

SERVICE AGREEMENT

Between

YAKIMA COUNTY FIRE
DISTRICT NO. 11

And

CITY OF YAKIMA

This agreement is made and entered into by and between YAKIMA COUNTY FIRE DISTRICT NUMBER 11, hereinafter "FIRE DISTRICT", and the CITY OF YAKIMA, hereinafter "YAKIMA".

WHEREAS, YAKIMA is a municipal corporation of the State of Washington with City Hall located at 129 North 2nd Street, and has an organized and staffed fire department trained and outfitted to provide fire and medical emergency responses, with Yakima Fire Department administrative offices located at 401 North Front Street, Yakima, Washington 98901; and

WHEREAS, FIRE DISTRICT borders YAKIMA, and collects tax revenues to provide fire and medical coverage to the citizens within the boundary of FIRE DISTRICT; and

WHEREAS, FIRE DISTRICT does not have a staffed and trained fire department to provide emergency response; and

WHEREAS, FIRE DISTRICT desires to contract for essential firefighting and medical emergency life support services for FIRE DISTRICT; and

WHEREAS, Chapter 39.34 of the Revised Code of Washington authorizes local governments to enter into agreements for joint or cooperative action furnishing area wide emergency services; and

WHEREAS, the parties desire to enter into agreement for fire and emergency medical services to be provided to the area of the FIRE DISTRICT, by YAKIMA; and

NOW, THEREFORE, in consideration of foregoing recitals and the mutual covenants and promises hereinafter set forth, the parties do hereby agree as follows:

1. Term: The term of this agreement shall be for a period of three (3) years, commencing as and from January 1, 2015, and ending on December 31, 2017. This agreement will automatically renew for additional three-year terms, unless the affected party serves a written notice of termination to the other party at least 180 days prior to the commencement date of the new term.
2. Geographic Scope of Service. The services contracted for herein shall be provided within the YAKIMA COUNTY FIRE DISTRICT No.11 tax collection area. A map of the geographical area of Fire District No. 11 is attached for information and reference.

3. Statutory Authority. The FIRE DISTRICT's Board shall retain all the authority and power vested in it by statute, regulation or case law, except as specifically delegated to YAKIMA, or otherwise specifically agreed upon herein.

4. Services Provided by YAKIMA. YAKIMA shall provide pre-fire planning, fire suppression, emergency medical and hazardous material incident response services to all the persons and properties located within the FIRE DISTRICT, equivalent to services provided to the residents of YAKIMA. YAKIMA also agrees to pay dispatch fees for incidents within the geographical area of Fire District No. 11.

5. Compensation. The FIRE DISTRICT agrees to provide to YAKIMA, the following compensation, which the parties agree is in support of YAKIMA maintaining a minimum staffing level that supports Automatic Aid/Borderless dispatch operations between YAKIMA, which also benefits the citizens of the FIRE DISTRICT: The compensation is intended to enhance the service capability of YAKIMA and not replace allocated monies by YAKIMA for the funding of its own needed fire and EMS services.

(a) The FIRE DISTRICT agrees to compensate YAKIMA, Thirty Thousand Dollars (\$30,000) each year of the agreement, to be paid in two installments of Fifteen Thousand Dollars (\$15,000), with the first installment due and payable on or before January 31, and the second installment due and payable on or before July 31, and on the same dates for the same amounts each year this agreement is in effect; Provided, however, that the first installment for the first year of this agreement (year 2015) shall be due and payable within thirty (30) days following execution of this agreement.

6. Indemnification and Insurance.

(a) Indemnification and Hold Harmless

FIRE DISTRICT shall indemnify and hold harmless YAKIMA, its elected and appointed officials, employees, volunteers, agents and insurers, from any and all claims, demands, lawsuits, damages and liability arising out of the performance of this Agreement, except to the extent that such claims, demands, lawsuits, damages or liability arises out of the negligence or unlawful intentional acts of such YAKIMA personnel.

