

INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF OLYMPIA AND LACEY FIRE DISTRICT 3
FOR
JOINT TRAINING SERVICES AND USE OF THE CITY OF OLYMPIA MARK
NOBLE REGIONAL TRAINING CENTER

1. AGREEMENT. This AGREEMENT FOR JOINT TRAINING SERVICES AND USE OF THE CITY OF OLYMPIA MARK NOBLE REGIONAL TRAINING CENTER (“Agreement”) is between the City of Olympia (“CITY”) and Fire Protection District No. 3, Thurston County (“DISTRICT”). The CITY and the DISTRICT are each a “Party” and together the “Parties” to this Agreement. This document supersedes any and all previous documents or amendments to documents describing fire training center use between the CITY and DISTRICT. The Parties agree as follows.

2. RECITALS.

2.1 **Interlocal Cooperation.** RCW 39.34.010 permits local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

2.2 **Agreements Authorized.** Pursuant to RCW 39.34.080, each Party is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform; provided, that such contract shall be authorized by the governing body of each Party to the contract and the contract sets forth the purposes, powers, rights, objectives and responsibilities of the contracting parties.

2.3 **Additional Contracting Authority.** Under RCW 52.12.031, a fire protection district is authorized to contract with any governmental entity under chapter 39.34 RCW or private person or entity to consolidate, provide, or cooperate for fire prevention protection, fire suppression, investigation, and emergency medical purposes. In so contracting, a district or governmental entity is deemed for all purposes to be acting within its governmental capacity. This contracting authority includes the furnishing of fire prevention, fire suppression, investigation, emergency medical services, facilities, and equipment to or by the district, governmental entity, or private person or entity.

2.4 **Background -- Objective.** In light of the existing mutual aid and automatic aid agreements between the CITY and the DISTRICT, and the similarity in their training needs, the Parties believe it is in their best interest to train at the same facility and together in certain circumstances. The training philosophy of both Olympia Fire Department (“OFD”) and DISTRICT is substantially the same in that the primary responsibility for training of line personnel rests with the Company Officer and Shift Commander. Training to common operating guidelines for use in the high risk occupation of combating fires where multiple fire companies from the Parties are working together increases both the safety and effectiveness of the endeavor. Coordinated training of OFD and DISTRICT personnel will increase the level consistency across those departments. In turn, if the parties work together to train fire personnel from other entities, it will promote consistency among regional fire personnel.

2.5 **Purpose.** The purpose of this Agreement is to

2.5.1 provide for joint fire training and instruction using employees of OFD, with assistance from employees of the DISTRICT, when possible. This Agreement grants the DISTRICT non-exclusive access to and use of the CITY’s Mark Noble Regional Fire Training Center (“Training Center”) at 1305 Fones Road, Olympia for fire training purposes; and,

2.5.2 allows the DISTRICT to train, or assist OFD in the training of fire personnel at OFD’s request, subject to the terms and conditions outlined herein.

3. **DEFINITIONS.** In this Agreement, the following words shall have the meanings set forth below:

3.1 **Training Officers:** Employees from the OFD or DISTRICT designated to perform certain tasks.

3.2 **Instructors:** Employees from the OFD or DISTRICT designated to train and instruct firefighters, firefighter paramedics, and fire officers of their own or another department/district.

4. **AMENDMENTS.** The OFD and the DISTRICT agree that, except with respect to Appendix A, any amendments to this Agreement must be made by the each party’s respective governing body in order to be effective.

4.1 **Amendment to Appendix A.** The governing bodies of the CITY and the DISTRICT, respectively, expressly authorize the Fire Chief of each Party to modify Appendix A within the deadlines set forth in Agreement Section 8.5 Any Agreement to modify Appendix A must be made in writing, signed by the Fire Chief of OFD and the Fire Chief of the DISTRICT, and properly re-filed/posted together with this Agreement, in accordance with state law applicable to interlocal agreements.

