

**FIRE PROTECTION CONTRACT  
BETWEEN  
CHELAN COUNTY FIRE PROTECTION DISTRICT NO. 1  
AND  
PORT OF CHELAN COUNTY**

This Fire Protection Contract (the "Agreement") is entered into on the date hereinafter written between **PORT OF CHELAN COUNTY** ("Agency") and **CHELAN COUNTY FIRE PROTECTION DISTRICT NO. 1** of Chelan County, Washington (the "District").

**WHEREAS**, the District is organized under Title 52 RCW and provides fire protection and other services.

**WHEREAS**, in accordance with the law, the Chelan County Assessor determines the equalized valuations of the property for general tax purposes on all nonexempt real and personal property located in the District (the "Assessed Value").

**WHEREAS**, pursuant to chapter 52.16 RCW the District levies ad valorem taxes on all real and personal property in the District in accordance with the Assessed Value (the "Levy Rate").

**WHEREAS**, pursuant to chapter 52.16 RCW the District may issue nonvoter approved and voter approved general obligation bonds payable from ad valorem taxes on all real and personal property in the District (the "Bond Rate").

**WHEREAS**, the Levy Rate and the Bond Rate are hereinafter collectively defined as the "Tax Rate" and represent the rate per \$1,000 of Assessed Value levied on an annual basis by the District.

**WHEREAS**, RCW 52.30.020 provides for fire protection districts to enter into interlocal agreements, pursuant to RCW 39.34, with state agencies and municipal corporations which have property, buildings, and/or equipment located within a fire district for fire protection services necessary for the protection and safety of personnel and property (the "Fire Protection Services").

**WHEREAS**, the Agency has property, buildings, and/or equipment located within the boundaries of the District ("Agency Facilities").

**WHEREAS**, the Chelan County Assessor does determine the equalized valuations of the property of the Agency Facilities.

**WHEREAS**, in lieu of an Assessed Value the District and the Agency have elected to utilize the seventy percent (70%) of the value declared by the Agency for casualty insurance on the Agency Facilities (the "Adjusted Insured Value").

**WHEREAS**, the District and the Agency have determined that Adjusted Insured Value of the Agency Facilities multiplied by the Tax Rate is a true and full value as required pursuant to RCW 43.09.210.

NOW, THEREFORE in consideration of the mutual promises and covenants contained herein the District and the Agency agree as follows:

**1. Annual Payment by Agency to District.** Except as provided herein, each calendar year on or before the 1<sup>st</sup> day of March of that year the Agency shall make an annual payment to the District for the Services provided during that year ("Annual Payment").

**1.1. Calculation of Annual Payment.** Except as provided herein, the Annual Payment shall be calculated by the District by multiplying the Tax Rate times the Adjusted Insured Value of all Agency property located within the District. On or before December 31<sup>st</sup> of each year the District will provide an invoice to the Agency of the amount of the Annual Payment for the following year.

**1.2. Reporting Changes in Agency Facilities and Adjusted Insured Value.** Exhibit "A" attached hereto is a current list of the real and personal property of the Agency located within the District. On or before November 1 of each year, the District will provide Agency with updates to the information in Exhibit "A". On or before November 15 of each year, Agency will provide the District with the most recent insurance schedules, including additions and deletions, of the properties subject to this agreement. On or before December 15 of each year, the parties shall approve an amended Exhibit A to adjust insured values for the coming year.

**1.3. Alternative Method of Calculating Annual Payment — Selection of Appraiser.** At the election and expense of the Agency, the Agency may elect to retain the services of a disinterested, MAI certified appraiser with at least ten (10) years' experience appraising property in Chelan County, Washington or an individual who has worked as an assessor in a county assessor's office, to perform an appraisal of the Agency. The appraiser shall be reasonably acceptable to the District. The Agency shall notify the District of its election to retain the services of the appraiser along with the name of the appraiser and the appraiser's qualifications.

