

Contract ID: 430-3720A

Network Service Agreement

Contract ID: 430-3720A

Between

Multi Agency Communications Center

And

**Public Utility District No. 2 of Grant County,
Washington**



Network Service Agreement

This Network Service Agreement ("**Agreement**"), Contract ID: 430-3720A, is entered into this 11th day of December, 2013 ("**Effective Date**") between Multi Agency Communications Center, with its principal offices located at 6500 32nd Avenue NE, Suite 911, Moses Lake, Washington 98837 ("**MACC**"), and Public Utility District No. 2 of Grant County, Washington, with its principal offices at 30 C St. SW, Ephrata, WA 98823 ("**PUD**"). MACC and PUD are at times herein collectively referred to as "**Parties**" or individually as the "**Party**."

RECITALS

WHEREAS, the Parties have entered into, or in the future may enter into, subleases or sublicenses regarding PUD's occupancy and use of MACC's wireless communications tower sites at the locations set forth on **Exhibit A – Tower Sites** (each a "**Tower Site**" or collectively, the "**Tower Sites**") as such agreements may be modified, amended, or renewed from time to time; and

WHEREAS, MACC currently provides T1 Services (as defined below) to PUD, and shall continue to provide such T1 Services as described herein as a distinct and separate service from any services provided under the Tower Agreements; and

WHEREAS, the Parties previously entered into a "*Telecommunications Use of Facilities Agreement*" on or about September 18, 2000, that expired on September 17th, 2010, and the Parties wish to enter into this Agreement pursuant to the terms and conditions herein to provide for PUD's connection to T1 Services provided by MACC.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby incorporate each of the foregoing recitals into the terms of this Agreement by this reference and hereby agree to be bound to the following terms and conditions.

1. **Definitions.** This Network Service Agreement and all exhibits attached hereto shall use the following definitions:

"**Demarcation Point**" is the respective RJ-45 jack of the DS1 jack field supplied by MACC for use by PUD at each Tower Site and at MACC HQ where MACC's protected network facilities end, through which PUD may connect T1 Service to the PUD Equipment.

"**Law**" shall be defined as all applicable laws, including but not limited to, policies, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or that may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating Hazardous Substances.)

"**MACC HQ**" refers to the property upon which MACC's main office is located, with an address of 6500 32nd Avenue NE, Suite 911, Moses Lake, Washington 98837.

"**PUD Equipment**" " is any personal property that is installed, built, constructed and/or placed at or upon the Tower Sites or at or upon MACC HQ by PUD.

“**T1 Service**” is the data transfer system provided by MACC to PUD that allows for the transfer of electronic signals to and from the locations specified on **Exhibit A** at a maximum data rate of 1.544 megabits per second. Service may be provisioned over microwave, copper, fiber, or other means, at MACC’s discretion, provided that any change in provisioning does not materially reduce the data transfer rate.

“**Tower Agreements**” are the agreements currently in effect between the Parties governing the occupancy and use of the PUD Equipment at the MACC Tower Sites. The Tower Agreements may be referred to herein individually as a “**Tower Agreement**”, or collectively as “**Tower Agreements**”.

2. Description of Service at Tower Site(s).

- a. MACC will provide T1 Service between the Demarcation Points at the Tower Sites and MACC HQ (as shown on **Exhibit B – T1 Service Diagram**), and MACC shall maintain and repair, at no expense to PUD, all MACC facilities and MACC equipment up and to and including the Demarcation Point unless:
 - i. the maintenance or repair is required for reasons other than normal wear and tear; or
 - ii. PUD requests that the maintenance or repair be conducted outside of normal business hours; or
 - iii. the maintenance or repair is required due to actions or negligence of PUD, its representatives, contractors, agents, or invitees.
- b. PUD shall maintain all PUD Equipment and shall not disturb, access, or attempt to access any equipment owned or service provided by MACC beyond that which is specifically licensed to PUD, to include, without limitation, service or equipment beyond the Demarcation Point.
- c. T1 Services may be used for the provision of lawful wireless communications services and for no other purpose. MACC shall provide T1 Service up to the Demarcation Points between the locations specified on **Exhibit B**.

3. Description of Service at MACC HQ.

- a. During the term of this Agreement, MACC will provide to PUD space for the PUD Equipment initially at the location shown on **Exhibit C – PUD Equipment Space at MACC HQ**. PUD expressly acknowledges and agrees that the PUD Equipment Space at MACC HQ may be relocated by MACC at any time, at MACC’s sole discretion, with prior written notice to PUD. The use of PUD Equipment Space at MACC HQ is provided by MACC to PUD for storage of PUD Equipment only. PUD understands and acknowledges that PUD shall not have any leasehold or license interest in the real property upon which MACC HQ is situated.