5. AUTHORITY/RESPONSIBILITIES OF THE OLYMPIA FIRE DEPARTMENT REGARDING THE FIRE TRAINING CENTER

5.1 **Training Center Management.** The OFD Chief of Operations is responsible for managing the Training Center. Management includes but is not limited to setting curricula; scheduling classes; conducting evaluations of the effectiveness of the training programs; selecting training personnel; and, determining performance and participation standards.

5.2 **General.** In its use of the Training Center, the DISTRICT and DISTRICT personnel shall adhere to OFD facility schedules. OFD shall also have final approval on any activity proposed for training at the facility or modifications to any facility or the grounds.

5.3 **Instructors.** The OFD Chief of Operations or designee shall be responsible for approval of all Instructors for training of OFD and DISTRICT personnel as well as those of other departments and districts, on certain props at the Fire Training Facility subject to a particular Instructor's level of expertise and/or qualifications.

6. RESPONSIBILITY FOR EMPLOYEES

6.1 **Compensation.** Unless the OFD and the DISTRICT agree otherwise in writing, the OFD and the DISTRICT will each compensate its own employees for any time spent organizing training opportunities, providing instruction, attending training sessions, or other related activities at the Training Center. Neither Party shall be liable for nor obligated to pay the other Party's employee wages, sick leave, vacation pay or any other benefit of employment, nor to pay any health and welfare premiums, social security or other tax which may arise as an incident of employment.

6.2 **Overtime.** Unless the OFD and the DISTRICT agree otherwise in writing, employees of the OFD and the DISTRICT (who are due overtime as the result of a training exercise or other activities at the Training Center) will be paid such overtime by their respective employer. If the overtime is incurred for the benefit of the other Party, the other Party may be invoiced for the cost of the overtime providing that the other Party provided such consent was given in advance and in writing by those duly authorized to pay such overtime..

6.3 **LEOFF -- Workers Compensation.** Each Party is fully responsible for all cost, expenses and liabilities for that Party's own employees under Chapters 41.26 RCW and Title 51 RCW.

6.4 **Employment Practices.** When a Party's officer or employee is in a supervisory or command position with respect the officers or employees of the other Party, the Party with supervision and command shall be responsible for compliance with all laws involving discrimination in employment, including but not limited to the Washington Law Against Discrimination, Chapter 49.60 RCW. The provisions of Agreement Section 11 shall not apply to acts of employment discrimination of a Party's officer or employee.

7. DISTRICT PAYMENTS TO CITY

7.1 **Annual Fee.** DISTRICT shall pay to the CITY an annual fee for nonexclusive access to and use of the Training Center ("Annual Fee"). The Annual Fee is set out in Appendix A to this Agreement.

7.2 **Consumables.** DISTRICT shall pay to the CITY a standard fee for consumables ("Consumables Fee"), used routinely by the DISTRICT, if a Consumables Fee is outlined in Appendix A. The Consumables Fee includes payment for items, including but not limited to utilities, propane, and supplies. The Consumable Fee, if applicable, will be set out in Appendix A to this Agreement. If there is no standard Consumables Fee because of non-routine activity, specific consumables requested by the DISTRICT will be reimbursed to the CITY at actual cost plus 30 %.

7.3 **District Specific Training Items.** DISTRICT shall pay to the CITY the actual costs for any CITY outlays requested by the DISTRICT for specific training benefiting only the DISTRICT, which are paid by the CITY. As an example, only, the DISTRICT may request and pay for the CITY's purchase of portable dump tanks or like items for the DISTRICT's use.

7.4 **Method of Payment.** The OFD will produce twice yearly billing statements on **June 1** and **December 1** that include Annual and Consumables Fees, and any additional costs permitted by this Agreement. The DISTRICT agrees to remit payment to the OFD within thirty (30) days of the DISTRICT's receipt of the OFD's invoice.

