

INTERAGENCY AGREEMENT RE FUELING OF MOTOR VEHICLES (NO. 22-12704)

BETWEEN

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

And

CHELAN COUNTY FIRE DISTRICT NO. 3

THIS AGREEMENT is made and entered into this 16th day of February 2023, by and between Public Utility District No. 1 of Chelan County (“District”) and the Chelan County Fire District #3 (“CCFD3”), hereinafter collectively referred to as “Parties”, or individually as a “Party”.

IT IS THE PURPOSE OF THIS AGREEMENT to allow access for the fueling of CCFD3 vehicles at District facilities.

RECITALS

The CCFD3 and the District are each authorized to own, operate and maintain motor vehicles in furtherance of their respective public corporate purposes.

The District operates and maintains a fueling facility located at 1505 Hwy 209 Leavenworth, Washington.

The District and the CCFD3 have determined that it continues to be mutually beneficial to fuel both District and CCFD3 motor vehicles at the District’s Leavenworth fueling facility and are authorized in accordance with the provisions of Chapter 39.34 RCW to cooperate in the provision of services and facilities on the basis of mutual benefit.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and obligations provided herein, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follow:

1. **Fueling Facilities.**

District shall operate and maintain its Leavenworth fueling facility for the mutual benefit of the District and the CCFD3. The District shall allow the CCFD3 reasonable access at all hours for the purpose of fueling of CCFD3 vehicles.

2. **Chip Key Reader.**

The CCFD3 will use chip-key readers and chip keys required by the District’s fueling system to fuel CCFD3 vehicles. The CCFD3 shall be responsible for costs associated with making the CCFD3

vehicles compatible with the District's fueling system, including without limitation, reimbursement to the District of the District's costs associated with setting up CCFD3 vehicles in the District's fuel system.

In the event that the District elects to change the verification method to RFID tags, magnetic strip or chip enabled cards or any other method, CCFD3 will utilize the method provided by the District.

3. **Fuel Price and Taxes.**

The District will charge the CCFD3 (1) the actual cost of the fuel used by the CCFD3 including all delivery charges, sales taxes and other applicable taxes and fees; and (2) \$0.11 per gallon service fee over the actual cost of the fuel to the District; and (3) any other applicable costs including the sales tax imposed by the State for red dyed diesel fuel and all other costs, such as inspections and repairs. The purpose of the \$0.11 per gallon charge is to cover the District's increased administrative and maintenance costs that result from the CCFD3's use of the facilities. The charge per gallon shall be reviewed by the District on an annual basis to determine its adequacy in meeting the increased costs and will be adjusted as appropriate to cover the next year's projected costs. The CCFD3 shall compute and be responsible for the payment of all road taxes imposed by State for on-road applications.

4. **Fueling Times.**

The Parties shall work together to provide CCFD3 reasonable access to fueling facilities and to minimize interference with the normal operations of the CCFD3 and the District. The Parties acknowledge that both Parties operate and need access to fuel vehicles 24 hours a day, 7 days a week. However, the Parties agree that the District does not warrant that the facilities will be functional at all times and when non-operational, the District will advise CCFD3 as soon as practicable.

When utilizing the District's Leavenworth facilities during normal business hours (6 am until 5 pm), the CCFD3 will utilize only one side of the fueling island at a time, leaving the other side open for District use.

5. **Bid for Fuel.**

District bids for fuel shall include estimated quantities of fuel for both the CCFD3 and the District. CCFD3 shall provide data necessary for CCFD3 estimates to District on request. The District shall not be liable to CCFD3 for additional fuel costs, if any, incurred by CCFD3 in the event the District's fuel supply is temporarily depleted.

6. **Cost of Improvements and Additions.**

In 2023 the District will be upgrading the Leavenworth fueling facilities for the purpose of maintaining the provision of fuel to both the District and the CCFD3, the CCFD3 will help fund the needed upgrades on a pro-rata basis as set forth in Section 7, up to a limit of \$5,500 over the initial term of this Agreement. At the termination of this Agreement, any and all additions or improvements shall be and remain the property of the District, unless the Parties agree otherwise in writing.

7. **Billing.**

The District shall prepare and forward to the CCFD3 an itemized billing showing the amounts of fuel provided to the CCFD3 and the amounts owing as described above. The monthly billing shall include the quantities used for each vehicle, the actual cost of fuel and the \$0.11 per gallon service fee, as described in Section 3. Annually, the District shall bill for the CCFD3's share of any improvements or additions to the system on a pro-rata basis, using the previous 36 month's average usage, as provided in Section 6. The CCFD3 shall pay the District within twenty (20) days of receiving the bill for the prior month. Compensation under this Agreement shall be in accordance with the provisions of RCW 39.34.130.