- b. PUD shall be permitted to store at MACC HQ only that certain PUD Equipment required in connection with the services described and permitted under this Agreement. PUD shall have the right to store, operate, and maintain the PUD Equipment at and upon the location specifically shown on **Exhibit C**, as may be amended from time to time.
- c. PUD shall have access to the PUD Equipment Space at MACC HQ twenty-four (24) hours a day, seven (7) days a week, with twenty-four (24) hour advance notice to MACC by calling the phone number provided in Paragraph 19 below. In the event of an Emergency (as defined below) PUD shall not be required to provide advance notice for access, but shall provide notice to MACC as soon thereafter as reasonably practical.
- d. Only those employees, engineers, service technicians, contractors, subcontractors, agents, or persons under their direct supervision and control ("PUD's Authorized Personnel), that PUD shall have previously designated to MACC in writing as PUD's Authorized Personnel, shall be permitted to enter MACC HQ. PUD shall have full responsibility and liability for the safety and conduct of PUD's Authorized Personnel while at or upon any part of MACC HQ property. All work performed by or for PUD at MACC HQ shall be performed at PUD's expense by Authorized Personnel. Title to all PUD Equipment shall be held by PUD. All PUD Equipment shall remain PUD's personal property and are not fixtures. PUD has the right to remove or replace all PUD Equipment (with like-kind replacements) upon the PUD Equipment Space at MACC HQ from time to time at its sole expense; provided that PUD repairs any damage to the PUD Equipment Space caused by such installation, removal and/or replacement. PUD agrees that MACC shall bear no responsibility or liability for the conduct or safety of any of PUD's Authorized Personnel while on any part of the PUD Equipment Space.
- e. PUD agrees to install and operate PUD Equipment of the type and frequency that will not cause interference, electrical or physical, to any equipment of MACC or any other occupant at MACC HQ. In the event the PUD Equipment causes any interference, PUD will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, powering down the interfering PUD Equipment and only powering up the interfering PUD Equipment for intermittent testing until such interference is resolved. In the event PUD does not resolve the interference, or power down the interfering PUD Equipment within forty-eight (48) hours of receipt of MACC's notice of such interference, MACC shall have the right to any or all of the following options
 - i. terminate power to the interfering PUD Equipment.
 - ii. move the interfering PUD Equipment to such location as required to resolve any interference.
 - iii. disconnect any associated cabling as is required to resolve or relocate the interfering PUD Equipment.
- f. PUD shall not suffer or permit any lien to be filed against the MACC HQ property, PUD Equipment, or any part thereof, by reason of work, labor, services, supplies or materials requested, and/or claimed to have been requested by PUD; and if any such lien shall at

any time be so filed, PUD shall cause it to be canceled and discharged of record within thirty (30) calendar days after PUD's receipt of a notice of the filing thereof.

- g. Within ninety (90) calendar days of expiration or termination of this Agreement, regardless of the reason for termination ("Removal Period"), PUD shall restore the MACC HQ to its prior condition, normal wear and tear excepted, including the removal of all PUD Equipment. During the Removal Period, PUD shall be responsible for payment of all HQ Service Fees at the then-current rate until such removal and restoration is complete. In no case shall PUD be entitled to operate the Licensed Facilities, or receive or transmit therefrom, beyond the expiration or termination of this Agreement or during the Removal Period. In the event PUD does not cease operations of the PUD Equipment within forty-eight (48) hours of the expiration or termination of this Agreement, MACC shall have the right to terminate the operations of the PUD Equipment by using reasonable means including, but not limited to, terminating power to the PUD Equipment. If PUD fails to remove the PUD Equipment from MACC HQ within the Removal Period, all PUD Equipment shall be deemed abandoned and MACC may remove PUD Equipment using any method MACC deems reasonably necessary, and shall (i) secure storage from a commercial storage provider, or (ii) dispose of the PUD Equipment in any manner MACC deems reasonably necessary, or (iii) take possession of the PUD Equipment and such PUD Equipment will become the property of MACC. PUD shall bear all costs associated with the removal, storage and disposal of any abandoned PUD Equipment and shall reimburse MACC for any costs incurred by MACC for removing, storing or disposing such abandoned PUD Equipment, within thirty (30) calendar days of PUD's receipt of MACC's invoice. This Paragraph shall survive expiration or termination of this Agreement.
 - h. If the MACC HQ is damaged, destroyed, condemned or transferred in lieu of condemnation, MACC may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to PUD no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If MACC chooses not to terminate this Agreement, the HQ Service Fee shall be reduced or abated in proportion to the actual reduction or abatement of use of PUD Equipment Space at MACC HQ.
4. **Effective Date.** This Agreement shall be effective as of the Effective Date above.
 5. **Term.** The initial term of this Agreement shall be for five (5) years, and shall commence on the Effective Date, and shall expire at midnight five (5) years from the Effective Date, and shall be subject to:
 - a. **Extensions Term(s).** Provided that PUD is in good standing, and not in Breach or Default, this Agreement shall automatically extend for five (5) consecutive five (5) year terms unless either Party gives the other Party written notice of the intent to terminate this Agreement at least six (6) months prior to the end of the then current term. Each automatic extension shall commence immediately following the expiration of the prior term, and shall expire at midnight five (5) years from the commencement of such extension term.

