

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.

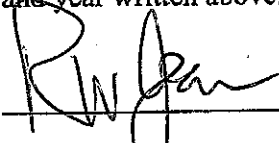
15. **Entire Agreement/Modification.** This Agreement represents the entire agreement between the parties, except as this Agreement may reference the 1999 ILA. No change, termination or attempted waiver of any of the provisions of this Agreement shall be binding on either of the parties unless excused 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.

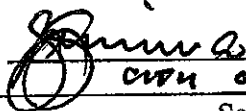
16. **No Third Party Beneficiaries.** This Agreement is entered into between the District and the City. The benefits of this Agreement are intended to benefit solely the parties hereto. No third party shall have any right or benefit of any kind arising out of this Agreement.

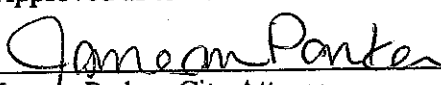
17. **No Objection to Bond Sale.** The City has no objection to the Fire District's refinancing its current debt on the Public Safety Building, or to a bond sale for its interim financing.

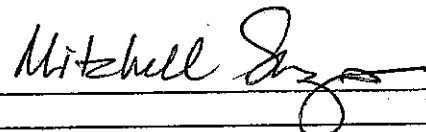
18. **No Memorandum of Agreement.** Neither party shall file a memorandum of agreement with the County Auditor or other filing which would be reflected on the legal title of the District or City.

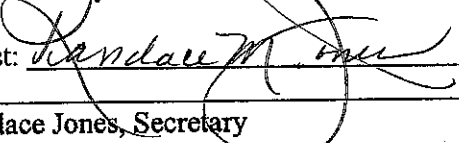
IN WITNESS WHEREOF, the City and District have caused this Agreement to be executed the day and year written above.

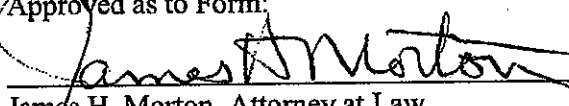
By:   
Robert W. Jean, City Manager  
City of University Place

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

**AMENDMENT TO  
INTERLOCAL AGREEMENT  
FOR THE  
DEVELOPMENT AND OPERATION OF  
PUBLIC SAFETY BUILDING**

In consideration of the mutual covenants and promises contained herein, the parties hereto hereby amend the Agreement as follows:

1. Term. Sections 1, 3, 4 and 12 of the Agreement are hereby amended to provide that the Term of the Agreement shall be for a total of 22 years, ending September 7, 2021. The City's right to extend this agreement per Section 4.e shall correspondingly vest at the end of the new term.

2. Financing. Section 3, Financing, is hereby amended to read as follows:

"The City's payment of the annual debt service amount shall constitute the City's financial contribution to the project and is the primary consideration for the 22-year term of this agreement.

Pursuant to the prior Interlocal Agreement for Joint Development of the Public Safety Building, the parties have entered into cooperative financing arrangements. The District has issued 20-year bonds with a total principal amount of \$4,510,000.

The 20-year bonds require semi-annual payments of principal and interest. The City and the District will contribute to the payment of the interest and the repayment of the principal on the 20-year bonds. The District's and the City's annual debt service contributions shall be as set forth in Exhibit A. Any additionally required debt service payments or other financing costs shall be the sole responsibility of the Fire District.

The City shall pay to the District the City's portion of the debt service due on June 1 and December 1 of each year for the twenty-year bonds. The City's payment to the district shall be made not later than five working days prior to the District's scheduled payment date."

3. Rights of the City. Paragraphs c. and e. of Section 4, Rights of the City, shall be amended to read as follows:

"c. The City shall be entitled to the uninterrupted use of the common areas of the Public Safety Building and the related premises, including elevators, hallways, exterior landscaped areas and jointly used parking lots. The City shall further have storage access, for EOC equipment and supplies only, to the vault

room adjacent to and east of the elevator. The City will also have storage access, for EOC equipment and supplies only, to the area under the stairway by the building's main entrance."

"e. The City shall have an option to renew its rights upon the expiration of this Interlocal Agreement at the end of the year 2021, as an annual lease for \$1 per year for an additional term of 20 years. No further capital contribution or lease payment shall be required of the City on exercise of that option to renew, but only a fair share payment for the maintenance and operation costs of the building and premises, unless the City decides to make its own tenant improvements."

