

**AFTER RECORDING MAIL TO:**

Douglas County Fire District No. 2  
Attn: District Secretary  
377 Eastmont Ave  
East Wenatchee, WA 98802

The information contained in this boxed section is for recording purposes only pursuant to RCW 36.18 and RCW 65.04, and is not to be relied upon for any other purpose, and shall not affect the intent of or any warranty contained in the document itself.

**Grantor(s):** Douglas County Fire District No. 2, a Washington municipal corporation; Chelan County Fire District No. 1, a Washington municipal corporation

**Grantee(s):** Douglas County Fire District No. 2, a Washington municipal corporation; Chelan County Fire District No. 1, a Washington municipal corporation

**Reference Number(s) of Documents Assigned or Released:** N/A

**Abbreviated Legal Description:** N/A

**Assessor's Parcel Number(s):** N/A

**INTERLOCAL AGREEMENT  
FOR  
FLEET SERVICE OPERATIONS & FACILITIES**

**THIS INTERLOCAL AGREEMENT** ("Agreement") is entered into this 1<sup>st</sup> day of September, 2021 between the **DOUGLAS COUNTY FIRE DISTRICT NO. 2** ("DCFD"), a Washington municipal corporation, and **CHELAN COUNTY FIRE DISTRICT NO. 1**, a Washington municipal corporation ("CCFD"). Collectively, DCFD and CCFD may be referred to herein as the "Parties" and individually as a "Party."

**RECITALS**

**WHEREAS**, the DCFD is a municipal corporation duly organized and existing as a fire protection district under the laws of the State of Washington, and particularly those set forth at RCW Title 52, and is located within Douglas County, Washington;

**WHEREAS**, the CCFD is a municipal corporation duly organized and existing as a fire protection district under the laws of the State of Washington, and particularly those set forth at RCW Title 52, and is located within Chelan County, Washington;

**WHEREAS**, the CCFD owns and operates a fire station, training, and fleet service facility at 3760 W. Malaga Road, Malaga, Washington (the "Fleet Service Facility");

**WHEREAS**, the DCFD does not have a designated fleet service facility, but has been exploring the feasibility of acquiring property and constructing a new facility (to include training and fleet services) near the Pangborn Municipal Airport ("Airport"), which is a location used by DCFD residents; and

**WHEREAS**, the DCFD has determined that constructing its own facility would necessitate a multi-million dollar bond (est. at \$10 million) with significant debt service payments (est. at \$650,000 per year) for a period of 20 years to acquire the land and construct the facility; and

**WHEREAS**, due to changes in federal regulations affecting the Airport, in addition to costs as set forth above, DCFD is concerned about the ability to acquire property near the Airport for construction and operation of a training facility; and

**WHEREAS**, due to proximity, DCFD and CCFD regularly provide mutual aid and services to each other; and

**WHEREAS**, in lieu of constructing separate facilities and employing separate personnel to maintain each entity's fleet of vehicles, apparatus, and equipment ("Fleet"), DCFD and CCFD agree it would be a better investment for DCFD to partner with CCFD and consolidate Fleet maintenance services and provide such services at the Fleet Service Facility, as applicable, as set forth herein; and

**WHEREAS**, the DCFD and CCFD now desire to enter into this "Agreement" under the authority of RCW 19.27.110 and RCW Chapter 39.34,

#### **AGREEMENT**

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and the recitals set forth above which are incorporated herein as if set forth in full, the CCFD and DCFD hereby agree as follows:

1. **Purpose.** The purpose of this Agreement is to set forth the terms and conditions under which the Parties will jointly improve, maintain, and operate the Fleet Service Facility during the Term of the Agreement. The Parties do not intend to create a separate legal entity by entry into this Agreement. This Agreement does not alter or change the command structure or organizational responsibilities of either participating Party.
2. **Term.** Unless earlier terminated as set forth herein, the term of this Agreement shall be effective upon the last date of execution and shall be perpetual until terminated as provided herein.
3. **Independent Contractor.** The DCFD and the CCFD agree that the DCFD and CCFD are independent contractors with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Each Party shall be separately responsible for wages, benefits, and all working conditions associated with their respective employees and volunteers.
4. **Agreement Administration.** This Agreement shall be monitored and administered by the Facility Manager for DCFD, or authorized designee, on behalf of DCFD and by the Facility Manager for CCFD, or authorized designee, on behalf of CCFD.