**1.4. Alternative Method of Calculating Annual Payment — Methodology and Use of Appraisal.** The appraiser shall determine the valuations of the Agency Facilities in accordance with standards applicable to the appraisal industry (the "Appraised Value"). Agency

will provide the District with a copy of a written appraisal report for the Agency Facilities. The appraisal shall be conducted such that the appraisal report is available no later than November 30<sup>th</sup> preceding the year of the Annual Payment. Thereafter the Agency may elect to make an Annual Payment for the following year equal to the Appraised Value multiplied by the Tax Rate. If so elected the Appraised Value will be valid for a period of five (5) years but the Appraised Value shall be increased by two and one-half percent (2.5%) per year plus any new construction of major alteration to the Agency Facilities.

**1.5. True and Full Value.** Pursuant to RCW 43.09.210, the District and the Agency has each determined that the payment by the Agency to the District as provided herein represents the true and full value of the services noted above provided by the District to the Agency.

**1.6. Credit - Leasehold Excise Tax.** The Agency collects and remits Leasehold Excise Tax ("LE Tax") to the Department of Revenue on a routine basis during the calendar year. LE Tax is, in part, a replacement tax for property taxes not paid on property owned by the Agency. The LE Tax is then remitted by the Department of Revenue to Chelan County and then allocated to taxing districts, such as the District. The Agency and the District have historically entered annual contracts for Fire Protection Services and agreed upon a credit against the Annual Payment made by the Agency to the District associated with the LE Tax. The annual amount of LE Tax received by the District as set forth in the current Fire Protection Contract (effective for the period through December 31, 2016) and credited against the Annual Payment for 2016 is \$21,725.71 (the "Credit"). The Parties agree that the Agency shall continue to receive the Credit to be applied against the Annual Payment until this Agreement is terminated. The Parties agree that the Credit for 2017, the first year of this Agreement, and each year thereafter, shall be \$21,725.71; provided, however, the Agency or the District may revisit the Credit at any time during the term of this Agreement and the amount of the Credit (based on LE Tax received by the District during the prior year), shall be adjusted by written agreement of the Parties on or before the Annual Payment is due on March 1<sup>st</sup> of each year.

**2. Fire Protection Services.** In consideration for the Annual Payment set forth herein, the District shall furnish Fire Protection Services to the Agency Facilities during the term of this Agreement.

**2.1. Level of Fire Protection Services.** The Agency Facilities will be served in the same manner and to the same degree as all other property within the District. In this regard, the District will provide the Agency with the same level and prioritization of providing of Fire Protection Services as is generally provided to all property within the District. It is the intent of the Agency and the District that this Agreement will not alter or inhibit the manner in which the District provides and prioritizes Fire Protection Services throughout the District.

**2.2. No Change to Public Duty Doctrine.** It is the intent of the Agency and the District that this Agreement will not create a special relationship for Fire Protection Services.

**2.3. Specialized Equipment.** Should the need ever arise to acquire specialized equipment which will be used exclusively for Fire Protection of the Agency Facilities, the District and the Agency will negotiate the economic impact of such equipment prior to such purchase(s).

**3. Term of Agreement and First Annual Payment.** The term of this Agreement shall commence upon execution by the parties hereto and recordation of same with the Chelan County Auditor or the posting of such Agreement on one of the party's websites. The first Annual Payment shall be made for calendar year 2017. This Agreement shall continue year-to-year unless terminated by either party at the end of a calendar year with not less than six (6) months' advance notice.

**3.1. Post Termination Notice Cooperation.** During the period following the notice of termination the District and the Agency will reasonably cooperate to minimize or eliminate any impact on the provision of services to the public and to ensure a smooth and orderly transition for both governments.

**4. Compliance with RCW 39.34.030.** This Agreement does not create a separate legal or administrative entity and does not require a joint board. No real or personal property will be jointly acquired pursuant to this Agreement.

**5. Recording.** Pursuant to RCW 39.34.040, this Agreement shall be recorded with the Chelan County Auditor immediately after execution by all Jurisdictions hereto or posting of such Agreement on either party's website.