7.5 **Change in Payment.** On or before July 1 of any year, OFD may propose increased costs for use of the Training Center due to inflation, an increase in the costs of operating the Training Center, or other obligations of the OFD. Modification must be agreed upon in writing no later than September 30 of that year and memorialized in an amendment to Agreement Appendix A. If OFD and the DISTRICT fail to agree, either OFD or the DISTRICT may terminate the Agreement effective December 31 of that year, without regard other notice requirements in this Agreement..

7.6 **Rate Amendment.** The governing bodies of the CITY and the DISTRICT, respectively, expressly authorize the Fire Chief of each Party to modify the costs for services set out in Agreement Appendix A within the deadlines set forth in this Section. Any Agreement to modify the costs in Agreement Appendix A must be made in writing, signed by the Fire Chief of OFD and the Fire Chief of the DISTRICT, and properly re-filed/posted together with this Agreement, in accordance with state law applicable to interlocal agreements.

8. PROPERTY OWNERSHIP. All property individually acquired by either Party to enable it to perform the services required under this Agreement, shall remain the property of that Party throughout the Agreement and in the event of the termination. The Parties may jointly acquire property, such as training aids, that will better enable them to better perform under this Agreement. Examples of training aids include outdoor fire props, faux furniture (metal obstacles that look like common household furniture), rescue mannequins, thermal imaging cameras,

timing devices or other property mutually agreed in writing by the Parties. At termination, all property jointly acquired by the Parties shall be returned to the Party who paid for the majority of that item, provided the Party taking ultimate ownership of the property reimburses the other Party for the percentage of the remaining depreciated value of the property equal to the percentage that Party contributed to the original purchase of a particular item.

9. POLICIES & PROCEDURES – COMPLIANCE WITH LAW

9.1 **Policies.** The DISTRICT shall comply with OFD’s Fire Training Center Policies & Procedures. Such policies and procedures are subject to change at the discretion of OFD. Except when such advance notice is impractical or unreasonable, OFD shall give at least thirty (30) days’ advance, written notice of any changes. Provided, when training on or related to vehicles or equipment of the District (e.g., water tender), policies, procedures or protocols of the District shall be followed. All policies and procedures shall be in writing and available to both Parties.

9.2 **Law.** The Parties shall comply with all applicable federal, state, and local laws including, without limitation, all City codes, ordinances, resolutions, standards and policies, as now existing or hereafter adopted or amended.

10. INDEMNIFICATION

10.1 **DISTRICT Indemnification.** DISTRICT shall defend, indemnify and hold harmless the CITY, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of the DISTRICT’s use of the Training Center or from any activity, work or thing done, permitted, or suffered by DISTRICT in or about the Training Center, except only such injury or damage as shall have been occasioned by the negligence of the CITY pursuant to section 10.2.2 or when the Training Center is not in use by the DISTRICT pursuant to section 10.2.1.

10.2 **CITY Indemnification.** The CITY shall defend, indemnify and hold harmless the DISTRICT, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of the use of Training Center or from any activity, work or thing done, permitted, or suffered by CITY in or about the Training Center

10.2.1 when the Training Center is not in use by the DISTRICT; or.

10.2.2 where occasioned by the sole negligence of the CITY.

10.3 **No Indemnification for Joint DISTRICT/CITY Use** When the CITY and DISTRICT are jointly providing training to others or training together at the training Center, each party shall be responsible for its own defense of any claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property arising out of such joint training.

10.4 **Waiver of Immunity.** It is specifically and expressly understood that the indemnification provided herein constitutes the waiver by each Party to immunity under industrial insurance, Title 51 RCW, solely for the purposes of the indemnification under this Agreement. This waiver has been mutually negotiated by the Parties.

11. INSURANCE

Each Party shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the use of the Training Center.

11.1 **Minimum Scope of Insurance.** Each Party shall maintain insurance of the types described below:

11.1.1 **Automobile Liability** insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

11.1.2 **Commercial General Liability** insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover premises and contractual liability.

11.1.3 **Workers' Compensation** coverage as required by the Industrial Insurance laws of the State of Washington.

