

**REVISED AND RESTATED INTERLOCAL AGREEMENT FOR  
FIRE AND EMERGENCY MEDICAL SERVICES**

**THIS REVISED AND RESTATED INTERLOCAL AGREEMENT (“Restated ILA”)** by and between **SNOHOMISH COUNTY FIRE PROTECTION DISTRICT NO. 1**, a Washington municipal corporation (the “District”) and the **CITY OF EDMONDS**, a Washington city (the “City”) is for the provision of fire and emergency medical services (EMS).

**WHEREAS**, a consolidated Fire and EMS service, by a single vendor or through a Regional Fire Protection Service Authority (RFA), has recently gained support of most elected officials in Southwest Snohomish County; and

**WHEREAS**, the City and District agree that a long-term agreement between the City and the District for fire and emergency medical services is beneficial to the City and District and their stakeholders; and

**WHEREAS**, on ~~\_\_\_\_~~, November 3, 2009, the City and District entered into an Interlocal Agreement (the “Agreement”) for the District to provide fire and emergency medical services to the City beginning January 1, 2010;

**WHEREAS**, such Agreement was amended pursuant to a First Amendment dated April 17, 2012 to address a fire boat ; and

**WHEREAS**, such Agreement was amended pursuant to a Second Amendment dated ~~\_\_\_\_~~, 2015; and

**WHEREAS**, the District and the City are authorized, pursuant to Chapter 39.34 of the Revised Code of Washington, to enter into Interlocal Agreements which allow the District and the City to cooperate with each other to provide high quality services to the public in the most efficient manner possible; and

**WHEREAS**, the parties have analyzed the performance of the Agreement during the period of ~~2009-2010~~ – 2016 (the “Introductory Period”) and have determined that is in their mutual interests and the interests of their respective stakeholders to revise and update the Agreement; and

**WHEREAS**, the District and City now wish to revise and restate the Agreement as provided herein.

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

~~[see new definitions section that is currently located after signature blocks – this will be moved – Section 0?]~~

0. Definitions

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The following definitions shall apply throughout this Agreement.

- a. Adjustment Year: The year in which ~~the Contract Payment is to be adjusted~~ a new collective bargain agreement (CBA) is effective between the District and the local chapter of the IAFF. When a new CBA has retroactive effect, the Adjustment Year shall be the date to which the CBA is retroactively applied. For example, if a CBA expires on December 31, 2014 and a new CBA is executed on December 1, 2016 but made retroactive to January 1, 2015, the Adjustment Year would be 2015.
- b. Assigned: As used in the definitions of Unit Utilization Factor and Neighboring Unit Utilization Factor, the term "Assigned" shall describe the period of time in seconds from dispatch time to clear time, when the Unit becomes available to respond to another call.
- c. City: City of Edmonds.
- d. City Fire Stations: Fire Station 16, Fire Station 17, and Fire Station 20.
- e. Commencement Date: The date at which the performance and obligations of the City and District as contained herein begin.
- f. Contract Payment: The annual amount that the City will pay to the district pursuant to this Agreement.
- g. District ~~or FD1~~: Snohomish County Fire Protection District No. 1.
- h. Edmonds Unit: An Edmonds Unit is any Unit based at one of the City Fire Stations.
- i. Effective Date: The date this Restated ILA is executed by the City and District.
- j. Esperance: "Esperance" refers to the entirety of the contiguous unincorporated area that is completely surrounded by the City of Edmonds and commonly known as Esperance.
- k. Esperance Offset: The amount of tax revenue and/or fire benefit charges to be received by the District from Esperance area for the year in which the Contract Payment is calculated. The Esperance Offset shall not drop below \$~~1,416,733~~1,117,920 (2017 Esperance AV of ~~\$566,869,512~~566,896,512, times tax rate of 1.97 divided by 1,000)

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**Comment [C-RD1]:** Limiting the Esperance offset not agreed upon.

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even if the actual tax revenue received by the District drops below that amount as a result of reductions in assessed valuation or tax rate. The Esperance Offset for any given year shall not exceed the product of \$1,117,920 multiplied by the compounded percentage increase in Station Labor Costs from 2017 to the year for which the Esperance Offset is being calculated. For example, if Station Labor Cost increases 3% from 2017 to 2018 and 4% from 2018 to 2019, the 2019 cap for the Esperance Offset would be \$1,197,516 and be calculated as follows:

$\$1,117,920 \times 1.03 = \$1,151,458 \times 1.04 = \underline{\$1,197,516}$  Need cap

- l. District Fire Chief: The Fire Chief of Snohomish County Fire Protection District No. 1.
- m. Firefighters: Full-time, compensated employees, captains, firefighters, emergency medical technicians, and/or paramedics.
- n. Insurance: The term "insurance" as used in this Agreement means either valid insurance offered and sold by a commercial insurance company or carrier approved to do business in the State of Washington by the Washington State Insurance Commissioner or valid self-insurance through a self-insurance pooling organization approved for operation in the State of Washington by the Washington State Risk Manager or any combination of valid commercial insurance and self-insurance pooling if both are approved for sale and/or operation in the State of Washington.
- o. Law: The term "law" refers to state and federal statutes and regulations. Unless expressly identified herein, City ordinances, codes and resolutions shall not be considered "law."
- p. Material Breach: A Material Breach means the District's failure to provide minimum staffing levels as described within this Agreement, the City's failure to timely pay the Contract Payment as described within this Agreement, or the City's or District's failure to comply with other material terms of this Agreement.
- q. Neighboring Unit Utilization Factor: Neighboring Unit Utilization Factor or NUUF is the method used by the parties to determine how much time Units associated with one jurisdiction are assigned to calls in another jurisdiction. Because FD1 provides service across a number of different cities and unincorporated areas, and because those various jurisdictions make payments to FD1 for those services, Neighboring Unit Utilization Factor is relevant even where an FD1 Unit is assigned to a call that is still within an area served by FD1 but outside of the normal area served by that Unit. NUUF is determined by converting the following fraction to a decimal rounded to the nearest thousandths. In this fraction, the numerator shall equal the total number of seconds that non-Edmonds

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Units are assigned to calls in Edmonds (not including Esperance, unless Esperance is annexed) over the previous twelve-month period. The denominator shall equal the total number of seconds that Edmonds Units are assigned to calls outside of Edmonds (Esperance shall be considered “outside of Edmonds” for the purpose of this calculation unless Esperance is annexed) over the previous twelve-month period. Neighboring Unit Utilization Factor shall be calculated separately for Lynnwood (stations 14 and 15 combined) and the non-Edmonds units within FD1, e.g., Station 19 for as long as Lynnwood and FD1 are not part of the same Regional Fire Authority. NUUF shall also be calculated separately for Woodway and Shoreline. Unlike the Unit Utilization Factor, the NUUF need only be calculated on an annual basis after the completion of each calendar year. NUUF shall be considered balanced if the NUUF falls somewhere between 0.900 and 1.100. For example, if Lynnwood’s Units are assigned to calls in Edmonds that total 1,000,000 seconds during a calendar year, and Edmonds Units are assigned to calls in Lynnwood that total 1,095,000 seconds during a calendar year, the NUUF for that year would equal 0.913 and would be considered in balance. If, on the other hand, the numerator were to remain the same, but the Edmonds Units are assigned to calls in Lynnwood that total 880,000 seconds, the NUUF for that year would equal 1.136 and would be considered out of balance.

$$\text{NUUF} = \frac{\text{total seconds that non-Edmonds Units are assigned to calls in Edmonds over 12 months}}{\text{total seconds that Edmonds Units are assigned to calls outside of Edmonds over 12 months}}$$

a.r. Non-Edmonds Unit: A Non-Edmonds Unit is any Unit stationed at any station other than the City Fire Stations.

s. Out of Balance Transport Fees: Out of Balance Transport Fees (OBTF) represents the amount of transport fees that are retained by the District for future distribution pursuant to a twenty-four (24) month review of the Transport Balance Factor. OBTF is calculated by converting the following fraction to a decimal rounded to the nearest thousandths and multiplying that decimal by the amount of transport fees that were collected by the District for the applicable jurisdiction (e.g. Edmonds, Mountlake Terrace) during the six-month period from which the applicable transport data originates. In this fraction, the numerator shall equal the absolute difference between the numerator and the denominator in the TBF fraction. In this fraction, the denominator shall equal the sum of the numerator and the denominator in the TBF fraction.

