

AFTER RECORDING MAIL TO:

Douglas County Fire District No. 2
Attn: Chief Dave Baker
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
FIRE INVESTIGATION SERVICES**

THIS AGREEMENT is entered into this date between the DOUGLAS COUNTY FIRE DISTRICT NO. 2 ("DCFD"), a Washington municipal corporation, CHELAN COUNTY FIRE DISTRICT NO. 1, a Washington municipal corporation ("DCFD").

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 DCFD and CCFD have determined that it is in their mutual best interests and to their mutual benefit to authorize DCFD to provide fire investigation services within the jurisdictional boundaries of the CCFD;

WHEREAS, the DCFD and CCFD now desire to enter into this interlocal cooperation agreement ("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, 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 DCFD is to provide fire investigation services to the CCFD, and the terms and conditions upon which the CCFD will compensate the DCFD for providing fire investigation services.

2. RETENTION OF DCFD. The CCFD retains the DCFD to perform, from time to time, such professional fire investigation services required, ordered, or authorized by the CCFD. The CCFD and the DCFD may identify specific projects for which a separate written agreement or scope of work may be executed between the CCFD and the DCFD, providing for a more detailed description of services to be provided by the DCFD. In such cases, the terms of the specific agreement or scope of work between the DCFD and the CCFD shall control; however, the terms of this Agreement, when not inconsistent with the terms of any such specific project agreement or scope of work, shall supplement the terms of the specific project agreement or scope of work. The DCFD agrees to perform, according to the degree of skill and care exercised by practicing fire investigators performing similar services under similar conditions, the requested fire investigation services authorized by the CCFD. All work shall be done under the direction of the CCFD Chief or his or her designee.

3. TERM OF AGREEMENT. The term of this Agreement shall be from the 1st day of November 2016, until terminated by either party as further set forth herein.

4. INDEPENDENT CONTRACTOR. The DCFD and the CCFD agree that the DCFD is an independent contractor 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. Neither the DCFD nor any employee of the DCFD shall be entitled to any benefits afforded CCFD employees by virtue of the services provided under this Agreement. CCFD shall not be responsible for withholding or otherwise deducting federal income tax or Social Security or for contributing to the State Industrial Insurance program, or otherwise assuming the duties of an employer with respect to DCFD, or any employees of DCFD.

5. FIRE INVESTIGATION SERVICES. DCFD, acting through its designated fire professional, shall provide fire investigation services, as requested by CCFD, which may include, but are not limited to, the following:

5.1 Conduct origin and cause investigations of fires within the CCFD when requested by the CCFD, and prepare reports in a format approved by the CCFD documenting the investigation;

5.2 Attend CCFD Commission meetings or staff meetings as requested by the CCFD to provide professional fire-related consultation;

5.3 Prepare project budgets for the proposed work that sets forth the estimated costs of inspection or investigation and the estimated time for completion;

5.4 Provide assistance to the CCFD as an expert witness in litigation, if required;
and

5.5 Provide such other services as may be requested by the CCFD.

DCFD agrees to perform work in accordance with generally accepted professional practices in effect at the time those services are performed.

6. PROJECT LEAD PERSON. The DCFD has assigned Assistant Fire Chief Brian Brett as the project lead person (PLP) for DCFD to follow through on each specific project assigned by the CCFD. DCFD shall endeavor to continue to use the same PLP on a project unless in the case of an emergency a change in the PLP becomes necessary. The PLP shall serve as the project coordinator for the specific project and the CCFD and the DCFD shall communicate through the PLP assigned to the specific project. The PLP may assign work responsibilities for any project to other employees or authorized personnel of DCFD.

