

AGREEMENT FOR BATTALION CHIEF SERVICES

THIS AGREEMENT is entered into by and between CITY OF ARLINGTON, a municipal corporation, hereinafter referred to as "City," and the MARYSVILLE FIRE DISTRICT, the combined fire departments of Snohomish County Fire Protection District No. 12 and the City of Marysville, hereinafter referred to as "MFD."

1. **PURPOSE/ AUTHORITY.** MFD maintains and operates a full-service fire and EMS department. MFD command structure includes the utilization of Battalion Chiefs. City has a need for Battalion Chief services and MFD has the ability, subject to the limitations set forth herein, to supply the needed services to City. This Agreement sets forth the terms and conditions under which the needed services will be provided. Chapter 39.34 RCW the Interlocal Cooperation Act provides authority to enter into such agreements and Chapter 10.93 RCW authorize the mutual aid of officers to enforce traffic and criminal laws of the state throughout the territorial boundaries of the State of Washington.
2. **TERM.** This Agreement shall be effective July 1, 2019 and shall terminate June 30, 2020. This Agreement may be renewed by mutual written agreement of the parties.
3. **BATTALION CHIEF SERVICES.**
 - a. **Dispatched Services.** MFD shall furnish Battalion Chief services as requested by the City within the geographical boundaries of City and within such other areas as the City has agreed to provide mutual aid. Said services shall be rendered on the same basis as such services are rendered within MFD, but the MFD assumes no liability for failure to provide such services by reason of any circumstances beyond its control. In the event of simultaneous emergency calls, whether within or outside of City whereby the MFD on-duty Battalion Chief is taxed beyond his or her ability to render services, or if in the sole discretion of MFD a Battalion Chief is otherwise not available, MFD shall not be required to provide the services referenced herein. This agreement shall not prevent City from contracting with other agencies who are capable of providing Battalion Chief services by mutual aid or otherwise, in the event MFD is unable to respond or where response from another agency may be beneficial to the City.
 - b. **Non-Dispatched Services.** "Upon giving reasonable written notice to MFD, the City may request additional Battalion Chief services for situations not involving an emergency dispatch. MFD may provide either an on-duty Battalion Chief or off-duty Battalion Chief for such situations. Examples of such situations may include training, special events, meetings, post incident analysis, etc. If an on-

duty Battalion Chief is available without a need for backfill as determined as the sole discretion of MFD, the rate per hour shall be \$150, including travel time from the MFD station to the City and back. If the Battalion Chief is off-duty, or if Battalion Chief backfill is deemed necessary, the rate per hour shall be \$150 plus the additional cost to MFD in overtime above the employee's normal hourly rate. The provision of services non-emergency Battalion Chief services shall be in the discretion of MFD and on an as - available basis."

4. **EQUIPMENT AND PERSONNEL.** In providing the services, it is the intent of the parties that all equipment and supplies necessary for the Battalion Chief to provide services shall be provided by MFD.
5. **PAYMENT FOR SERVICES.** City agrees to pay the MFD for the services provided under this Agreement on the following basis:
 - a. The fee for Battalion Chief services shall be \$150 per hour with a one hour minimum per dispatch. MFD will provide ninety (90) days' written notice of any changes in the established fee for service.
 - b. Time shall be calculated from the time of dispatch from MFD to the time of return to duty to MFD.
 - c. For off duty non dispatched services \$150 per hour plus the additional cost to MFD in overtime above the employee's normal hourly rate.
6. **BILLING SERVICES.** MFD shall provide City with an invoice on a quarterly basis. Said invoice shall be payable within thirty (30) days of receipt by City.
7. **REPORTS.** MFD agrees to provide City with a copy of all records and reports indicating the number and nature of Battalion Chief responses by the MFD within the City that occur during the term of this Agreement, on not less than a quarterly basis.
8. **ADMINISTRATION OF AGREEMENT.** The MFD Fire Chief or his designee shall provide for the principal administration necessary to supervise the services provided under this Agreement. The written policies and procedures of MFD shall apply to the on duty Battalion Chief when providing services to the City. The MFD shall provide City with copies of all written policies and procedures and shall provide written notification of any material changes of such policies and procedures within seven (7) calendar days of such changes.

9. **AUTHORIZATION TO USE PERSONNEL; CONDITIONS.**

- a. The City and MFD each hereby authorize the utilization of the on-duty MFD Battalion Chief for the performance of Battalion Chief services to the City under the terms and conditions of the Agreement.
- b. Each party agrees that all MFD Battalion Chiefs will at all times remain the full-time employee of MFD.
- c. CITY agrees to compensate MFD for the use of Battalion CHIEF as set forth in Section 5 of this agreement.
- d. Each party agrees that while Battalion Chief services are being provided by MFD to the City the Battalion Chief will be under the direct supervision of the MFD Fire Chief or designee.

10. **REVIEW AND EVALUATION OF SERVICES.** Upon request by the City, MFD shall periodically provide scheduled sessions with City Command staff, Chief or designee(s) to review and evaluate the services provided under this Agreement.

11. **CONDUCT AND DISCIPLINE.**

- a. While acting as Battalion Chief for the CITY the Battalion Chief shall familiarize him/herself with the policies and procedures of CITY. Such policies and procedures shall be applied to all City employees when the MFD Battalion Chief is providing services to the City. MFD policies and procedures will apply to the MFD Battalion Chief.
- b. If potential disciplinary action against a MFD Battalion Chief arises out of an incident while providing services to the CITY. the City may request that a Battalion Chief be removed from service to the City. Only the MFD may take disciplinary action against a Battalion Chief under this Agreement. Each party will cooperate fully in the investigation of any disciplinary matter and while the CITY may recommend disciplinary action to MFD, the CITY shall have no right to subject a MFD Battalion Chief to disciplinary action.