6. **Month to Month Term(s).** After the expiration of this Agreement if a new agreement has not been entered into, or if this Agreement has not been extended, this Agreement will continue automatically on a month-to-month basis, on the same terms and conditions hereunder, unless a Party provides sixty (60) days notice to the other Party in writing of its desire to terminate this Agreement.
7. **Service Fee.** The Service Fees under this Agreement shall be as follows:
 - a. For the first (1st) year of this Agreement, PUD shall pay to MACC for the first (1st) T1 Service at each Tower Site the sum of Six Thousand Dollars (\$6,000⁰⁰/₁₀₀) per year, (“Service Fee”).
 - b. For the first (1st) year of this Agreement, PUD shall pay MACC for the PUD Equipment at MACC HQ the sum of Four Thousand Dollars (\$4,000⁰⁰/₁₀₀) per year (“HQ Service Fee”).
 - c. All Service Fees and the HQ Service Fee for the initial year of this Agreement shall be paid within thirty (30) calendar days of the Effective Date. The Service Fees for all locations operating under this Agreement, as amended from time to time, along with the HQ Service Fee, shall be paid together in one payment.
 - i. In the event that PUD obtains an additional T1 Service at an individual Tower Site, the Service Fee for each additional T1 Service shall be one-half (1/2) of the then-current Service Fee for the first (1st) T1 Service. Each additional T1 Service Fee will escalate in the same manner set forth in Paragraph 7(c)(ii) below.
 - ii. **Increases.** Beginning with the second (2nd) year of the Agreement, and every year thereafter, the annual Service Fee for each individual T1 Service and the HQ Service Fee shall increase on the anniversary of the Effective Date by four percent (4%) over the preceding year’s rate. All annual Service Fees and the HQ Service Fee shall be paid in advance, due and payable on each anniversary of the Effective Date in one payment.
 - d. **Other Fees and Costs.**
 - i. For each T1 Service added to a Tower Site not listed on Exhibit A as of the Effective Date, the Service Fee specified in Paragraph 7(a) shall be increased by the then-current amount paid for a first (1st) T1 Service. If more than one T1 Service is added to a new individual Tower Site, the Service Fee specified in Paragraph 7(c)(i) shall also apply.
 1. The Service Fee for each new T1 Service(s) shall be due and payable within thirty (30) days of PUD’s receipt of MACC’s invoice therefor, partial years prorated, and annually thereafter in accordance with Paragraph 7(c).
 - ii. In the event MACC is required to provide personnel for diagnostic or troubleshooting T1 Services at the Tower Sites or at MACC HQ, PUD shall pay a service charge equal to Eighty-Five Dollars (\$85.⁰⁰/₁₀₀) per person supplied by

MACC to such Tower Site (or MACC HQ) as required, per hour. The hourly rate charged by MACC for on-site diagnostic or troubleshooting T1 Services at the Tower Sites (or MACC HQ) may be increased if necessary by MACC, to be determined in MACC's sole discretion. Notice of such increase must be sent to PUD at least ten (10) business days prior to any work being charged at the increased rate.

iii. PUD shall reimburse to MACC all fees assessed by or owed to others, paid by MACC, for PUD's use of T1 Service including, without limitation, assessments, taxes, utility fees, and installation costs, to the extent that fees of other charges are directly attributable to PUD's use (or equitable proration thereof) of the Tower Sites or MACC HQ.

e. All amounts due under this Agreement shall be due and payable in full within thirty (30) calendar days from PUD's receipt of MACC's invoice unless otherwise specified herein. All Service Fees, including the HQ Service Fee, due under this Agreement and all other fees owed by PUD to MACC shall be marked clearly as "PUD T1 Service Fee", and made to MACC at:

Multi Agency Communications Center
6500 32nd Ave NE
Suite 911
Moses Lake, WA 98837

i. This address may be changed from time to time by delivery of proper notice to PUD of such other person, firm, or place as MACC may designate in writing at least thirty (30) calendar days in advance of any Service Fee or other payment due date.

ii. Any payment made late by PUD to MACC shall be considered a Breach of this Agreement, and shall be subject to a penalty of the lesser of (i) one percent (1%) per month, or (ii) the highest rate permitted by Law, for each month or portion of a month said payment is late. A payment shall be late if it is received by MACC on or after the fifteenth (15th) calendar day from which it was due.