7. CCFD'S RESPONSIBILITIES. CCFD's responsibilities under this Agreement will include the following:

7.1 Provide to DCFD all information within CCFD's control as to the CCFD's requirements for each project;

7.2 Make reasonable effort to gain full and free access for DCFD to enter upon all property required for the performance of the DCFD's services under this Agreement and to which the DCFD advises the CCFD that the DCFD needs access; provided that the CCFD shall not be required to use its condemnation powers or to pay a property owner to gain such access;

7.3 Give verbal notice to be followed by written notice to the DCFD whenever the CCFD observes or becomes aware of any defect or deficiency in a project or other event which may substantially affect the DCFD's performance under this Agreement; and

7.4 Compensate, as provided by this Agreement, the DCFD for services rendered under this Agreement.

8. COMPENSATION.

8.1 The DCFD shall provide professional fire investigation services for which the CCFD shall compensate the DCFD according to the hourly rates for the employees performing the services pursuant to this Agreement.

8.2 CCFD shall also pay or reimburse the DCFD for the costs of materials and services (i.e. testing) used specifically for CCFD projects, and mileage to CCFD project sites. Payments made for reimbursable costs shall only include the actual amount of bills. DCFD shall endeavor to direct all costs of this nature to the CCFD for direct payment by the CCFD, when such costs exceed \$300. Unless otherwise agreed in writing, reimbursable costs shall not include charges for computer time, or other computer system information services. Mileage expense of the DCFD shall be reimbursed at the current IRS deductible rate.

9. BILLINGS AND PAYMENTS. All billings or invoices for the DCFD's services shall identify, at a minimum, the following:

- 9.1 The project for which the services are provided;
- 9.2 The date on which the services are provided;
- 9.3 The individual performing the services;
- 9.4 The hourly rate of the individual performing the services;
- 9.5 The time expended to perform the services; and
- 9.6 A brief description of the services provided.

DCFD shall bill or invoice the CCFD for work performed upon completion of any investigations. The CCFD shall pay the DCFD's bills or invoices or notify the DCFD that a dispute exists concerning the DCFD's bill or invoice within thirty (30) days of receipt of the DCFD's bill or invoice.

In the event the CCFD notifies the DCFD that a dispute exists concerning the bill or invoice, the CCFD and DCFD will meet in an effort to resolve the dispute. If the CCFD and the DCFD are unable to resolve the dispute to both parties' satisfaction, then the DCFD shall submit the matter to arbitration as provided in Paragraph 19 of this Agreement. Any petition or request for arbitration submitted for purposes of resolving a dispute concerning a disputed bill or invoice must be filed or submitted by the DCFD within one hundred twenty (120) days of the date the bill or invoice is sent to the CCFD or the DCFD's request for payment from the CCFD shall be deemed waived.

Interest charges on invoices for the DCFD's services shall be computed at the rate of eight percent per annum.

10. INDEMNIFICATION.

10.1 By DCFD. The DCFD agrees to hold harmless, indemnify and defend the CCFD, its officers, elected officials, agents, and employees, 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 or employees, in connection with the services required by this Agreement, provided however, that:

10.1.1 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, or employees; and

10.1.2 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, or employee of the DCFD, shall apply only to the extent of the negligence or willful misconduct of the DCFD; and

10.1.3 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 agree 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.

10.1.4 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.

10.2 By CCFD. The CCFD agrees to hold harmless, indemnify and defend the DCFD, its elected officials, officers, agents, and employees, 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, or employees, in connection with the services required by this Agreement, provided however, that:

10.2.1 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, or employees; and

10.2.2 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, or employee of the CCFD, shall apply only to the extent of the negligence or willful misconduct of the CCFD; and

10.2.3 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.

11. INSURANCE. For the duration of this Agreement, each party shall maintain its own public 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.

12. 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 DCFD to perform services pursuant to this Agreement, including equipment, vehicles and/or buildings, shall remain the sole property of the DCFD, regardless of any payment or reimbursement by the CCFD, for the depreciation thereon, unless such equipment, vehicles and/or buildings are purchased directly by the CFD in the CCFD's name.

13. SEVERABILITY. In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties.

14. ASSIGNMENT. DCFD shall not assign or transfer any interest in this Agreement without the prior written consent of the CCFD.