11.2. **Minimum Amounts of Insurance.** Each Party shall maintain the following insurance limits:

11.2.1. **Automobile Liability** insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

11.2.2. **Commercial General Liability** insurance shall be written with limits no less than \$5,000,000 each occurrence, \$10,000,000 general aggregate.

11.3 **Verification of Coverage.** Each Party shall furnish the other Party with certificates or other evidence of insurance coverage.

11.4 **Failure to Maintain Insurance.** Failure on the part of a Party to maintain the insurance as required shall constitute a material breach of Agreement, upon which the other Party may, after giving five (5) business days notice to the Party to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the other Party on demand.

11.5 **No Limitation.** A Party's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Party to the coverage provided by such insurance, or otherwise limit a Party's recourse to any remedy available at law or in equity.

12. **NO JOINT BOARD.** This Agreement creates no joint board and no separate legal entity.

13. PROGRAM EVALUATION

13.1 **Annual Review.** The Fire Chief of each Party shall meet at least once each year. The meeting shall be scheduled early enough to support the OFD and the DISTRICT's budget process and to review program issues, concerns, and costs. The Operations Chief of each Party shall meet as needed to review the year's goals, schedules, and any operational concerns. The Training Officers shall meet as needed.

13.2 **Other Review.** In the event of concerns or issues regarding the training performance of either Party's personnel, the Olympia Chief of Operations and the DISTRICT's Fire Chief or designee will meet in a timely manner to review any such concerns.

14. DISPUTE RESOLUTION

14.1 **Informal.** The Olympia Chief of Operations and the District Fire Chief or designees shall meet and attempt to resolve any matter of training, scheduling, personnel, financing or any other dispute arising out of this Agreement. In the event that the parties fail to resolve the dispute, the Fire Chief of each Party shall meet and attempt to resolve any remaining issues. In the event the Parties remain unable to reach agreement, the City Manager of the City of Olympia, who has ultimate authority over the Training Center and its activities, shall make the decision on the dispute.

14.2 **Mediation.** Should the DISTRICT disagree with the City Manager's decision, the DISTRICT may request mediation within thirty (30) days of the City Manager's decision. If the Parties cannot agree to mediate within thirty (30) days, the District may take such action as authorized under the Agreement, including commencement of an action in court. Upon agreement to mediate, the Parties shall attempt to mediate the dispute through a mutually agreeable third party. The cost of the mutually agreeable mediator will be born equally by the parties. Either party may terminate mediation at any time.

15. GENERAL

15.1 **Amendments.** Except expressly allowed for revisions to Agreement Appendix A, no amendment to this Agreement shall be valid unless evidenced in writing, properly agreed to and authorized by each Party's governing authority.

15.2 **Severability.** If any provision of this Agreement or its application is held invalid, the remainder of the Agreement or the application of the remainder of the Agreement shall remain valid and in full force and effect.

15.3 **No Third Party Benefits.** This Agreement is entered into for the benefit of the Parties to the Agreement only and shall confer no benefits, direct or implied, on any third persons.

15.4 **Assignment.** Neither the DISTRICT nor the CITY shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

15.5 **No Waiver.** Failure or delay of either Party to declare any breach or default immediately upon occurrence shall not waive such breach or default.

15.6 **Captions.** The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement.

15.7 **Equal Opportunity to Draft.** The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement and Appendix. No ambiguity shall be construed against any Party upon a claim that the Party drafted ambiguous language.

15.8 **Recording.** Prior to its entry, this Agreement shall be filed with the Thurston County Auditor's Office or posted upon the websites or other electronically retrievable public source as required by RCW 39.34.040.

15.9 **Notice.** Any notice required under this Agreement shall be to the Party at the address listed below and shall become effective three (3) days following the date of deposit in the United States Postal Service.

