

**INTERLOCAL AGREEMENT
BETWEEN
SNOHOMISH COUNTY FIRE DISTRICT NO. 21
AND
CITY OF ARLINGTON
FOR
MAINTENANCE SECURITY AGREEMENT**

THIS MAINTENANCE SECURITY AGREEMENT (the "Agreement") is made and entered into in this 11 day of October, 2021, by and between **SNOHOMISH COUNTY FIRE DISTRICT NO. 21**, a Washington municipal corporation (the "District") and the **CITY OF ARLINGTON**, herein referred to as the "City." The District and the City are individually a "Party" and collectively the "Parties."

WHEREAS, the District is in the process of designing and constructing a fire station located at 17827 McElroy Road, Arlington, Washington, Snohomish County Assessor Parcel No. 310619-003-013-00 (the "Fire Station");

WHEREAS, the District proposes to install a twelve-inch (12") diameter water line to connect the Fire Station to the City's public water system (the "Extension");

WHEREAS, the District and the City have executed a Developer Extension Agreement ("DE Agreement") providing for the terms, conditions and allocation of costs related to the Extension, and the transfer of the water line and connected facilities to the City;

WHEREAS, the City is a "water purveyor" and the Fire Station and Extension are located within the City's "service area", as those terms are defined in the Public Water System Coordination Act – Chapter 70A.100 RCW;

WHEREAS, the Fire Station and Extension are located in Snohomish County (the "County") and the construction approvals and permits necessary for the construction of the Fire Station is subject to review and approval of the County but the City approves construction drawings relating to the city water utility;

WHEREAS, the District has provided the City with the District's Civil Construction Plan set for the Extension sealed by John Smith, P.E. (the "Engineer of Record"), as depicted on the plans attached hereto as **Exhibit A** (the "Approved Plans");

WHEREAS, the Arlington Municipal Code - AMC 13.04.230 requires any developer who installs, repairs, or replaces public water systems provide to the City a maintenance security to cover the costs of replacing or repairing any of the public improvements installed and dedicated to the City;

WHEREAS, the City's Municipal Code – AMC 13.04.230 requires a maintenance security in the amount of twenty percent (20%) of the documented final costs of the improvement, which in this case is the Extension;

WHEREAS, the City's Municipal Code and the City Engineering Standards permit the City to accept this Agreement to satisfy the City's maintenance security requirements if approved by the City Finance Director in consultation with the City Attorney; and

WHEREAS, the District and the City enter into this Agreement to provide an enforceable contractual assurance for performance of the District's maintenance security obligations related to the Extension.

NOW, THEREFORE, in consideration of the mutual obligations and benefits herein, the Parties agree as follows:

1. **Maintenance Obligation of District.** The District shall:

- a. Furnish all labor, equipment and materials necessary to perform and complete all work on the Extension in a good and workmanlike manner according to the Approved Plans.
- b. In the event the Extension does not meet established performance standards set forth in the Approved Plans, the City will require that the Engineer of Record establish and oversee measures that shall be implemented to ensure that the aforementioned applicable Approved Plans are met.
- c. If it is found that the construction of any of the Extension has not met the Approved Plans, the District shall be responsible for any needed improvements to comply with the Approved Plans, including all costs associated with corrective measures.
- e. The City retains the right to extend the maintenance activities that the District is responsible for if the construction is not completed according to the Approved Plans at the end of the two (2)-year maintenance period provided in AMC 20.12.870.

2. **Term.** The District agrees to abide by the terms of this Agreement for the full term of the two (2) – year maintenance period, unless such period is extended by the City as provided for in this Agreement. At the end of the two (2)-year maintenance period, a City Public Works representative will provide an inspection of the facilities contained in this Agreement. The City will provide all necessary corrections in writing, and the District shall be fully responsible to correct any deficiencies found to not be in conformance with the Approved Plans.

a. Release of this Agreement at the end of the two (2)-year maintenance period will not be made without the written approval of the City Public Works Director.

b. Non-performance of the maintenance and repair(s) work (the "Work") as required within this Agreement shall be promptly performed by the District upon receipt of written notice from the City directing the performance of such Work. Prompt response by the District includes, but is not limited to, the District's good faith and diligent pursuit of a warranty claim against the District's third-party contractor within thirty (30) calendar days of notice from the City. If, following the City sending the District seven (7)-calendar day notice of the need to perform Work, the District fails to commence such Work, respond to the City with a plan to commence such Work, or pursue a warranty claim, the City may perform the work at the expense of the District. In the event of an emergency, the City may, after delivery of written notice to the District of such emergency condition and the District's failure to reasonably and timely respond, commence such Work at the cost of the District. For the purposes of this Agreement, "emergency" is defined as any circumstances which create an immediate danger to life or property if left unaddressed.