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absolute value of difference between the numerator and the denominator in the TBF fraction

OBTF = \_\_\_\_\_

sum of the numerator and the denominator in the TBF fraction

t. Transport Balance Factor: Transport Balance Factor (TBF) is the method used by the parties to determine how frequently Units associated with one jurisdiction transport patients resulting from calls in another jurisdiction. Because FD1 provides service across a number of different cities and unincorporated areas, and because Edmonds is entitled to receive transport fee revenue for all transports resulting from calls in Edmonds regardless of whether the transport is performed by an Edmonds Unit or a non-Edmonds Unit, Transport Balance Factor is relevant to whether transport fees are being distributed in an equitable manner. TBF is determined by converting the following fraction to a decimal rounded to the nearest thousandths. In this fraction, the numerator shall equal the total number of transports that non-Edmonds Units provide from calls in Edmonds (not including Esperance, unless Esperance is annexed) over the previous six-month period. When an Edmonds Unit and a non-Edmonds Unit both respond to a call in Edmonds and the non-Edmonds Unit transports the patient, that call may not be counted in the numerator, even if the Edmonds Unit responded with a non-transport vehicle. The denominator shall equal the total number of transports that Edmonds Units provide from calls outside of Edmonds (Esperance shall be considered "outside of Edmonds" for the purpose of this calculation unless Esperance is annexed) over the previous six-month period. TBF shall be considered balanced if the TBF falls somewhere between 0.900 and 1.100. While TBF is intended to be analyzed by looking back over the previous six months, a special TBF shall be calculated that looks at TBF on a quarterly basis and adjusts the calculation method accordingly. The quarterly analysis shall be performed after the first quarter of 2017 and is intended to keep data from the 2016 service delivery model from contaminating the 2017 data.-

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number of transports that non-Edmonds Units provide from calls in Edmonds over 6 months

TBF = \_\_\_\_\_

number of transports that Edmonds Units provide from calls outside of Edmonds over 6 months

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u. Unit: A Unit is a group of Firefighters that work together and are based at the same station. Where a station is staffed by three firefighters at any one time, that station shall be considered a Unit. Where a station is staffed by five or more firefighters at any one time, without counting the Battalion Chief or Medical Services Officer, that station shall be deemed to have two Units and the District shall clearly allocate the Firefighters at that

station in such a manner that the two Units at that station can be clearly distinguished for the purposes of determining the Unit Utilization Factor for each Unit.

~~v. Non-Edmonds Unit: A Non-Edmonds Unit is any Unit stationed at any station other than the City Fire Stations.~~

w. Unit Utilization Factor: Unit Utilization Factor or UUF is the method used by the parties to determine how busy a particular Unit is. Unit Utilization Factor shall be calculated as soon as possible after the end of each quarter, looking back over the previous twelve-month period. Unit Utilization Factor is determined by converting the following fraction to a decimal rounded to the nearest thousandths. In this fraction, the numerator shall equal the total number of seconds a Unit is Assigned to all calls over the previous twelve-month period. The denominator shall always be 31,536,000 (the number of seconds in a twelve-month period). Because this contract initially contemplates exactly one Unit at each station, with each station having multiple apparatus types, the total number of seconds a Unit is assigned to all calls shall be the total for all apparatus types used by that Unit. The activity of the Battalion Chief and Medical Services Officer shall not be counted in the numerator for any unit. For example, if, over the previous twelve-month period, Engine 20 was assigned to calls totaling 72,089 seconds, and Ladder 20 was assigned to calls totaling 229,320 seconds, and Medic 20 was assigned to calls totaling 4,008,640 seconds, then the numerator for Unit 20's Unit Utilization Factor would be 4,310,049 seconds. The Unit Utilization Factor for Unit 20 would then equal 0.137 (4,310,049 / 31,536,000 = 0.1366 which rounds to 0.137). While UUF is intended to be analyzed by looking back over the previous twelve months, during the each of the first three quarters of 2017, a special UUF shall be calculated that looks at UUF on a quarterly basis and adjusts the calculation method accordingly. The quarterly analysis during 2017 is intended to keep data from the 2016 service delivery model from contaminating the 2017 data.

number of seconds a Unit is Assigned to all calls over the previous twelve-month period

UUF = \_\_\_\_\_

31,536,000

x. Wind-Up Period: The twelve (12) months immediately following formal notification of a Material Breach by either party except as defined in Section 10.2.

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1. **SCOPE OF SERVICES**

- 1.1 Services Provided. The District shall provide all services necessary for fire suppression, emergency medical service, hazardous materials response, technical rescue, and disaster response (not including an Emergency Operations Center, which is provided by the City at the time of this Agreement) to a service area covering the corporate limits of the City of Edmonds. In addition, the District shall provide support services including, but not limited to, fire marshal, fire prevention and life safety, public education, public information, and fleet maintenance, payroll and finances, human resources, and legal and risk management pertaining to the operations and delivery of the District's services.
- 1.2 Training, Education, and Career Development. The District will provide training and education to all firefighter and emergency medical service personnel in accordance with State, County and local requirements. Furthermore, the District will offer professional development and educational and training opportunities for unrepresented and civilian employees.
- 1.3 City Fire Chief. The District's Fire Chief shall be designated the City Fire Chief for purposes of statutory provisions, regulations and the Edmonds City Code.
- 1.4 District Fire Chief Designates Fire Marshal. The District Fire Chief shall designate an individual to serve as City Fire Marshal, and shall assign necessary personnel to support the functions and needs of the Fire Marshal as mutually agreed to and partially funded by the City (See Exhibit A), subject to the City's right to provide its own fire inspectors pursuant to Section 2.8.1, below.

2. **STANDARDS FOR SERVICES/STAFFING**

- 2.1 Battalion Chief. A Battalion Chief shall continue to be available for response within the City twenty-four (24) hours per day, seven (7) days per week as during the Introductory Period. The District agrees to provide Incident Command response for all emergency incidents twenty-four (24) hours per day, seven (7) days per week.
- 2.2 Fire Station Staffing. The City Fire Stations shall each be staffed twenty-four (24) hours per day, seven (7) days per week with a minimum of one (1) fire captain and two (2) firefighters, at least one of whom shall be a firefighter/paramedic. Any increase in staffing above this level shall not increase the Contract Payment unless the increase occurs through an amendment of this Agreement.
  - 2.2.1 ~~The parties agree to renegotiate these staffing levels and consider adding an additional Unit, changing the various mutual aid agreements, and/or implementing other service changes that might be appropriate upon the occurrence of either of the following occurrence~~ The parties shall negotiate an amendment to this Agreement upon the occurrence of any of the following Negotiation Thresholds:
    - 2.2.1.1 When the Unit Utilization Factor ("UUF") at any one of the City Fire Stations exceeds 0.250;

2.2.1.2 When the Neighboring Unit Utilization Factor (“NUUF”) is out of balance as defined in this Agreement, PROVIDED THAT this subsection shall not trigger a renegotiation any earlier than January 1, 2018.