4. Janitorial Service. Section 9, Maintenance and Operations/Utilities, shall be amended to read as follows:

"As the owner of the Public Safety Building and related premises, the District shall furnish all necessary maintenance and operations, and utilities, for the parties, except as otherwise specified herein. The District shall be responsible for administering maintenance, custodial and/or janitorial contracts for the interior and exterior maintenance of the building and exterior landscaping and parking lots. Each party shall be responsible for any actual allocated costs for maintenance and operation of the premises that they use and occupy, if such costs can be segregated. If maintenance and operation costs cannot be segregated, as with for example, HVAC or water and sewer utilities, then the District shall pay 100% of the aforesaid nonsegregated costs and charge back the City for such costs of maintenance and operations, for the City's proportionate share of the square footage occupied, based on the final configuration of the building.

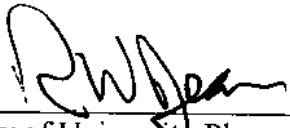
Every three years beginning in July, 2003, however, the parties agree they shall meet and adjust such percentage if necessary.

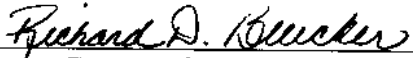
The intent of the parties is that the portion of maintenance and operational costs to be paid annually should reflect the costs of maintaining and repairing the building, fixtures, related improvements and equipment and should be borne by each party commensurate with that portion of the building they primarily occupy, or in accordance with the parties' other agreement. To the extent that the City makes tenant improvements and modifications to the exclusively City-occupied space in the Public Safety Building, which is specifically allowed hereby, the cost of maintaining and repairing such tenant improvements shall remain with the City.

The District shall contract for custodial or janitorial service for all District and Joint spaces within the building, and the City shall pay its share of the Joint spaces based on an allocation of space within the building, but the parties shall assume equal use of the joint EOC and share the costs of maintenance and

operation thereof equally. The City shall contract for custodial or janitorial service for all City spaces.”

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

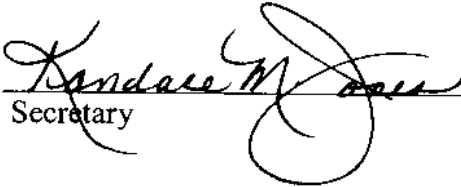
By   
City of University Place  
Robert W. Jean, City Manager

By   
Pierce County Fire Protection District #3  
Richard Bleecker, Fire Chief

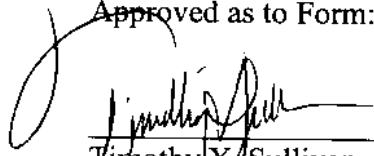
Attest:

  
Clerk

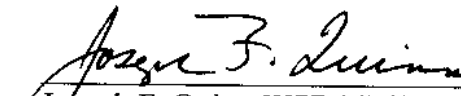
Attest:

  
Secretary

Approved as to Form:

  
Timothy X. Sullivan, WSBA# 9423  
City Attorney

Approved as to Form:

