the appropriate emergency police, fire or medical unit or forwarding the call to the appropriate agency for response on a 24/7 basis;
5. Providing on-going communication support to personnel in the field;
6. Updating, maintaining and managing the radio communications systems (excluding equipment, base stations and towers owned and/or leased by individual Participating Agencies), computer systems, support files and resource materials necessary to accomplish the above;
7. Maintaining and supporting communications lines and equipment and contracting with a communications company or companies and other contractors for lines and equipment required for effective operation;
8. Maintaining backup communications systems;
9. Initiating public safety records for all dispatched calls and providing such records services, including the updating, maintaining and managing in compliance with public records law;
10. Providing access to Computer Aided Dispatch (CAD) system to Participants through display access;
11. Establishing and updating from time to time standard protocols for communications to and from personnel in the field.

B. METCOM will not provide the following types of service:

1. Provide business service non-emergency call taking for Participants without a supplemental contract for service agreement.
2. Monitoring of alarm systems.
3. Maintaining individual subscriber record systems other than CAD consistent with Oregon archive regulation;
4. Maintaining Mobile Data System Software/Hardware and Connectivity;

5. Maintaining radio communications equipment, base stations and towers owned and/or leased by individual Participating Agencies and not by METCOM.
- C. METCOM will employ qualified and certified personnel consistent with Exhibit A which is subject to modification with Governing Board approval. Exhibit E and F identify the employment obligation upon the commencement of METCOM.

#### **SECTION 4 –POWERS**

- A. METCOM shall have all powers allowed by law for intergovernmental agencies created under ORS 190.010 et seq., and all powers allowed by law for PSAPs under ORS 403.100 et seq., including but not limited to the following:

Recommending action to the legislative bodies of the Participating Agencies;

1. Reviewing and approving budget expenditures;
2. Establishing policies for expenditures of budget items;
4. Reviewing and adopting a personnel policy;
5. Reviewing and approving operating policy;
6. Establishing a fund or special fund or funds as authorized by Oregon Budget Law for operations;
7. Conducting regular and special meetings as may be designated by the Governing Board consistent with the State of Oregon Open Public Meetings Law;
8. Maintaining and managing records in accordance with the state Public Records Law and other applicable state and federal records laws and regulations;
9. Determining what services shall be offered and under what terms they shall be offered;
10. Hiring, training, disciplining and terminating an Executive Director and other personnel and ensuring appropriate staffing levels;
11. Creating committees to review and make recommendations;

12. Approving strategic plans;
13. Approving the addition of new Principals and new Subscribers and the terms of participation and receipt of services;
14. Entering into agreements with third parties for goods and services necessary to fully implement the purposes of this Agreement;
15. Establishing User Fees and other charges for services provided to Participating Agencies;
16. Directing and supervising the activities of the Joint Operations Board, the Fire/EMS Services Board, the Police Services Board and the Executive Director;
17. Making purchases or contract for services necessary to fully implement the purposes of this Agreement;
18. Entering into agreements with, and receiving and distributing funds from, any federal, state or local agencies;
19. Receiving all funds allocated to METCOM by Participating Agencies;
20. Purchasing, taking, receiving, leasing, taking by gift, or otherwise acquiring, owning, holding, improving, using and otherwise dealing in and with real or personal property, or any interest therein;
21. Selling, conveying, leasing, exchanging, transferring, and otherwise disposing of all of its property and assets;
22. Suing and being sued, complaining and defending, in all courts of competent jurisdiction;
23. Making and altering bylaws for the administration and regulation of its affairs;
24. Adopting all rules necessary to carry out its powers and duties;
25. Requesting the issuance of debt by Principals on behalf of METCOM, provided that METCOM itself shall not be authorized to issue debt;

26. Approving, modifying or terminating agreements to provide communications, including call reception and/or dispatch services to any person, firm, corporation, local government or agency of government provided that it shall undertake no obligation that has the effect of diminishing or degrading the level of service provided to the current Participating Agencies.
27. Entering into contracts with local government agencies or third parties for the use of space for its operations, and for staff and auxiliary services including, but not limited to, records, payroll, accounting, purchasing and data processing.
28. Entering into contracts with Subscribers on such terms as it deems appropriate and beneficial.
29. Any and all other acts necessary to further METCOM'S goals and purposes.