8. **Assignment and Subletting.** PUD shall not assign any of its interests under this Agreement to any other party without prior written approval of MACC. PUD shall not sublicense or share the T1 Services, or any other services provided herein with any other party.

9. **Portability and Additions of Service.** PUD may change the service locations of the T1 Service or add additional T1 Service to MACC tower sites not currently served by this Agreement as specified below:

a. PUD may change the location of all or part of the T1 Service to MACC tower sites not currently served by this Agreement so long as such relocation (i) is in accordance with the terms and conditions of the applicable tower agreement, (ii) PUD only relocates PUD Equipment, and (iii) capacity for such relocated T1 Service is available, or can reasonably be made available in the sole discretion of MACC.

- b. PUD may request additional T1 Service from MACC for the Tower Sites, MACC HQ, and for MACC tower sites not currently served by this Agreement so long as such addition (i) is in accordance with the terms and conditions of the applicable tower agreement, (ii) the Service Fees for new T1 Service shall be increased as specified in Paragraph 7, and (iii) capacity for any new T1 Service is available, or can reasonably be made available in the sole discretion of MACC.
 - i. For new T1 Service to be installed at locations not shown on **Exhibit A – Tower Sites**, MACC shall order such equipment as may be necessary for the installation of the T1 Service to be provided, and PUD shall reimburse to MACC the full cost of such equipment and reasonable administrative and installation fees, all of which shall be due and payable within thirty (30) calendar days of PUD's receipt of MACC's invoice therefor. It is expressly understood that any equipment purchased and installed for PUD's use under this Paragraph may be used by PUD, but shall remain the personal property of MACC.
- c. In any such relocation or addition of T1 Service, PUD will pay all costs for installation and other charges for any such relocation or installation of T1 Service, and the Parties agree to execute an amendment to this Agreement to modify the Exhibits to this Agreement to reflect such changes.

10. **Subordination and Non-Disturbance.** The terms of this Agreement shall be subject to and subordinate to each respective Tower Agreement. This Agreement shall run concurrent with the respective Tower Agreements, and any termination or expiration of any one or more Tower Agreements shall immediately terminate the respective service provided under this Agreement.

Any conflict in terms between this Agreement and the Tower Agreement shall be interpreted by the Tower Agreement, if applicable.

11. **Interruption to Service.** In the event of an interruption in T1 Service to any or all of the Tower Site(s) or at MACC HQ, and such interruption continues for a period of fifteen (15) consecutive calendar days, such interruption may be considered a breach under this Agreement.

It is also understood and agreed by the Parties that in the event MACC requires the T1 capacity provided to PUD for Emergency services, and only in the case of an Emergency, MACC may temporarily reclaim any or all of the T1 Services, so long as it is returned to PUD immediately upon termination of such Emergency. "Emergency" is hereby defined as an event or set of circumstances that demands immediate action to preserve public health, protect life, prevent destruction of property, or to provide relief to the local community overtaken by such occurrences.

12. **Insurance.** PUD, along with its Authorized Personnel, shall maintain commercial general liability insurance insuring against liability for bodily injury, death or damage to personal property with combined single limits of Two Million and No/100 Dollars (\$2,000,000). PUD shall provide MACC with evidence of such insurance in the form of a certificate of insurance prior to obtaining occupancy of the Tower Sites or MACC HQ and throughout the term of this Agreement. MACC, its officials, officers, employees, and agents shall be designated as additional insured parties.

Any required insurance coverage shall be obtained from an insurance provider authorized to do business in the State of Washington and shall be rated "A" or better in the most current publication of Best's Financial Strength Rating Guide. PUD shall provide MACC with thirty (30) calendar days' prior written notice of any change, modification, or cancellation in coverage, along with a current certificate of insurance, if applicable.