15. REPORT OWNERSHIP. All original reports and drawings prepared by the DCFD, as provided under this Agreement, shall become the sole property of the CCFD upon final payment to the DCFD of the DCFD fees as set forth in this Agreement.

16. 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.

17. 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.

18. GOVERNING LAW. This Agreement shall be governed by the laws of the State of Washington.

19. DISPUTE RESOLUTION. In the event the parties cannot agree on any matter set out in this Agreement, and if the method of resolution of the disagreement is not set out in the Agreement, the parties shall promptly consult together and attempt to resolve the dispute. In the event the parties cannot agree upon a resolution of the dispute, the same shall be settled by arbitration pursuant to RCW Chapter 7.04A, et. seq. except as herein modified. Such arbitration shall be before one disinterested arbitrator, if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the CCFD, one by the DCFD, and one by the two thus chosen. If all arbitrators have not been appointed within ten (10) days after written notice of demand for arbitration is given by one party to the other, then either party may apply to the Douglas County Superior Court, upon not less than (5) days written notice to the other, for appointment of the necessary arbitrators remaining to be appointed, and the judicial appointment shall be binding and final. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of the state of Washington as applied to the facts found by him/her or them. The arbitrator or arbitrators may grant injunctions or other relief in such controversy or claims. The decision of the arbitrator or arbitrators shall be final, conclusive and binding on the parties and a judgment or confirmation of the arbitration award may be obtained in any court having jurisdiction.

20. AUDITS AND INSPECTIONS. The CCFD, the State Auditor, or their delegates, shall have the right to review and monitor the financial and other components of the work and services provided and undertaken as part of any project under this Agreement, including any amendment, addendum, or separate Scope of Work related thereto, by whatever legal and reasonable means are deemed appropriate by the CCFD and the State Auditor.

21. AGREEMENT TERMINATION. CCFD or DCFD may terminate this Agreement by giving thirty (30) days' written notice to the other party. In such event, CCFD shall pay the DCFD in full for all work previously authorized and performed prior to the effective date of the notice of termination. In the event of termination, the DCFD agrees to cooperate reasonably with any DCFD or consultant thereafter retained by the CCFD in making available information developed as the result of work previously performed by the DCFD. If no notice of termination is given, relationships and obligations created by this Agreement, unless otherwise expressly provided, shall be terminated upon completion of all applicable requirements of the Agreement. In the event this Agreement is terminated, but DCFD continues to provide services on any project, for purposes of said project, the terms of this Agreement shall continue to apply until completion of any such project.

22. ACCESS TO RECORDS. CCFD and authorized representatives of the State and Federal Governments shall have access to any books, documents, papers, and records of the DCFD which are pertinent to this Agreement, including an amendment, addendum, or separate Scope of Work related thereto, 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 DCFD for a period of six years after the final audit of the CCFD's completed projects, pursuant to this Agreement, unless a longer period is required by law, or to resolve audit findings or litigation. In such cases, the CCFD may request, and the DCFD shall abide by, such longer period for record retention.

23. INTEREST OF CCFD OFFICIALS. No member of the governing body of the CCFD and no other officer, employee, or agent of the CCFD who exercises any functions or responsibilities in connection with the planning and carrying out of the terms of this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement and the CCFD and DCFD shall take appropriate steps to assure compliance.

24. REPORTS AND INFORMATION. The DCFD, at such times and in such forms as the CCFD may require, shall furnish the CCFD 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.

25. COMPLIANCE WITH LAWS. The DCFD shall comply with all existing and hereafter enacted applicable laws, ordinances, and codes of the federal, state, and local governments.

26. 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.


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

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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 Baker, Fire Chief

Date: 1/13/2017

CHELAN COUNTY FIRE DISTRICT NO. 1



Mike Burnett, Fire Chief

Date: 12-21-16

Address for Giving Notices:

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

Address for Giving Notices:

CHELAN COUNTY FIRE
DISTRICT NO. 1
Attn: Chief Mike Burnett
206 Easy Street
Wenatchee, WA 98801
(509) 662-4734