

APPENDIX H

PERSONAL CELLULAR PHONE AGREEMENT

This agreement is entered into between the City of Mill Creek, hereinafter referred to as the "City" and \_\_\_\_\_, hereinafter referred to as "Employee," on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

WITNESSETH:

WHEREAS, the City desires to provide the tools to help contact employees under a variety of normal and emergency conditions; and

WHEREAS, many employees have indicated a desire for the City to obtain cellular service; and

WHEREAS, the law and the cellular supplier provides the opportunity to meet the needs expressed by both the City and the employees;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, the parties hereto agree as follows:

A. THE EMPLOYEE SHALL:

1. Acknowledge their status as an emergency worker.
2. Agree to assume full responsibility for any and all costs associated with cellular phone service and pay said costs promptly.
3. Pay for any installation charges and any equipment needed, which will remain the property of the employee.
4. By signing this agreement, be deemed to authorize the withholding of funds from the employee paycheck, any amount necessary to pay for charges the City incurs as a result of this contract.
5. Authorize, in the event the relationship between the employee and the City is terminated, the City, to withhold any and all of the employee's final reimbursement or paycheck until such a time as the City is notified by US West Cellular that all charges and obligations for service have been paid in full.

6. Fully indemnify, release and hold harmless the City for any monetary costs or claims of any nature arising out of this cellular telephone program.

**B. THE CITY SHALL:**

1. Authorize this individual to be on this plan.
2. Authorize billing and be the responsible party of record for cellular telephone service through US WEST Cellular.

**C. TERM:**

The term of Agreement shall begin on \_\_\_\_\_, 19\_\_\_\_, and shall automatically renew annually unless terminated according to the provisions herein.

**D. TERMINATION:**

1. Termination of Convenience. Upon mutual agreement, either party may terminate the Agreement immediately with written notice to the other party. The City may terminate this agreement by notifying US WEST Cellular that the employee number is no longer authorized to participate in the program, followed by written notice to the employee.
2. Termination for Cause. If the employee fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any provisions of the Agreement, or if the employee fails to participate actively with the City, or if the employee does not maintain an acceptable performance evaluation, the City may terminate this Agreement. Termination shall be effected by notifying US WEST Cellular that the employee's number is no longer authorized to participate in the program, followed by written notice to the Employee.

**E. ATTORNEY'S FEES AND COSTS:**

If any legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the City shall be entitled to recover from the employee, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and costs incurred in that action or proceeding.

F. JURISDICTION:

1. The Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance.
2. Any action of lawsuit in equity or judicial proceeding for the enforcement of this Agreement or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Snohomish County, Washington.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first written.

CITY

EMPLOYEE

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