

When recorded return to:  
City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF OLYMPIA  
AND WASHINGTON CONSOLIDATED TECHNOLOGY SERVICES (WaTech) AN  
AGENCY OF THE STATE OF WASHINGTON FOR FIRE PROTECTION SERVICES  
CTS Contract Number 20-115**

**WHEREAS**, RCW 39.34.010 permits local governmental units 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; and

**WHEREAS**, 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 shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting parties;

**WHEREAS**, the State of Washington and the City of Olympia have entered into a series of contracts since 1993 providing for the State of Washington to pay its fair share of costs for fire protection services for state buildings or facilities located within the City of Olympia; and

**WHEREAS**, since 1993 a fire protection services agreement was the product of good faith negotiations between the Washington State Department of Enterprise Services (DES) on behalf of a variety of State agencies and the City of Olympia; and

**WHEREAS**, RCW Chapter 43.105 establishes an agency for the State of Washington known as the Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," and that said State agency has entered into a fire protection services agreement with the City of Olympia following the agency's creation by ESSB 5931, Laws of 2011, Chapter 43, Section 801, June 15, 2011;

**WHEREAS**, negotiations with the State have produced a formula for computing the State's share of the City of Olympia Fire Department's budget, representing total square footage of State-owned buildings or facilities located within the City; and

**WHEREAS**, various state agencies located within the municipal limits of the City of Olympia through the Washington State Department of Enterprise Services have negotiated with the City of Olympia for fire protection service agreements annually; and

**WHEREAS**, the City of Olympia and the Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," had negotiated a fire protection services agreement for July 1, 2019 through June 30, 2020 to protect said agency's facilities; and

**WHEREAS**, the amount set forth below for Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," represents its cost for the July 1, 2020 through June 30, 2021 fire protection services agreement;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the City of Olympia and Washington State Consolidated Technology Services, also known as Washington Technology Solutions or "WaTech," agree as follows:

### **I. Purpose**

The purpose of this Agreement is for the City of Olympia to provide fire protection services for Washington State Consolidated Technology Services, also known as Washington Technology Solutions or "WaTech," as set forth in Exhibit "A" attached hereto and incorporated herein by reference.

In 2007, the Legislature authorized the Department of Information Services to lease develop or lease purchase a new office building and certain other facilities on the "Wheeler Block" in Olympia. Rather than authorize the issuance of bonds to finance a project to be developed by the state, the Legislature authorized DIS to enter into a financing contract for a project to be privately developed.

WaTech is the lease-holder of the space at 1500 Jefferson Street. FYI Properties, a non-profit formed by the National Development Council is the owner of the facilities at 1500 Jefferson Street. FYI Properties is a non-profit entity that assisted WaTech, formally known as Department of Information Services, in entering into a tax exempt lease/leaseback financing structure - sometimes referred to as a "63-20 financing and delivery method."

63-20 financings were first approved by the Internal Revenue Service in 1963. Under the 63-20 structure, 63-20 bonds are issued by a nonprofit corporation on behalf of the public agency pursuant to a trust indenture with a bank trustee. This issuance by the nonprofit differentiates the 63-20 financing from COPs, where the public entity is the issuer. The 63-20 bond proceeds are deposited in a project fund held by the trustee and used to finance the capital improvements (undertaken by the nonprofit corporation) that are leased to the public agency.

The nonprofit corporation, often through a private development company, designs and builds the project. The project may be operated and maintained either by the public agency itself under the lease from the nonprofit corporation or by the nonprofit corporation through a management contract with a private management firm. Title to the project typically is held by the nonprofit during the life of the bonds. Title to the improvements is transferred to the public agency at lease maturity when the bonds issued by the nonprofit corporation are retired.

Consolidated Technology Services entered into a thirty-year financing contract with FYI Properties. Wright Runstad & Company also manages the building on behalf of FYI Properties. FYI Properties issued tax-exempt bonds in an amount sufficient to pay for design, construction and financing of the building. Wright Runstad & Company made draws from FYI Properties to pay for construction costs during the construction period. Upon completion of the construction, FYI Properties will "lease-back" all Project improvements to WaTech. At the end of the thirty-year lease term, FYI Properties will convey title to the building back to WaTech.

Since 2011, WaTech has explored whether or not it has both the statutory authority and an allocation to pay the contract for Fire Services. DES paid for the building in the past on behalf of WaTech without authorization. In a good faith effort to resolve the question of authority to pay fire protection services under RCW 52.30.020, WaTech paid for one year of fire service in the past as well. Because of the nature of the financing contract at issue, WaTech is concerned it lacks authority under RCW 52.30 since 1500 Jefferson Street is not a State Owned building, however, WaTech would like to recompense the City in order to maintain services and preserve the building as it has a long-term leasehold interest and will be the ultimate owner. As such, it is entering this agreement as an alternative mechanism for payment under its authority of RCW 43.105.

## **II. Scope of Agreement**

The City of Olympia shall do all things reasonable and necessary to provide fire protection services for the Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," as outlined in Exhibit "A" in the same manner as the City of Olympia provides fire protection services to other State agencies or establishments located within the City of Olympia.

The City of Olympia Assistant Fire Chief/Fire Marshal shall be responsible for management of the fire protection services provided herein. The Assistant Fire Chief/Fire Marshal shall be the contact person for all communication regarding any work under this Agreement. Any requests for records or documents or any other inquiries by Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," shall be submitted to the Assistant Fire Chief/Fire Marshal.