2.2.1.3 When the Transport Balance Factor (TBF) is out of balance as defined in this Agreement, ~~as determined on a rolling six (6) month basis; provided, that~~ PROVIDED THAT this subsection shall not trigger a renegotiation earlier than July 1, 2017. ~~When~~ If the TBF is out of balance over any six-month period, the Out of Balance Transport Fees received for the out of balance transports will be temporarily retained by the District until ~~there are~~ twenty-four (24) months of transport data has been collected. At the end of ~~42~~ twenty-four (24) months, if the ~~total transports are not out of~~ TBF is balanced, the entirety of the retained transport fees ~~will~~ shall be paid to the City or other party from whom it was retained; otherwise, one quarter of the ~~et~~ twenty-four month total of the Out of Balance Transport Fees ~~will~~ shall be paid ~~to~~ retained by and/or paid to the ~~District~~ party that provided the out of balance transports. This twenty-four month review of the TBF shall be conducted every six months with the first review occurring in January 2019.

2.2.2 The District shall notify the City whenever any of the foregoing ~~triggers~~ Negotiation Thresholds results (“~~Trigger~~ Threshold Notice”). Within thirty (30) days of issuance of the ~~Trigger~~ Threshold Notice, the parties shall meet to negotiate an amendment to this Agreement. Such negotiations shall include, at least the following topics:

- (i) Methodologies ~~intended~~ to reduce the UUF substantially below 0.250 or to balance the NUUF or TBF, as applicable. Such methodologies may include, for example, changes to the staffing ~~mix and/or~~ levels, adding another Unit, changing fire response plans in CAD, and/or implementing other service changes; and
- (ii) Adjusting the Contract Price to account for the increased cost of any methodologies to be employed ~~that would increase the District’s costs.~~

The City shall have the right, in consultation with the District, to select the specific methodology or methodologies to be employed; ~~such decision~~ selection of methodology shall not be subject to the Dispute Resolution procedures, but the cost impacts of such selection shall be subject to the Dispute Resolution procedures. The parties shall endeavor to execute an amendment no later than one hundred twenty (120) days following ~~such notice~~ the Threshold Notice (the “Negotiation Deadline”). If the parties cannot agree upon an amendment to this Agreement before the Negotiation Deadline, either party may invoke the Dispute Resolution procedures in Section 18.1 ~~and 18.2~~ only; provided, however, that any adjustment to the Contract Price arising out of the Dispute Resolution Procedures shall be retroactive to the ~~Negotiation Deadline~~ date that additional methodologies were initially employed. If either party fails to participate in, or comply with, the Dispute Resolution Procedures in Section 18.1 ~~and/or 18.2~~, the

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other party reserves the right to terminate the Agreement pursuant to Section 11.2, in which case the party that refused to participate in the Dispute Resolution procedures shall bear the costs of termination that are referenced innotwithstanding Section 11.3.

[see Rich's draft, but clarify that City ultimately gets to choose methodology in consultation with the District. Arbitrator jurisdiction limited to determining cost of City's chosen methodology.]

~~The parties shall meet within thirty (30) days of notice of such occurrence to negotiate an amendment to this Agreement. The parties shall endeavor to execute a revised agreement no later than one hundred twenty (120) days following such notice. If the parties cannot agree upon an amendment to this Agreement, the parties only recourse shall be to terminate the Agreement pursuant to Section \_\_\_.~~

2.3 Consecutive Shifts Prohibited in Edmonds. The District shall not allow Firefighters to start a 24-hour shift at any of the City Fire Stations if that Firefighter has just completed a ~~2448~~-hour shift at a City Fire Station or any other fire station in the District without having taken a rest day between shifts. ~~While the City believes that Firefighters cannot perform at the high level its citizens expect if they are working 72 consecutive hours, t~~This section is not intended to prohibit the District from allowing Firefighters to extend their shifts when necessary to continue working an ongoing incident that began before the shift was completed. This section is not intended to govern District operations outside of the City Fire Stations.

2.4 Review of Service Delivery Objectives. The parties acknowledge that the service delivery objectives adopted in 2006 ("Response Objectives") have never been met in their entirety, even when the City had its own fire department. During the Introductory Period, the parties contracted for a particular staffing level at the City Fire Stations. It has been recommended that the parties move toward a performance-based contract where the City pays for a particular level of service that is measured by service delivery objectives ~~like (e.g. response time)~~ instead of a particular number of positions. The parties would like to continue to evaluate this recommendation, but acknowledge that it would take significant additional work to implement such a change, not the least of which includes adoption of achievable performance standards. The City and the District agree to work toward adoption of a revised set of service delivery objectives in the first quarter of 2018.

**2.4.1 Turnout Time.** It has been suggested by the City's consultant that Turnout Time at the City Fire Stations could be improved significantly from the 2 minutes and 41 seconds that was achieved in 2016. The District has adopted a standard of 2 minutes and 15 seconds on 90% of all calls. ~~If that~~Failure to meet this standard ~~cannot be shall not be deemed a Material Breach. If this standard is not met in calendar year 2017 for City Fire Stations,~~ the District shall provide the City, no later than December 31, 2017, with a report containing the following information: (i) a list of possible ~~time-saving~~ measures that could be implemented ~~along with~~ to improve Turnout Time, (ii) the estimated cost of

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each measure; and (iii) estimates concerning the amount of time that could be reduced with each measure.

2.5 Reporting. The District agrees to annually report to the City in accordance with chapter 35.103 RCW. In addition to the regular quarterly report content and the content required by law, the annual report shall contain the Neighboring Unit Utilization Factor for each of the following jurisdictions: Lynnwood, Mountlake Terrace, and Shoreline, and Woodway. The City acknowledges that the District may not have completely accurate data regarding the Shoreline NUUF in light of Shoreline's different dispatch system. The annual report shall contain the total number of seconds that City Fire Stations responded to calls in Woodway. The annual report shall also state the amount of transport fees that the District sought to recover from incidents occurring within the City and Esperance, respectively, and the amount of those fees that were actually recovered. If the District has data that identifies the number of seconds during which two or more Units were Assigned to different calls at the same time, it shall include that data in the annual report.

2.5.1 Quarterly Reporting. In addition, the District shall provide a quarterly report to the mayor, finance director, and city attorney city clerk, no later than 30 days after the end of each quarter. The quarterly report shall contain the Unit Utilization Factor for each of the City Fire Stations, the Transport Balance Factor, as well as the turnout time, travel time, overall response time, transports conducted by City Units outside of City limits, and transports conducted by other agencies which originate inside the City,

, along with a report that identifies the number of seconds during which two or more Units were Assigned to different calls at the same time.

2.6 [section relocated for clarity]

2.7 Criteria-Based 9-1-1 Dispatch. It is understood and agreed by the City and District that the dispatch of Units during emergencies is determined by criteria-based dispatch protocols of the dispatch centers and Automatic Vehicle Location (AVL). Nothing herein shall require the District to respond first within the City as opposed to other areas served by the District. The City and District recognize that responses to emergencies shall be determined by the District based upon dispatch protocols, the location of available Units and the District's operational judgment, without regard to where the emergencies occur.

2.8 Level of Service Changes. During the term of this Agreement, service level changes may be mandated that are beyond the control of either party. Additionally, either party may desire to change the service level, including but not limited to, those services identified in Section 1 Scope of Services and Section 2 Standards for Services/Staffing. When a service level change is mandated by law, adopted by the Edmonds City Council as part of the City's Response Objectives under chapter 35.103 RCW response objectives, or is mutually agreed to by the parties, the City and the District will renegotiate the Contract Payment at the request of either party. The City acknowledges the possibility that the District may be required by law to notify the local chapter of the IAFF, of the alleged change requiring a change in the level of service and thereafter

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~~negotiate and bargain with the Union the impact/effects of such change on the terms and conditions of employment of bargaining unit personnel local chapter of the IAFF any such changes.~~

~~2.8.1 The City reserves the right to remove the Fire Inspector services from this Agreement upon one year's written notice to the District, in which case the Contract Payment shall be reduced accordingly, PROVIDED THAT in no case shall such notice be provided less than 90 days prior to the beginning of a new fiscal year, AND FURTHER PROVIDED THAT the City shall consult with the District regarding a proposed removal of the Fire Inspector services at least 90 days in advance of the City providing such notice.~~

2.9 Response Time Questions. In the event that response times should consistently deviate from the City's ~~to-be-adopted-revised-R~~ response Objectives, as they may be amended from time to time by the City, the District Fire Chief and City Mayor, or their designees, shall meet and confer to address the cause, ~~and~~ potential remedies, and potential cost impacts.

