

PUBLIC SAFETY BUILDING

LEASE AGREEMENT

This lease agreement is made by and between the City of Bonney Lake, hereinafter "Lessor", and Pierce County Fire Protection District No. 22, hereinafter "Lessee", under the terms and conditions set forth below.

I. Recitals/Background

- A. In 1994, the City of Bonney Lake completed a new Public Safety Building to house the City's Police and Fire Departments.
- B. In fall of 1999, the citizens of Bonney Lake voted affirmatively to annex into Pierce County Fire Protection District No. 22, commonly known as East Pierce Fire and Rescue, effectively completing a merger of the City's municipal fire department with that of District 22. Since the effective date of the annexation all fire protection and emergency medical services throughout the City of Bonney Lake have been provided by the Fire Protection District, for which Bonney Lake property owners are separately taxed.
- C. In December of 2000, the City entered into an agreement with the Fire District to lease a portion of the City's public safety building, together with a portion of the parking lot associated with the premises, to the District for the purpose of operating a fire station serving the citizens and residents of the City of Bonney Lake and surrounding areas, as well as for administrative offices for the District. That lease expired December 31, 2005.
- D. Given the rapid growth of the City of the past several years, the City needs additional space in the public safety building for law enforcement and related public safety needs.

II. Premises and Use.

- A. The City of Bonney Lake (hereinafter "Lessor") hereby leases to Pierce County Fire Protection District 22 (hereinafter "Lessee") the premises located at 18421 Old Buckley Highway, Bonney Lake, Washington 98391, consisting of:

A portion of the Public Safety Building on the premises as shown on Exhibit A attached hereto, together with a portion of the parking lot associated with the premises, as shown on Exhibit B. The premises will be used for the purpose of operation and administration of a fire station serving the citizens and residents of the City of Bonney Lake, and surrounding areas, as well as for administrative purposes. Lessee will use the premises in a manner which will not unreasonably disturb the occupancy and use by the Bonney Lake Police Department, or any other tenants that the Lessor may lease the premises to during the term of this lease or any extension thereof.

- B. Training Room. The parties will share use of the Training Room as follows: The Lessor will control the scheduling and use of the Training Room the first through the eleventh

days of the month. The Lessee will control the use and scheduling of the Training Room the twelfth through the end of the month. Either party may request to schedule the room during the other party's assigned period, and permission shall not unreasonably be withheld if the party does not contemplate usage during the requested time.

III. **Term of Lease.** A. The term of this lease agreement is five (5) years, commencing on the effective date of this lease, which shall be January 1, 2009, and ending on December 31, 2014. Provided, however, that if by December 31, 2012 Lessee notifies the Lessor in writing that Lessee desires to extend the lease, Lessor may grant a lease extension under the terms and conditions for up to two years. Lessor may decline to extend the lease if it determines, in its sole discretion, within 60 days of receipt of said written notice from Lessee of its request to extend the lease, that Lessor needs to recapture the Leased space for its own use in order to accommodate increased police services or for other public safety related municipal purposes. In the event the Lessor needs to recapture only a portion of the leased space for its own use, the Parties may negotiate a new lease for the remainder of the leased space on the same terms as the initial lease, except that the lease payments shall be adjusted accordingly. Upon expiration of the initial or extended Lease term, the Lessee shall vacate all personnel and equipment from the Leased space within sixty (60) days.

IV. **Authority for Lease.** This lease is executed pursuant to the authority of RCW 52.12.021 and RCW 52.12.031 and is for a municipal and governmental purpose.

V. **Rent - Space.** A. **Base Rent.** The base annual rent for the five year term of this lease shall be \$86,868.00 per year, payable in two equal installments, for office and other space as described on Exhibit "A". Parties agree that this negotiated rate constitutes fair market value of the space used for District administrative and general purposes, and that the space leased to the District solely for Bonney Lake fire and EMS response is free of charge for the five year term only. The first installment of rent shall be due and payable on or before June 30th of each year, and the second installment shall be due and payable on or before December 31st of each year. If the rent is not paid by the due date, the City may assess a late penalty in the amount of 1% per month of the unpaid balance due. Beginning with rents due in 2010, and for every year of the lease thereafter, the rent shall be adjusted by one hundred percent (100%) of the change in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. Department of Labor, Seattle-Tacoma-Bremerton, June to June. The Lessee shall pay all of the costs associated with its use and occupancy of the leased premises. The Lessor shall pay no expense relating to the Lessee's use and occupancy of the premises, including such expense which is apportioned or allocated in accordance with the square footage of the building or other improvements utilized by the Lessor and the Lessee.