13. **Disclaimer Of Warranties.** MACC DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY MACC, ITS AFFILIATES, AGENTS, OR CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES WILL CREATE ANY WARRANTY. PUD ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE T1 SERVICE. THE PARTIES UNDERSTAND AND AGREE THAT THE T1 SERVICE IS PROVIDED BY MACC TO PUD AS A CONVENIENCE. MACC SHALL USE ITS BEST EFFORTS TO PROVIDE T1 SERVICE AS DESCRIBED HEREIN. NOTWITHSTANDING ANYTHING TO THE CONTRARY, MACC SHALL NOT BE HELD LIABLE FOR ANY LOSSES OR DAMAGES, REAL OR CONSEQUENTIAL, OR FOR ANY LOSS OR FAILURE OF SERVICE THAT MAY OCCUR IN CONNECTION WITH PUD'S USE OF THE T1 SERVICE, AND IN NO CASE SHALL MACC BE REQUIRED TO RETURN ALL OR ANY PORTION OF THE SERVICE FEES.
14. **Limitation of Liability.** NEITHER PARTY, ITS AFFILIATES OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, RELIANCE, PUNITIVE OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST PROFITS OR REVENUES OR LOST DATA OR COSTS OF COVER RELATING TO THE SERVICES OR THIS AGREEMENT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED. PUD'S EXCLUSIVE REMEDIES FOR ALL CLAIMS RELATED TO THIS AGREEMENT AND THE SERVICES PROVIDED HEREUNDER WILL BE LIMITED TO: THOSE REMEDIES SET FORTH IN PARAGRAPH 16 - TERMINATION. THIS LIMITATION OF LIABILITY WILL NOT APPLY TO A PARTY'S INDEMNIFICATION OBLIGATIONS OR PUD'S PAYMENT OBLIGATION FOR CHARGES UNDER THIS AGREEMENT (E.G., T1 SERVICE FEES OR OTHER CHARGES, LATE FEES, TAXES, INTEREST, AND INSTALLATION CHARGES).
15. **Indemnification.** PUD will defend and indemnify MACC, its affiliates, agents, and contractors against all third party claims, liabilities, costs, and expenses, including reasonable attorneys' fees and costs, arising from or related to the use, of the T1 Service by PUD or End Users. "End Users" means PUD's members, end users, customers, or any other third parties who use or access the T1 Service. Further, PUD will defend and indemnify MACC, its affiliates, agents, and contractors against all claims, liabilities, costs, and expenses, including reasonable attorneys' fees and costs, arising from or related to PUD's occupancy on, or activities at, any of the Tower Sites and MACC HQ, or that of PUD's Authorized Personnel.
16. **Termination.** Unless otherwise provided herein, this Agreement or the services provided hereunder may be terminated in whole or in part, without any penalty of further liability, as follows:
 - a. **Termination of Individual T1 Service by Either Party.** Unless otherwise provided here in, individual T1 Service may be discontinued, without any penalty or further liability, as follows:

- i. Either Party may discontinue individual T1 Service at any or all of the T-1 Locations by giving sixty (60) calendar days written notice to the other Party of that Party's intent to terminate service, and the locations at which service shall be terminated. Upon such termination, the Service Fees due on the following annual anniversary of the Effective Date shall be reduced by the amount then due under this Agreement for an individual T1 Service.
 - ii. In the event of expiration or termination of an individual Tower Agreement, the T1 Service at the applicable Tower Site under this Agreement shall automatically terminate. Upon such termination, the Service Fees due on the following annual anniversary of the Effective Date shall be reduced by the amount then due under this Agreement for an individual T1 Service.
 - iii. In the event PUD (i) ceases use of an individual T1 Service, or (ii) removes all equipment from a Tower Site or from MACC HQ for a period greater than sixty (60) days, MACC may, in its sole discretion, deem such T1 Service abandoned, and MACC shall have no further obligation to provide such T1 Service to PUD at that Tower Site or MACC HQ.
- b. **Termination of Agreement.** Unless otherwise provided herein, this Agreement may be terminated, without any penalty or further liability, as follows:
 - i. By either Party upon sixty (60) calendar days written notice to the other Party.
 - ii. Immediately upon delivery of written notice by MACC in the event PUD fails to pay the Service Fees, the HQ Service Fee, or any other fees and charges within the time frames contained herein.
 - iii. Automatically upon the expiration or termination of all applicable Tower Agreements.
 - iv. Immediately upon delivery of written notice by the non-breaching Party following the failure of the breaching Party to cure a breach of this Agreement within thirty (30) days of receiving written notice from the other Party of such breach, provided that the breaching Party shall have such extended period as may be required beyond thirty (30) calendar days if the nature of the cure is such that it reasonably requires more than thirty (30) calendar days and the breaching Party commences the cure within thirty (30) calendar days of its receipt of written notice of such breach (as specified herein) and thereafter continuously and diligently pursues the cure to completion.
- c. **Financial Obligations Upon Termination.** PUD shall remain liable for all Service Fees, the HQ Service Fee, and all other fees, costs and charges accrued but unpaid as of the termination date of any individual T1 Service or of this Agreement. Unless otherwise previously agreed to in writing, MACC shall retain all prepaid Service Fees and the HQ Service Fee (if applicable), regardless of the date of termination.