  
Joseph F. Quinn WSBA# 6810  
Attorney for District

**Exhibit A**  
**City of University Place and Fire District No. 3**  
**Public Safety Building Bond Payment Shares**

Public Safety Building Debt Service									
Year	1st Bond: \$3,010,000	Fire 81.6% Share	City 18.4% Share	2nd Bond: \$1,500,000	Fire 81.6% Share	City 18.4% Share	1st & 2nd Bond Total	Total Fire 81.6% Share	Total City Share
1999	223,270	182,188	41,082				223,270	182,188	\$46,000
2000	230,008	187,686	42,321				230,008	187,686	\$46,000
2001	231,438	188,853	42,585	43,839	35,773	8,066	275,276	224,626	\$46,000
2002	232,478	189,702	42,776	75,153	61,324	13,828	307,630	251,026	\$46,000
2003	228,165	186,183	41,982	75,153	61,324	13,828	303,318	247,507	\$62,468
2004	228,738	186,650	42,088	130,153	106,204	23,948	358,890	292,854	\$66,036
2005	229,058	186,911	42,147	133,035	108,557	24,478	362,093	295,467	\$66,625
2006	229,058	186,911	42,147	130,635	106,598	24,037	359,693	293,509	\$66,183
2007	228,728	186,642	42,086	128,115	104,542	23,573	356,843	291,183	\$65,659
2008	228,125	186,150	41,975	130,505	106,492	24,013	358,630	292,642	\$65,988
2009	232,245	189,512	42,733	132,580	108,185	24,395	364,825	297,697	\$67,128
2010	230,945	188,451	42,494	129,360	105,558	23,802	360,305	294,009	\$66,296
2011	229,358	187,156	42,202	131,070	106,953	24,117	360,428	294,109	\$66,319
2012	232,238	189,506	42,732	132,470	108,096	24,374	364,708	297,601	\$67,106
2013	229,673	187,413	42,260	128,550	104,897	23,653	358,223	292,310	\$65,913
2014	231,885	189,218	42,667	129,510	105,680	23,830	361,395	294,898	\$66,497
2015	228,560	186,505	42,055	130,133	106,188	23,944	358,693	292,693	\$65,999
2016	229,725	187,456	42,269	130,408	106,413	23,995	360,133	293,868	\$66,264
2017	230,425	188,027	42,398	130,373	106,384	23,989	360,798	294,411	\$66,387
2018	230,450	188,047	42,403	129,973	106,058	23,915	360,423	294,105	\$66,318
2019				129,250	105,468	23,782	129,250	105,468	\$23,782
2020				128,200	104,611	23,589	128,200	104,611	\$23,589
2021				131,875	107,610	24,265	131,875	107,610	\$24,265
<b>Total</b>	<b>4,594,565</b>	<b>3,749,165</b>	<b>845,400</b>	<b>2,540,336</b>	<b>2,072,915</b>	<b>467,422</b>	<b>7,134,901</b>	<b>5,822,079</b>	<b>\$1,312,822</b>

\* The City's 2003 payment of \$62,468 is City's 2003 share plus the '99-'02 difference in the City's share and what the City paid.



**INTERLOCAL AGREEMENT  
FOR THE  
DEVELOPMENT AND OPERATION OF  
PUBLIC SAFETY BUILDING**

THIS AGREEMENT, made and entered into this 20<sup>th</sup> day of SEPTEMBER, 1999, by and between Pierce County Fire Protection District No. 3, hereinafter referred to as the "District" and the City of University Place, a municipal corporation, hereinafter referred to as the "City":

WITNESSETH:

WHEREAS, joint use by the District and City of a Public Safety Building located on a site near City Hall will improve integration of public safety services, including fire protection, police services, and emergency operations; and

WHEREAS, joint use of a Public Safety Building will greatly improve the capacity and communications of the District and City in responding to major emergencies or disasters in a joint emergency operation center; and

WHEREAS, locating the Public Safety Building adjacent to City Hall will provide an increased police and security presence at the future Homestead Park, Town Center and City Hall; and

WHEREAS, a joint use Public Safety Building will allow for more effective and cost efficient maintenance and operation of the building for better utilization by both parties; and

WHEREAS, the District has acquired the necessary land for the Public Safety Building and the City is willing to convey to the District at cost a parcel of land of approximately .6 acres to the District, so that the Public Safety Building and related premises will be of sufficient size to house a fire station, police station, joint emergency operations center (EOC) and associated parking; and

WHEREAS, the parties have heretofore executed an interlocal agreement for joint development of the Public Safety Building to allow them to work together in planning, acquiring property, financing and developing the aforementioned facilities; and

WHEREAS, in the interest of providing the best municipal services with the least possible expenditure of public funds, full cooperation between the District and City is desirable; and

WHEREAS, the District and City have the authority to enter into this agreement pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW; and

WHEREAS, the District and City now desire to memorialize an interlocal agreement amending the prior interlocal agreement now that specific costs and space allocations have been developed by the parties and the parties are prepared to agree as to maintenance and operation of the Public Safety Building and related premises;

NOW, THEREFORE, in consideration of the premises, the City and the District do now agree to cooperate with each other in carrying out the above purposes, and to that end do agree as follows:

1. **Purpose.**

The purposes of this agreement are to memorialize the parties' agreement to develop, maintain and operate the Public Safety Building, including the joint EOC, and the related premises for a term of 20 years and to provide for additional twenty (20) year lease options thereafter for the facility .

2. **Administrator.**

The District and the City hereby agree that the District shall be responsible for administering the design and construction of the Public Safety Building, and that the District will act as owner for purposes of contracts with the architect and with the general contractor, which shall ultimately be awarded the contract to construct the Public Safety Building. The District/Administrator will cooperate with the City and consider the City's input as necessary and appropriate with respect to design, maintenance and operation of the facility, with particular attention to the City's suggestions with respect to the approximately 3,200 square feet of space to be used exclusively by the City as well as the City's 50% share of the joint EOC.