B. **Past Due Rent.** The amount of past due rent for calendar years 2006, 2007, and 2008 collectively shall be \$260,604. This amount shall be due and payable to the City within sixty (60) days of the effective date of this Agreement.

VI. **Tenant Improvements.** Lessee may make at its expense, such tenant improvements on the premises as it deems necessary from time-to-time for the appropriate operation of the Fire Department, provided that such tenant improvements shall be subject to the prior approval of the City, which shall not be unreasonably withheld. It is further provided that any such tenant

improvements shall not modify the structure or adversely affect the structural integrity of the building. All other occupancies shall remain unaffected by such tenant improvements. The Lessee shall not engage in any excessively noisy or noxious uses or activities that might adversely affect other occupants of the building. Upon termination or expiration of this lease agreement, any such tenant improvements to the premises shall become the property of the City.

VII. Maintenance of Facilities. The Lessor agrees that it will maintain the leased premises in good condition.

VIII. Condition of Premises. The parties agree that there are no pre-existing conditions of the premises that require maintenance, repair or other attention prior to executing this lease.

IX. Utilities. Lessor represents that utilities adequate for Lessee's use of the premises are available. Lessee will pay all of its own telephone and other utility bills that are unique to Lessee's sole use. In addition, Lessee will pay 50% of all utilities used by both parties at the Public Safety Building, upon submission of invoice for its share by the City, together with a copy of the supporting utility bill. Lessor will cooperate with Lessee in Lessee's efforts to obtain utilities from any facility provided by the City of Bonney Lake or the servicing utility.

X. Title and Quiet Possession. Lessor represents and agrees: (a) that it is the owner of the premises; (b) that it has the right, power and authority to enter into this lease agreement; (c) that the person executing this agreement for the Lessor has the authority to sign; (d) that Lessee is entitled to access to the premises at all times and to the quiet possession of the premises throughout the term of this lease, so long as Lessee is not in default. Lessee agrees and covenants to surrender possession of the premises in good condition, excepting ordinary wear and tear, at the end of the lease term, or any extension thereof.

XI. Assignment/Subletting/Use. Lessee will not assign or transfer this agreement to a 3rd party or sublet all or any portion of the premises, or occupy any space in excess of that described in Exhibit "A". Should District desire to utilize any additional portion of the premises in excess of that space expressly provided in Exhibit "A", parties agree to negotiate an increase in the base rent for use of such additional space.

XII. Notices. All notices relevant to this lease agreement must be in writing and are effective when deposited in the U.S. Mail, certified mail, postage pre-paid, to the address set forth below or as otherwise provided by law.

If to Lessor, to:

City of Bonney Lake
Attention: City Administrator
Post Office Box 7380
Bonney Lake, WA 98391

If to Lessee, to:

Pierce County Fire District 22
Attention: Fire Chief
18421 Sumner Buckley Highway, Suite F
Bonney Lake, WA 98391

XIII Compliance with Laws. Lessee acknowledges agreement that the property and premises and all improvements located thereon are in substantial compliance with building, life safety, disability and other laws, codes and regulations of applicable governmental authorities. Lessee will substantially comply with all applicable laws relating to its possession and use of the premises.

XIV. Default. If either party is in default under this agreement for a period of ten days following receipt of notice from the other party with respect to a default which may be cured solely by the payment of money or for a period of 30 days following receipt of notice from the other party with respect to a default which may not be cured solely by the payment of money, then in either event the non-defaulting party may pursue any remedies available to it against the defaulting party under applicable law including but not limited to the right to terminate this agreement for default. If a non-monetary default may not reasonably be cured within a 30-day period, this agreement may not be terminated if the alleged defaulting party commences action to cure the default within such 30-day period and proceeds with due diligence to fully cure the default.