17. **Confidentiality.** Except as provided herein and as otherwise required by applicable Law, the Parties shall keep confidential the specific terms and provisions of this Agreement; provided, however, that nothing contained herein shall preclude either Party from disclosing the existence of this Agreement or describing generically the transactions contemplated hereby, specifically excluding, however, any financial terms of the Agreement except to the extent necessary to comply with applicable Law. In the event either Party is required by applicable Law to disclose any term of this Agreement, it shall promptly notify the other Party and the disclosing Party shall cooperate to obtain (to the extent practicable) confidential treatment for the information disclosed. Notwithstanding the foregoing, the Parties may be required to publicly disclose certain aspects of this transaction in accordance with applicable Law, and the Parties hereby consent to such disclosure.

18. **Miscellaneous.**

- a. Time is of the essence in each and every provision of this Agreement.
- b. The Parties warrant that each respectively holds and will maintain all required licenses and permits as may be required for the installation and operation of such services as are provided under this Agreement.
- c. MACC represents that as of the Effective Date, MACC is able to provide the T1 Services(s) to PUD under the licenses granted to MACC by the appropriate governing agencies including, without limitation, the Federal Communications Commission ("FCC"). In the event of a change in licensing guidelines, or should it be determined that MACC is in violation of any applicable license, guideline, mandate, statute, or Law, MACC may, at its sole discretion, either (i) immediately terminate the T1 Service at the location that is in violation upon which MACC shall be under no further obligation to provide T1 Service to such location; or (ii) immediately terminate this entire Agreement, upon which MACC shall be under no further obligation to provide T1 Service at any Tower Site. Notwithstanding the foregoing, MACC may, at MACC's sole discretion, appeal any decision with any governing agency which would restrict MACC's ability to provide T1 Service as contained herein prior to terminating T1 Service at a location or terminating this Agreement in entirety.
- d. In any litigation arising hereunder, each Party shall pay its own attorneys' fees and court costs, including appeals, if any. The Parties agree that the venue of any legal action brought under the terms of this Agreement shall be Grant County Superior Court. This Agreement shall be construed in accordance with the Laws of the State Washington.
- e. This Agreement constitutes the entire agreement and understanding of the Parties with reference to the subject matter contained herein, and supersedes all offers, negotiations, interlocal agreements or amendments, leases, licenses, and other agreements between the Parties with respect to the subject matter hereof. There is no representation or understanding of any kind not set forth herein. Any modifications or amendments to this Agreement must be in writing and executed by both Parties.

- f. Nothing contained in this Agreement shall be construed to create a joint venture, partnership, tenancy-in-common, joint tenancy relationship, or any other type of relationship between PUD and MACC, except as specifically stated herein.
 - g. The Parties warrant and represent to each other that they have had representation by legal counsel or have had the opportunity to be represented by legal counsel during all stages in the negotiation of this Agreement. The Parties further agree that they have participated in the negotiating and drafting of this Agreement and stipulate that this Agreement shall not be construed more favorably with respect to either Party.
 - h. If any part of this Agreement is found to be invalid or unenforceable, such invalidity shall not affect the remaining terms of this Agreement, and the Agreement shall continue in full force and effect.
 - i. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same agreement.
19. **Notices.** All notices hereunder must be in writing and shall be deemed validly given if (i) sent by certified mail, return receipt requested, in which case the notice shall be effective three (3) business days after mailing; or (ii) by a nationally recognized courier service that provides overnight delivery and provides verification of such delivery, in which case the notice shall be effective upon receipt, and addressed as follows (or to such alternate address as either Party may specify to the other, in writing, at least ten (10) business days prior to such notice being given):

To MACC:

Multi Agency Communications Center
Attn: Radio Communications Manager
6500 32nd Ave NE
Suite 911
Moses Lake, WA 98837
24 Hour Phone #: (509) 762-1160

with Copy to:

Katherine Kenison
Lemargie Kenison Wyman and Whitaker
POB 965
107 D Street NW
Ephrata, WA 98823

To PUD:

Public Utility District No. 2 of Grant
County, Washington
Attn: Trung Tran
30 C St. SW
P. O. Box 878
Ephrata, WA 98823

with Copy to:

Public Utility District No. 2 of
Grant County, WA
Attn: Leah Mauceri
PO Box 878
Ephrata, WA 98823

IN WITNESS WHEREOF, Multi Agency Communications Center and Public Utility District No. 2 of Grant County, Washington have executed this Agreement, which shall be effective as of the Effective Date.

