

**INTERLOCAL AGREEMENT
JOINT CONSTRUCTION AGREEMENT**

THIS INTERLOCAL AGREEMENT is executed on _____ by and between South Kitsap Fire and Rescue (“SKFR”) and Public Utility District No. 1 of Kitsap County (“KPUD”), hereinafter jointly referred to as the “Parties,” as evidenced by the signatures of the Commissioners set forth below. Both Parties are municipal corporations organized under the laws of the State of Washington and make this Agreement pursuant to the Interlocal Government Cooperation Act, Chapter 39.34 RCW.

RECITALS

WHEREAS, SKFR and KPUD wish to enter into an Interlocal Agreement (“Prior ILA”) that sets forth the terms and conditions regarding an exchange of services between the agencies; and

WHEREAS, KPUD has determined that it is in the best interests of the KPUD to contract with SKFR for the placement of fiber nodes at SKFR’s Station 14 to improve KPUD’s service coverage and that such an arrangement for joint cooperation would be efficient and cost effective; and

WHEREAS, SKFR is willing to allow the placement and use of fiber nodes by KPUD at its Station 14 in exchange for the provision of fiber service to its facilities upon those terms and conditions set for in this ILA; and

WHEREAS, the Parties enter into this Agreement in consideration of the mutual covenants and promises set forth in this Agreement, the mutual benefits to be derived by each, and in the exercise of authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW.

NOW, THEREFORE, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. **INTERLOCAL AGREEMENT**

This Agreement is entered into in short form as the Agreement is intended to be a stand-alone Interlocal Agreement and is not a part of any other Agreement.

2. **PURPOSE OF AGREEMENT**

The purpose of this Agreement is to provide the terms and conditions pursuant to which the Parties will cooperate with regard to the placement of KPUD fiber nodes at SKFR’ Station 14 in exchange for KPUD offering fiber services to SKFR.

3. **TERM OF AGREEMENT**

This Agreement shall be in effect from the date it is fully executed and shall remain in effect for 10 years at which time it shall automatically renew for two subsequent five-year periods unless terminated pursuant to Section 4.

4. TERMINATION

This Agreement may be terminated by either party, for any reason, with or without cause, with three hundred sixty-five (365) calendar days prior written notice to the other party.

5. RESPONSIBILITIES OF THE PARTIES

SKFR, at no cost to KPUD, will:

- Provide dedicated space in a room at Station 14 (located at 12685 Bethel Burley Rd SE, Port Orchard, WA 98367) that is of sufficient size and location and that is suitable for the proper placement and functioning of a fiber node (room is as depicted in Exhibit A), and
- For the dedicated space described above, assume the cost for providing the building, land, maintenance of generators, electrical, and provide KPUD employee access (24 hours a day, 7 days a week) via key or card key as appropriate, etc., and
- Assume all costs and expenses associated with providing DIA (direct internet access) fiber services in excess of 1g, and
- Assume the cost for construction of new fiber connections for SKFR facilities. This ONLY applies to connections intended for use by SKFR.

KPUD, at no cost to SKFR, will:

- Provide DIA (direct internet access) fiber services, up to 1g per location ‘via hub and spoke’ style of networking to SKFR at the following SKFR facilities:
 - Station 14, located at 12658 Bethel Burley, Port Orchard, Washington
 - Station 8, located at 1974 Fircrest Drive SE, Port Orchard, WA
 - Station 31, located at 200 Tremont Street, Port Orchard, WA 98366
 - (13) Static IP addresses (/28 subnet) for use by SKFR
- Assume all costs for the equipment upgrades for service up to 1g (with SKFR assuming all costs for construction as indicated in the section above outlining SKFR responsibilities).

6. COST

The parties agree that the services being exchanged pursuant to this ILA are fair and equitable.

7. RECORD-KEEPING

The Parties agree to maintain all records related to this ILA as required by any statutes or regulations. The Parties agree to cooperate in responding to public records requests that seek the production or release of any public records. Either party or its authorized representatives shall have access, during normal working hours, to any books, documents, papers, or records in the possession of the other party which directly relate to this Agreement, except those documents which are exempt from public disclosure as a matter of law.