XV. Insurance. The Lessee shall be solely responsible for maintaining general liability insurance, premises coverage, vehicle liability insurance, and all other types of insurance coverage for its vehicles, equipment and improvements. The Lessor shall bear only the allocable portion of insurance premiums relating to the police department premises in the Public Safety Building. Proof of adequate insurance in satisfaction of this lease requirement shall be by certificate of insurance provided to the Lessor by the Lessee demonstrating adequate policy limits satisfactory to the City of Bonney Lake. The City shall be listed as an Additional Insured in any such policies of insurance.

XVII. Indemnity. Lessor and Lessee each indemnify the other against and hold the other harmless from any and all costs, including reasonable attorneys' fees and claims of liability or loss arising out of use in or occupancy of the premises by the indemnifying party. This indemnity does not extend to any claims arising from the sole negligence or intentional misconduct of the indemnified party, or any of its agents or employees.

XVIII. Hazardous Substances. Lessor represents that it has no knowledge of any substance, chemical or waste on the site or premises that might be identified as hazardous, toxic or dangerous in any federal, state or local law or regulation. Lessee shall not introduce or use any such hazardous substance on the site or premises in violation of any applicable law or regulation.

XIX. Successors and Assigns. This agreement shall be recorded with the Pierce County Auditor.

XX. Governing Law. This lease agreement is governed by the laws of the State of

Washington.

XXI. Entire Agreement. This agreement, including any exhibits, constitutes the entire agreement between the parties and supersedes all prior written and verbal agreements, representations, promises, or understandings between the parties relevant to the Public Safety Building. Any amendments to this agreement must be in writing and executed by both parties.

XXII. Waiver. Failure by any party to this Agreement to enforce any provision of this Agreement or to declare a breach shall not constitute a waiver thereof nor shall it impair any party's right to demand strict performance of that or any other provision of this Agreement any time thereafter.

XXIII. Severability. If any provision of this lease agreement is invalid or unenforceable with respect to any party, the remainder of this agreement and each of its terms shall remain in full force and effect and shall not be affected by the invalidity of the invalid provision.


XXIV. Attorneys' Fees and Costs. The prevailing party in any action or proceeding in court or mutually agreed-upon arbitration proceeding to enforce the terms of this agreement is entitled to receive its reasonable attorney fees and other reasonable costs and expenses from the non-prevailing party.

XXV. Cell Tower Lease. The parties agree that any proceeds to Lessor from its lease of space on or near the Public Safety Building premises for use as communications facilities, including cellular towers and related equipment, shall accrue solely to be used by Lessor as it determines is appropriate.

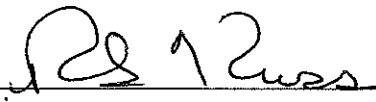
LESSOR

LESSEE

CITY OF BONNEY LAKE PIERCE COUNTY FIRE PROTECTION DISTRICT NO.22



Mayor

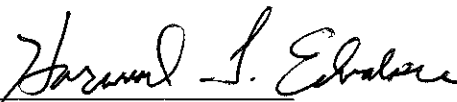


Chairman

Date 10/20/09

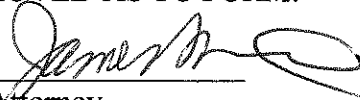
Date 10/20/09

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

Exhibit A

Description and map of leased portion of PSB

Exhibit B:

Description and map of parking lot area assigned to Fire District



**DONNEY LAKE
PUBLIC SAFETY BUILDING**

2400 REGISTERED
MAY 19 1964
JAMES O. BERNHART, AKA
STATE OF WASHINGTON

**BASEMENT
FLOOR PLAN**

A 21

Public Safety Building Lease Exhibit "B" Leased Parking Area

SUMNER-BUCKLEY HWY E

SUMNER-BUCKLEY HWY E

AREA 1

AREA 2

AREA 3

