

**INTERLOCAL AGREEMENT BETWEEN
CITY OF KIRKLAND AND CITY OF REDMOND
RELATED TO CONSTRUCTION OF A NEW FIRE STATION 27**

THIS AGREEMENT is made and entered into by and between the City of Kirkland, a Washington municipal corporation, and the City of Redmond, a Washington municipal corporation regarding construction of Kirkland's new Fire Station 27.

RECITALS

- A. The Cities of Kirkland and Redmond are both non-charter optional municipal code cities, incorporated under the laws of the State of Washington, with authority to enact laws and enter into agreements to promote the health, safety, and welfare of their residents and for other lawful purposes.
- B. Kirkland and Redmond are each authorized by chapter 39.34 RCW, the Interlocal Cooperation Act, to enter into cooperative agreements.
- C. Kirkland intends to construct a new fire station, to be identified as Fire Station 27, to serve Kirkland's Totem Lake and Evergreen Hill neighborhoods.
- D. Redmond supports this new fire station and desires to partner with Kirkland to allow Redmond's Medic One unit, Medic 123, to operate out of Fire Station 27. Co-location of Medic 123 at Station 27 allows the unit to return to a Kirkland fire station after an over ten-year absence, and it will be beneficial to both firefighters/emergency medical technicians (EMTs) and paramedics. The ability to work, train, and house in one facility naturally creates better working relationships between emergency responders, and it will provide Kirkland firefighters access to paramedics for training, education, and review of incidents.
- E. To facilitate Medic 123's co-location at Fire Station 27, Redmond will provide Kirkland the construction funding equivalent to the costs of construction of an additional half engine bay and storage space needed for Redmond's Medic 123 personnel and Advanced Life Support (ALS) supplies, based on an agreed-upon percentage of final Fire Station 27 project costs (including sales taxes) and a fixed amount in support of Fire Station 27 project soft costs. Redmond will further contribute to the ongoing maintenance and operating costs associated with the co-location.

AGREEMENT

Now, therefore, in consideration of the terms and conditions set forth below, the parties agree as follows:

Purpose. Kirkland has designed and is constructing a new Fire Station 27 ("Fire Station" or "Project"). The purpose of this Agreement is to provide funding for the design and construction, and ongoing maintenance and operation of an additional half-bay and associated storage at the new Fire Station 27 for use by Redmond's Medic 123 until such time that Kirkland's space needs no longer make co-location viable.

I. CONSTRUCTION AND CONSTRUCTION FUNDING

1. Construction of the Project.

a. Construction-Related Plans and Contract Documents. Kirkland will provide plans, specifications, contract and bid documents, and construction estimates, for the Project, which will include the work necessary for Redmond co-location at Fire Station 27 ("Redmond Work"). Exhibit A provides a floorplan of the Fire Station and identifies the area of Redmond Work.

b. Project Contracting and Construction. Kirkland is responsible for complying with all applicable public works procurement requirements. Kirkland's selected contractor for the Project ("Project Contractor") will perform all work on the Project. As Kirkland deems necessary, it will coordinate with Redmond regarding the progress of the work. Kirkland has final decision-making authority for all work by the Project Contractor for the Project, including the Redmond Work. Kirkland is responsible for all inspection and testing of the work, including materials for the Project. Whenever onsite during the construction phase, Redmond personnel will report to Kirkland's Project Manager. If Redmond has issues or concerns with the Project Contractor, it must bring such issues or concerns to the immediate attention of Kirkland's Project Manager. Redmond shall not direct the Project Contractor to perform any work.

c. Change Orders and Field Work Directives. Kirkland may approve field work directives and change orders for the Project; provided, however, that Kirkland will provide Redmond with prior written notice of a change order related to the Redmond Work as follows:

