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911 Emergency Response Advisory Committee
c/o Jaimie Rodriguez and Sara DeLozier

Re: Agenda Item #6, July 16, 2020 Meeting
Request for Reimbursement for City of Reno Public Safety Dispatch PSAP

Dear Committee Members:

Our firm serves as general counsel to the Regional Emergency Medical Services Authority (“REMSA”), the exclusive emergency and non-emergency ambulance transport service and emergency medical dispatch provider in the Reno-Sparks metropolitan area. This letter is written in connection with Item #6 on your July 16, 2020 agenda, and the proposal to take action contrary to NRS 244A.7645 and in violation of REMSA’s franchise agreement to facilitate the Reno Fire Department’s takeover Emergency Medical Dispatch (EMD)¹ services within the City of Reno.

REMSA operates under a Franchise Agreement issued by the District Board of Health which vests in REMSA the exclusive market rights to contract for and provide emergency and non-emergency ground ambulance service “on an exclusive basis within the Franchise Service Area” and act as the exclusive “community emergency medical dispatch center for the Franchise Service Area”². *Sec. 2.1, Amended and Restated*

¹ Emergency Medical Dispatch is a systematic program of handling medical calls and the first step in providing emergency patient care. Trained telecommunicators quickly and properly determine the nature and priority of the call, dispatch the appropriate response, then give the caller instructions to help treat the patient until the responding EMS unit arrives. A comprehensive EMD program can reduce liability for ambulance providers and improve patient outcomes by providing thorough, consistent and appropriate medical care as quickly as possible.

² REMSA is a nonprofit organization created by the Washoe County District Board of Health in 1986 to resolve the chaos that had resulted from multiple ambulance providers competing for patient transports in the Truckee Meadows. A blue ribbon commission concluded that single jurisdictional operations are highly inefficient and expensive, and result in poorer patient care, poorer response times, poorer quality, higher costs and ineffective accountability. To avoid these issues, Reno, Sparks and Washoe County vested the District Board of Health with exclusive jurisdiction and power over “all public health matters”, including exclusive authority “regarding ambulance services” and power to displace or limit competition for ambulance services. REMSA is the product of that regional emergency medical care system designed with multiple accountabilities to assure excellent patient care, medical quality and financial performance.

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Franchise Agreement, May 22, 2014. The authorization vested in the District Board of Health by local governments, which has been conferred to REMSA, displaces any right of local governments to provide these services, including without limitation emergency medical dispatch.

The action proposed under Item #6 is concerning for several reasons. First, REMSA's performance of EMD services is exemplary. REMSA's Internationally Accredited Communication Center is staffed by highly trained Emergency Medical Dispatchers with Paramedic or EMT medical training who use state of the art technology to efficiently and quickly answer 911 calls and dispatch the appropriate ground or air ambulance. REMSA's medical professionals provide life-saving instructions to help the patient until REMSA arrives, and have included instructions for CPR, delivering a baby, or removing an object from the throat of a choking child. REMSA's specially trained paramedics and EMTs simultaneously dispatch REMSA's ground paramedic ambulances and Care Flight, while giving life-saving instructions to the caller. The REMSA Communications Center was awarded the Accredited Center of Excellence from the International Academy of Emergency Dispatch (IAED) in 2001 and has been re-accredited five times since. REMSA is the only accredited communications center in Nevada co-located with an ACE accredited Nurse Health Line.

The proposal, if implemented, will result in an increase in time it takes for medical calls to be forwarded to REMSA for dispatch, delaying patient care. REMSA will continue to provide clinically based EMD process for calls in its communication center as required. Additionally, the proposal would create a segmented system by adding a function to Reno communications which is already being done by REMSA and in a manner that does not further goals of moving toward a more unified and coordinated communications system.

Second, the proposal to use surcharge proceeds to reimburse the City of Reno for emergency medical dispatch equipment and training is prohibited by law. NRS 244A.7643 authorizes the County to impose a telephone surcharge "for the enhancement of the telephone system for reporting an emergency . . . and for the purpose of purchasing and maintaining portable event recording devices and vehicular event recording devices".³ Relevant to this issue, NRS 244A.7645(3)(b) provides that proceeds of the surcharge must be used only "to enhance the telephone system for reporting an emergency, including only" paying charges for telecommunication services for the operation; paying costs for personnel and training associated with routine maintenance and updating of the database for the system; purchasing, leasing or renting equipment and software necessary to operate the enhanced telephone system and paying costs associated with maintenance, upgrade and replacement of equipment and software necessary for operation of the enhanced telephone system. In furtherance of that law, Washoe County adopted an ordinance which imposes the surcharge and provides all money collected shall

