

Shared Staffing Interlocal Agreement

This Agreement is entered into between the undersigned fire protection districts for the purpose of sharing the services of administrative staff employees when necessary to address the impacts of the COVID-19 pandemic.

RECITALS

1. This agreement is entered into under the authority of RCW 52.12.031 and in conformity with chapter 39.34 RCW, the Interlocal Cooperation Act.
2. Each party to this agreement maintains and operates their own fire departments to provide fire protection, fire suppression and emergency medical services in their respective areas.
3. Each party occasionally experiences circumstances that result in unpredicted and unanticipated administrative short term staffing shortages;
4. The Parties believe that establishing a framework for the sharing of administrative staff is part of an appropriate response to these circumstances that will directly benefit the employees and taxpayers of all parties..

AGREEMENT

To carry out the purposes of this agreement and in consideration of the benefits to be received by each party, it is agreed as follows:

1. Scope of Agreement

1.1. General. The scope of this Agreement authorizes the fire chiefs to work cooperatively to assign administrative staff members between the parties on an as needed basis to address temporary staffing shortages.

1.2. Definitions.

1.2.1. Assisted Agency. A party to this Agreement that requires administrative staffing support from another party to the Agreement.

1.2.2. Assisting Agency. A party to this Agreement the provides administrative staff to another party under the terms of this Agreement.

1.2.3. Assigned Staff. An employee of an Assisting Agency assigned to an Assisted Agency pursuant to the terms of this Agreement.

1.3. Requests For Staff. At such time as an Assisted Agency has a need for supplemental administrative staffing that Assisted Agency's Chief or designee shall notify the other parties of the need. Any Assisting Agency that determines, in its sole discretion, that the Assisting Agency has available staffing shall work

with the Assisted Agency to assign appropriate Assigned Staff to the Assisted Agency. The Parties shall work cooperatively to establish to specific schedules and times of work for employees assigned pursuant to a request.

1.4. Supervision. The Fire Chief, or designee of the Assisted Agency will be primarily responsible for supervising the Assigned Staff when working for the Assisted Agency. Provided, however, if the Assisted Agency believes disciplinary action is necessary, the Assisted Agency shall refer such action to the Assisting Agency with appropriate documentation of the conduct supporting discipline. The Assisted Agency shall retain the right to remove an Assigned Staff member from a scheduled shift if the Assisted Agency believes removal is in the best interest of Assisted Agency.

1.5. Payment. The Assisting Agency shall remain responsible for all compensation paid to its Assigned Staff consistent with the Assisting Agencies compensation and benefit levels. The Assisting Agency shall not be entitled to compensation from the Assisted Agency unless the Fire Chief's or designees for the Assisting Agency and the Assisted Agency agree in writing in advance to a cost sharing arrangement.

2. Employment Status.

2.1. Assigned Staff. Assigned Staff who provide services under this Agreement for an Assisted Agency shall remain employees of the Assigning Agency and shall not be considered personnel of the Assisted Agency. The Assigning Agency shall, at all times, be solely responsible for the conduct of its personnel in performing the services called for in this Agreement..

2.2. Loaned Employee Requirements. All Assigned Staff providing services for an Assisted Agency shall be considered Loaned Employees when providing services to the Assisted Agency and shall be subject to Section 3 of this Agreement.

3. Loaned Employee Consent.

3.1. Each Assigned Staff who agrees to be a Loaned Employee for an Assisted Agency shall execute and provide to the Assisted Agency the consent form attached hereto as Appendix "A" ("Employee Consent"). By obtaining such consent, it is the intent of the parties to establish that both Parties are the employers for any Loaned Employee for purposes of the Industrial Insurance Act in accordance with the holding of *Novenson v. Spokane Culvert & Fabricating Co.*, 91 Wn.2d 550, 553, 588 P.2d 1174, 1176 (1979).

3.2. At any time hereunder, any Assigned Staff who has provided an Employee Consent may withdraw his or her consent by notifying the Assisted Agency, and thereby withdraw him/herself from being loaned to the Assisted Agency pursuant to this Agreement.

4. **Employee Benefits and Withholdings.** The Assigning Agency shall be solely responsible for the following for any Assigned Staff employed by the Assigning Agency:
 - 4.1. Administration of payment of all wages, and other forms of compensation;
 - 4.2. Compliance with all rules and regulations governing reporting, payment, and withholding of federal and state taxes imposed, including but not limited to:
 - 4.2.1. Federal income tax withholding;
 - 4.2.2. State and local income tax withholding;
 - 4.2.3. Federal Insurance Contributions Act (FICA) and Medicare tax withholding, as well as the employer component of FICA and Medicare tax;
 - 4.2.4. Federal Unemployment Tax Act (FUTA) obligations, and;
 - 4.2.5. Applicable state unemployment tax obligations;
 - 4.2.6. L&I premiums.
 - 4.3. Compliance with applicable workers' compensation laws.
5. **Equipment and Supplies.** The Assisted Agency will provide the Assigned Staff with the necessary office space, supplies, training, and equipment necessary for the Assigned Staff.
6. **Term.** This agreement shall be effective on execution and shall continue until terminated by either party with 30 days advance written notice.
7. **Indemnification and Hold Harmless.** Each party agrees to defend, indemnify, and hold harmless the other party and each of its employees, officials, agents, and volunteers from any and all losses, claims, liabilities, lawsuits, or legal judgments arising out of any negligent or willfully tortious actions or inactions by the performing party or any of its employees, officials, agents, or volunteers, while acting within the scope of the duties required by this Agreement. Each party shall be responsible for its own legal costs and attorneys' fees. This provision shall survive the expiration of this Agreement. This provision shall also survive and remain in effect in the event that a court or other entity with jurisdiction determines that this Agreement is not enforceable. It is further specifically and expressly understood that the indemnification provided herein constitutes each party's waiver of immunity under industrial insurance, Title 51 RCW, solely to carry out the purposes of this indemnification clause. The parties further acknowledge that they have mutually negotiated this waiver.
8. **Insurance.** Each party shall provide insurance coverage for its own operations, facilities, equipment and personnel. Each party shall furnish to the other party, appropriate documentation showing that such coverage is in effect.