3. **Financing.**

The City's payment of the annual debt service amount shall constitute the City's financial contribution to the project and is the primary consideration for the 20-year term of this agreement.

Pursuant to the prior Interlocal Agreement for Joint Development of the Public Safety Building, the parties have entered into cooperative financing arrangements. The District has issued bonds with a total principal amount of \$4,010,000. Of that issue, one million dollars of bonds were issued as term bonds. The District is solely liable for repayment of the term bonds. Three million ten thousand dollars of the bonds were issued as 20-year bonds. The District is also contributing approximately \$380,000 in available cash to the project, as well as interest earnings in the approximate amount of \$94,206.

The 20-year bonds require semi-annual payments of principal and interest. The City and the District will contribute to the payment of the interest and the repayment of the principal on the 20-year bonds. The District's annual debt service shall not exceed \$190,000. The City's annual debt service shall not exceed \$50,000, **provided** that commencing in 1999, an estimated payment of \$46,000 shall be paid to the District by the City annually until capital costs are finalized. An addendum to this document will be completed no later than 60 days after the date of final completion of the construction contract, specifying the final capitalized costs contributed to the project by the District and the City.

The City shall pay to the District the City's portion of the debt service due on June 1 and December 1 of each year for the twenty-year bonds. The City's payment to the District shall be made not later than five working days prior to the District's scheduled payment date.

4. **Rights of the City.**

In consideration for the aforesaid payment of annual debt service by payments toward the semiannual principal and interest due on the bonds, the City accrues the following rights:

- a. The City will be entitled to the exclusive use and possession of approximately 3,200 square feet within the Public Safety Building for municipal services, including, but not limited to space to be used for police services. The District shall provide space to the City which is in "turnkey" condition. The space will be constructed to a standard equivalent to that of the recently remodeled City Hall. The City shall not have to pay for any tenant improvements associated with the initial construction of the Public Safety Building. While the intended primary use of the City space shall be for police services, the City specifically reserves the right to utilize the 3,200 square feet of space for any and all appropriate municipal services as desired by the City during the term of this agreement, and thereafter, if the City exercises the lease renewal options contained in this interlocal agreement.
- b. The City is entitled to the joint and equal use of the EOC. The parties agree to enter into such further Interlocal Agreements or other memorandum of understandings as may be necessary to provide reasonable use of this space to each other.
- c. The City shall be entitled to the uninterrupted use of the common areas of the Public Safety Building and the related premises, including elevators, hallways, exterior landscaped areas and jointly used parking lots.
- d. The City's contribution to the capital costs of design and construction shall be limited to the semi-annual debt service payments of the City as set forth herein. Maintenance and operation, as opposed to capital contributions, are additional and dealt with elsewhere in this agreement.
- e. The City shall have an option to renew its rights upon the expiration of this Interlocal Agreement at the end of the 20-year term, as an annual lease for \$1 per year for an additional term of 20 years. No further capital contribution or lease payment shall be required of the City on exercise of that option to renew, but only a fair share payment for the maintenance and operation costs of the building and premises, unless the City decides to make its own tenant improvements.
- f. The City will have the option to three subsequent lease option renewals for twenty year terms on the same conditions as set forth above.
- g. The City will have the right to review the design of that portion of the Public Safety Building exclusively used by the City, together with the design of the EOC, and the District shall incorporate the City's design suggestions to the extent feasible. If the City causes changes to be made to the design of the City space (or the EOC, as to its proportionate share) after October 1, 1999, increasing the architectural or engineering fees, the City shall bear the expense of such cost increases.

5. **Rights of the District.**

With respect to the Public Safety Building, the District shall have the rights of the owner and titleholder of the property. During the design and construction of the project, as the owner the District shall have the primary right and responsibility to make final decisions with respect to design questions and construction issues, subject to obtaining necessary and appropriate input from the City, particularly with respect to space used exclusively or jointly by the City. As the owner, the District shall have the right and responsibility to make major decisions concerning substantial and significant construction alterations or remodeling to the building, as deemed necessary, subject to the acquiring of appropriate permits from the City of University Place. The City will waive any of its initial land use and building permit fees, except fees the City is contractually or legally bound to assess or pay pursuant to any contract.

6. **Responsibilities of the City.**

The City will assist the District in financing the design, construction, maintenance and operation of the Public Safety Building.