#### **SECTION 5 –GOVERNING BOARD; COMPOSITION AND OPERATION**

- A. Duties of Governing Board: Attached hereto as Exhibit A is an organizational chart for METCOM. All powers of METCOM shall be exercised by or under the authority of the Governing Board, and the business and affairs of METCOM shall be managed under the direction of the Governing Board. In particular, the Governing Board shall be responsible for:
  1. Providing direction and assistance to the Joint Operating Board;
  2. Establishing employment terms and conditions, including compensation and termination of the Executive Director;
  3. Adopting an annual operating budget in accordance with ORS 294.900 to 294.930, including determination of User Fees and formulas;
  4. Obtaining and reviewing an annual audit of finances by an independent accounting firm for the purposes of receiving an opinion on the financial statements;
  5. Promulgating rules for the orderly management of personnel matters;
  6. Approving new Participating Agencies;
  7. Establishing policy, including adopting personnel policies, board policies and standard operating procedures.



- B. Number and Qualification: The Governing Board shall be composed of one (1) Designated Voting Representative from each Participating Agency. Each Participating Agency shall have only one seat on the Governing Board. The Designated Voting Representative shall be the Chief Executive officer of the Participating Agency or employed by the Participating Agency as public safety personnel. Designated Voting Representatives are hereafter referred to as members of the Governing Board. Members may only serve for such time as they are employed by the Participating Agency. Upon termination of a Participating Agency, its representation on the Governing Board shall cease; provided that entities contributing through 9-1-1 PSAP Tax shall continue to have representation on the Governing Board.
- C. Participating Agencies: As of the date of this Agreement, the Participating Agencies with Designated Voting Representatives on the Governing Board, are listed on Exhibit B attached hereto and by this reference made a part hereof.
- D. Alternates: Each member of the Governing Board may designate in writing at least 72 hours in advance of a board meeting one alternate to serve on the Governing Board when such member is absent or unable to serve, provided that each such alternate must be employed by said Participating Agency as public safety personnel. Alternates may only serve for such time as they are employed by the Participating Agency as public safety personnel.
- E. No Proxies: Only the member or, in the absence of the member the alternate, may vote on behalf of a Participating Agency. A Participating Agency may not appoint any other person or entity to serve as a proxy.
- F. Quorum: A majority of the members present, to include absentee ballots, at a Regular Governing Board Meeting shall constitute a quorum for the transaction of business at any meeting.
- G. Voting: Members of the Governing Board shall be entitled to vote on all matters before the Governing Board unless prohibited by law. Each member shall have one vote, either in person or by absentee ballot. Except as otherwise required by law or set forth herein, a Majority of the votes present and entitled to be cast at any duly organized meeting shall decide any question.
- H. Items Requiring Super-Majority Vote for Approval: A Super-Majority vote of the Governing Board (two-thirds of all members) shall be required in order to approve the following items or actions.

1. Approval or amendment of METCOM'S budget, including the User Fee formula;
  2. A decision to ask the Principals to issue debt for or on behalf of METCOM;
  3. A decision to acquire assets, equipment, real or personal property valued at over \$25,000;
  4. Admission of a new Principal or Subscriber;
  5. Appointment of the Executive Director;
  6. Amendments to this Agreement;
  7. Expansion of the scope of services provided by METCOM; and
  8. Termination of a Participating Agency for delinquencies in payment of User Fees.
- I. Meeting: The Governing Board shall meet not less than four (4) times per year, at least once each calendar quarter, at a time and place designated by the Chair of the Governing Board or by a majority of its members. Not less than fourteen (14) days advance written or printed notice of regular meetings shall be given to the members of the Governing Board. Public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place for holding regular meetings, shall also be given and shall include a list of principal subjects anticipated to be considered at the meeting; however the Governing Board may consider additional subjects at the meeting. Special meetings may be called by the Chair upon giving all other members not less than seven (7) days prior notice. No special meeting shall be held without at least 24 hours' notice to the members of the Governing Board, the news media which have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice.
- J. Telephone Conference Meeting: Any regular or special meeting of the members may be by telephone or other electronic communications equipment by means of which all persons participating in the meeting can hear each other. Such meetings are subject to Public Meetings Law if they otherwise qualify by virtue of their deliberative purpose and presence of a quorum.