9. Dispute Resolution.

- 9.1.** If the parties are unable to resolve a dispute regarding this Agreement through negotiation, either party may demand mediation through a process to be mutually agreed to in good faith between the parties within 30 days. The parties shall share equally the costs of mediation and each party shall be responsible for their own costs in preparation and participation in the mediation, including expert witness fees and reasonable attorney's fees.
- 9.2.** If a mediation process cannot be agreed upon or if the mediation fails to resolve the dispute then, within 30 calendar days, either party may submit the dispute to arbitration according to the procedures of the Superior Court Rules for Mandatory Arbitration, including the Local Mandatory Arbitration Rules of the King County Superior Court, King County, Washington, as amended, unless the parties agree in writing to an alternative dispute resolution process. The arbitration shall be before a disinterested arbitrator selected pursuant to the Mandatory Arbitration Rules with both parties sharing equally in the cost of the arbitrator. The location of the arbitration shall be mutually agreed or established by the assigned Arbitrator, and the laws of Washington will govern its proceedings. The prevailing party in the arbitration, shall be entitled to its reasonable attorney fees and costs including expert witness fees.
- 9.3.** Following the arbitrator's issuance of a ruling/award, either party shall have 30 calendar days from the date of the ruling/award to file and serve a demand for a bench trial de novo in the King County Superior Court. The court shall determine all questions of law and fact without empanelling a jury for any purpose. If the party demanding the trial de novo does not improve its position from the arbitrator's ruling/award following a final judgment, that party shall pay all costs, expenses and attorney fees to the other party, including all costs, attorney fees and expenses associated with any appeals.
- 9.4.** Unless otherwise agreed in writing, this dispute resolution process shall be the sole, exclusive and final remedy to or for either party for any dispute regarding this Agreement, and its interpretation, application or breach, regardless of whether the dispute is based in contract, tort, any violation of federal law, state statute or local ordinance or for any breach of administrative rule or regulation and regardless of the amount or type of relief demanded.

10. Miscellaneous

- 10.1. Administration.** This Agreement shall be administered by the Fire Chiefs of the parties.
- 10.2. Non-Waiver of Breach.** The failure of either party to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances,

shall not be construed to be a waiver or relinquishment of those covenants, agreements, or options, and the same shall be and remain in full force and effect.

10.3. Assignment. Any assignment of this Agreement by either party without the prior written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.

10.4. Modification. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party and subject to ratification by the legislative body of each party.

10.5. Entire Agreement. The written terms and provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior communications, negotiations, representations or agreements, either verbal or written of any officer or other representative of each party, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement.

10.6. Severability. If any section of this Agreement is adjudicated to be invalid, such action shall not affect the validity of any section not so adjudicated.

10.7. Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the Agreement, unless notified to the contrary. Any written notice hereunder shall become effective upon personal service or three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

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

10.9. Non-Exclusive Agreement. The parties to this Agreement shall not be precluded from entering into similar agreements with other municipal corporations.

CENTRAL KITSAP FIRE & RESCUE

By:  _____

DATE: 3-26-20

SOUTH KITSAP FIRE & RESCUE

By:  _____

DATE: 3-26-20

EXHIBIT B
[CONSENT TO LOANED EMPLOYEE AGREEMENT]

I, _____, am an employee of _____
"Assigning Agency." I understand that _____ has requested that the Assigning Agency has
agreement provide an employee to _____ "Assisted Agency" to
provide administrative support services on an as needed basis pursuant to a Shared Staffing
Interlocal Agreement dated _____, 20__ ("ILA").

In consideration for the wages and benefits that I will receive from Assigning Agency as a
Loaned Employee to Assisted Agency, I agree to the following:

1. I consent and agree to perform services for Assisted Agency as required by Assisted
Agency (the "Services") in accordance with the ILA.
2. I understand that Assisted Agency will be supervising and directing my
performance of the Services while working and that I will be deemed to be an
employee of both Assigning Agency and Assisted Agency for purposes of the
Industrial Insurance Act, Title 51 RCW during that time.
3. I understand that for the Services I provide to Assisted Agency, I will receive the
same compensation and benefits I am receiving for my work for Assigning Agency.
I further understand that I will receive my compensation and benefits from
Assigning Agency and not from Assisted Agency.

At any time hereunder, I may withdraw my consent to this arrangement by notifying
Assisted Agency and Assigning Agency in writing.

Dated this ____ day of _____, 20__.

(Signature)

(Print Name)