7. **Responsibilities of the District.**

The District will be responsible for designing, constructing and equipping the Public Safety Building, using appropriate professionals in the field of architecture and licensed general contractor chosen by the owner pursuant to the applicable public bidding statute. The District agrees to secure all necessary land use approvals and any other permits or approvals necessary to construct the building. The District agrees to abide by all statutes, ordinances, codes and regulations relating to the siting and construction of the Public Safety Building and related facilities on the premises. The District agrees to execute a no protest agreement for a local improvement district for East Road which will abut the property. The District will use the majority of the space in the building, including its 50% share of the EOC. The portion of the building operated by the District will be used for fire prevention, suppression, education and training, and emergency medical services in accordance with the power and authority granted to the District under Title 52 RCW, and otherwise pursuant to the statutes of the State of Washington. If the District, by reason of merger, consolidation, or otherwise, makes a decision through the Board of Commissioners that the District no longer needs space for a fire station or otherwise in the Public Safety Building, the District will offer the City the right of first refusal to purchase the facility. The price will be determined at that time, if and when the above condition occurs. If the City purchases the Public Safety Building within the initial twenty year term of this agreement, the City shall be entitled to a reasonable and fair credit for the City's contribution to this project.

8. **Joint Emergency Operations Center.**

The District and the City will participate equally in the design of the EOC, which shall also be used as a training, operations, and general meeting facility. The construction of the EOC will be done pursuant to the contract for the overall Public Safety Building, but the District will entertain all reasonable and appropriate input into the construction details of the EOC as offered by the City. The Joint EOC shall be considered joint facilities under this agreement, with the parties having equal rights to occupy and use the same, as needed, either together or separately. After the first three years of the term of this agreement, the Parties agree to review their relative respective use of the joint EOC and adjust the sharing of responsibilities accordingly.

9. **Maintenance and Operations/Utilities**

As the owner of the Public Safety Building and related premises, the District shall furnish all necessary maintenance and operations, and utilities, for the parties, except as otherwise specified herein. The District shall be responsible for administering maintenance, custodial and/or janitorial contracts for the interior and exterior maintenance of the building and the exterior landscaping and parking lots. Each party shall be responsible for any actual allocated costs for maintenance and operation of the premises that they use and occupy, if such costs can be segregated. If maintenance and operation costs cannot be segregated, as with for example, HVAC or water and sewer utilities, then the District shall pay 100% of the aforesaid nonsegregated costs and charge back the City for such costs of maintenance and operations, for the City's proportionate share of the square footage occupied, based on the final configuration of the building. Every three years beginning in July, 2003, however, the parties agree they shall meet and adjust such percentage if necessary.

The intent of the parties is that the portion of maintenance and operational costs to be paid annually should reflect the costs of maintaining and repairing the building, fixtures, related improvements and equipment and should be borne by each party commensurate with that portion of the building they primarily occupy, or in accordance with the parties' other agreement. To the extent that the City makes tenant improvements and modifications to the exclusively City-occupied space in the Public Safety Building, which is specifically allowed hereby, the cost of maintaining and repairing such tenant improvements shall remain with the City.

The District shall contract for custodial or janitorial service for all spaces within the building, and the City shall pay its share based on an allocation of space within the building, but the parties shall assume equal use of the joint EOC and share the costs of maintenance and operation thereof equally during the first three years.

10. **Boundary Line Adjustment.**

The parties agree that the City will sell at actual cost and convey to the District the parcel of approximately .6 of an acre adjacent to the primary parcel purchased by the District to build the Public Safety Building. By boundary line adjustment, the parties agree that these two parcels shall be made into one parcel, which will house the Public Safety Building and all exterior parking and associated land. The City's sale and conveyance to the District of the .6 of an acre parcel, valued on an actual cost basis, shall be reflected in

the overall formula set forth in this agreement. The City agrees to execute any and all necessary documents to effectuate the boundary line adjustment and conveyance.

11. **Method of Payment.**

The District has issued general obligation bonds, in the amount of \$4,010,000, to finance the design and construction of the Public Safety Building. The District has deposited the proceeds of the general obligation bonds in the heretofore created fund of the District designated the "1998 Bond Construction Fund". The District covenants that it will use such proceeds solely for the Public Safety Building Project, including planning, design, and other project-related costs, including related premises. The District shall establish and maintain a budget for the project and for any other cooperative undertaking authorized hereunder. Except as authorized herein, or by future action of the District and City, the District as owner shall be responsible for financing the Public Safety Building. The City will reimburse the District semi-annually for its share of debt service and monthly for its share of maintenance and operation costs.