- K. Board Rules: Unless otherwise provided, Robert's Revised Rules of Order shall govern all procedural matters that relate to business that is presented to the Governing Board for action.
- L. Policy: The Governing Board may adopt such policies and procedures as may be necessary to conduct its business, consistent with this Agreement
- M. Delegation: The Governing Board may delegate responsibility for execution of Governing Board policies and directives and for day-to-day operational decision-making to special committees, subcommittees, and/or an Executive Director, including the hiring and supervision of additional staff positions.
- N. Compensation: All members and their alternates shall serve without compensation.
- O. Vacancies: In the event of a Participant delegate vacancy, the affected Participating Agency shall submit, in writing, within at least 72 hours in advance of the next board meeting, the name of the Designated Voting Representative (employee) to fill that Participants vacancy to the Governing Board.
- P. Officers: The Governing Board shall have the following officers: the Chair, Vice-Chair and Second Vice-Chair.
1. The officers shall be initially elected at the first meeting of the Governing Board by majority vote of the members on the Governing Board and shall serve for a two-year term.
  2. Officers shall be elected with shared representation from both Police and Fire Service Districts.
  3. The officers shall be limited to serving no more than two terms.
  4. In the event of a vacancy, the position shall be filled by the Governing Board for the remainder of the position's term.
  5. The officers shall have such authority and perform such duties in the management of METCOM as may be designated from time to time by the Governing Board.

## SECTION 6—JOINT OPERATING BOARD AND SERVICE BOARDS

- A. Creation and Membership: A Joint Operating Board is hereby created to serve in an advisory capacity to the Governing Board. The Joint Operating Board shall be composed of the combined membership of the Police Service Committee and Fire/EMS Service Committee.
1. Police Service QA Committee: The Police Service Committee shall consist of the Chief or his/her designee (an employee) from each Participating Agency with a police department, law enforcement agency or equivalent agency or operation directly receiving services from METCOM. Each Participating Agency shall have no more than one seat on the Police Service QA Committee.
  2. Fire/EMS QA Service Committee: The Fire/EMS QA Service Committee shall consist of the Chief or his/her designee (an employee) from each Participating Agency with a Fire/EMS department or equivalent agency or operation directly receiving services from METCOM. Each Participating Agency shall have no more than one seat on the Fire/EMS QA Service Committee.
- B. Board Representatives: Persons serving on either the Police or Fire Service Board(s) are referred to as Representatives. Representatives may only serve for such time as they are employed by the Participating Agency. When an entity ceases to be a Participating Agency, it will cease having a representative on the Service Boards; provided that entities contributing through 9-1-1 PSAP Tax shall continue to have representation on the Boards.
- C. Powers: The Operating Board shall meet for the purpose of promoting interagency collaboration and cooperation, sharing information, developing proposed Agency operating policy and such other matters as the Governing Board may direct. The Joint Operating Board shall provide advice, information, and recommendations to the Governing Board or the Executive Director as needed from time to time.
- D. Alternates: Representatives to the Boards may designate in writing at least 72 hours in advance of a board meeting one alternate to serve on the Joint Operating Board when such representative is absent or unable to serve provided that such alternate must have operational responsibilities within its respective agency. Alternates may only serve for such time as they are employed by the Participating Agency.

- E. No Proxies: Only the representative or, in the absence of the representative the alternate, may vote on behalf of a Participating Agency. A Participating Agency may not appoint any other person or entity to serve as a proxy.
- F. Quorum: A majority of the members of each Service Board and the Joint Operating Board (or their alternates) shall constitute a quorum for the transaction of business at any meeting of the Joint Operating Board.
- G. Voting. Members of the Joint Operating Board shall be entitled to vote on all matters before the Joint Operating Board unless prohibited by law. Each member shall have one vote. Except as otherwise required by law or set forth herein, a Majority of the votes present and entitled to be cast at any duly organized meeting shall decide any question.
- H. Meetings: The Joint Operating Board and each Service Board shall meet not less than six (6) times per year, once every two (2) months, at a time and place designated by the Chair of the Joint Operating Board. Not less than fourteen (14) days written or printed advance notice of regular meetings shall be given to the members of the Joint Operating Board. Public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place for holding regular meetings, shall also be given and shall include a list of principal subjects anticipated to be considered at the meeting; however the Joint Operating Board may consider additional subjects at the meeting. Special meetings may be called by the Chair of the Joint Operating Board. No special meeting shall be held without at least 24 hours' notice to the members of the Joint Operating Board, the news media which have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice.
- I. Telephone Conference Meeting: Any regular or special meeting of the members may be by telephone or other electronic communications equipment by means of which all persons participating in the meeting can hear each other. Such meetings are subject to Public Meetings Law if they otherwise qualify by virtue of their deliberative purpose and presence of a quorum.
- J. Board Rules: Unless otherwise provided, Robert's Revised Rules of Order shall govern all procedural matters relating to business before the Joint Operating Board.
- K. Policy: The Joint Operating Board may adopt such policies and procedures as may be necessary to conduct its business, consistent with this Agreement.

