

INTERLOCAL AGREEMENT FOR USE AND OPERATION
OF THE PUBLIC SAFETY BUILDING

THIS AGREEMENT is made and entered into this 7th day of December, 2009, by and between the PIERCE COUNTY FIRE PROTECTION DISTRICT NO. 3 ("District") and the City of University Place ("City").

WHEREAS, the District and the City have entered into an interlocal agreement in 1999 for the development and operation of a Public Safety Building and this agreement was amended in 2003 (collectively, "the 1999 ILA") attached as Exhibit I to this Agreement; and

WHEREAS, pursuant to the 1999 ILA, the District constructed the Public Safety Building at 3631 - 74th Ave. W., in University Place, and the City has made certain debt service payment to the District in return for certain use and lease rights within the Public Safety Building for police and emergency operations center purposes; and

WHEREAS, the District seeks additional facilities for expansion of District operations; and

WHEREAS, the City is constructing a civic building within the town center project that is expected to include space available for police use, or the City will provide other Police Station locations; and

WHEREAS, the District and City wish to move the police offices from the Public Safety Building to allow District expansion into this space, to compensate the City for debt service payments made, and to maintain certain uses set forth in the 1999 ILA, namely emergency operations center and parking uses on the property.

WHEREAS, the District and City have presented the terms and conditions of this Agreement to their respective governing bodies in compliance with all of their rules and regulations and each governing body has approved the respective obligations and agreements and have authorized the undersigned to execute this Agreement and bind the District and City to this Agreement.

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

1. **Purpose.** The purpose of this Agreement is to memorialize the parties' agreement to terminate certain City uses within the Public Safety Building and to maintain and operate certain joint spaces therein and to bind the District and City to the fulfillment of the terms.
2. **Term.** The Term of this Agreement shall be for ten (10) years, ending on December 31, 2019.
3. **1999 ILA.** The terms, conditions, rights and responsibilities of the 1999 ILA shall continue in full force and effect until the date of the City's complete vacation of all of the space it is currently using (approximately 3,200 square feet) plus the storage on the second floor of police department

office space within the Public Safety Building ("Vacated Space") and its notice in writing to the District of such vacation date. Upon the City's vacation of the Vacated Space, the City shall relinquish all rights and obligations under the 1999 ILA, except as described herein in this Agreement, including without limitation the rights to use and lease the police department office space and all associated common spaces as set forth in Paragraph 8 below and the obligation to make any debt service payments to the District.

4. **Vacation Date.** The estimated date of the City's vacation of the Vacated Space, except as set forth in Paragraph 8, is expected to be not later than December 2011.

5. **Debt Service until Vacation.** The City shall continue to pay annual debt service payments to the District as set forth in the 1999 ILA up to and until such time as the City has Vacated Space or the vacation date set forth in the City's written notice of vacation, whichever is later.

6. **District Repayment Terms.** Upon the City's vacation of the Vacated Space, and its notice thereof to the District in writing, the District shall repay the City the amount of the City's debt service payments up to the date of the vacation (estimated to be \$776,702 as of December 2011) no later than December 2011. This amount will be prorated down in the event the City vacates the property before December 2011 based on the payment share schedule attached as Exhibit A to the 1999 ILA. The City shall provide the District a statement of debt service payments made by the City. The District shall pay such amounts to the City in four equal annual payments estimated to be \$194,175.50 each; provided, the District may elect to pay the sum in fewer installments of larger amounts as the District may in its discretion elect and the District shall have the option to start payments in 2010. The amount of the final payment will be prorated down in the event the debt service is paid in full before December 2011. The first payment shall be paid on the first day of the first month following either the date of the vacation or the vacation date set forth in the City's written notice of vacation, whichever is later (e.g. January 2012 if vacated December 2011). The District reserves the right to prepay the obligation.

7. **District's Payment of Additional Compensation.** In addition to the repayment provisions of Section 6 and in additional consideration of the City's vacation of the Vacated Space, the District also agrees to pay the City additional compensation of up to \$250,000.00 which is the estimated land value revenue loss to the City of the new Police Station location. The City and the District will agree on an appraiser and City shall obtain an appraisal from such appraiser, and the District shall pay the appraised value, but no more than \$250,000.00. This amount shall be paid in four equal annual payments of \$62,500.00 each, which shall be payable in the same manner and on the same dates as the payments made in Section 6, or sooner if the District so elects.

8. **City's Use Rights.** In consideration of the City's payment of the City's agreed allocated maintenance, operation and utility costs as set forth in Paragraph 8, the City shall be entitled to the following uses:

- a. joint and equal use of the Emergency Operations Center (EOC); and
- b. access and use of eight (8) marked parking stalls for police purposes within the secured east parking area of the Public Safety Building property; and

- c. joint use of all public parking areas for public parking for police patrons;
- d. access and use of storage, for EOC equipment and supplies only, within the vault room adjacent to and east of the elevator and to the area under the stairway by the building's main entrance, specifically excluding second floor storage which the City will vacate; and
- e. use of any common areas related to the EOC, storage and parking uses, including elevators, hallways and bathrooms.