15.9.1 CITY

Attn: Fire Chief

Re: Joint Training Agreement with Lacey Fire Three
PO Box 1967
Olympia, WA 98507-1967

15.9.2 DISTRICT

Attn: Fire Chief

Re: Joint Training Agreement with City of Olympia
1231 Franz St. S.E.
Lacey, WA 98503

15.10 **Interpretation and Venue.** This Agreement shall be governed by the laws of the State of Washington as to interpretation and performance. The Parties hereby agree that venue for enforcement of this Agreement shall be the Superior Court of Thurston County.

15.11 **Entire Agreement.** This Agreement and Appendix A set forth all terms and conditions agreed upon by the CITY and DISTRICT, and supersede any and all agreements oral or otherwise with respect to the subject matter addressed herein.

16. FINANCIAL BOOKS AND RECORDS

16.1 **Financial Records.** Each Party agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and maintain such accounting procedures and practices as may be deemed necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject, at all reasonable times, to inspection, review or audit by the other Party, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

16.2 **Public Records Generally.** Each Party shall maintain public records in accordance with state law, in the manner and for the time period applicable to such records. If either Party receives a request for records created as a part of this program, each Party agrees to fully cooperate with the other in a timely response to any such request.

16.3 **Training Records.** The Director of Training and assigned staff will coordinate proper maintenance of training records required to be kept for fire personnel.

17. DURATION OF AGREEMENT & TERMINATION

17.1 **Effective Date.** This Agreement shall take effect on the date of the last authorizing signature affixed hereto, upon filing or posting as required by RCW 39.34.040.

17.2 **Annual Term.** Except as otherwise provided herein, this Agreement shall continue until either party gives the other twelve (12) months' written notice of termination. Such notice shall be given no later than January 1. The twelve-month period shall commence on January 1 of the year following written notification. This period is deemed necessary by the parties to provide for the continuity of public safety training services.

17.3 **Non-Appropriation of Funds.** If sufficient funds are not appropriated or allocated for payment under this Agreement for any future budget (calendar) year, neither the OFD nor the DISTRICT will be obligated to continue the Agreement after the end of the current calendar year, and this Agreement will automatically terminate upon the completion of all remaining Services for which funds are allocated. No penalty or expense shall accrue to the other Party in the event this provision applies.

17.4 **Surviving Provisions.** Agreement Sections relating to Indemnity and Insurance shall survive the termination of this Agreement, pursuant to the terms of those Sections.

18. AUTHORIZATION AND EXECUTION. Each Party warrants that it is duly authorized to enter this Agreement and that the person(s) executing the Agreement are authorized to execute the Agreement for and on behalf of the identified Party.

19. RATIFICATION. Any work performed prior to the effective date that falls within the scope of this Agreement and is consistent with its terms is hereby ratified and confirmed.

***** SIGNATURES APPEAR ON FOLLOWING PAGE *****

CITY OF OLYMPIA

Approved as to Form:

Mayor Cheryl Selby

Date: _____



Deputy City Attorney

LACEY FIRE DISTRICT 3

Fire Commissioner

Date: _____

Fire Commissioner

Date: _____

Fire Commissioner

Date: _____

Fire Commissioner

Date: _____

Fire Commissioner

Date: _____

Approved as to form:

Attorney for Fire District 3

APPENDIX A

FUNDING AND PERSONNEL HOURS

Annual Fee: DISTRICT shall pay to the CITY a flat rate of \$71,500 annual fee for nonexclusive access to the Training Center for fire ground training.

Consumables: If additional consumables are used, DISTRICT shall pay the CITY the actual cost plus 30%.

District Specific Training Items: DISTRICT shall pay to the CITY the actual costs for any outlays requested by the DISTRICT for specific training benefit of the DISTRICT, which are paid for by the CITY. For example, the DISTRICT may request that the CITY purchase portable dump tanks or like items for DISTRICT use.

Personnel Hours: Although not currently in place, the DISTRICT and CITY may negotiate a set number of personnel hours or specific deliverables that the DISTRICT shall contribute to joint training efforts, in exchange for waiver of certain fees. Any such agreement shall be memorialized by amendment to this Appendix A, re-dated, and re-filed/posted with the original Agreement prior to taking effect.