

**SERVICE AGREEMENT**  
between  
**CITY OF BATTLE GROUND**  
and  
**CLARK COUNTY FIRE & RESCUE**

This Agreement is made and entered into this 20<sup>th</sup> day of December, 2010, by and between the **CLARK COUNTY FIRE & RESCUE**, hereinafter referred to as "District," and the **CITY OF BATTLE GROUND**, hereinafter referred to as "City," both Municipal corporations created and existing under the laws of the State of Washington.

**WHEREAS**, the District presently furnishes certain basic fire protection services within its boundaries, including fire suppression, rescue, hazardous material spill response, fire vehicle maintenance, fire prevention, pre-fire inspections, public education and emergency life support services as well as the administrative services necessary to support said programs; and,

**WHEREAS**, The City desires to contract for essential fire fighting, emergency medical and fire protection services for the City of Battle Ground; and,

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

**WHEREAS**, the parties desire to provide for a more economical and efficient means of providing fire fighting and fire protection services within the respective jurisdiction boundaries of each party by maximizing the use of their personnel, facilities and equipment;

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

1. **TERM:**

The term of this Agreement shall be for a period of six (6) years, commencing on January 1, 2011, and ending on the 31st day of December, 2016, unless said term shall be extended by mutual agreement or terminated as outlined in Section 15.

2. **SERVICE AREA:**

The services contracted for herein shall be provided within the corporate limits of the City of Battle Ground, State of Washington.

3. **THE CITY SHALL:**

- a. Pay to the District compensation based on a formula calculated by multiplying the *assessed value* (AV) of all properties lying within the City by the following rates:

<u>Effective Date</u>	<u>Annual Rate per \$1,000/AV</u>	<u>Quarterly Payment</u>
01-01-11	AV x \$1.05	25%
01-01-12	AV x \$1.20	25%
01-01-13	AV x \$1.35	25%
01-01-14	AV x \$1.50 *	25%
01-01-15	AV x \$1.50 *	25%
01-01-16	AV x \$1.50 *	25%

\*The rate shown represents the highest rate possible. The actual rate may be lower based on the overall assessed value of properties within the District.

*Assessed value* shall be the "regular" assessed valuation established annually by the Clark County Assessor's Office.

- b. The current economic conditions have resulted in property devaluations in the last two years causing the tax rate per thousand to rise while actual dollars collected in Battle Ground remain the same. This in effect negates some of the efforts to reach parity between the District and the City. The result is that the City will collect the same amount of money but will pay a smaller share to the District than was originally intended.

To address the potential continued drop of assessed value the city agrees that:

In addition to any new construction or annexations of property not currently in the District, the increase in payments from 2011 to 2012 shall not be less than the 2010 valuation of \$1,265,186,616 times the increased rate as outlined in Section 3.a above.

In addition to any new construction or annexations of property not currently in the District, the increase in payments from 2012 to 2013 shall not be less than the 2010 valuation of \$1,265,186,616 times the increased rate as outlined in Section 3.a above.

- c. In addition to the quarterly compensation payments specified in Section 3(a) above, periodic payments may be made to the District under the following terms and conditions:

(1) Regulatory Mandates.

Compensation to the District for implementation of federal, state or local mandatory regulations shall be determined by negotiation. Unless otherwise agreed, and wherever practical, the District shall present to the City alternative methods of implementing the mandated changes within the City's service area and their estimated costs. The effective date for compensation under this section shall be the date the provisions of said regulations are implemented by the District.

(2) Annexations of Real Properties Out of the District

Compensation to the District for real property annexations that result in a loss of property tax revenue to the District shall be compensated at the same rate per thousand dollars of assessed value that the District is assessing to said property with the intent of *making the District whole* and shall be calculated on the difference between the District's regular rate per AV and the rate being paid by the City. Example: (2013 City rate = \$1.35, 2013 District rate = \$1.50 ( $\$1.50 - \$1.35 = .15$  balance per \$1,000 AV due District for annexed properties)). Compensation to the District under this provision shall be calculated on all property annexed out of the District into the City from 2005 to present and for years 1, 2 and 3 of this Agreement. This additional compensation will not apply once the compensation formula reaches parity with the rest of the District as anticipated in years 4, 5 and 6 of this Agreement.