5. **Facility Managers.** Each Party shall appoint or assign a Facility Manager for purposes of managing and consulting on maintenance and operations at the Fleet Service Facility. The Facility Managers shall meet or consult regularly (pursuant to an agreed schedule) regarding Fleet Service Facility and Fleet maintenance and operations.

6. **Annual Budget.** Annually, on or before July 1<sup>st</sup>, the Facility Managers shall create and submit to the Board of Commissioners of each Party for approval a proposed budget for Fleet Service Facility maintenance and capital improvement needs. Upon approval of the Board of Fire Commissioners of each Party, the budget ("Approved Fleet Service Facility Budget CCFD") shall be used for purposes of invoicing DCFD as provided herein. Each annual Fleet Service Facility budget shall include the following details:

- a. A listing of recommended maintenance and capital improvements
- b. A proposed allocated share from each Party
- c. A time frame for DCFD achieving the full and true value for its allocated share.

The Parties shall mutually agree on the scope and contribution amounts for any new or additional capital improvements that may arise during the course of each year in excess of those set forth in the Approved Fleet Service Facility Budget ("Unanticipated Capital Improvements").

In the event the Parties cannot agree on an annual budget, the parties shall utilize a mediator as set forth in the Mediation provision herein to resolve the dispute. If mediation proves unsuccessful, either party may terminate the Agreement.

7. **Interim Budget.** Within thirty (30) days of the Effective Date of this Agreement, the Facility Managers shall create and submit to the Board of Commissioners of each Party an Interim Fleet Service Facility Budget for calendar year 2021 in the same format as for the annual budget. The CCFD shall invoice the DCFD for its share of the 2021 Interim Budget following approval of the Board of Commissioners of each Party.

8. **True and Full Value.** The Parties intend that DCFD's payment of annual maintenance and capital improvement items as contained in approved budgets shall constitute the true and full value for DCFD's rights to use the Fleet Service Facility as outlined herein. In some cases, the Parties may decide that DCFD's allocated payments in a particular budget year should entitle DCFD to a period of Fleet Service Facility use that exceeds one calendar year of use. In such a case, the Parties will assign a timeframe by which DCFD's payment will constitute the true and full value for such use of the Fleet Service Facility.

9. **CCFD Responsibilities.**

- a. The CCFD shall maintain all financial accounts associated with operation of the Fleet Service Facility, and fleet services. CCFD shall invoice DCFD for its allocated share of the Approved Fleet Service Facility Budget.
- b. The CCFD shall contract, and pay, for Fleet Service Facility maintenance and capital improvements as described in the Approved Fleet Service Facility Budget.

10. **Billings and Payments.**

- a. CCFD shall invoice the DCFD for its allocation of the Approved Fleet Service Facility Budget (for Capital Projects) in 2 equal installments on the following dates: May 1 and November 1.
- b. CCFD shall invoice DCFD on a monthly basis for Unanticipated Capital Improvement Expenses.
- c. CCFD and DCFD shall invoice each other, as applicable, monthly for service, repair, and/or maintenance work performed by one Party for or on behalf of the other at the fully encumbered hourly rate of the mechanic providing the service, which rate or charge shall also include parts and supplies (as applicable).
- d. Invoices are due within thirty (30) days of issuance; delinquent invoices will bear interest at the rate of one percent (1%) per month.

11. **Billing Disputes.** If a billing dispute exists, the disputing Party shall notify the other Party that a dispute exists concerning the bill or invoice within thirty (30) days of receipt of such invoice. Upon receiving such notification, the Facility Managers or designees will meet in an effort to resolve the dispute. If the Parties do not reach agreement, the disputing Party may pursue the Dispute Resolution provisions herein.

12. **Indemnification.**

12.1 **By DCFD.** The DCFD agrees to hold harmless, indemnify and defend the CCFD, its officers, elected officials, agents, employees, and volunteers, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the DCFD, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the DCFD, its elected officials, officers, agents, contractors, employees, or volunteers in connection with the services required by this Agreement, provided however, that:

12.1.1 The DCFD's obligations to indemnify, defend, and hold harmless shall not extend to injuries, sickness, death, or damage caused by or resulting from the sole willful misconduct or sole negligence of the CCFD, its officers, elected officials, agents, contractors, employees or volunteers;

12.1.2 The DCFD's obligations to indemnify, defend, and hold harmless for injuries, sickness, death, or damage caused by or resulting from the concurrent negligence or willful misconduct of the DCFD and the CCFD, or of the DCFD and a third party other than an elected official, officer, agent, contractor, employee, or volunteer of the DCFD, shall apply only to the extent of the negligence or willful misconduct of the DCFD;