**6. Contacts for this Agreement.** The Fire Chief of the District and Executive Director of the Agency shall be the respective contacts for any issues relating to this Agreement.

**7. No Third Party Beneficiaries.** This Agreement shall not be construed to benefit any third party or otherwise limit the application or protection of the "Public Duty Doctrine" to the District or the Agency.

**8. Arbitration.** Any dispute between the Agency and the District arising from this Agreement, which dispute cannot be resolved between the parties, shall be settled by arbitration. Arbitration shall be conducted in Chelan County pursuant to RCW 7.04A. The arbitrator shall be jointly selected by the Agency and the District. If the Agency and the District are unable to agree then either party may petition the Superior Court of Chelan County to appoint the arbitrator. The arbitrator's fees and costs shall be divided equally between the parties. Each party will bear their respective attorney fees and costs. The decision of the arbitrator will be final.

9. Survivability. All covenants, promises and performance which are not fully performed as of the date of termination shall survive termination as binding obligations.

10. Notices. All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Agency: Port of Chelan County  
Attn: Executive Director  
238 Olds Station Road, Suite A  
Wenatchee, Washington 98801

District: Chelan County Fire Protection District No. 1  
Attn: Fire Chief  
136 South Chelan  
P.O. Box 2106  
Wenatchee, Washington 98807-2106

or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

11. Amendment. No modification, termination or amendment of this Agreement may be made except by written agreement signed by all parties, except as provided herein.

12. Waiver. No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

13. Captions. The captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.

14. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

15. Neutral Authorship. Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of all parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

16. Governing Law. This Agreement, and the right of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington, and the parties agree that in any such action, venue shall lie exclusively in Chelan County, Washington.

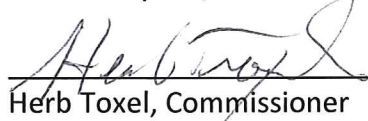
17. Entire Agreement. The entire agreement between the parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**CHELAN COUNTY FIRE PROTECTION DISTRICT NO. 1**



\_\_\_\_\_  
Mike Compton, Commissioner

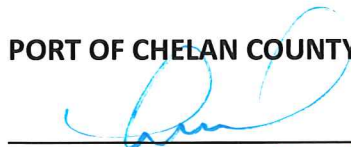


\_\_\_\_\_  
Herb Toxel, Commissioner



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Phil Dormaier, Commissioner

**PORT OF CHELAN COUNTY**



By: MARK URDAHL  
Its: Executive Director

**EXHIBIT "A"**

**TABLE OF DISTRICT FACILITIES**

<b>FACILITY</b>	<b>ADDRESS</b>	<b>VALUE</b>
Pybus Building (Sale Pending) Structure	7 N. Worthen, Wenatchee	<del>\$3,059,815</del>
Building 2 West Structure	327 E. Penny Rd. Wenatchee	\$562,545
Building 3 Structure	238 Olds Station Rd., Wenatchee	\$2,760,215
Building 3 Contents	238 Olds Station Rd., Wenatchee	\$461,399
Building 4 Structure	310 Olds Station Rd, Wenatchee	\$4,289,402
Building 5 Structure	210 Olds Station Rd., Wenatchee	\$3,029,370
Building 6 Structure	200 Old Station Rd., Wenatchee	\$310,394
Building 7 Structure	434 Olds Station Rd., Wenatchee	\$4,055,153
Building 8 Structure	432 Olds Station Rd., Wenatchee	\$3,765,499
Building 9 Structure	2605 Chester Kimm Rd, Wenatchee	\$3,258,207
Kemball House	2618 Euclid Ave., Wenatchee	\$360,028
Confluence Technology Center-Structure	285 Technology Center Way, Wenatchee	\$9,412,499
Confluence Technology Center(Port CTC TIB's)	285 Technology Center Way, Wenatchee	\$3,059,062
Confluence Technology Center- Contents	285 Technology Center Way, Wenatchee	\$241,658