MACC:

Multi Agency Communications Center

by: Jackie A. Jones

Jackie A. Jones

its Director of MACC911

Date 12/1/13

PUD:

Public Utility District No. 2 of Grant County,
Washington

by: Andrew Munro

Andrew Munro

its Director of Customer Service

Date 12-06-13

Multi Agency Communications Center
as to form only

by: _____

Katherine Kenison
its Attorney

**Exhibit A
Tower Sites**

Name	Address	Geographical Coordinates
Moses Lake	208 S Hamilton Rd	41.1284722, -119.2495
Coulee City	1884 Road 5 NE, Coulee City, WA 99115	47.68444, -119.346
Quincy	22532 Road 9 NW, Quincy, WA 98848	47.2215556, -119.968306
Wahatis	19387 Wahatis Peak Road SW, Royal City, WA 99326	46.806889, -119.55411

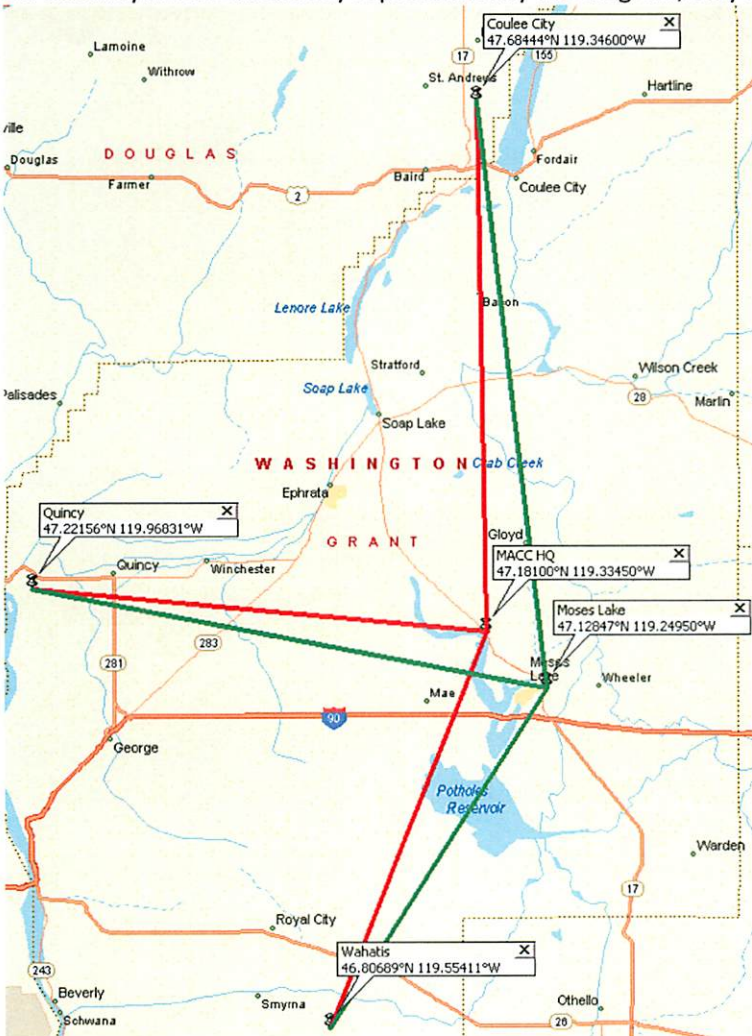
This Exhibit may be modified from time to time to accurately reflect the agreement between the Parties. Any modification to this Exhibit shall be done in writing by amendment to the Agreement, and shall be executed by both Parties.

**Exhibit B
T1 Service Diagram**

MACC shall provide T1 Service to PUD as follows:

# T1 Circuits	From	To	#T1 Circuits	From	To
1	Coulee City	MACC HQ	1	Coulee City	Moses Lake
1	Quincy	MACC HQ	1	Quincy	Moses Lake
1	Wahatis	MACC HQ	1	Wahatis	Moses Lake

The drawing below represents the T1 Service as it connects the Tower Sites. The physical route of the T1 Service may not be accurately represented by this diagram, only the locations served.