8. INSURANCE/INDEMNIFICATION

Each party shall carry appropriate liability and property damage insurance to cover any loss occasioned by the negligent actions of the acting party during the performance of any obligation pursuant to this Agreement. Each party also agrees to indemnify, defend and hold harmless the other party and its elected and appointed officials, officers, employees, agents, representatives, vendors, and contractors from and against any and all claims, losses, damages, liabilities, penalties, charges, suits and expenses, including reasonable attorneys' fees and costs, to the extent they arise out of, or result from, the negligence or willful misconduct of the indemnitor or its elected or appointed officials, officers, employees, agents, representatives, vendors, and contractors in the performance of this Agreement. Solely for purposes of this indemnification provision, each party waives the immunity it would otherwise enjoy under RCW Title 51 (Industrial Insurance) and acknowledges that this waiver was mutually negotiated by the parties. The provision of this Section shall survive the expiration or earlier termination of this Agreement. Evidence of insurance and insurance information (policy number and insurer) will promptly be provided upon request by either party.

9. REPRESENTATIVES

<u>SKFR</u>	<u>KPUD</u> Angela Bennink, General Manager Angela@KPUD.org 360-686-7760 PO Box 2910 Poulsbo, WA 98370
-------------	--

10. COOPERATION / DISPUTES

The parties shall strive to cooperate with one another in all reasonable respects and at all reasonable times so the terms and spirit of this Agreement may be fully implemented for their mutual benefit.

If any disputes arise between the parties regarding this Agreement and its implementation and/or interpretation, they shall both strive in good faith to settle all such disputes in a timely and reasonable manner at the lowest possible level, with each being mindful and reasonably accommodating of the interests and concerns of the other party. If the parties are unable to resolve disputes in this manner then they shall be handled in the manner identified below.

Disputes or claims that cannot be resolved utilizing the methods outlined above will be handled in accordance with the method of arbitration outlined below:

Arbitration: Any dispute or claim arising out of this Agreement must be submitted to mandatory, conclusive, and binding arbitration under the rules and procedures of the Kitsap County Superior Court Mandatory Arbitration Rules and Kitsap County local MAR rules,

provided that there shall be no appeal except as provided in RCW 7.04, no monetary limit on the award and selection of an arbitrator shall be as set forth herein. Demand for arbitration shall be made by certified mail to the other party and within 30 days of the demand, each Party shall submit the names of three proposed arbitrators with expertise related to the matter being disputed or claimed to the other Party. The Parties shall attempt to agree upon a single arbitrator as proposed pursuant to the names contained on the list of each Party. If the Parties are unable to agree upon an arbitrator, that arbitrator shall be appointed by application to the presiding judge of the Kitsap County Superior Court. The Parties agree and hereby request of the presiding judge that the arbitrator to be selected or appointed shall be familiar with municipal law, construction law, water system operations and maintenance and other topics generally covered by this Agreement. The Parties agree that the arbitrator shall be allowed to utilize his or her own independent experts to help resolve technical questions beyond the expertise of the arbitrator. The arbitrator's award shall not be limited by otherwise applicable MAR rules or RCWs. Each Party shall pay its own attorney's fees and costs, except when attorney fees are sought as specific damages in a claim or suit for failure to defend and/or indemnify pursuant to Section 8, and half of the cost of arbitration. The arbitrator's decision may only be appealed pursuant to RCW 7.04.

11. GOVERNING LAW

This Agreement is made under and shall be governed by the laws of the State of Washington.

12. JURISDICTION AND VENUE

Venue of any suit between the parties arising out of this Agreement shall be Kitsap County Superior Court.

13. SEVERABILITY

If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated because of such decision.