### 3. USE OF CITY FIRE STATIONS

3.1 Use of City Fire Stations. The City shall retain ownership of three existing City ~~F~~ire ~~S~~tations and shall make them available for use by the District pursuant to the terms set forth in Exhibit B. The parties acknowledge that none of these three fire stations are ideally located and that the City could be better-served by two ideally-located fire stations. The parties also acknowledge that the internal configuration of the City's three stations contributes to slower turnout times than could be achieved with new stations built according to current standards. In light of the above, the parties contemplate that the City may opt to replace the three current fire stations with two new fire stations for use by the District during the term of this Agreement. In the event of a conflict between the provisions of the Agreement and Exhibit B, the provisions of Exhibit B shall control with respect to fire stations and fixtures contained therein, PROVIDED THAT Exhibit B shall be amended in the event that the City moves to a two-station service, and FURTHER PROVIDED THAT nothing in Exhibit B shall be construed to prevent the City from moving to a two-station service.

3.2-3.3 [Completed. Deleted for clarity]<sup>1</sup>

### 4. ANNUAL CONTRACT AND TRANSPORT FEES PAYMENT TERMS

4.1 Annual Contract Payment. The City shall annually pay the District a sum referred to as the Contract Payment for the services provided herein. The amount of the Contract Payment shall be determined according to Exhibit C. The Contract Payment shall be paid in equal ~~quarterly-monthly~~ installments by ~~the 10<sup>th</sup> day of each month~~ January 15,

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<sup>1</sup> The Parties acknowledge that a number of actions described in the Agreement have been completed. For clarity and conciseness, those provisions are removed and replaced with the words "Completed. Deleted for clarity."

~~April 15, July 15 and September 15.~~ Failure to pay ~~quarterly-monthly~~ installments in a timely manner shall be considered a material breach as defined in the Definitions section of this Agreement.

4.2 Contract Payment Adjustment. Each year, no later than September 1, the District shall submit to the City an invoice for the ensuing year, including any revision to the Contract Payment for the ensuing year.

4.2.1 Annual Percent Increase Based on Labor Costs. The cost of City Station Personnel identified in Exhibit C shall be adjusted pursuant to the negotiated labor agreement between the District and the local chapter of the IAFF Local ("CBA"); provided that, notwithstanding the actual terms of the CBA, the City Station Personnel cost in Exhibit C shall increase from one labor agreement to the next no more than the greater of (i) the median increase in the total cost of compensation (ie., combined cost of wages and benefits) of comparable fire agencies, (ii) the increase in the Consumer Price Index as measured by the CPI-W Seattle-Tacoma-Bremerton metropolitan area for the twelve (12) month period ending June 30, or (iii) the percentage increase in compensation awarded by an interest arbitrator. The phrase "comparable fire agencies" shall refer to a list of comparables agreed upon by the Employer and Union through the collective bargaining process or the comparables accepted by an interest arbitrator in an interest arbitration proceeding.

4.2.1.1 The parties recognize that the cost of the District's community paramedic program is currently covered by grants. At the time the grants expire, the City can choose to continue community paramedic program in which case Exhibit C shall be revised to add an equitable share of the cost of such community paramedics, taking into account the other jurisdictions that have opted to continue with the program. If the City declines to continue with the program, the community paramedic program will not be continued within the City limits after the grant term ends. The District shall provide notice of the expiring grant no later than 120 days prior to the expiration of funding.

4.2.2 Adjustment Date Not Met. If the labor agreement between the District and IAFF Local 1828 has not been finalized by September 1 of the ~~year prior to the upcoming contract for service year (the "Adjustment Year")~~ final year of the CBA, the District Station Personnel costs and the District Indirect Costs for the ensuing year will be adjusted ~~upon~~ following execution of the ~~labor agreement~~ new CBA but and will be retroactive to January 1 of the Adjustment Year ~~and paid by the City within thirty (30) days of execution of the labor agreement.~~ In such instances, the District shall send the City (directed to the ~~Mayor and Finance Director~~ City Clerk), no later than September 1 of each year for which a CBA has not yet been executed for the ensuing year, a range within which the Contract Payment for the ensuing year is likely to fall, which range shall be informed by the current status of negotiations between the District and IAFF Local 1828. To ensure that the District is able to provide the City at least with a reliable range for the Contract Payment, the District shall, to the extent practicable, commence negotiations with IAFF Local 1828 no later than the July 1<sup>st</sup> of ~~the any~~ year prior to the

~~Adjustment Year in which the CBA is expiring. If negotiations have not completed a new CBA has not been executed~~ by November 1<sup>st</sup> of the year ~~prior to the Adjustment Year in which the CBA is expiring~~, the District shall ~~provide~~ notify the City ~~with a report summarizing the points that are preventing a deal from being reached of the economic issues on which the parties have not reached tentative agreement.~~

4.2.3 Documentation of Labor Costs. On an annual basis, the District shall provide supporting documentation ~~of its labor costs for the past year~~ sufficient to allow the City to ~~audit confirm that the labor costs have not increased more than the City Station Personnel cost in Exhibit C limits set forth in Section 4.2.1. In those years where a new CBA is finalized, such documentation~~ This shall also include comparable agency ~~wage compensation data that the District relies upon in negotiating with the local chapter of the IAFF used by the parties or the interest arbitrator to establish new compensation levels.~~

4.3 -4.4 [sections relocated and renumbered for clarity]

4.5 Indirect Operating Cost Portion of Contract Payment. The District shall determine the Indirect Operating Cost portion of the Contract Payment according to the following:

- Overhead shall be ten percent (10%) of the cost of the City Station Personnel cost;
- Equipment maintenance and operation, medications, supplies, which shall be ten percent (10%) of the City Station Personnel cost;
- Fire Marshal allocation of fifty percent (50%) of wage and benefit cost of the position, and Fire Inspector at one-hundred percent (125%) of wage and benefit cost of the position (See Exhibit A); and
- Apparatus replacement costs based upon the District Apparatus Replacement Schedule ~~—City~~ Rolling Stock designated as Exhibit D.

The total of the City Station Personnel cost and the Indirect Costs, less the “Esperance Offset”, shall constitute the Contract Payment for the ensuing year.

4.6 Annexation. The City’s Urban Growth Area contains property within the boundaries of the District. Should the City seek to annex portions of the District, the District will not oppose the annexation. In the event the City annexes portions of the District, the Contract Payment shall be increased and shall be calculated by applying the then current District levy rate and emergency medical services levy rate to the annexed property plus revenue from a Fire Benefit Charge, if any, that the District would have received from the annexed area prior to annexation. The increased amount shall be added to the Contract Payment as a base for calculations in future years.

4.6.1 Notwithstanding the foregoing, if the City annexes all of the area commonly referred to as “Esperance”, the District will support the annexation. The Esperance Offset attributable to the annexed area shall cease at such time as the District is no longer entitled to receive tax revenue from the annexed area, and the Contract Payment shall be adjusted effective on that date.