12. **Term of Agreement.**

The initial term of this Interlocal Agreement shall be 20 years from the date of execution hereof. As referenced in Paragraph VIII of the prior interlocal agreement (which is attached hereto and hereby incorporated herein by this reference), this Interlocal Agreement amends the prior agreement to provide specific costs and space allocation formulas. To the extent not inconsistent with this Interlocal Agreement, the prior interlocal agreement for joint development of the Public Safety Building shall remain in full force and effect. However, to the extent that this Interlocal Agreement provides greater specificity, it shall be deemed to supersede any inconsistent provisions contained in the earlier agreement.

13. **Governing Law.**

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

14. **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 limitations contained herein.

15. **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 changes in such coverage.

16. **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 in an amount not less than TWO MILLION AND NO/100 DOLLARS (\$2,000,000) SINGLE LIMIT LIABILITY. Each party will provide the other with a certificate of public liability insurance naming the other as an additional insured and showing proof of the required insurance coverage upon commencement of construction of the Public Safety Building. Insurance coverage shall be maintained at all times.

17. **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. A mediator shall be chosen by mutual agreement of the parties. If mediation does not resolve the dispute, the parties agree to binding arbitration without any judicial appeals. The parties shall pick one arbitrator. 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 Interlocal Agreement should be terminated, prior to the award of a bid for the construction of the Public Safety Building, the District shall be responsible for costs incurred to date, except for any peculiar cost incurred only because of the City's particular requests, and only those costs incurred between the execution of the first Interlocal Agreement in November 1998 and the termination date.

After the award of a bid for the construction of the Public Safety Building, the parties shall not terminate this agreement except through a mutually acceptable interlocal agreement providing for the disposition of all assets and liabilities including interests in real and personal property acquired or incurred by the parties during the execution of this interlocal agreement.

18. **Entire Agreement/Modification.**

This agreement represents the entire agreement between the parties, except for the prior Interlocal Agreement, which has been attached hereto and incorporated herein by reference. No change, termination or attempted waiver of any of the provisions of this agreement shall be binding on either of the parties unless executed in writing by authorized representatives of each of the parties. The agreement shall not be modified, supplemented or otherwise affected by the course of dealings between the parties.

19. **No Third Party Beneficiaries**

This Interlocal Agreement is entered into between the District and the City. The benefits of this Interlocal 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 Interlocal Agreement.

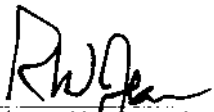
20. **Project Cost Overruns.**

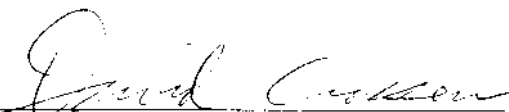
After the award of the bid to the contractor for construction of the Public Safety Building, if there are any cost overruns or approved change orders, the parties agree that both the City and the District will be involved in the review and approval process. The project costs will not be exceeded, and change orders will not be approved without express authorization of both parties and shall specify with certainty the approved additional expense. As part of that process, the parties will agree as to the proportionate share of the costs of any cost overruns and/or change orders. Generally, if either party is exclusively requesting an approved change order or cost overrun, such party shall be solely responsible for that extra cost.

21. **Subleasing.**

The District expressly reserves unto itself the right to sublease any portion of the property controlled by the District, exclusively of the EOC and the City's portion of the premises. The District agrees that any such subtenant shall be a municipal corporation or other subtenant utilizing the property in a manner consistent with the public purpose of the building.

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


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

By   
Pierce County Fire Protection District #3  
David Crossen, Executive Director

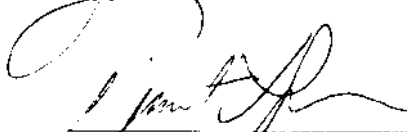
Attest:

  
Secretary

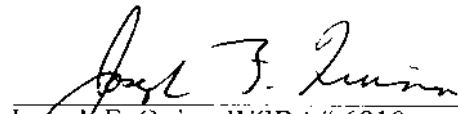
Attest:

  
Secretary

Approved as to Form:

  
Timothy X. Sullivan, WSBA# 9423  
City Attorney

Approved as to Form:

  
Joseph F. Quinn WSBA# 6810  
Attorney for District