12. **INSURANCE.** The MFD and the City each agree to maintain insurance coverage with limits and coverages as provided through the Washington Cities Insurance Authority and/or such other commercial carrier as the parties shall agree. City shall maintain adequate insurance coverage acceptable to MFD for its own equipment and personnel which shall include general liability, errors and omissions, and property damage for its personnel and vehicles. Upon request, the City shall provide proof of such insurance to MFD prior to commencement of this Agreement.

13. **LIABILITY, INDEMNIFICATION AND DEFENSE OF THIRD-PARTY CLAIMS.**

- a. The parties agree that ultimate financial liability for the errors and omissions of a MFD Battalion Chief arising from performance of this Agreement shall belong to the City.
- b. **HOLD HARMLESS.** The CITY, who has requested services under this Agreement agrees to save, hold harmless indemnify and defend MFD and its officers, officials, employees and elected officials from any loss, claim or liability arising from or out of the errors and omissions of MFD employees while providing Battalion Chief services under this Agreement.
- c. **NOTHING HEREIN SHALL REQUIRE OR BE INTERPRETED TO:**
 1. Waive any defense arising out of RCW Title 51.
 2. Limit or restrict the ability of either party to exercise any right, defense or remedy which a party to a lawsuit may have with respect to claims or third parties, including, but not limited to, any good faith attempts to seek dismissal or legal claims against a party by any proper means allowed under the civil rules in either state or federal court.
 3. Cover or require indemnification or payment of any judgment against any individual or party for intentionally wrongful conduct outside the scope of employment of any individual or for any judgment for punitive damages against any individual or city. Payment of punitive damage awards, fines or sanctions shall be the sole responsibility of the individual against whom said judgment is rendered and/or his or her employer, should that employer elect to make said payment voluntarily. This agreement does not require indemnification of any punitive damage awards or for any order imposing fines or sanctions.

14. **MODIFICATION.** This Agreement represents the entire agreement between the parties. No change, termination or attempted waiver of any of the provisions of this Agreement shall be binding on either of the parties unless executed in writing by authorized representatives of each of the parties. The Agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties.

15. **ASSIGNMENT.** In the event the City of Marysville, Fire District 12 or Marysville Fire District merges, consolidates or forms a Regional Fire Authority or other separate entity, this Agreement may be assigned and transferred to the new entity in the sole discretion of MFD upon the written acceptance of such assignment or transfer by the new entity. In the event such assignment or transfer is not accepted, this Agreement may be terminated upon giving not less than thirty (30) days written notice.

16. **PUBLIC RECORDS.** MFD will respond to public records requests relating to records in the possession of MFD resulting from performance of services by MFD under this Agreement. All other public records requests will be the sole responsibility of City. City agrees to save, hold harmless indemnify and defend MFD, its officers, agents, employees and elected officials from and against all costs, claims, lawsuits and liability resulting from MFD's response to public records requests pursuant to this agreement.
17. **NO THIRD-PARTY BENEFICIARIES.** This Agreement is for the benefit of the signatory Parties only and no other person or entity shall have any rights whatsoever under this Agreement as a third-party beneficiary.
18. **INTEGRATION.** This Agreement constitutes the entire agreement and understanding between the Cities concerning the subject matter herein and shall supersede all prior agreements, oral or otherwise.
19. **GOVERNING LAW AND VENUE; ATTORNEYS' FEES.** This Agreement shall be governed by the laws of the State of Washington. The venue for any action arising out of this Agreement shall be the Superior Court for Snohomish County, Washington. The substantially prevailing party in any such action shall be entitled to an award of its reasonable attorneys' fees.
20. **POSTING; RECORDING.** This Agreement shall be effective upon posting on the MFD or City of Arlington Website or recording with the Snohomish County Auditor's office pursuant to RCW 39.34.040.
21. **SIGNATORY WARRANTY.** Each signatory hereto warrants and represents that he/she has been authorized to execute this Agreement by appropriate action of the legislative body of his/her respective public entity.
22. **EXECUTION IN COUNTERPARTS.** This Agreement may be executed in separate counterparts.
23. **SEVERABILITY.** Should any clause, phrase, sentence or paragraph of the Agreement or its application to any party or circumstance be declared invalid or void by a court of competent jurisdiction, the remaining provisions of this Agreement and/or their application to other parties and circumstances, not declared invalid or void, shall remain in full force and effect.

DATED this 21 day of August, 2019.

CITY OF ARLINGTON

By Barbara Tolbert
Barbara Tolbert, Mayor

MARYSVILLE FIRE DISTRICT

By Martin McFalls
Martin McFalls, Fire Chief

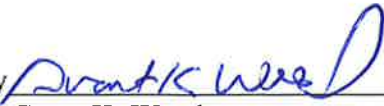
Approved as to Form:

By  _____
Steven J. Peiffle, City Attorney

Attest:

By  _____
Wendy Van Der Meersche, City Clerk

Approved as to Form:

By  _____
Grant K. Weed
Attorney for Marysville Fire District

Attest:

By  _____
Secretary to the Board