4.7 Significant Change in Cost of Providing Services. In the event that there is a material and significant increase or decrease in the costs of providing services under this Agreement as a result of a legislative or regulatory decision that is exempt from the dispute resolution provisions of Sections 18.1 and 18.2, then at the request of either party, the City and District shall seek to renegotiate this Agreement and the Contract Payment to fully compensate the District for actual costs incurred according to the methodology in Exhibit C. In the event that the City and District are unable to successfully renegotiate this Agreement through good faith negotiations, then ~~the only~~ Section 18.1 of the Dispute Resolution provision of this Agreement shall apply. Nothing herein prevents either party from terminating the Agreement pursuant to Section ~~11.2 if the parties are unable to successfully renegotiate this Agreement.~~

4.8 EMS Transport Fees. The District understands and acknowledges that the City presently charges fees for basic life support and advanced life support transports for incidents occurring within the City. The District also charges such fees for incidents occurring within the District, including the Esperance area. As the EMS service provider, the District shall receive and pursue collection of all Transport Fees in accordance with District policy for transports that originate within the City limits. The District shall remit the amount ~~collected so received~~ to the City, less an administration fee not to exceed the actual cost of collection, ~~according to the quarterly schedule in Section 4.1 on a quarterly basis.~~ The District shall be responsible for, and agrees to prepare and provide in a timely fashion, all necessary or requested documentation and/or reports to the City. The City retains the right to establish the amount of the transport fee that is charged within the City and the right to pursue collection of balances that remain unpaid after the District has completed its collection efforts.

4.9 Creating Unfunded Mandates. The City shall not create any unfunded mandates for increased service by the District without fully compensating the District for actual costs incurred. ~~The City's subcontracting of the District's service to Woodway shall not be considered an unfunded mandate and shall be governed by Section \_\_\_.~~

## 5. CITY EMPLOYEES

5.1-5.8 [Completed. Deleted for clarity].

5.9 Former City Employees. The City shall indemnify, defend, and hold the District harmless from any and all demands, claims, or actions by former City personnel, which arise out of, or relate to, the time prior to the date that such City personnel became employees of the District, provided, however, that the indemnification shall not apply to any claims arising as a result of the District's actions under the Interlocal Agreement.

## 6. ROLLING STOCK (APPARATUS AND VEHICLES)

6.1 – 6.5 [Completed. Deleted for clarity].

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6.6 District Apparatus Replacement Schedule. The District has provided current information regarding existing and proposed Apparatus Replacement Schedule attached in Exhibit D. The District, in its sole discretion, may elect to purchase new rolling stock or otherwise assign District rolling stock for use within the City.

6.7 Public Safety Boat. Title to the City Public Safety Boat known as *Marine 16* (the "Vessel") has been transferred to the District. The District's use of *Marine 16* for training and emergencies as a county-wide asset is described in the First Amendment to Interlocal Agreement for Use of Rescue and Fire Boat. Exhibit H to the Agreement is hereby deleted.

6.7.1 [Completed. Deleted for clarity]

6.7.2 The District assumes responsibility for maintenance and repairs to the Vessel. However, upon the District's request, the City agrees to provide maintenance and repair services for the Vessel in exchange for receipt from the District of the City's normal hourly shop rates for labor.

6.7.3 The Apparatus Replacement Schedule (Exhibit D to the Interlocal Agreement) is amended to include the Vessel and/or its Outboard Motors. The amended Apparatus Replacement Schedule is attached hereto. The Contract Payment for 2012 and thereafter shall reflect the addition of the Vessel to this schedule.

6.7.4 [Completed. Deleted for clarity]

6.7.5 Use of the vessel by the City of Edmonds Police Department shall continue as agreed to before this amendment. The City is solely responsible for maintaining and certifying their operators.

6.7.5.1 The City's use of the Vessel is at the City's risk. The City acknowledges that the District is making no representations or warranties concerning the Vessel. Further, if the City uses the Vessel without a District operator, the City agrees to be solely responsible for all damage or loss to the Vessel and its apparatus while the Vessel is within the City's control and/or possession.

6.7.5.2 The City agrees to release the District from any claims associated with any training provided to it. The City further agrees to defend, indemnify and hold the District harmless from any and all claims for bodily injury or property damage arising out of its use and operation of the Vessel.

6.7.5.3 The City specifically and expressly waives any immunity that may be granted under the Washington State Industrial Insurance Act, Chapter 51 RCW as to any claims by its employees arising from the use of the Vessel.

## 7. EQUIPMENT

7.1 – 7.4 [Completed. Deleted for clarity]

**Comment [JT2]:** BRAD NEEDS TO CHECK ON WHETHER THE SCHEDULE COVERS THE VESSEL - NOT SURE THERE IS A PLAN TO REPLACE IT ANY TIME THIS BOAT IS IN USE THE STATION THAT IS SENT TO THE BOAT IS OUT OF SERVICE; BC DECIDES WHICH STATION RESPONDS, USUALLY EITHER 17 OR 20

**Comment [JT3]:** confirm that this is covered by WCIA

8. **OVERSIGHT AND REPORTING**

8.1 **Agreement Administrators.** The District Fire Chief and the City Mayor and/or their designees, shall act as administrators of this Agreement for purposes of RCW 39.34.030. During the term of this Agreement, the District Fire Chief shall provide the Mayor with quarterly written reports concerning the provision of services under this Agreement. The format and topics of the reports shall be as set forth in Section 2.5. The District Fire Chief shall present a joint annual report on the previous calendar year to the Edmonds City Council prior to ~~April~~ March 1, and at such meeting the Chief shall request, and the City Council shall schedule, the Joint Annual meeting provided for in section 8.2.

8.1.1 The parties agree to meet on a quarterly basis to address the performance of the Agreement. It is expected that these quarterly meetings will be attended by at least one City Council member, the Mayor, the City Attorney, the Finance Director, the Fire Chief and at least one Commissioner from the District.

8.2 **Joint Annual Meeting.** In addition to the meeting(s) referred to in Section 8.1 above, the Edmonds City Council and Board of Fire District #1 Commissioners shall have a joint annual meeting after, but within 30 days, of the annual report at a properly noticed place and time to discuss items of mutual interest related to this Agreement.

8.3 **Representation on Intergovernmental Boards.** The District shall represent the City on intergovernmental boards or on matters involving the provision of services under this Agreement as reasonably requested by the Mayor. The City reserves the right to represent itself in any matter in which the interests of the City and the District are not mutual or whenever any matter relates to the appropriation of or expenditure of City funds beyond the terms of this Agreement.

9. **EXISTING AGREEMENTS**

9.1 **DEM, SNOCOM and SERS.** The City currently has contractual relationships with other entities or agencies including the Department of Emergency Management (DEM) ~~(or successor)~~, Snohomish County Communications Center (SNOCOM) (or successor), and Snohomish County Emergency Radio System Agency (SERS) (or successor). The City shall maintain its representation and financial obligations with those entities or agencies and will act to represent itself and retain authority to negotiate on its behalf. At the discretion of the City, the District may provide representation on behalf of the City on various committees, boards, and/or commissions as requested, as appropriate, and/or as agreed to by mutual agreement of the parties. The parties will meet to address any changes to the foregoing entities which that result in a change to the City's representation or financial obligations.

9.2 **Mutual and Automatic Aid.** The District shall assume any of the City's remaining contractual responsibility and obligations for the provision of mutual and automatic aid.

9.3 Full Information as Basis for Relationship. The City and District agree to coordinate their individual relationships with other entities and agencies so that the services under this Agreement will be provided in an efficient and cost effective manner. The City and District agree to keep each other fully informed and advised as to any changes in their respective relationships with those entities or agencies, whether or not those changes impact the City and/or the District obligations shall be provided to the other party in writing in a timely manner that allows a reasonable opportunity to discuss proposed changes in relationships or obligations.

~~9.4 Dispute Resolution. In the event that any dispute between the City and District cannot be resolved by good faith negotiations between the City and District, then the dispute resolution provision of this Agreement shall apply.~~

## 10. TERM OF AGREEMENT

10.1 20-Year Agreement. The effective date of this Restated ILA shall be January 1, 2017. The Commencement Date of the Agreement was January 1, 2010. This Agreement shall continue in effect for a period of twenty (20) years from the Commencement Date, until December 31, 2030, unless terminated earlier as provided [herein in section 11](#). After the initial twenty (20) year term, this Agreement shall automatically renew under the same terms and conditions for successive, rolling five (5) year periods unless terminated as provided [in section 11 herein](#).