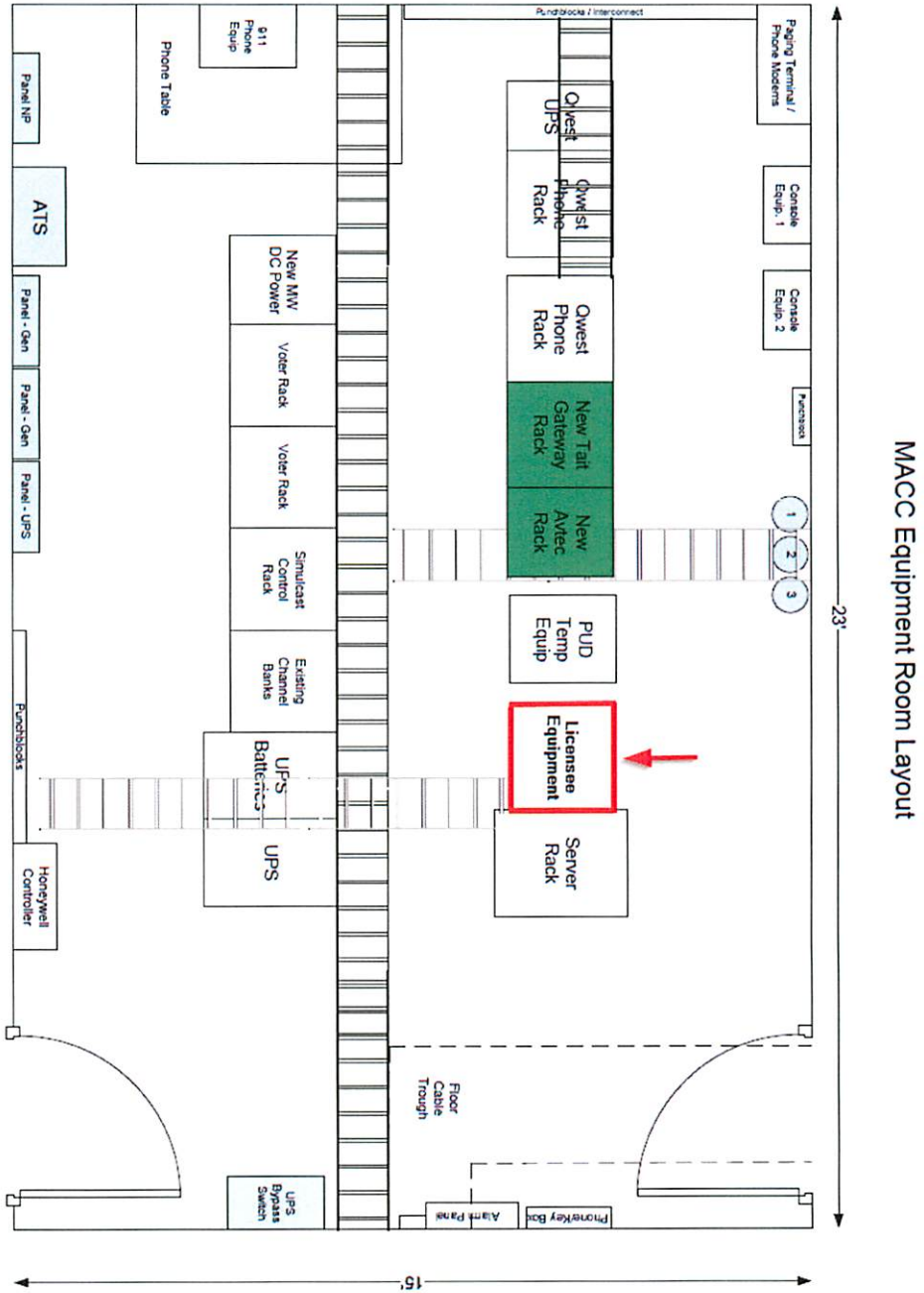
This Exhibit may be modified from time to time to accurately reflect the agreement between the Parties. Any modification to this Exhibit shall be done in writing by amendment to the Agreement, and shall be executed by both Parties.

Exhibit C
PUD EQUIPMENT AT MACC HQ
(Page 1 of 2)

PUD's use of space at MACC HQ shall be limited as follows:

1. PUD shall have use of three (3) RU's of rack space together on one (1) server rack, such server rack to be provided by MACC. PUD may replace, modify, or upgrade the PUD Equipment at any time, so long as the replacement PUD Equipment fits within the space specified herein, and the power usage is reasonably similar to the PUD Equipment being replaced.
2. Licensee shall have shared access to such conduits, cable ladders, etc. as is reasonably necessary for the installation and operation of the Licensed Facilities, to be approved in writing by Licensor prior to installation or any modification.
3. The location of the PUD Equipment shall be as shown on page 2 of this Exhibit.

Exhibit C
PUD EQUIPMENT AT MACC HQ
(Page 2 of 2)



4-22-11 DH