## **III. Consideration**

Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," shall pay to the City of Olympia the amount of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) for fire protection services under this Agreement for the period starting July 1, 2020 through June 30, 2021.

Costs will be billed by as outlined in Section V. Billing/Payment Procedures.

#### **IV. Records Maintenance**

The City of Olympia shall maintain all budget documents and other records required by law which reflect the costs of fire protection services provided by the City. These documents and records shall be subject to inspection or review by Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," or any other entity so authorized by law.

#### **V. Billing/Payment Procedures**

The City of Olympia will invoice Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," quarterly in July, October, January and April, per the Billing Schedule below, on or before the 10th of the quarter month (July, October, January and April), except where past payments are due, in which event the City of Olympia will invoice for all prior unpaid quarterly installments. Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," will pay the City of Olympia within thirty (30) days of receipt of properly executed invoice.

<b>Annual Billing Schedule</b>				
<b>Qtr. 1</b>	<b>Qtr. 2</b>	<b>Qtr. 3</b>	<b>Qtr. 4</b>	<b>Fiscal Year Total</b>
<b>July \$25,000.00</b>	<b>October \$25,000.00</b>	<b>January \$25,000.00</b>	<b>April \$25,000.00</b>	<b>Total \$100,000.00</b>

#### **VI. Indemnification & Insurance**

Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," and the City of Olympia each agree to defend, indemnify and hold the other, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees, arising out of or in connection with each entity's respective performance of its responsibilities under this Agreement, except to the extent such injuries and damages are caused by the sole negligence of the other party.

#### **VII. Agreement Alterations and Amendments**

The City of Olympia will provide written notification to the Department of Commerce, and Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," as required by RCW 35.21.779, of the City of Olympia's intent to contract for fire protections services in future years. Washington State Consolidated

Technology Services agency, also known as Washington Technology Solutions or "WaTech," and the City of Olympia may mutually amend this Agreement at any time. Such amendments shall not be binding unless they are in writing and signed by authorized representatives of Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," and the City of Olympia, or their respective designees.

#### **VIII. Duration of Agreement**

This Agreement shall commence on July 1, 2020 and shall continue through June 30, 2021, unless terminated sooner as provided herein.

#### **IX. Termination of Agreement**

This Agreement may be terminated by either party upon sixty (60) days written notification. If this Agreement is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement rendered prior to the effective date of termination.

#### **X. Disputes**

If a dispute arises under this Agreement, it shall be determined by a Dispute Resolution Board comprised of individuals selected in the following manner: one person shall be appointed to the Dispute Resolution Board by the agency director of Washington State Consolidated Technological Services agency, also known as Washington Technology Solutions or "WaTech," and one person shall be appointed by the City Manager of the City of Olympia. Both board members so appointed shall jointly appoint a third member to the Dispute Resolution Board. If the two appointed members of the Dispute Resolution Board cannot agree on a third member of the Dispute Resolution Board, then any party to this Agreement can ask that a third member of the Dispute Resolution Board be appointed by a judge of the Thurston County Superior Court. The Dispute Resolution Board, once three members have been appointed, shall evaluate the dispute and make a determination based on submittals of both parties to this Agreement, a majority of the Dispute Resolution Board issuing its decision. Dispute resolution shall be attempted prior to filing any action in court.

#### **XI. Entire Agreement**

This Agreement sets forth all terms and conditions agreed upon by the City of Olympia and the Washington State Consolidated Technology Services agency, also known as Washington Technology Solutions or "WaTech," and supersedes any and all prior agreements oral or otherwise, with respect to the subject matter addressed herein.

#### **XII. Severability**

If any provision of this Agreement or its application to any person or circumstance is held invalid, the remainder of this Agreement, or application of the provision to other persons or circumstances shall be unaffected.

### **XIII. Recording**

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.

### **XIV. Notice**

Any notice required under this Agreement shall be to the party at the address listed below and shall become effective three days following the date of deposit in the United States Postal Service:

**City of Olympia**

Attn: Fire Chief  
City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967

**Washington State Consolidated Technology Services agency,  
also known as Washington Technology Solutions or "WaTech"**

Attn: Wendi Gunther, Deputy Director of Administrative Services  
Washington Consolidated Technology Services (WaTech)  
1500 Jefferson Street SE  
PO Box 41501  
Olympia, WA 98504-1501

### **XV. 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 in the Superior Court of Thurston County, State of Washington.

### **XVI. Effective Date**

This Agreement shall take effect as of July 1, 2020 and shall end June 30, 2021.

**CITY OF OLYMPIA**

**WASHINGTON STATE CONSOLIDATED  
TECHNICAL SERVICES, "WATECH"**

\_\_\_\_\_  
Steven J. Burney, City Manager

*Timothy Gallivan*  
\_\_\_\_\_  
Tim Gallivan, Chief Financial Officer

Date: \_\_\_\_\_

Date: 07/13/2020

APPROVED AS TO FORM:

**Mark Barber**

\_\_\_\_\_  
Mark Barber, City Attorney

## Exhibit A

Tenant	Address of Building
WaTech	1500 Jefferson Office/Parking Jefferson Building Data Halls Jefferson Building Utility Total Square Footage 485,918