10.2 Material Breach and Wind-Up Period. In the event of a Material Breach of this Agreement, the City and District shall, unless the City and District mutually agree otherwise, continue to perform their respective obligations under this Agreement for a minimum of twelve (12) months after notice of the Material Breach (the "Wind-Up Period") provided, however, that the Wind-Up Period shall be ninety (90) days if the Material Breach involves the City's failure to make the Contract Payment, provided further, that during the Wind-Up Period, the City and District shall coordinate their efforts to prepare for the transition to other methods of providing fire and EMS service to the City. The City will be responsible for all payments required herein until the conclusion of the Wind-Up Period.

## 11. TERMINATION AND RETURN OF ASSETS

11.1 [Completed. Deleted for clarity]

11.2 Termination – Notice. In addition to terminating this Agreement for a Material Breach, either party may terminate this Agreement by providing the other party with two (2) years written notice of its intent to terminate.

11.3 Termination Costs. ~~The Except as otherwise provided herein, the~~ costs associated with terminating this Agreement shall be borne ~~by the party who elects to terminate~~ equally between the parties, or in the event of a Material Breach, by the breaching party, provided that in the following circumstances, the cost of termination shall be apportioned as provided below.

11.3.1 Termination Due to Change in Law or by Mutual Agreement. In the event that this Agreement is terminated due to a change in law, each party shall bear its own costs associated with the termination, or, in the event that the City and District mutually agree to terminate this Agreement, each party shall bear its own costs associated with the termination.

11.3.2 Regional Fire Protection Service Authority. In the event that the District, along with one or more fire protection jurisdictions, elects to create a Regional Fire Protection Service Authority Planning Committee ("RFA Planning Committee") as provided in RCW 52.26.030, the District agrees to notify the City of its intent and subject to approval of the other participating jurisdictions, to afford the City an opportunity to be a participant on the RFA Planning Committee. Declining the opportunity to participate in the RFA Planning Committee shall not be construed as a material breach on the part of the City as defined in the Definitions section of this Agreement. In the event that a Regional Fire Protection Service Authority (RFA) or another legally recognized means of providing fire and emergency medical services is created, inclusive of District, this Agreement will be assigned to the RFA as the District's successor-in-interest [as provided by RCW 52.26.](#)

11.3.2.1 If the ~~City of Lynnwood and the~~ District ~~enters into an~~ forms a RFA [with any other agency](#), the parties shall confer to determine whether any efficiencies have resulted from the creation of the RFA that could warrant reconfiguring the service provided to the City.

11.4 [reserved]

11.5 [reserved]

11.6 Duty to Mitigate Costs. The City and District have an affirmative duty to mitigate their respective costs of termination, irrespective of the party who elects to terminate this Agreement and irrespective of the party who must bear the costs of termination.

11.7 Return of Assets to the City. Regardless of the reason for termination, the City and District agree that like assets purchased by and transferred to the District as part of this Agreement shall be purchased by the City as described below. This provision shall not apply to the formation of an RFA in which both the City and the District are participants.

11.7.1 Purchase Back Rolling Stock. All rolling stock ~~originally sold by the City~~ under this Agreement, or equivalent apparatus and vehicles in use by the District at the time of termination shall be purchased back using [a fair and equitable valuation process taking into account commercially reasonable factors which may include depreciation, apparatus replacement contributions made by the City pursuant to Exhibit C, maintenance and repair costs, etc.](#) ~~the same process, methods, and conditions under which the original purchase was made unless otherwise agreed upon by the parties. The purchase price shall reflect an appropriate discount for depreciation and payments that the City has made pursuant to Exhibit D.~~

11.7.2 Purchase Back Equipment. All equipment sold under this Agreement or equivalent equipment in use by the District at the time of termination shall be purchased back using [a fair and equitable valuation process taking into account commercially reasonable factors which may include depreciation, equipment replacement contributions made by the City pursuant to Exhibit C, maintenance and repair costs, etc.](#) ~~the same process, methods, and conditions under which the original purchase was made unless otherwise agreed upon by the parties. The purchase price shall reflect an appropriate discount for payments that the City has made pursuant to its 10% equipment add-on. See Section 4.5, above.~~

11.7.3 [Completed. Deleted for clarity]

11.7.4 District Employees. The District shall indemnify, defend and hold the City harmless from any and all demands, claims, or actions by District personnel, which arises out of or relate to the time that such personnel were employees of the District, PROVIDED HOWEVER, that the indemnification shall not apply to any claims arising as a result of the City's actions during the term of the Agreement.

## 12. **DECLINE TO MERGE**

12.1 City Declines to Merge. In the event that the District enters into an agreement with any other fire district [or agency](#) that is [substantially functionally](#) equivalent to a merger, the City may elect to ~~end the terminat this A~~ agreement without prejudice or penalty. The terms and conditions of that termination include written notice provided in accordance with the provisions of Section 19.1 to the District of the intent to end the Agreement not more than ninety (90) days after receiving written notification provided in accordance with the provisions of Section 19.1 from the District that the District intends to merge with another entity.

12.1.1 Not a Material Breach. The City decision to terminate under 12.1 does not constitute a Material Breach of the Agreement and none of the penalties associated with a Material Breach shall apply to the City.

12.1.2 12-Month Notice. The Agreement will end not more than twelve (12) months after the City officially notifies the District of its termination , unless otherwise agreed to by the parties, and the costs of termination shall be split evenly between the parties.

12.1.3 City Exit from Agreement. If the City elects to terminate the Agreement because of an impending merger between the District and one or more other jurisdiction, the City exit will be under the terms and conditions described in Section 11.7.

## 13. **CITY FIRE DONATION FUND**

13.1 Disposition of Fire Donation Funds.

## 14. **TOWN OF WOODWAY**

14.1 Service to Woodway. The City may subcontract with the Town of Woodway to ~~to~~ have the District provide fire and emergency medical services to the Town of Woodway but shall provide advance written notice to the District of at least twelve (12) months prior to the effective date any commencement of such service. The City's subcontracting of the District's service to Woodway shall not be considered an unfunded mandate. No change in the Contract Payment shall result from such a subcontract unless the City is requesting additional resources to serve Woodway. Any and all payments from such a subcontract with Woodway shall be paid to the City of Edmonds only. The District agrees not to compete with the City of Edmonds in such negotiations. The City of Edmonds right to subcontract constitutes the consideration for the City's agreement to as provided herein stems from the District's demand that Edmonds renegotiate the original Exhibit C cost allocation to have Edmonds incur the entirety of what was originally intended to be additional Woodway's 9.13% in Exhibit C initially attributable to Woodway of the cost of the City Fire Stations. At the City's request, tThe District agrees to work with Shoreline Fire Department to adjust the AVL delays for auto-aid responses into calls to the Town of Woodway at the City's request.

15. **CITY CIVIL SERVICE COMMISSION**

15.1 [Completed. Deleted for clarity]

16. **CITY AND DISTRICT ARE INDEPENDENT MUNICIPAL GOVERNMENTS**

16.1 Independent Governments. The City and District recognize and agree that the City and District are independent governments. Except for the specific terms herein, nothing herein shall be construed to limit the discretion of the governing bodies of each party. Specifically and without limiting the foregoing, the District shall have the sole discretion and the obligation to determine the exact method by which the services are provided within the District and within the City unless otherwise stipulated within this Agreement.

16.2 Resource Assignments. The District shall assign the resources available to it without regarding to internal political boundaries, but rather based upon the operational judgment of the District as exercised within the limitations and obligations of Sections 2.4 through 2.8.

16.3 Debts and Obligations. Neither the City nor District, except as expressly set forth herein or as required by law, shall be liable for any debts or obligations of the other.