- d. Provide and make available to the District for its use any City-owned fire vehicles and equipment. At a minimum the City agrees to provide two Class 'A' engines for the District's use during the term of this agreement and any additional vehicles and equipment purchased as part of the Fire Capital Facilities Plan. Routine maintenance and upkeep on said vehicles will be the responsibility of the District. Replacement of said vehicles will remain the responsibility of the City.

All City-owned and District-owned fire vehicles customarily housed at the Battle Ground Fire Complex will be labeled with the Battle Ground identity clearly visible.

- e. Agree to continue to impose and collect its fire impact fee. The City shall have the discretion to use said funds toward those items identified in the Fire Capital Facilities Plan as adopted by the City Council or to transfer the funds to the District for the purchase of those items.
- f. Furnish without charge such quantities of water and the use of fire hydrants as the District may require or be able to use in its fire fighting and

training operations within the City, whenever and so far as such water is available from the City's water system.

- g. Give the District written notice at least ninety (90) days in advance of any proposed changes in its ordinances, laws or regulations which would significantly affect the District's ability to provide the services set forth herein or which would substantially increase or change the level of services required. It is further agreed that the City will allow the District to review and provide input on any and all construction and development projects that may affect the District's ability to provide the services set forth herein.
- h. Notify the District by telephone in the event the City shall make any changes in the road or street network within the City, shall temporarily or permanently close any road or street to vehicular traffic or shall become aware of any changes or interruptions in the water service to any area within the City.

**4. THE DISTRICT SHALL:**

- a. Respond to all fire, hazardous material, and lifesaving related alarms within the City, provide fire prevention, pre-fire inspection, community services and such other usual and customary services as are provided within the District. It is the intent of the District to staff the Battle Ground Station with a combination of paid and volunteer personnel in a similar manner as its other fire stations. The District agrees to work cooperatively with the City to maintain an ISO protection class rating of five (5) for the City. It is specifically understood and agreed by the City that the District may, in responding to specific incidents or requests for assistance, rely on support provided through mutual aid or interlocal cooperation agreements in addition to its own personnel, vehicles and equipment.
- b. The City recognizes that the area covered by this Agreement is located outside of the boundaries of the District. The District makes no guarantee or assurance of providing responses within any specific period of time or of the number or types of equipment and number of personnel that will respond at any particular emergency. The duty of the District to provide emergency services under the provisions of this Agreement is a duty owed to the public generally and by entering into this Agreement, the District does not incur a special duty to the City, the property owners, residents or occupants of the Service Area.
- c. Agree that during the term of this agreement, all emergency medical services and fire protection services supplied by the District, and the vehicles and personnel used to supply such services will, subject to budgetary limitations,

meet the statutory and regulatory requirements set forth in Chapter 18.71, 18.73 and 296-305 RCW and Chapter 246-976 WAC.

- d. Insure for replacement value and provide regular upkeep and maintenance for any City-owned vehicles and equipment that may be in the care and custody of the District.
- e. Agree to discuss with the City, prior to implementation, any operational changes or new programs, which may impact future costs of fire service to the City.
- f. Maintain suitable records of all services provided herein (including monthly maintenance records on City-owned vehicles and equipment) and all inspections performed in accordance with the Agreement in accordance with the applicable Washington State Department of Archives record retention schedule. All such records shall be available for inspection or audit by the City or its authorized agent, upon reasonable notice, during the District's regular business hours.

**5. USE OF EQUIPMENT:**

It is mutually understood and agreed that the fire fighting vehicles and equipment owned by the District and the City will be used both within the City, within the District, and for automatic response and mutual aid on a non-exclusive basis.

**6. CITY STATION FACILITY:**

The fire station owned by the City of Battle Ground shall remain the property of the City. The District shall have full use of the current fire station and shall maintain said station and grounds in a neat and orderly manner. The District will provide for minor, routine maintenance of the facility.