12.1.3 With respect to the performance of the services required by this Agreement and as to claims against the CCFD, its elected officials, officers, agents and employees, the DCFD expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend, and hold harmless provided for herein extends to any claim brought by or on behalf of any

employee of the DCFD and includes any judgment, award or costs thereof, including attorney's fees; and

12.1.4 The DCFD agrees that its obligation and agreement to indemnify, defend, and hold harmless pursuant to this provision, includes the agreement of the DCFD to reimburse the CCFD for all of the CCFD's costs and reasonable attorney's fees incurred as a result of any action of the CCFD to enforce this provision.

12.2 **By CCFD.** The CCFD agrees to hold harmless, indemnify, and defend the DCFD, its elected officials, officers, agents, employees, and volunteers, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the CCFD, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the CCFD, its officers, elected officials, agents, contractors, employees, or volunteers, in connection with the services required by this Agreement, provided however, that:

12.2.1 The CCFD's obligations to indemnify, defend, and hold harmless shall not extend to injuries, sickness, death, or damage caused by or resulting from the sole willful misconduct or sole negligence of the DCFD, its elected officials, officers, agents, contractors, employees, or volunteers;

12.2.2 The CCFD's obligations to indemnify, defend, and hold harmless for injuries, sickness, death, or damage caused by or resulting from the concurrent negligence or willful misconduct of the CCFD and the DCFD, or of the CCFD and a third party other than an officer, elected official, agent, contractor, employee, or volunteer of the CCFD, shall apply only to the extent of the negligence or willful misconduct of the CCFD; and

12.2.3 With respect to the performance of the services required by this Agreement and as to claims against the DCFD, its officers, directors, agents and employees, the CCFD expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for herein extends to any claim brought by or on behalf of any employee of the CCFD and includes any judgment, award or costs thereof, including attorney's fees.

**THIS WAIVER IS MUTUALLY NEGOTIATED BY AND BETWEEN  
THE CCFD AND THE DCFD.**

13. **Insurance.** For the duration of this Agreement, each Party shall maintain its own commercial general liability and property damage insurance with amounts of coverage as solely determined by each respective Party against claims for injuries to persons or damage to property, which may arise from or in connection with the performance of this Agreement by its officers, officials, employees, or volunteers. This insurance requirement may be satisfied by a policy or policies of insurance or a self-insurance retention program adopted by a Party.

14. **Warranty.** CCFD will repair or replace any new parts or redo any labor, which fails in normal service due to defects in parts or labor, provided that the vehicle is returned to CCFD within 90 days after performance of the service for which the warranty is claimed. This warranty is void if a third party performs work on the vehicle during the warranty period. This warranty expressly excludes consequential,

incidental or commercial damages of any kind, including but not limited to, loss of time, use, and inconvenience. This warranty does not apply to normal wear and tear, abuse, or failure of used parts; services related to these issues will be billed at normal shop rates. THE WARRANTY IN THIS SECTION IS GIVEN IN LIEU OF ANY EXPRESS OR IMPLIED WARRANTY OTHERWISE PROVIDED UNDER THE LAWS OF THE STATE OF WASHINGTON, INCLUDING THE WARRANTIES OF FITNESS, MERCHANTABILITY OR HABITABILITY.

15. **Treatment of Property.** This Agreement does not provide for jointly owned property. It is understood and agreed that all property presently owned or hereinafter acquired by the CCFD to perform services pursuant to this Agreement, including equipment, vehicles, buildings, and/or facilities, shall remain the sole property of the CCFD, regardless of any payment contribution, or reimbursement by the DCFD, including for the depreciation thereon, unless such equipment, vehicles, buildings, and/or facilities are purchased directly by the DCFD in the DCFD's name. Similarly, all property presently owned or hereinafter acquired by the DCFD to perform services pursuant to this Agreement, including equipment, vehicles, buildings, and/or facilities shall remain the sole property of the DCFD, regardless of any payment, contribution, or reimbursement by the CCFD, including for the depreciation thereon, unless such equipment, vehicles, and/or buildings are purchased directly by the CCFD in the CCFD's name.

16. **Termination.** Either Party may terminate this Agreement for any or no reason by giving not less than one hundred eighty (180) days' written notice to the other Party.