YAKIMA shall indemnify and hold harmless FIRE DISTRICT, its elected and appointed officials, employees, volunteers, agents and insurers, from any and all claims, demands, lawsuits, damages and liability arising out of the performance of this Agreement, except to the extent that such claims, demands, lawsuits, damages or liability arises out of the negligence or unlawful intentional acts of such FIRE DISTRICT personnel.

A. Notification of Claims. Each party to this Agreement shall promptly notify the other of any and all claims, actions, losses or damages that arise or are brought against that party relating to or pertaining to the property and projects described in this Agreement.

- B. Waiver of Immunity – Industrial Insurance. Each party agrees that its obligations under this section extend to any claim, demand and/or cause of action brought on behalf of any employees or agents. For this purpose, each party, by mutual negotiations, hereby waives, with respect to the other party only, any immunity that is otherwise available against such claims under the Industrial Insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify the other party.

Nothing contained in this Section or this Agreement shall be construed to create a liability or a right of indemnification in any third party.

(b) Insurance

At all times during performance of the Services, each party shall secure and maintain in effect insurance to protect the other party from and against all claims, damages, losses, and expenses arising out of or resulting from the performance of this Agreement. Each party shall provide and maintain in force insurance in limits no less than that stated below.

Commercial General Liability Insurance. Before this Agreement is fully executed by the parties, each party shall provide the other party with a certificate of insurance as proof of commercial liability insurance and commercial umbrella liability insurance with a total minimum liability limit of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage, and Two Million Dollars (\$2,000,000.00) general aggregate (per project). The policy shall include employer's liability (Washington Stop Gap). The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Agreement. The policy shall name the other party, its elected officials, officers, agents, employees, and volunteers as additional insureds. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

Each party shall list the other party as an additional insured on its insurance policy and shall provide a certified copy to the other agency as part of this Agreement.

7. Acquisition of Property. The parties do not intend to jointly acquire or manage any property. Costs, expenses and disbursements of each party in the performance of this Agreement shall be administered separately by each party. Acquisition of property by either party shall be in accordance with the laws and procedures applicable to such party. In the event the parties desire to jointly acquire property they may execute and append a separate written agreement to this Agreement. Such acquisition agreement shall describe the property, the contribution of each party, and disposition of the property upon termination of this Agreement.

8. Administration. This Agreement shall be jointly administered by the FIRE DISTRICT Board or its designated executive officer, and the Fire Chief of the Yakima Fire Department or his designee.

9. Status of Employees. Each employee of YAKIMA performing services pursuant to this Agreement shall be and exclusively remain the employee of the City of Yakima, subject to the direction and control of City of Yakima. Each employee, official and volunteer of FIRE DISTRICT performing services pursuant to this Agreement shall be and exclusively remain the employee, official and volunteer, respectively, of FIRE DISTRICT, subject to the direction and control of FIRE DISTRICT. FIRE DISTRICT and YAKIMA shall remain solely and exclusively responsible for the direction and control of its own employees, officers and volunteers and shall be solely and exclusively responsible for the compensation of its own employees, officers and volunteers.

10. Records and Reports. Documents and reports generated by either party pursuant to the services provided under this Agreement shall be and remain the property of the party generating such documents and reports, but shall be shared with the other party as appropriate; provided, however, all such documents and reports shall be subject to disclosure pursuant to the *Public Records Act*, Chapter 42.56 RCW, as applicable. YAKIMA records and reports documenting services rendered and billings based thereon shall be made available to FIRE DISTRICT for inspection and copying, as appropriate, during regular business hours of City of Yakima, upon request of FIRE DISTRICT.

11. Waiver and Amendments. Waiver of any breach or any term or condition of this Agreement shall not waive any prior or subsequent breach. No term or condition is waived, modified or deleted except by an instrument in writing signed by both parties.

12. Entire Agreement and Modifications. This Agreement sets forth the entire agreement of the parties with respect to the subject matter herein. The parties may supplement the Agreement by addenda or amendments, when agreed upon by both parties in writing. The parties shall attach copies of such addenda and amendments and by reference incorporate them herein.