3. **Indemnification.** The City shall not, nor shall any officer or employee of the City, be liable or responsible for any accident, loss or damage happening or occurring to the work specified in this Agreement prior to the completion of approval hereof, nor shall the City or any officer or employee thereof be liable for any persons or property injured by reason of the acts or omissions of the District, its agents or employees in the performance of the work, and all of said liabilities are assumed by the District. The District agrees to protect, defend and hold harmless the City and the officers and employees thereof from all loss, liability or claim because of or arising out of the acts or omissions of the District, or its agents and employees, in the performance of this Agreement, except to the extent of the City's sole negligence. In the event of Claims that are caused by or results from the concurrent negligence of (1) the City or its officers, officials, employees, agents and volunteers, and (2) the District, its officers, officials, employees, agents and volunteers, this defense and indemnity provision shall be enforceable only to the extent of the District's and its officers', employees', agent's or volunteers' intentional misconduct or negligence in the performance of this Agreement. In the event that the City elects to defend itself against any claim or suit arising from any injury, death, or damage, the District, in addition to providing indemnification and holding the City harmless as set forth above, shall indemnify the City for all expenses incurred by the City in defending such claim or suit, including reasonable attorney fees.

4. **Modification to Scope of Work.** It is further agreed by and between the Parties hereto that, in the event it is deemed reasonably necessary to modify the scope of work on the Extension or extend the time of completion of the work on the Extension contemplated to be done under this Agreement and/or the Approved Plans, such modifications or extensions of time may be made by the City Director of Public Works either at his/her own option or upon request of the District, and such modification or extension shall in no way affect the validity of this Agreement. The District further agrees to maintain in full force and effect the terms of this Agreement, including any modifications or extensions of time as may be made.

5. **Severability.** It is understood and agreed by the District that if any part, term, or provision of this Agreement is by the courts held to be unlawful and void, the validity of the remaining portions shall not be affected and the rights and obligations of the Parties shall be constructed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

6. **Notice and Representatives.** The Parties designate the following persons as their representatives for this Agreement. All notices, demands, requests, consents, and approvals that may be required to be given shall be in writing and directed to:

CITY OF ARLINGTON:

DISTRICT:

7. **Independent Governments; No Liability.** Each Party is and shall remain an independent government. This Agreement does not create a partnership or other similar

arrangement. The Parties shall not be liable for the acts or omissions of the other Party or their respective public officials, employees, or agents.

8. **Term of Agreement.** Except as may be otherwise stated herein, the term of this Agreement shall commence upon execution by both Parties and shall continue for a period of two (2) years, unless extended as provided herein, or unless canceled by mutual agreement of the Parties.

9. **Amendment.** No modification or amendment of this Agreement may be made except by a written document signed by both Parties.

10. **Counterparts and Electronic Transmission.** This Agreement may be signed in counterparts. Electronic transmission of any signed original document, and retransmission of any signed electronic transmission shall be the same as delivery of an original document.

11. **Governing Law.** This Agreement, and the right of the Parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington, and the Parties agree that, in any such action, jurisdiction and venue shall lie exclusively in Snohomish County, Washington. Notwithstanding the foregoing, any decision by the City as to whether or not the Approved Plans of this Agreement have been met shall be first appealed to the City Hearing Examiner according to the applicable administrative appeal processes for the City. Appeals of a City Hearing Examiner Decision are appealable to Superior Court pursuant to the Land Use Petition Act, Chapter RCW 36.70C.

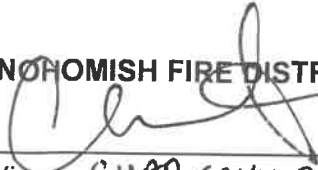
12. **Interpretation.** Each Party has participated in drafting this Agreement and has had this Agreement reviewed by legal counsel. Therefore, any language herein shall not be construed against either Party on the basis of which Party drafted the particular language.

13. **Heading.** The captions and headings provided in this Agreement are for reference purposes only and do not have any effect on the interpretation of this Agreement.

14. **Entire Agreement.** This Agreement contains all of the understandings between the Parties. Each Party represents that no promises, representations, or commitments have been made by the others as a basis for this Agreement which have not been reduced to writing herein. The above recitals and definitions are incorporated into and made part of this Agreement. No oral promises or representations shall be binding upon either Party, whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a written modification to this Agreement, executed with both Parties.

DATED this 11 day of Oct, 2021.

SNODOMISH FIRE DISTRICT NO. 21


By: CHAD SCHUMAKER
Its: Fire chief

CITY OF ARLINGTON

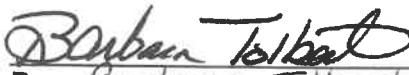

By: Barbara Tolbert
Its: Mayor

EXHIBIT A
(Extension Plans)