- L. Compensation: All members and their alternates shall serve without compensation.
- M. Vacancies: In the event of a vacancy, the affected Participating Agency shall submit, in writing, within at least 72 hours in advance of the next board meeting, the name of the representative to fill the vacancy.
- N. Officers: The Joint Operating Board shall have the following officers: the Chair, Vice-Chair and Second Vice-Chair.
  - 1. The Chair and Vice-Chair shall be from opposite disciplines [Fire/EMS and Police]. A Second Vice-Chair shall be elected to serve in the capacity of the Chair or Vice-Chair in the event that the role is not fulfilled.
  - 2. The officers shall be initially elected at the first meeting of the Joint Operating Board by majority vote of the representatives on the Joint Operating Board and shall serve for a two-year term.
  - 3. In the event of a vacancy, the position shall be filled by the Joint Operating Board for the remainder of the position's term.
  - 4. The officers shall have such authority and perform such duties in the management of METCOM as may be designated from time to time by the Governing Board.

## **SECTION 7 – EXECUTIVE DIRECTOR**

- A. The Governing Board shall select and appoint an Executive Director based upon that person's administrative and technical competence, the Executive Director shall be employed consistent with his/her Employment Contract with the Agency.
- B. The Executive Director shall be the Chief Administrative Officer of METCOM and shall be responsible for:
  - 1. Implementing Governing Board vision, goals and policies. Agency administration, personnel, purchasing and budget functions in conformance with 9-1-1 policies and rules adopted by the Governing Board.
  - 2. The Executive Director shall administer the day-to-day operations consistent with the policies adopted by the Governing Board.
  - 3. The Executive Director shall appoint persons to fill other staff positions, subject to the direction of the Governing Board.

4. The Executive Director is responsible for hiring, training, discipline and/or discharge of all subordinate METCOM personnel, subject to applicable Agency rules and policies.
  5. The Executive Director is authorized to retain legal counsel, consistent with policy, on behalf of the Agency to meet personnel management and operational requirements of the organization.
  6. The Executive Director shall assist the Service Boards, subject to the direction of the Governing Board.
  7. The Executive Director shall define and establishment service levels.
  8. Such other tasks as determined and assigned by the Governing Board.
- C. The Executive Director shall have experience in technical, financial and administrative fields and his or her appointment shall be on the basis of merit only. The Governing Board shall enter into a contract agreement with the Executive Director.
- D. The Executive Director shall be responsible for the development, maintenance and update of the agency personnel and policy manual subject to the direction of the Governing Board and with assistance from the Service Boards.
- E. The Executive Director shall actively and continuously consider and evaluate all means and opportunities toward the enhancement of operational effectiveness of emergency services to as to provide maximum and ultimate benefits to the members of the general public. The development, maintenance and update of the policy manual is the responsibility of the Executive Director subject to the direction of the Governing Board and with assistance from the Joint Operating Board.
- F. The Executive Director shall be responsible for ensuring that the Center maintains a quality assurance committee for consistency in reviewing calls for service and assist in establishing consistent guidelines and policy for dispatching consistent with disciplines.

#### **SECTION 8 – BUDGET; CALCULATION OF USER FEES; RESERVE FUNDS**

- A. Budget Fiscal Year. METCOM's budget fiscal year shall be July 1 to June 30 of each year. The Governing Board may in its sole discretion elect to operate on a biannual budget basis and adopt a budget every two years.