The City shall provide for major repairs of the facility that might be required during the term of the Agreement or any extensions thereof. The City also agrees to provide, at no cost to the District, water, electric, sewer, garbage and telephone service to said facility. The City agrees that replacement of the roof may be necessary during the term of this Agreement and that the City will be responsible for the cost of its repair or replacement. No other major repairs have been identified. However, it is further agreed that additional space will be needed by the District for day-to-day operations during the term of this Agreement.

The City further agrees to fund a remodel of the station as soon as practical utilizing current monies in the fire impact fee fund and any fire impact fees collected between now and the end of 2013, and any other monies if needed to finance the remodel. The cost of said remodel is currently estimated to be \$350,000-\$400,000.

**7. PROPERTY OWNERSHIP:**

All property presently owned or hereafter acquired by the District to enable it to perform the services required under this Agreement, shall remain the property of the District in the event of the termination of this Agreement. All property presently owned or hereafter acquired by the City to enable it to perform the services required under this Agreement, shall remain the property of the City in the event of the termination of this Agreement.

**8. FUTURE CAPITAL NEEDS:**

After compensation by the City reaches parity with the District in 2014, future fire capital needs will be funded by the District. The City agrees to continue collecting fire impact fees and will allow the District to spend said fees on fire capital items as the District deems necessary and as identified in the Fire Capital Facilities Plan adopted by the City.

The City further agrees to work with the District in identifying grants and other funding sources or additional fees directly tied to large commercial developments to assist the District's purchase of Fire Capital needs that directly benefit the City. In the case of additional fees associated with large commercial developments, the District will work closely with the City to identify which projects qualify and an equitable amount based on size and the impacts on emergency services.

**9. PERSONNEL:**

During the term of this contract, staffing at the Battle Ground Station will be determined by the District Fire Chief, in consultation with the City Manager, based upon acceptable industry standards. Staffing levels will be sufficient to provide the services identified in this agreement.

**10. INDEMNIFICATION/HOLD HARMLESS AGREEMENT:**

Each of the parties agrees that, insofar as it is authorized to do so, from time to time, under the laws of the State of Washington, it will protect, save and hold harmless the other party from all claims, costs, damages, or expenses arising out of the negligence of its agents, employees, servants, or representatives, in connection with acts performed in accordance with the terms of this Agreement.

The parties further agree that in the case of negligence by both, any damages, costs, or other expenses allowed shall be levied in proportion to the percentage of negligence attributable to each party.

The District will indemnify the City for any obligations that may arise out of failure of the District to provide benefits to District's employees under the State

Retirement System, except any claims or causes of actions that arose prior to the effective date of this Agreement.

**11. LIABILITY INSURANCE:**

During the term of this Agreement, the District shall provide the City with a certificate of insurance providing property damage, collision and liability insurance coverage for all fire and medical service vehicles and equipment owned by the City and operated by the District. Coverage for damage to vehicles will be for replacement cost. The District further agrees to provide insurance coverage covering the actions of personnel of the District. Said certificate of insurance will indicate the limits of liability indemnification and the coverage period.

The City agrees to provide insurance coverage for the facilities owned by the City and used by the District. Fire and medical service vehicles owned or operated by the District but located within the station shall be insured by the District.

**12. ENFORCEMENT OF CODES:**

The City agrees, during the term of this Agreement or any extensions thereof, to enact and enforce building and fire codes at a level at least equal to the codes and enforcement provided by Clark County within the area of Clark County served by the District. The City further agrees to use its best efforts to prepare and enact suitable water and hydrant codes.

It is acknowledged by the parties that the District has assumed no duty to provide code enforcement building inspection services that might be required under the Uniform Fire Code or any ordinance of the City. It is further acknowledged that the parties recognize the District, by statute, has no authority or duty to enforce any provisions of such code or to enforce any ordinances of the City. However, the City and District recognize the importance of the District to provide fire department input on hydrant placement, fire department access, and input directly affecting the District's ability to provide services under this Agreement. To this end, both parties agree to work in concert wherever possible on the above identified fire code issues.