- i. No prior notice is required for changes regarding traffic closures, to respond to an emergency, for changes that reduce costs to Redmond, or where the change in cost to Redmond is less than five (5) percent of Redmond's contract share.
- ii. For changes that will cause the costs to Redmond to increase over five (5) percent of Redmond's contract share, then Kirkland must notify Redmond of the proposed change. Redmond will have five (5) working days to provide Kirkland with comments or concerns.
- iii. Regardless of the type of change or the dollar amount of the change order, Kirkland will provide Redmond with copies of all requests for change orders and all executed change orders related to the Redmond Work and associated shared costs, with such documentation provided either by paper or e-mail notification at Kirkland's first reasonable opportunity.
- iv. For any costs of a change order incurred solely for Redmond, Redmond shall pay full, actual costs incurred by Kirkland, including but not limited to design and construction.

d. Payments to Contractor. Kirkland shall make all payments to the Project Contractor and to Kirkland consultants on the Project.

e. Half-Bay Build-out Costs. Kirkland and Redmond have agreed that Redmond will be responsible for reimbursing Kirkland in an amount equal to the total of (i) 2.42% of the total Fire Station 27 construction costs, (ii) 2.42% of total project sales taxes, and (iii) the fixed amount of \$79,000 to reimburse for soft costs, which altogether represents the total cost the parties agree are fairly allocable to the new half-bay and associated storage for Redmond to be constructed by Kirkland as part of the Fire Station 27 project. These amounts

were initially determined based on architect's estimated scope and cost of the Redmond Work as described in Exhibit B.

The current estimate for Redmond reimbursement to Kirkland, based on the awarded bid contract and fixed soft costs, is \$427,806.14. The parties agree that while the 2.42% fixed percentage will not change and the \$79,000 fixed soft costs will not change, the total reimbursement cost to Redmond will adjust based on the actual construction costs at the time of project closeout.

2. Build-out Payment.

a. Redmond agrees to pay its portion of the costs in two lump sum payments, one upon the effective date of this Agreement and the other upon substantial completion of construction. Kirkland will submit to Redmond two invoices, with the first billing equivalent to half of the estimated total amount that is Redmond's responsibility, based on the proportional construction bid amount, the applicable sales tax, and the fixed soft cost amounts (as described in the cost narrative attachment), and the second billing comprising the remaining half of Redmond's responsibility, adjusted as applicable by any approved change orders. If requested by Redmond, Kirkland will meet with Redmond to review and discuss any billing. Redmond shall pay the billing within forty-five (45) days of receipt. If Redmond in good faith disputes any amount due under a billing, Redmond must promptly notify Kirkland and provide the specific basis of the dispute. If such dispute cannot be resolved promptly through good-faith discussions between the parties, Redmond must timely pay the undisputed portion, and the parties shall diligently proceed to resolve the disputed amount.

II. ONGOING USE AND OPERATION

1. Co-location. Once construction of Fire Station 27, as provided in Part I, is completed and the building is operational, Kirkland authorizes Redmond to utilize a half-bay for a medic unit, consisting of the medic unit vehicle, a backup medic unit vehicle, and three shifts each of two firefighter paramedics. Kirkland will provide Redmond corresponding storage space for supplies, two bedrooms, and clothing/wardrobe lockers, food lockers for six employees, and workspace to accommodate two paramedics on duty. Kirkland agrees to provide Redmond appropriate space in Fire Station 27 for Redmond to comply with posting any notices required by law or with posting or notice provisions of its applicable collective bargaining agreements.

2. Rules and Regulations. Redmond agrees to comply with and observe all reasonable rules and regulations established by Kirkland from time to time for the Fire Station. Redmond personnel will comply with all rules and regulations that apply to Kirkland personnel regarding use and occupancy of Fire Station 27. Redmond shall reimburse Kirkland for the cost of damages to the Fire Station beyond normal wear and tear caused by Redmond or its employees, agents, or invitees. Redmond shall not make any alterations, changes, or improvements in or to the Fire Station or any part thereof without discussion with Kirkland Fire Chief and Kirkland's facilities services division and written approval from the Kirkland City Manager's Office. Redmond shall give prompt written notice to Kirkland in the event of casualty, injury, or any workplace safety concern at Fire Station 27 involving Redmond's employees, agents, or invitees.