17. **INSURANCE**

17.1 Maintenance of Insurance. For the duration of this Agreement, each Party shall maintain insurance as follows: Each party shall maintain its own insurance policy insuring damage to its own fire stations, real and personal property and equipment if any, and "policy" shall be understood to include insurance pooling arrangements or compacts such as the Washington Cities Insurance Authority (WCIA). The City shall maintain an insurance policy insuring against liability for accidents occurring on City owned property. Such insurance policy shall be in an amount not less than one million dollars (\$1,000,000.00)

per occurrence with a deductible of not more than five-thousand dollars (\$5,000.00). The District shall maintain an insurance policy insuring against liability arising out of work or operations performed by the District under this Agreement in an amount not less than one million dollars (\$1,000,000.00) per occurrence with a deductible of not more than five-thousand dollars (\$5,000.00). The phrases "work or operations" and "maintenance and operations" shall include the services identified in Section 1. Scope of Services, the services of the Fire Marshal and the District's Fire Chief, acting in the capacity of City Fire Chief and any obligation covered by Exhibit B, Section 9.

- 17.2 Claims of Former City Employees. The City has provided proof of coverage that it has maintained insurance against claims by former City Personnel for incidents and occurrences which may have occurred prior to the Commencement Date of the Interlocal Agreement, including but not limited to, injuries, employment claims, labor grievances, and other work-related claims. Such insurance was at all times in an amount not less than one million dollars (\$1,000,000.00) per occurrence with a deductible of not more than five-thousand dollars (\$5,000.00). The City will hold harmless the District and its insurance provider for any such claims lawsuits or accusations that occurred prior to the Commencement Date of the Interlocal Agreement.
- 17.3 Claims of Former District Employees. The District represents and warrants that it has maintained insurance against claims by District employees for incidents and occurrences which may have occurred during the time period prior to the Commencement Date of the Agreement, including but not limited to injuries, employment claims, labor grievances, and other work-related claims. Such insurance was at all times in an amount not less than one million dollars (\$1,000,000.00) per occurrence with a deductible of not more than five-thousand dollars (\$5,000.00).
- 17.4 Hold Harmless. To the extent each party's insurance coverage is not voided, each party agrees to defend and hold harmless the other party, its officers, officials, employees and volunteers from any and all claims, costs, including reasonable attorneys' and expert witness fees, losses and judgments arising out of the negligent and intentional acts or omissions of such party's officers, officials, employees and volunteers in connection with the performance of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.
- 17.5 Release from Claims. Except as specifically provided in this Agreement, and except in the event of breach of this Agreement, the District and the City do hereby forever release each other from any claims, demands, damages or causes of action related to damage to equipment or property owned by the City or District or assumed under this Agreement. It is the intent of the City and District to cover this risk with the insurance noted above.

18. **DISPUTE RESOLUTION**

9.4 — Dispute Resolution. It is the intent of the City and District to resolve all disputes between them without litigation. In the event that any dispute between the City and District cannot be resolved by good faith negotiations between the City and District, then the dispute

resolution provision of this Agreement shall apply. Excluded from these dispute resolution provisions are issues related to the legislative authority of the Edmonds City Council to make budget and appropriation decisions, decisions to contract, establish levels of service or staffing under Section 2 of this Agreement and Chapter 35.103 RCW and other policy matters that state law vests with the City Council. The above exclusions from the dispute resolution process shall not abridge the right of the District to collect the Contract Payment pursuant to this Agreement. Nothing herein shall prevent either party from terminating the Agreement pursuant to Section 11.2 prior to completion of the dispute resolution processes described below.

18.1 Mediation. ~~It is the intent of the City and District to resolve all disputes between them without litigation. Excluded from mediation are issues related to the legislative authority of the Edmonds City Council to make budget and appropriation decisions, decisions to contract, or establish levels of service under Section 2.4 of this Agreement and Chapter 35.103 RCW. Policy decisions of the City Council shall not be subject to review by a mediator, however, this shall not abridge the right of the District to pursue an increase in the Annual Contract Payment as a result of such decision. The~~ Upon a request by either party to mediate a dispute, ~~City and District~~ the parties shall mutually agree upon a mediator. ~~Any expenses incidental to mediation, including the mediator's fee, shall be borne equally by the City and District.~~ If the City and District cannot agree upon a mediator within ten (10) business days after such request, the City and District shall submit the matter to the Judicial Arbitration and Mediation Service (JAMS) and request that a mediator be appointed. This requirement to mediate the dispute may only be waived by mutual written agreement before a party may proceed to litigation as provided within this Agreement. Except for unusual reasons beyond the reasonable control of either party, mediation shall be completed within ninety (90) days after the mediator is selected. Any expenses incidental to mediation, including the mediator's fee, shall be borne equally by the City and District.

18.2 Binding Arbitration. If the City and District are unsuccessful in ~~renegotiating the Contract Payment after having completed mediation~~ resolving any dispute such to these provisions through mediation, the ~~City and District shall~~ parties may agree to submit the ~~matter~~ their dispute to binding arbitration with ~~the foregoing arbitration service~~ JAMS. ~~Excluded from binding arbitration are issues related to the legislative authority of the Edmonds City Council to make budget and appropriation decisions, decisions to contract, or establish levels of service under Section 2.4 of this Agreement and Chapter 35.103 RCW. Policy decisions of the City Council shall not be subject to review by an arbitrator, however, this shall not abridge the right of the District to pursue an increase in the Annual Contract Payment as a result of such decision.~~

18.2.1 The arbitration shall be conducted according to the selected arbitration service's Streamlined Arbitration Rules and Procedures. The parties shall agree on a JAMS

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arbitrator with twenty (20) days from the date the matter is submitted to JAMS. In the event that the parties fail to agree on a JAMS arbitrator within such time, then JAMS shall be asked to submit the names of at least three arbitrators. Each party shall have ten (10) days after receiving the list to strike one name from that list. JAMS shall select the arbitrator from the names on the list that have not been struck by either party. The parties may agree on another arbitrator in JAMS or another person at any time. In the event that JAMS is unable or unwilling to provide an arbitrator and the parties cannot otherwise agree, then either party may request the Snohomish County Superior Court to designate an arbitrator.

18.2.2 At ~~this any~~ arbitration involving the Contract Payment, the arbitrator shall, as nearly as possible, apply the analysis used in this Agreement and supporting Exhibits to adjust the Contract Payment. The arbitrator may deviate from such analysis and use principles of fairness and equity, but should do so sparingly.

18.2.3 Unless the City and District mutually consent, the results of any binding arbitration session shall not be deemed to be precedent for any subsequent mediations or arbitrations.

18.2.4 The decision of the arbitrator shall be final and binding upon both parties, subject only to the right of appeal as provided in RCW 7.04; provided, however, that in arriving at such decision, neither of the parties nor the arbitrator shall have the authority to alter this Agreement in whole or in part. ~~3 Prevailing Party.~~

18.2.5 The arbitrator cannot order either party to take action contrary to law.

18.3 Litigation. ~~In the event~~ As an alternative to binding arbitration, if either party herein finds it necessary to bring an action against the other party to enforce any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement by reason of any breach or default hereunder or there under, the party substantially prevailing in any such action or proceeding shall be paid all ~~costs~~ and attorneys' fees incurred by the other party, and in the event any judgment is secured by such prevailing party, all such costs and attorneys' fees of collection shall be included in any such judgment. Jurisdiction and venue for this Agreement lies exclusively in Snohomish County, Washington.