- B. Budget Approval. Each fiscal year, the Executive Director shall develop a proposed operating budget based on the Governing Board's approved budget policy direction.
- C. Review by Joint Operating Board. The Executive Director shall present the proposed operating budget for the upcoming fiscal year to the Joint Operating Board on or before February 1 of the prior year for its review and recommendation. The proposed budget, together with all comments from the Joint Operating Board regarding the budget, to include any changes to the User Fees consistent with Section 8. F must be included in the budget and shall be transmitted to the Governing Board by the Executive Director on or before February 1 for approval. The Governing Board shall adopt the budget for the upcoming fiscal year no later than June 30<sup>th</sup>.
- D. Communication with Participating Agencies. Following adoption by the Governing Board, Participating Agencies shall be advised of the programs and objectives contained in the proposed budget, any changes in the User Fee formula, and the required financial participation for each Principal and Subscriber for the following fiscal year.
- E. Reserve Funds. The Governing Board shall establish both an operating contingency reserve fund and a capital equipment replacement fund and shall call for funding of such reserves in each budget at a level the Governing Board determines appropriate. The goal of the operating contingency reserve fund is to ensure operating funds are on hand to reasonably address unforeseen operating contingencies. The purpose of the capital equipment replacement fund is to minimize large increases in User Fees from year to year resulting from acquisition or replacement of capital, and to fund the timely replacement of aging technology, equipment and systems.
- F. User Fee Formula. As part of the budget deliberations the Joint Operating Board shall make recommendations regarding User Fee formula(s) to the Governing Board, and the Governing Board shall determine the User Fee formula(s). Any changes to the User Fees must be approved by a Super-Majority Vote of the Governing Board.

## **SECTION 9 – OBLIGATIONS OF PARTICIPATING AGENCIES**

- A. Election to Receive Service from Agency. Each Participating Agency shall determine which of its respective public service departments will be directly served by METCOM by completing a service election form substantially in the format attached hereto as Exhibit G.



B. Payment of User Fees. Each Participating Agency shall pay its User Fees in twelve equal installments payable on or before the tenth of each month or quarterly payments due on or before the first day of the next quarter. Each Participating Agency may determine in its sole discretion whether it will pay monthly or quarterly.

C. Delinquencies.

1. If any Participating Agency for any reason fails to pay its User Fees when due, compounding interest will immediately begin accruing monthly on such User Fees at a rate of 3% from the due date until paid. METCOM shall, within seven (7) days of the due date, send notice to any delinquent Participating Agency and provide a cure period of not less than ten (10) days from the date of the notice.
2. If the delinquent Participating Agency is a Principal and the User Fees remain unpaid 60 days from the original due date, the Principal shall automatically be converted to a Subscriber on such date.
3. If User Fees are not paid within six (6) months of the original due date, the Governing Board may terminate the delinquent Participating Agency and cease providing services to said Participating Agency.
4. Subscriber contracts shall include terms consistent with these delinquency provisions, that is, interest shall accrue on delinquent payments at the same rate as provided herein, and service may be terminated if fees and interest are not paid in full within six (6) months following the due date.

D. Withdrawal, Termination.

1. Participating Agencies hereby explicitly agree that no Participating Agency may terminate its participation in this Agreement within the two (2) years of the commencement of the Agreement. Upon completion of the first two (2) years of the commencement of this Agreement, Participating Agencies may not terminate its participation in this agreement without giving written notice to all other Participating Agencies not less than six (6) months prior to the end of the fiscal year. Such termination shall become effective at midnight of the last calendar day of the fiscal year in which such notice is given. Failure to give proper notice will result in the Participating Agency wishing to terminate its participation in this Agreement being assessed its User Fee for the following fiscal year in its entirety. Participating Agencies that terminate its participation in this Agreement, regardless of notice, shall pay METCOM for all expenses

required and associated with the Participating Agency's termination of services (the actual cost of leaving the Agency) to include staff time associated with facilitating the termination process.

2. A member of the Governing Board representing a Principal that (1) has given notice of withdrawal, or (2) has been terminated by a vote of the Governing Board which termination is effective at a future date, shall be authorized to cast votes at meetings of the Governing Board only on budget items to be implemented prior to the withdrawal or termination date. A withdrawing or terminating Principal will be excused from participating in a borrowing program where the debt instruments in support of that program will not be issued until after the Principal is withdrawn or terminated provided that the withdrawing or terminating Principal is not authorized to vote on such borrowing program.
3. A terminating and/or withdrawing Principal is deemed to forfeit any and all rights it may have to METCOM's personal or real property or any other ownership in METCOM unless otherwise provided by the Governing Board; provided further that this forfeit of rights shall not apply to personal property on loan to METCOM from the terminating or withdrawing Principal.
4. The termination and/or withdrawal of a Participating Agency shall not discharge or relieve said Participating Agency of its obligations to pay all User Fees, together with any interest thereon or obligations to make payment in a borrowing program where the Participating Agency was a member during the authorization of any such borrowing program. In the event that a Participating Agency terminates their Agreement with METCOM prior to July 1, 2015; that Participating Agency is responsible for an annual fee of \$7,800 towards the debt obligation incurred, identified in Exhibit 1.