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be “expended solely for the purposes of 911 emergency telephone enhancements and improvements” and/or purchase of recording devices in accordance with state law. *See Washoe County Code 65.450.* Recipients that use funds for unauthorized purposes are required by law to repay the funds. *NRS 244A.7645(5(b)-(c)).*

“Telephone system” is defined as a system for transmitting information between or among points specified by the user that does not change the form or content of the information regardless of equipment or technology used. NRS 244A.7641 Legislative history is clear that the term “telephone system” refers solely to “**an enhanced system [which] provides for address identification** that comes up on the screen when someone calls in an emergency.” *Senate Committee on Government Affairs* In response to the question of whether “the bill requested a surcharge to purchase **equipment to bring up the address of the emergency call**” the bill proponent answered “Yes.”. The proponent then noted that “there are equipment costs associated with the automatic location feature”, the largest share of which is “maintenance of the data base that actually provides the address link with the telephone number to the dispatch personnel”, estimating such expenses at \$500-600,000/year. Testimony then focused on examples of how having an “enhanced system that provides the address of the caller” improves safety, and that without this “enhanced 9-1-1 system they will continue to have difficulty providing service in emergency calls to any individual who cannot communicate to the dispatch personnel.”

In short, the law is clear that “enhanced telephone system” refers to a system which provides an automatic location feature when the caller is unable to communicate with dispatch, and as such the surcharge can only be used to fund technical systems for call location address-geolocation and calling number information phrase. The proposed use in Item #6 clearly exceeds this authorized purpose. The telephone systems in a 911 center are completely disparate from call-taking software, and they perform different functions. The 911 system intakes the 911 call and identifies the telephone number and location of the caller. The call-taking software and training proposed in Item #6 guides the call-taker through the Q&A process to identify medical conditions, provide protocol, and identify a response code, and is clearly outside the authorized statutory purpose of the surcharge.

Third, the action exceeds the statutory authority of the 911 Committee. The purpose of the advisory committee is to “develop a plan for the enhancement of the county’s 911 emergency response system”, “recommend to the county the expenditures of money collected” through the surcharge for “enhancement of the telephone system for reporting an emergency”, consistent with the adopted master plan. WCC 65.410; NRS 244A.7645. Similarly, the five-year master plan states that the Committee’s role is to make funding recommendations to the County Commission for expenditures from the fund and that “the authority of the Committee was identified as residing within the weight of their recommendations to the BCC.” Contrary to law, Item #6 proposes the Committee directly authorize funding rather than make a recommendation to the County

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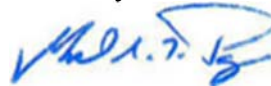
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Commission. Moreover, the proposal contradicts the 5-year master plan as we are not aware of any provision in 5-year plan which identifies any use of funds as proposed under Item #6. See NRS 244A.7643 (prohibiting County from adopting a surcharge unless it first adopts a 5-year master plan for the enhancement of the telephone system, which must be updated annually).

Last, but certainly not least, any action to fund or facilitate funding the City of Reno to provide emergency dispatch services directly violates REMSA's Franchise Agreement. The District Board of Health has vested REMSA with the exclusive market rights to serve as "the community emergency medical dispatch center for the Franchise Service Area". *Sec. 2.1, Amended and Restated Franchise Agreement, May 22, 2014*. It is well recognized that a franchise is a contract protected by the Nevada and U.S. Constitutions against impairment. *City of North Las Vegas v. Central Telephone Co.*, 85 Nev. 629, 460 P.2d 835 (1969). Notably, the Reno City Attorney has repeatedly opined that REMSA has "vested contractual and property rights **which cannot legally be impaired by the City of Reno**", and "unless the Interlocal Agreement was amended and the REMSA franchise modified, the City of Reno could not contract for or provide ambulance service itself" or provide EMD services contrary to the Franchise. *December 9, 1994 Letter from City Attorney; February 22, 1995 City Attorney Memorandum*. Any action to facilitate the City of Reno providing emergency medical dispatch services within the REMSA Franchise Area is a clear violation of REMSA's franchise which REMSA will take appropriate legal action to defend.

In conclusion, the proposed funding in Item #6 is unnecessary, exceeds the lawful statutory purposes to which surcharge proceeds can be applied, and directly violates REMSA's Franchise Agreement. For the foregoing reasons, we respectfully request the Committee deny the City of Reno's funding request under Item #6.

Sincerely,



Michael A. T. Pagni

C: Dean Dow
Washoe County District Board of Health
Washoe County Commission
Washoe County District Health Officer
Jason Soto, Acting Reno City Manager
Neil Krutz, Sparks City Manager
Tony Slonim
Tiffany Coury
Helen Lidholm