## 19. MISCELLANEOUS PROVISIONS

19.1 Noticing Procedures. All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by ~~facsimile~~ electronic mail (provided a read receipt is obtained by the sender), sent by nationally recognized overnight delivery service, or if mailed or deposited in the United States mail, sent by registered or certified mail, return receipt requested and postage prepaid to:

**District Secretary:**

**City Clerk:**

**Snohomish County Fire Protection District No. 1**  
**12425 Meridian Avenue**  
**Everett, WA 98208**

**City of Edmonds**  
**121 5<sup>th</sup> Avenue North**  
**Edmonds, WA 98020**

Or, to such other address as the foregoing City and District hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

- 19.2 Other Cooperative Agreements. Nothing in the Agreement shall preclude the City and the District from entering into contracts for service in support of this Agreement.
- 19.3 Public Duty Doctrine. This Agreement shall not be construed to provide any benefits to any third parties. Specifically, and without limiting the foregoing, this Agreement shall not create or be construed as creating an exception to the Public Duty Doctrine. The City and District shall cooperate in good faith and execute such documents as necessary to effectuate the purposes and intent of this Agreement.
- 19.4 Entire Agreement. This entire Agreement between the City and District hereto is contained in this Restated ILA and exhibits thereto. This Restated ILA supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Restated ILA supersedes the Agreement except where provisions have expressly been omitted for clarity and conciseness. All exhibits referenced in the Agreement, except the revised Exhibit C hereto, shall continue to be effective. This Restated ILA may be amended only by written instrument executed by the City and District subsequent to the date hereof.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2016

**SNOHOMISH COUNTY FIRE PROTECTION DISTRICT NO. 1**

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Attest: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

CITY OF EDMONDS

By: \_\_\_\_\_

Attest: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

Definitions

The following definitions shall apply throughout this Agreement:

- b. ~~Adjustment Year: The year in which the Contract Payment is to be adjusted.~~
- c. ~~Assigned: As used in the definitions of Unit Utilization Factor and Neighboring Unit Utilization Factor, the term "Assigned" shall describe the period of time in seconds from dispatch time to clear time, when the Unit becomes available to respond to another call.~~
- d. ~~City: City of Edmonds.~~

~~City Fire Stations: Fire Station 16, Fire Station 17, and Fire Station 20.~~

- e. ~~Commencement Date: The date at which the performance and obligations of the City and District as contained herein begin.~~
- f. ~~Contract Payment: The annual amount that the City will pay to the district pursuant to this Agreement.~~
- g. ~~District or FD1: Snohomish County Fire Protection District No. 1.~~
- h. ~~Edmonds Unit: An Edmonds Unit is any Unit based at one of the City Fire Stations.~~

i. ~~Effective Date: The date this Restated ILA is executed by the City and District.~~

~~Esperance: "Esperance" refers to the entirety of the contiguous unincorporated area that is completely surrounded by the City of Edmonds and commonly known as Esperance.~~

j. ~~Esperance Offset: The amount of tax revenue received by the District from Esperance, which is deducted from the action station costs to result in the Contract Payment. The Esperance Offset shall not drop below \$1,116,733 (2017 Esperance AV of \$566,869,512 times tax rate of 1.97 divided by 1,000) even if the actual tax revenue received by the~~

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District drops below that amount as a result of reductions in assessed valuation or tax rate.

k. ~~District Fire Chief:~~ The Fire Chief of Snohomish County Fire Protection District No. 1.

l. ~~Firefighters:~~ Full time, compensated employees, captains, firefighters, emergency medical technicians, and/or paramedics.

m. ~~Insurance:~~ The term "insurance" as used in this Agreement means either valid insurance offered and sold by a commercial insurance company or carrier approved to do business in the State of Washington by the Washington State Insurance Commissioner or valid self-insurance through a self-insurance pooling organization approved for operation in the State of Washington by the Washington State Risk Manager or any combination of valid commercial insurance and self-insurance pooling if both are approved for sale and/or operation in the State of Washington.

n. ~~Material Breach:~~ A Material Breach means the District's failure to provide minimum staffing levels as described within this Agreement, the City's failure to timely pay the Contract Payment as described within this Agreement, or the City's or District's failure to comply with other material terms of this Agreement.

o. ~~Neighboring Unit Utilization Factor:~~ Neighboring Unit Utilization Factor or NUUF is the method used by the parties to determine how much time Units associated with one jurisdiction are assigned to calls in another jurisdiction. Because FD1 provides service across a number of different cities and unincorporated areas, and because those various jurisdictions make payments to FD1 for these services, Neighboring Unit Utilization Factor is relevant even where an FD1 Unit is assigned to a call that is still within an area served by FD1 but outside of the normal area served by that Unit. NUUF is determined by converting the following fraction to a decimal rounded to the nearest thousandths. In this fraction, the numerator shall equal the total number of seconds that non-Edmonds Units are assigned to calls in Edmonds (not including Esperance, unless Esperance is annexed) over the previous twelve-month period. The denominator shall equal the total number of seconds that Edmonds Units are assigned to calls outside of Edmonds (Esperance shall be considered "outside of Edmonds" for the purpose of this calculation unless Esperance is annexed) over the previous twelve-month period. Neighboring Unit Utilization Factor shall be calculated separately for Lynnwood (stations 14 and 15 combined) and the non-Edmonds units within FD1, e.g., Station 19 for as long as Lynnwood and FD1 are not part of the same Regional Fire Authority. NUUF shall also be calculated separately for Woodway and Shoreline. Unlike the Unit Utilization Factor, the NUUF need only be calculated on an annual basis after the completion of each calendar year. NUUF shall be considered balanced if the NUUF falls somewhere between 0.900 and 1.100. For example, if Lynnwood's Units are assigned to calls in Edmonds that total 1,000,000 seconds during a calendar year, and Edmonds Units are assigned to calls in

~~Lynnwood that total 1,095,000 seconds during a calendar year, the NUUF for that year would equal 0.913 and would be considered in balance. If, on the other hand, the numerator were to remain the same, but the Edmonds Units are assigned to calls in Lynnwood that total 880,000 seconds, the NUUF for that year would equal 1.136 and would be considered out of balance.~~

~~p. Unit: A Unit is a group of Firefighters that work together and are based at the same station. Where a station is staffed by three firefighters at any one time, that station shall be considered a Unit. Where a station is staffed by five or more firefighters at any one time, without counting the Battalion Chief or Medical Services Officer, that station shall be deemed to have two Units and the District shall clearly allocate the Firefighters at that station in such a manner that the two Units at that station can be clearly distinguished for the purposes of determining the Unit Utilization Factor for each Unit.~~

~~q. Non Edmonds Unit: A Non Edmonds Unit is any Unit stationed at any station other than the City Fire Stations.~~

~~r. Unit Utilization Factor: Unit Utilization Factor or UUF is the method used by the parties to determine how busy a particular Unit is. Unit Utilization Factor shall be calculated as soon as possible after the end of each quarter, looking back over the previous twelve-month period. Unit Utilization Factor is determined by converting the following fraction to a decimal rounded to the nearest thousandths. In this fraction, the numerator shall equal the total number of seconds a Unit is Assigned to all calls over the previous twelve-month period. The denominator shall always be 31,536,000 (the number of seconds in a twelve-month period). Because this contract initially contemplates exactly one Unit at each station, with each station having multiple apparatus types, the total number of seconds a Unit is assigned to all calls shall be the total for all apparatus types used by that Unit. The activity of the Battalion Chief and Medical Services Officer shall not be counted in the numerator for any unit. For example, if, over the previous twelve-month period, Engine 20 was assigned to calls totaling 72,089 seconds, and Ladder 20 was assigned to calls totaling 229,320, and Medic 20 was assigned to calls totaling 4,008,640 seconds, then the numerator for Unit 20's Unit Utilization Factor would be 4,310,049 seconds. The Unit Utilization Factor for Unit 20 would then equal 0.137 ( $4,310,049 / 31,536,000 = 0.1366$  which rounds to 0.137). While UUF is intended to be analyzed by looking back over twelve months, during the each of the first three quarters of 2017, a special UUF shall be calculated that looks at UUF on a quarterly basis and adjusts the calculation method accordingly. The quarterly analysis during 2017 is intended to keep data from the 2016 service delivery model from contaminating the 2017 data.~~

s. Wind Up Period: The twelve (12) months immediately following formal notification of a Material Breach by either party except as defined in Section 10.2.