14. RECORDING

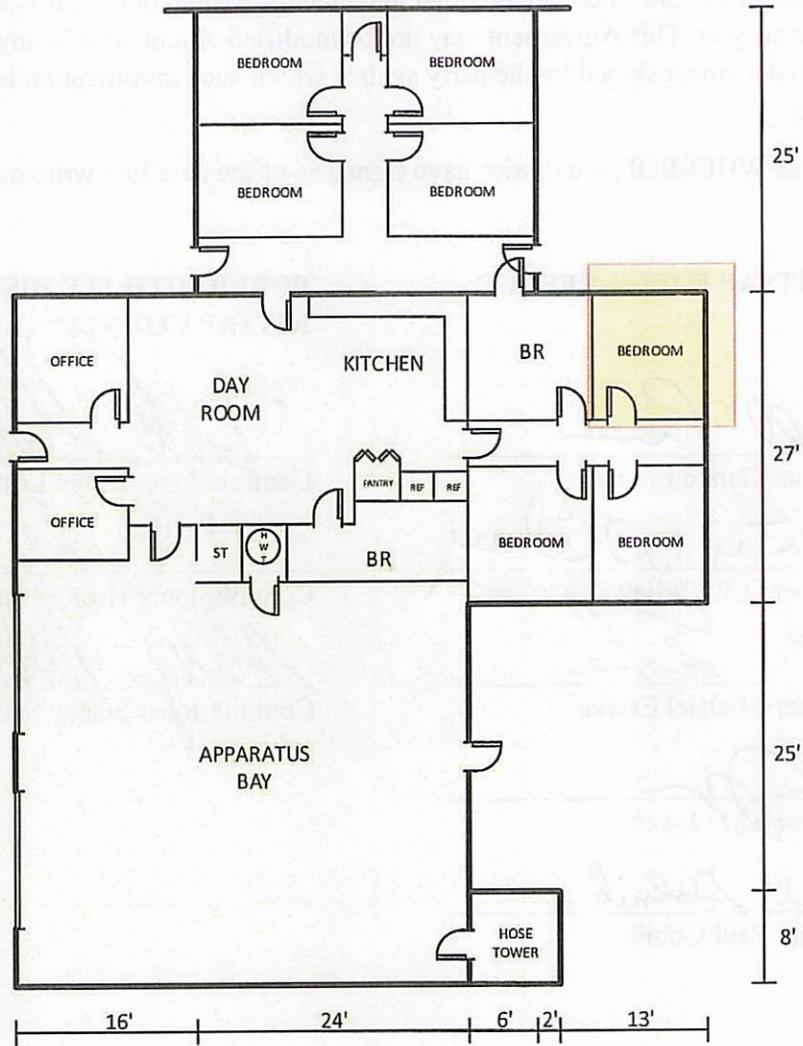
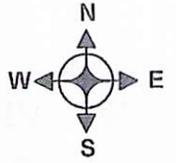
In compliance with RCW 39.34.040, this Agreement shall be recorded in the office of the Kitsap County Auditor or, at the option of the Parties, posted electronically on the Parties' website.

15. CHAPTER 39.34 RCW PROVISIONS

It is not intended that a separate legal entity be established to conduct this cooperative undertaking. No special budget or funds are anticipated, nor shall any be created by this Agreement. The parties are each responsible for their own finances in connection with this Agreement, and nothing in this Agreement shall be deemed or construed otherwise.

Exhibit A

12685 BETHEL-BURLEY
Station 14 -- Burley



LEGEND

- = Fire Department Connection
- = Water Shutoff
- = Gas Shutoff
- = Hydrant
- = Main Electrical Panel
- = HAZMAT Location
- = Fire Alarm Control Panel
- = Fire System Annunciator

D. Slagle
1-24-00

1/8" = 2'

3,717 sq ft (entire bldg)

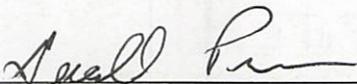
1240 GPM needed
____ GPM available

16. OTHER PROVISIONS.

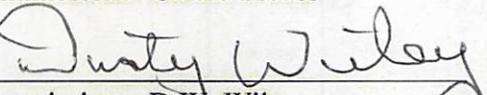
This document comprises the entire agreement between parties and supersedes any provision not contained herein. There are no other agreements, written or oral, between the Parties on the same subject. This Agreement may not be modified or amended in any manner except by a written document signed by the party against whom such modification is sought to be enforced.

IN WITNESS WHEREOF, the Parties have signed as of the date first written above.

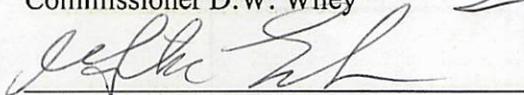
SOUTH KITSAP FIRE & RESCUE



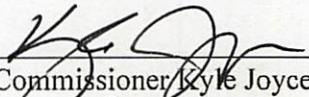
Commissioner Gerald Preuss



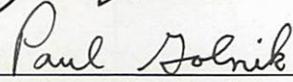
Commissioner D.W. Wiley



Commissioner Michael Eslava

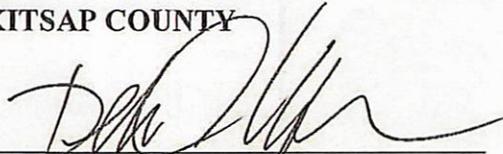


Commissioner Kyle Joyce

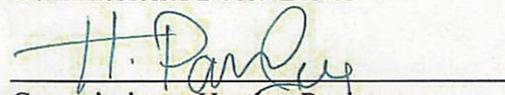


Commissioner Paul Golnik

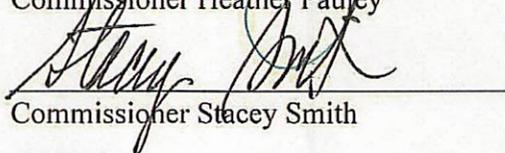
**PUBLIC UTILITY DISTRICT NO. 1 OF
KITSAP COUNTY**



Commissioner Debra Lester



Commissioner Heather Pauley



Commissioner Stacey Smith