## **SECTION 10 – ASSETS AND EQUIPMENT**

- A. METCOM shall ensure that it has sufficient equipment in good working order to provide the services which are to be performed under this Agreement.
- B. In order to reduce the cost of starting up a new consolidated Emergency Communications Services dispatch operation, METCOM will acquire from NORCOM and SCCC certain assets currently used by these Agencies in their respective dispatch operations. These assets will be acquired by METCOM at prices based on a straight-line depreciation of the value of the assets at the time of acquisition. The timing of

acquisition of the equipment will be such as will facilitate both the timely start-up of METCOM services and transition of dispatch services and operations.

- C. Attached to this Agreement as Exhibit D is an inventory of all assets that will be owned by METCOM after it has acquired said assets from NORCOM and SCCC. Also identified are those assets located within or utilized by METCOM that shall remain the property of individual Participating Agencies.
- D. Attached to this Agreement as Exhibit 1 "Assumption and Repayment of Consolidated Debt Obligation" identifies the responsibility of the debt obligation and repayment schedule that METCOM has acquired from SCCC.
- E. METCOM is responsible for providing and maintaining the basic equipment to serve the users. This includes, but is not limited to, the 9-1-1 telephone system, METCOM business lines, CAD computer system, and radio dispatch consoles. Each Participating Agency shall be responsible for purchasing, maintaining and repairing their own mobile, base and portable radio equipment. No Participating Agency may add specific equipment to METCOM without the prior consent of the Governing Board.
- F. Individual equipment added by a Participating Agency must be purchased and maintained by that Participating Agency. The Participant and the Executive Director shall maintain inventory records to show what items are METCOM owned and Participant-owned. In case of dissolution of METCOM or withdrawal of the lending Participating Agency from METCOM, any property assigned or loaned to METCOM by a Participating Agency shall be returned to the appropriate Participating Agency.
- G. Nothing in this Agreement is intended to alter or affect the existing proprietary rights of the Participating Agencies in certain radio frequencies. All Participants shall retain any and all legal rights to radio frequencies which they possessed prior to their execution of this Agreement.

#### **SECTION 11 – REVIEW AND EVALUATION**

This Agreement shall be reviewed and evaluated by the Governing Board annually.

#### **SECTION 12 - AMENDMENTS**

The terms of this Agreement may only be amended with the consent of a Super-Majority of the Governing Board.

### **SECTION 13 – ADMISSION OF NEW PARTIES**

Additional Participating Agencies may be added to this Agreement upon such terms and conditions as agreed-upon by a Super-Majority of the Participating Agencies that have signed this Agreement. The admission of additional Participating Agencies shall be incorporated by written addenda to this Agreement, signed by all Participating Agencies. New Parties are responsible for actual start up fees associated with technology, service delivery requirements and staffing requirements as proposed by the defined service quote recommended by the Executive Director and approved by the Executive Board. Initial User Fees will be calculated based upon the Agency adopted discipline user fee formula utilizing the specific criteria that represents an assessed user fee with historical information (call volume, population served, assessed value of district, time associated with service, etc.) which is applicable associated with said Participant.

Upon approval of the Governing Board, a non-voting associate membership may be extended to any political subdivision within the boundaries of Marion, Clackamas and Linn Counties. Associate members may participate in discussion of any non-financial item of business, but may not serve on the budget or executive committees.

### **SECTION 14 – TERMINATION OF AGREEMENT: DISSOLUTION OF AGENCY**

- A. Upon the Unanimous Vote of all parties to this Agreement METCOM may be terminated and, subject to the direction of the Governing Board, METCOM shall conclude business by a specified date which date shall be at least one (1) year from the date of the vote to terminate. Upon the final termination date, this Agreement shall be fully terminated.
- B. Upon termination of this Agreement and METCOM, all property then owned by METCOM shall be disposed of in the following manner: All real and personal property shall be sold and the proceeds thereof together with all unexpended funds or reserve funds, following payment of all outstanding liabilities, shall be distributed to those Principals still participating in METCOM on the day prior to the termination date and shall be apportioned between Principals on a pro rata basis based on the portion of User Fees each Principal paid during the preceding five years.
- C. In the event outstanding liabilities of METCOM exceed the value of personal and real property and funds on hand, all Principals shall contribute to such liabilities in the same manner as which they would share in the distribution of properties and funds based upon adopted user fee formula.
- D. Notwithstanding the foregoing, in the event of withdrawal or termination of Principals such that not more than three (3) Principals remain party to this Agreement, then the remaining parties to this Agreement shall terminate METCOM one (1) year from the first date that only three (3) Principals remain.