3. Facility Operation and Maintenance. Kirkland will be responsible for facility operations, daily maintenance, and janitorial service at Fire Station 27. Kirkland will keep and

maintain Fire Station 27 in good order, condition, and repair. Kirkland shall exercise full discretion and determination over the quality and quantity of supplies, equipment, materials, or character of work performed in the operation, alteration, maintenance, or repair of any aspect of Fire Station 27. Redmond shall give Kirkland prompt written notice of any defective or hazardous conditions at Fire Station 27 observed by Redmond personnel, which shall promptly be corrected by Kirkland to the extent and in the manner determined appropriate by Kirkland.

4. Payments.

a. **Facility Charge.** Redmond will pay to Kirkland an annual facility charge for use of the Fire Station 27 facilities. The facility charge will be calculated annually based on total square footage of Redmond's use, which, for purposes of this agreement, is 1009 square feet. The rate amount is based on the O&M and overhead costs for fire station facilities established in Kirkland's internal service fund rate calculation, which is prepared by Kirkland on a biennial basis for budget preparation. The annual rate for 2023 is \$7.83/sf; the annual rate for 2024 is \$8.04/sf. Kirkland will provide Redmond with a minimum of sixty (60) days' notice of a rate increase for subsequent years.

b. **Invoicing.** Kirkland will submit an annual invoice to Redmond in the 1st quarter of the following year for all applicable charges and costs associated with Redmond's use of Fire Station 27 for the prior year. If requested by the Redmond, Kirkland will meet with Redmond to review and discuss any billing. Redmond shall pay invoices within forty-five (45) days of receipt. If Redmond in good faith disputes any amount due under a billing, Redmond must promptly notify Kirkland and provide the specific basis of the dispute. If such dispute cannot be resolved promptly through good-faith discussions between the parties, Redmond must timely pay the undisputed portion, and the parties shall diligently proceed to resolve the disputed amount.

III. GENERAL PROVISIONS

1. Duration. The effective date of this Agreement shall be the date last signed below, and it shall remain in effect for an initial term ending on January 1, 2039. Thereafter, this Agreement shall automatically extend upon the same terms and conditions for five-year terms, unless and until terminated as provided herein.

2. Termination.

- a. Termination may be accomplished only by:
 - i. Mutual written agreement of Redmond and Kirkland;
 - ii. Termination by either party upon material breach of this Agreement by the other, provided, that no such termination may be accomplished unless the terminating party notifies the breaching party of its intent to terminate and provides the breaching party with no less than thirty days to cure the breach and avoid termination; or

- iii. Termination by either party without cause, including in the event Kirkland space needs no longer make co-location viable, if such party provides written notice to the other party no later than eighteen months prior to termination.
- b. If this Agreement is terminated by Redmond prior to fulfilment of the terms stated in Part I, Redmond agrees to reimburse Kirkland for the actual direct and related indirect expenses and costs Kirkland incurred for the Project up to the date of termination, including the agreed-upon soft costs amount, as well as the proportional costs of non-cancelable obligations.
- c. If this Agreement is terminated by Kirkland after construction-related payments by Redmond under Section 1 but prior to the end of the initial term, Kirkland will be responsible for reimbursing Redmond a prorated amount of Redmond's construction-related payments related to the Redmond Work, prorated by the number of years remaining in the initial term.

3. Property and Financing. No joint property is being acquired by the parties to this Agreement. The Kirkland fire station real property, building, and fixtures are and will be the property of Kirkland. The City of Redmond will have no joint or other interest in the property, building(s), or any fixtures.