- a. If DCFD terminates this Agreement:
  - i. DCFD shall be responsible for its share of the Approved Fleet Service Facility Budget through the effective date of termination.
  - ii. DCFD shall forfeit all payments previously paid to CCFD.
- b. If CCFD terminates this Agreement more than ten (10) years after the Effective Date, DCFD shall be responsible for all amounts owed through the termination date. Further, DCFD shall not be entitled to a refund of any amounts previously paid.
- c. If CCFD terminates this Agreement during the first ten (10) years of this Agreement, DCFD shall be entitled to a refund of any payments made for which the true and full value has not been achieved. For example, if the Parties agree that the allocation for DCFD in calendar year 2022 entitles DCFD to use of the Fleet Service Facility for two (2) years and the Agreement is terminated on that last day of the 18<sup>th</sup> month, then DCFD would be entitled to a refund of one-fourth of its payment. Any such refund owed upon termination shall be paid within ninety (90) days of termination.

17. **Access To Records.** Each Party, and authorized representatives of the State (including Auditors), shall have access to any books, documents, papers, and records of the other party which are pertinent to this Agreement for the purposes of making audits, examinations, inspections, copies, excerpts, and transcriptions. All such records and all other records pertinent to this Agreement and work undertaken pursuant to this Agreement shall be retained by each Party for a period of six (6) years following termination of this Agreement, unless a longer period is required by law, or to resolve audit findings or litigation.

18. **Reports and Information.** The CCFD, at such times and in such forms as the DCFD may require, shall furnish the DCFD with such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

19. **Dispute Resolution.**

**19.1 Mediation.** Disputes regarding this Agreement (which have not been resolved between the Facility Managers or designees), shall be informally mediated by a panel comprised of one member of the DCFD's Board of Commissioners, one member of the CCFD's Board of Commissioners, and a third person agreed upon by the two appointed persons. The panel shall attempt to resolve the dispute through discussion and negotiation among the panel members. There shall be no presentation of evidence or argument to the panel. Decisions of the panel shall not be binding on the Parties and all discussions and negotiations among the panel members shall remain confidential and privileged.

**19.2 Litigation.** In the event that mediation does not resolve a dispute between the Parties, either Party may seek final and binding resolution by filing a lawsuit in the superior court.

20. **Attorney's Fees.** Except as otherwise specifically provided in this Agreement, in the event it is necessary for either Party to utilize the services of an attorney to enforce any of the terms of this Agreement, each Party shall pay for its own costs and reasonable attorney's fees.

21. **Assignment.** The Parties shall not assign their performance under this Agreement or any portion of this Agreement without the written consent of the other Party.

22. **Waiver of Breach.** The waiver by either Party of the breach of any provision of this Agreement by the other Party must be in writing and shall not operate or be construed as a waiver of any subsequent breach by such other Party.

23. **Governing Law & Venue.** This Agreement shall be governed by the laws of the State of Washington. Venue for any legal action not otherwise resolved or subject to resolution by Section 18, above, shall be in the Chelan County Superior Court.

24. **Compliance with Laws.** Each Party shall comply with all existing and hereafter enacted applicable laws, ordinances, and codes of the federal, state, and local governments.

25. **Entire Agreement.** This Agreement represents the entire and integrated agreement between the CCFD and the DCFD and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CCFD and the DCFD. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than CCFD and DCFD and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of CCFD and DCFD and not for the benefit of any other Party.

26. **Severability.** In the event any Section, sentence, clause, or other provision of this Agreement

shall be held to be invalid and unenforceable, the remaining Sections, sentences, clauses, and/or other provisions shall be valid and binding upon the Parties.

27. **Recording.** This Agreement shall be recorded with the Chelan County Auditor and Douglas County Auditor.

28. **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which, without production of the others, will be deemed to be an original.

APPROVED BY:

**DOUGLAS COUNTY FIRE DISTRICT NO. 2**

  
\_\_\_\_\_  
Dave Fennell, Board Chair

Date: 10/13/2021

Address for Giving Notices:

DOUGLAS COUNTY FIRE  
DISTRICT NO. 2  
Attn: Board Chair  
377 Eastmont Ave  
East Wenatchee, WA 98802  
(509) 884-6671

APPROVED BY:

**CHELAN COUNTY FIRE DISTRICT NO. 1**

  
\_\_\_\_\_  
Phil Dormaier, Board Chair

Date: 10/13/2021

Address for Giving Notices:

CHELAN COUNTY FIRE  
DISTRICT NO. 1  
Attn: Board Chair  
731 N. Wenatchee Avenue  
Wenatchee, WA 98801  
(509) 662-4734