**SECTION 15 – DISPUTE RESOLUTION**

- A. Whenever any dispute arises between the Principals or between the Principals and METCOM (referred to collectively in this section as the “parties”) under the Agreement which is not resolved by routine meetings or communications, the parties agree to seek resolution of such dispute by the process described in this section, which shall also be binding on Subscribers.
- B. The parties shall seek in good faith to resolve any such dispute or concern by meeting, as soon as feasible. The meeting shall include the chair of the Governing Board, the Executive Director, and the representative(s) of the Principal(s), if a Principal(s) is involved in the dispute.
- C. If the parties do not come to an agreement on the dispute or concern, any party may demand a court proceeding or arbitration process to be mutually agreed to in good faith between the parties within 30 days, which may include binding or nonbinding decisions or recommendations.
- D. If the process proceeds immediately to arbitration, then the dispute or concerns shall be settled by binding arbitration in accordance with Rules of the Arbitration Service of Oregon, or other agreed upon arbitration rules. The location of the arbitration shall be selected in the county of Marion, and its proceedings will be governed by the laws of Oregon. The arbitrator(s) shall be individual(s) skilled in the legal and business aspects of the subject matter of this Agreement. The costs of the arbitration shall be shared equally. Judgment upon award rendered by the arbitrator(s) shall be final.

**SECTION 16 – INTERGOVERNMENTAL COOPERATION**

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

**SECTION 17 – INDEMNIFICATION AND HOLD HARMLESS**

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

- B. Each Principal shall, to the greatest extent allowed by law, defend, indemnify and hold METCOM and its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising *out* of that Principal's acts or omissions in connection with the performance of its obligations under this Agreement, except to the extent the injuries and damages are caused by METCOM.
  
- C. Each party shall give the other parties proper notice of any claim or suit coming within the purview of these indemnities. The indention will assume the defense of any claim, demand or action against such indemnities and will, upon the request of the indemnities, allow the indemnities to participate in the defense thereof, such participation to be at the expense of the indemnities. The indemnities will in any case cooperate fully with the indemnitor in the defense and will, at their expense, provide all relevant documents, witnesses and other assistance within their possession or control upon the reasonable request of the indemnitor. Settlement by the indemnities without the indemnitor's prior written consent shall release the indemnitor from the indemnity as to the claim, demand or action so settled. Termination of this Agreement, a Principal's withdrawal from METCOM or a Principal's conversion to Subscriber status, shall not affect the continuing obligations of each of the parties as indemnitors hereunder with respect to those indemnities and which shall have occurred prior to such termination.

## **SECTION 18 – INSURANCE**

METCOM shall purchase insurance in an amount not less than the limits set in the Oregon Tort Claims Act to protect against loss or liability for the actions of METCOM, Governing Board, Joint Operating Board, Police Service Committee, Fire/EMS Service Committee, Executive Director and staff. To the extent practicable, all Participating Agencies shall be named as additional insured on any policy.

## **SECTION 19 – NOTICE**

Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested.

## **SECTION 20 – NO THIRD PARTY BENEFICIARIES**

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

## **SECTION 21 – SEVERABILITY**

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

## **SECTION 22 - INTEGRATION**

This Agreement contains the entire agreement and supersedes any and all prior written or oral agreements or discussion.

## **SECTION 23 – EFFECTIVE DATE OF AGREEMENT; DURATION**

This Agreement and any amendments thereto, shall be executed on behalf of each Participating Agency by its duly authorized representative and pursuant to an appropriate resolution. The agreement shall be deemed adopted and effective on July 1, 2013. This Agreement shall automatically renew each year unless terminated as set forth herein.

## **SECTION 24 – COUNTERPARTS**

This Agreement may be signed in counterparts. Each Participant shall send one copy of this Agreement signed by its authorized signatory to: Director, Marion Area Multi Agency Emergency Telecommunications Center, 1060 Mt. Hood Ave., Woodburn, OR 97071. Such copy shall also list the name and address of the person to whom all notices under the Agreement are to be sent.