4. Indemnification and Insurance.

a. Kirkland will require the Project Contractor to obtain and keep in force during the term of the Project contract, liability and property damage insurance policies consistent with the City's standard requirements for public works insurance policies.

b. Kirkland is a member of a self-funded, municipal risk pool—the Washington Cities Insurance Authority—that provides contractual liability coverage and liability coverage against claims for injuries to persons or damage to property that may arise from or in connection activities by the member and its employees. Kirkland shall, at all times during the term hereof, carry and maintain its policy with WCIA or obtain and maintain equivalent coverage.

c. Redmond's Insurance.

- i. Redmond is currently insured through a private insurance company carrying liability coverage against claims for injuries to persons or damage to property that may arise from or in connection activities by Redmond and its employees. Redmond agrees to maintain its current types and levels of insurance. Redmond's insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII. The following minimum types and levels of insurance and requirements apply to Redmond:

- 1. Redmond must have and maintain commercial General Liability (CGL) insurance that shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover premises and contractual liability. Kirkland shall be named as additional an insured on Redmond's CGL insurance policy using ISO Additional Insured-Managers or Lessors of Premises Form CG 20 11 or a substitute endorsement providing at least as

broad coverage. Redmond's CGL insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate.

2. Redmond must have and maintain property insurance, which shall be written on an all risk basis. Redmond's property insurance shall be written covering the full value of Redmond's property and improvements with no coinsurance provisions.
 3. Redmond must have and maintain automobile liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident, and automobile physical damage coverage in the amount of the value of the medic unit vehicles located at Fire Station 27.
- ii. In the event Redmond is or becomes a member of a self-funded, municipal risk pool, under chapter 48.62 RCW, that provides contractual liability coverage and liability coverage against claims for injuries to persons or damage to property that may arise from or in connection activities by the member and its employees. Redmond shall provide Kirkland notice and shall thereafter, at all times during the term hereof, carry and maintain its membership with the pool or obtain and maintain equivalent coverage.
 - iii. Redmond shall provide Kirkland with written notice of any coverage or policy cancellation within five business days of their receipt of such notice.
 - iv. Failure on the part of Redmond to maintain the insurance required under this section shall constitute a material breach of lease, upon which Kirkland may, after giving five business days' notice to the Redmond to correct the breach, terminate this Agreement or, at Kirkland's discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid by Redmond to Kirkland on demand.
 - v. Redmond shall provide Kirkland with a risk pool evidence of coverage letter and/or original certificates and a copy of relevant policy language and/or applicable amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing compliance with Redmond's insurance requirements. Redmond shall ensure that it provides Kirkland with updated documents demonstrating its compliance with this Section III(4)(d), particularly with certificates and related documents at the end of each policy period and if Redmond changes insurers.
- d. Kirkland and Redmond hereby release and discharge each other from all claims, losses, and liabilities arising from or caused by any hazard covered by property insurance on or in connection with the Fire Station 27 property or building. This release shall apply only to the extent that such claim, loss, or liability is covered by insurance.
 - e. Kirkland and Redmond agree to defend, indemnify, and hold harmless the other party and their respective elected officials, officers, employees, and agents from any and all claims, judgments, suits, injuries, damages, losses, costs, or other liabilities, including reasonable attorney fees, arising out of and to the extent caused by tortious acts, errors, or omissions that may arise and or omissions of the indemnifying party related to activities under this agreement in connection with its performance under this Agreement. Where such claims, injuries, damages, losses, or suits result from the concurrent negligence of the Parties, the

indemnity, defense, and hold harmless provisions herein shall be valid and enforceable against the indemnifying party only to the extent of the indemnifying party's own negligence.

f. Each of the Parties agrees that its obligations under this Section III(4) extend to any claim, injury, damage, loss, or suit brought by, or on behalf of, any of its employees or agents. For this purpose, each indemnifying party, by mutual negotiation, hereby waives, as respects to the non-indemnifying party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.

g. The obligations of this Section shall survive termination of this Agreement.