13. Early Termination of Agreement – Effect of Termination. This Agreement may be terminated by either party upon one hundred eighty (180) days advance written notice delivered to the other party. Upon the effective date of termination, YAKIMA shall be paid the prorated portion of compensation earned for services performed prior to such termination, and shall deliver to FIRE DISTRICT all property determined to be the property of FIRE DISTRICT. Termination of this Agreement shall not terminate the hold harmless provisions set forth in Section 6 above, which provisions shall remain in full force and effect.

14. Duration and Authority. This Agreement shall become effective upon signature and authorization by both parties with copies filed with the Yakima County Auditor and Clerk of the City of Yakima, or otherwise posted as authorized pursuant to RCW 39.34.040. This Agreement shall remain in effect for the initial term and subsequent renewals of term as set forth in Section 1 above, unless sooner terminated as provided in this Agreement.

15. Severability. If any term or provision of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be enforceable and effective to the

fullest extent permitted by law. Further, the parties shall negotiate in good faith regarding amendments to this Agreement that would effectuate the intent of any provision held invalid or not enforceable.

16. No Third-Party Beneficiary. Nothing in this Agreement is intended to create any rights in any entity not a party to this Agreement nor is any person or entity not named a party herein a third party beneficiary to this Agreement.

17. No Public Official Liability. No provision of this Agreement nor any authority granted by this Agreement is intended to create or result in any personal liability for any public official or agent of a party, nor is any provision of this Agreement to be construed to create any such liability.

18. Assignment. The obligations in this Agreement are not subject to assignment.

19. Dispute Resolution – Governing Law – Venue. The parties shall jointly cooperate to resolve any disputes that arise hereunder. Any dispute shall first be considered by the administrative officials identified in Section 8 above. If such consideration does not resolve the dispute, the matter will be submitted to the chief executive officers of each party. If the matter remains unresolved, either party may seek appropriate relief in Yakima County Superior Court, which court shall be the venue for any action arising under this Agreement. This Agreement and all performance herein shall be construed in accordance with the laws of the State of Washington.

WHEREFORE, this Agreement is executed and effective upon the date signed by the last party to sign below:

CITY OF YAKIMA

By: _____

Tony O'Rourke, City Manager

Date Signed: _____, 2015

ATTEST:

By: _____

Sonya Claar Tee, City Clerk

FIRE PROTECTION DISTRICT NUMBER 11

By: Thomas J. Lemgnij

, President

By: _____

, Secretary

Date Signed: 8/20, 2015

[ATTESTATION FOLLOWS]

ATTESTATION

STATE OF WASHINGTON)

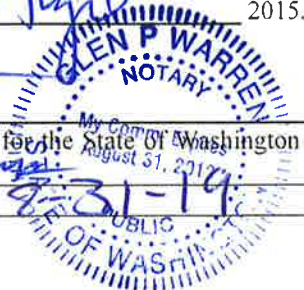
County of Yakima

); ss.

ON THIS DAY personally appeared before me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, MARK Layman and _____ to me known to be president and secretary of FIRE PROTECTION DISTRICT NUMBER 11, the entity that executed the foregoing Service Agreement; and who acknowledged the said Agreement to be the free and voluntary act and deed of FIRE PROTECTION DISTRICT NUMBER 11, for the uses and purposes therein contained; and who on oath stated that they are authorized to execute the said instrument on behalf of FIRE PROTECTION DISTRICT NUMBER 11.

Witness MY HAND AND OFFICIAL SEAL THIS 20 day of April 2015.

NOTARY PUBLIC in and for the State of Washington
Residing at: _____
My Commission expires: 8-31-19



STATE OF WASHINGTON)

); ss.

County of Yakima)

ON THIS DAY personally appeared before me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, TONY O'ROURKE, to me known to be the City Manager of the City of Yakima, the entity that executed the foregoing Service Agreement; and who acknowledged the said Agreement to be the free and voluntary act and deed of the City of Yakima for the uses and purposes therein contained; and who on oath stated that he is authorized to execute the said instrument on behalf of the City of Yakima.

Witness MY HAND AND OFFICIAL SEAL THIS _____ day of _____ 2015.

NOTARY PUBLIC in and for the State of Washington
Residing at: _____
My Commission expires: _____