9. **Maintenance, Operations and Utilities.** The maintenance, operations and utilities for the Public Safety Building shall be furnished pursuant to a memorandum of understanding to be negotiated between the City Manager and the Fire Chief.

10. **Governing Law.** This Agreement shall be construed in accordance with and governed by the Constitution and laws of the State of Washington.

11. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the District, the City, and their respective successors, assigns and legal representatives, subject, however, to the limitations contained herein.

12. **Indemnification.** Each party agrees to indemnify, defend and hold harmless the other and all its officers, agents, employees and consultants from and against any and all demands, claims, judgments, awards of damages, costs, losses, or liability, including attorney's fees, for any and all claims for damages or injuries to persons, property or agents of the user which arise from its negligent or intentional acts or omissions. In the event of such claims or lawsuits, each party shall assume all costs of its defense thereof, and shall pay all resulting awards of damages, fees, costs or judgments that may be obtained against it or its officers, consultants, agents, or employees. Further, each party has insured against its own liability herein and will promptly notify the other of any material change in such coverage.

13. **Insurance.** Each party shall provide insurance coverage for all facilities and equipment presently owned or purchased by such party and used under the terms of this Agreement. Each party further agrees to provide general liability insurance coverage covering the actions of its own personnel when performing services under the provisions of this Agreement. It is hereby understood and agreed that both parties shall obtain and maintain public liability insurance (or an equivalent public insurance pool) in an amount not less than two million dollars (\$2,000,000.00) single limit liability. Each party will provide the other with a certificate of public liability insurance or other letter of coverage, naming the other as an additional insured and showing proof of the required insurance coverage. Insurance coverage shall be maintained at all times.

14. **Dispute Resolution.** Should a dispute arise between the District and the City regarding any term of this Agreement or any party's performance thereunder, the parties agree to meet at a mutually convenient time to attempt to resolve the dispute by conciliation. If a dispute cannot be resolved by conciliation, the parties agree that any dispute will be resolved by mediation. The parties agree to use Judicial Arbitration and Mediation Services (commonly known as JAMS) as a mediator and

abide by its rules and procedures. The final decision of the arbitrator shall be binding on the parties. Each party shall bear its own arbitration costs and attorneys' fees. Any arbitrator shall conform to the Code of Judicial Conduct of the State of Washington. The foregoing dispute resolution provision does not prevent the parties from terminating this Agreement by mutual agreement of the parties. If the parties are in agreement that the Agreement should be terminated, they shall, by separate mutually acceptable interlocal agreement provide for the disposition of all assets and liabilities incurred by the parties during the execution of this Agreement.

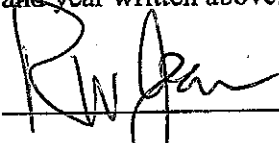
15. **Entire Agreement/Modification.** This Agreement represents the entire agreement between the parties, except as this Agreement may reference the 1999 ILA. No change, termination or attempted waiver of any of the provisions of this Agreement shall be binding on either of the parties unless excused in writing by authorized representatives of the parties. The Agreement shall not be modified, supplemented or otherwise affected by the course of dealings between the parties.

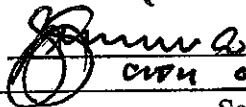
16. **No Third Party Beneficiaries.** This Agreement is entered into between the District and the City. The benefits of this Agreement are intended to benefit solely the parties hereto. No third party shall have any right or benefit of any kind arising out of this Agreement.

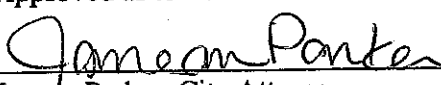
17. **No Objection to Bond Sale.** The City has no objection to the Fire District's refinancing its current debt on the Public Safety Building, or to a bond sale for its interim financing.

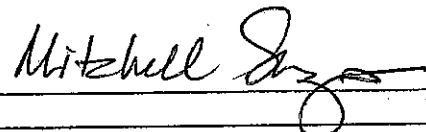
18. **No Memorandum of Agreement.** Neither party shall file a memorandum of agreement with the County Auditor or other filing which would be reflected on the legal title of the District or City.

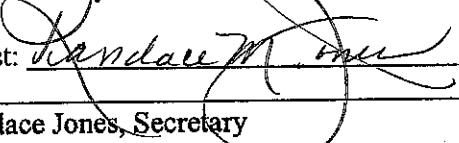
IN WITNESS WHEREOF, the City and District have caused this Agreement to be executed the day and year written above.

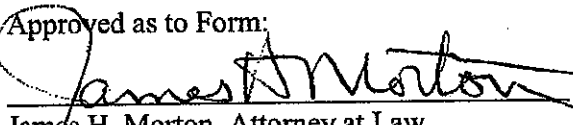
By: 
Robert W. Jean, City Manager
City of University Place

Attest: 
CANDACE JONES
Secretary

Approved as to Form:

Janean Parker, City Attorney

By: 
Mitchell Sagers, Fire Chief
Pierce County Fire Protection District No. 3

Attest: 
Kandace Jones, Secretary

Approved as to Form:

James H. Morton, Attorney at Law