5. Dispute Resolution.

a. Negotiation. In the event that any dispute arises between the Parties as to the interpretation or application of any term of this Agreement or as to the validity of any claim made by either Party against the other as a result of this agreement, either Party may make a written request for a meeting between senior representatives of each Party within a reasonable time.

b. Mediation. In the event that the Parties are unable to resolve the dispute through negotiations, the Parties agree to participate in nonbinding, neutral evaluation and mediation at a mutually agreeable location prior to commencing legal action.

- i. *Selection of Mediator.* Upon either Party requesting such mediation by providing written notice to the other, the Parties must attempt to select a neutral person to evaluate and mediate the dispute. Each Party shall promptly disclose to the other any circumstances known by it that would cause justifiable doubt as to the independence or impartiality of any individual under consideration or appointed as a neutral mediator. If, after thirty (30) days, the appointment of a neutral person cannot be made, either Party may terminate the dispute resolution process, or the Parties may agree to an alternative process.
- ii. *Compensation of Mediator.* The neutral mediator's charges shall be established at the time of appointment. Unless the Parties agree otherwise, the fees and expenses of the neutral mediator shall be divided equally, and each Party shall bear its own costs and expenses.
- iii. *Confidentiality.* The dispute resolution process identified in this paragraph is a compromise negotiation for purposes of judicial rules of evidence. The Parties agree to maintain in confidence all offers, promises, conduct, and statements, oral or written, made in the course of the mediation by either of the Parties, their agents, employees, experts, representatives or attorneys, or by the neutral mediator, and agree that the same shall be deemed negotiations in pursuit of settlement and compromise and not admissible or discoverable in subsequent legal proceedings pursuant to Washington Evidence Rule 408. The neutral mediator shall be disqualified as a trial or deposition witness, consultant, or expert of either Party.

c. In the event that the Parties are unable to resolve the dispute through the processes established in this Section III(5), the Parties reserve any and all other rights and remedies available to each of them regarding such dispute.

6. Administration. This Agreement shall be jointly administered by the Fire Chiefs of Kirkland and Redmond or their designees.

Designated Representatives; Notices and Communications. All notices required by this Agreement and other formal communications shall given in writing and be mailed or delivered to the appropriate designated representatives at the addresses below. The designated representatives of the Parties shall be the following employees, or their designees:

Kirkland:
Joe Sanford
Fire Chief
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033
jsanford@kirklandwa.gov

Redmond:
Adrian Sheppard
Fire Chief
City of Redmond
8450 161st Ave NE
Redmond, WA 98052
asheppard@redmond.gov

With copy to: Lee Ann Skipton
Facilities Manager
lskipton@kirklandwa.gov

Jim Whitney
Medical Services Administrator
jwhitney@redmond.gov

The Parties may change their respective designated representatives by written notification to one another.

7. Severability. If any section, sentence, clause, or phrase of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall be deemed stricken and shall not affect the validity or enforceability of any other section, sentence, clause, or phrase. Unless such stricken provision goes to the essence of the consideration bargained for by a party, all remaining provisions shall continue to be valid and binding upon the parties, and the parties agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8. No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

9. Entire Agreement. This Agreement constitutes the final and entire agreement and understanding between the parties concerning the water main intertie supersedes all prior agreements and understandings. This Agreement may be amended only by a written instrument signed by both parties. This Agreement may be signed in counterparts, and, if so signed, shall be deemed one integrated document.

10. Waiver. Waiver of any default or breach of this Agreement shall not be deemed to be a waiver of any other prior or subsequent default or breach and shall not be construed to be a

modification of the terms of this Agreement, unless stated to be such through written agreement of both Parties.

11. Effective Date. It shall be effective on the last date signed below.

CITY OF KIRKLAND

CITY OF REDMOND

Beth Goldberg, Deputy City Manager

Angela Birney, Mayor

Dated:_____

Dated:_____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Kirkland City Attorney

Redmond City Attorney