8. **Insurance and Indemnification.**

The CCFD3 shall provide liability insurance coverage for the durations of this Agreement for its officers, agents, and employees' activities while they are involved in the performance of this Agreement in an amount of not less than \$1 million (\$1,000,000.00). The District's Risk Managers or designee shall be provided proof of such insurance within thirty (30) days of the execution of this Agreement and the District will be named as an additional insured as respects this Agreement. If the CCFD3 is self-insured, evidence of \$1 million (\$1,000,000.00) per occurrence coverage for general liability shall be provided to the District's Risk Manager or designee by the administrator of the self-insurance program.

Further, the CCFD3 shall indemnify, defend and hold harmless the District and any and all of the District's officers, principals, agents and employees from any liability, loss, damage, cost, charge or expense, whether direct or indirect, and whether occasioned by injury or loss to persons or property to which the District or said other indemnities may be put or subject by reason of any act, action, neglect, omission or default under this Agreement or otherwise on the part of CCFD3 or any of its officers or employees. Such indemnity obligation shall not apply where such injury or loss is solely caused by the negligence of the indemnitee. With regard to any claim based on the concurrent negligence of the indemnitor, its agent or employee, and the indemnitee, the indemnitor's liability under this paragraph shall apply to the full extent of negligence of the indemnitor, its agent or employee.

9. **Term and Termination.**

The Term of this Agreement shall commence on the Effective Date and run until September 15, 2027. This Agreement may be extended for additional one (1) year terms by the Parties by mutual agreement.

The District may terminate this Agreement as follows:

- 1) by providing one (1) year advance written notice.
- 2) immediately, in the event that the District is prohibited or prevented from dispensing fuel at the District's Leavenworth fueling facilities.

The CCFD3 may terminate this Agreement as follows:

- 1) by providing sixty (60) days advance written notice.

Either Party may terminate this Agreement on thirty (30) days written notice for material breach by the other Party, provided, however, that in the event that the breaching Party cures the breach prior to the expiration of the thirty (30) day notice period this Agreement shall not terminate.

10. **Effective Date.**

This Agreement shall be effective on the day of final execution.

11. **Authority.**

The Parties hereto each represent that they now possess the lawful authority to enter in this Agreement.

12. **Merger.**

This Agreement constitutes the entire agreement of the Parties regarding the subject matter hereof. This Agreement may only be modified in writing, signed by authorized representatives of the District and CCFD3.

13. **Records.**

The Parties to this Agreement shall each maintain books, records, documents, and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either Party in the performance of the service(s) described herein. These records shall be subject to inspection, review, or audit by personnel of both Parties, other personnel duly authorized by either Party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of State Auditor, federal auditors, and any person duly authorized by the Parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one Party to this agreement to the other Party, will remain the property of the furnishing Party, unless otherwise agreed. The receiving Party will not disclose or make available this material to any third parties without first giving notice to the furnishing Party and giving it a reasonable opportunity to respond. Each Party will utilize reasonable security procedures and protections to assure that records and documents provided by the other Party are not erroneously disclosed to third parties.

14. **Independence.**

The employees or agents of each Party who are engaged in the performance of this Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of the other Party.

15. **Governing Law.**

This Agreement is entered into pursuant to and under the authority granted by the laws of the State of Washington, including without limitation Chapter 39.34 RCW. The provisions of this Agreement shall be governed by and construed to conform to those laws.

16. **Assignment.**

The benefits and obligations provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either Party in whole or in part, without the express prior written consent of the other Party.

17. **Waiver.**

A failure by either Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the Party and attached to this original Agreement.

18. **Severability.**

If any provision of this Agreement shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

19. **Electronic Signatures.**

The Parties acknowledge and agree that this document may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, “electronic signature” shall include those signed via electronic medium or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

20. **Authorized Signatures.**

Each individual executing this Agreement warrants they are fully authorized to bind their principal to the terms and conditions of this Agreement.

PUBLIC UTILITY DISTRICT NO. 1  
OF CHELAN COUNTY

CHELAN COUNTY FIRE DISTRICT NO.3

By: Dan Frazier  
Dan Frazier, Director – Shared Services

By: Kelly O'Brien, Fire Chief  
Kelly O'Brien, Fire Chief

Date: 2/16/2023

Date: 2/9/2023