**13. DEFAULT:**

Failure by either party to perform its obligations under the terms and conditions of this Agreement shall be deemed a breach and shall entitle the other party to declare a default.

Should either party file suit, commence any other legal or equitable proceeding against the other for breach of this Agreement or should arbitration proceedings

be commenced, the prevailing party shall be entitled to recover all of its expenses, including attorney's fees, court costs and arbitration expenses in addition to any damages or other judgement allowed.

14. **WAIVER:**

Failure by either party to strictly enforce any provision hereof or to declare a breach shall not constitute a waiver thereof, nor shall it waive said party's right to demand strict performance of that or any other provision of this Agreement at any time thereafter.

15. **CONTRACT RENEWAL:**

Eighteen (18) months prior to the expiration of this Agreement, the District shall provide the City with a proposal for renewal of this Agreement which includes a six (6) year comprehensive plan for services to be provided to the City as defined in Article 4 (a) above and the cost of providing said services to the City. Negotiations for renewal of this Agreement shall commence not later than twelve (12) months prior to the expiration of this Agreement.

It is further agreed that both parties will continue to explore the formation of a Regional Fire Authority (RFA).

16. **ENTIRE CONTRACT:**

This instrument constitutes the entire agreement between the parties and supersedes all prior agreements. The parties further acknowledge that any oral representations or understandings not included herein are excluded and agree that any modification of this Agreement shall have no force or effect unless in writing signed by both parties.

17. **TERMINATION:**

This Agreement may be terminated by either party when that party gives notice to the other party in writing at least twelve (12) months prior to its intended withdrawal from this Agreement. In the event the City annexes into the District prior to the expiration of this Agreement, or the City becomes a part of a Regional Fire Authority (RFA), this Agreement shall remain in effect until the 31st day of December of the year preceding the year the District or RFA begins collecting taxes.

18. **SEVERABILITY:**

Should any portion, clause, term, article or other provision of this Agreement be declared invalid, illegal, void or otherwise unenforceable by a court of competent jurisdiction, the validity of the remaining sections shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular clause or provision held to be invalid.

19. **BENEFITS:**

This Agreement is entered into for the benefit of the parties to this Agreement only and shall confer no benefits, direct or implied, to any third persons.

20. **NOTIFICATION:**

Any notices required to be given pursuant to the provisions of this Agreement shall be given in writing by certified mail, return receipt requested, by enclosing said notice in a postage prepaid envelope addressed as follows:

To the District:  
Clark County Fire & Rescue  
911 N. 65<sup>th</sup> Avenue  
Ridgefield, WA 98642

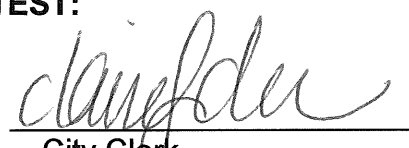
To the City:  
City of Battle Ground *h*  
109 SW 1<sup>st</sup> Street, 2<sup>nd</sup> Floor *Suite 221*  
Battle Ground, WA 98604

**APPROVED** by the City Council and signed by the City Manager of Battle Ground this 20<sup>th</sup> day of December, 2010.

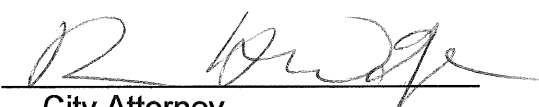
**CITY OF BATTLE GROUND**

By:   
City Manager

**ATTEST:**

By:   
City Clerk

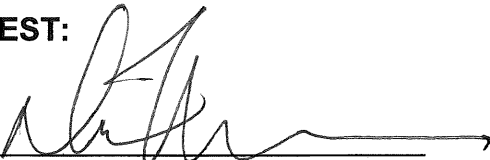
Approved as to form:

By:   
City Attorney

**APPROVED** by the Commissioners of Clark County Fire & Rescue  
and signed by the Chair this 22<sup>nd</sup> day of December, 2010.

**CLARK COUNTY FIRE & RESCUE**

By:   
Board Chair

**ATTEST:**  
By:   
Secretary