

KC-397-23
KITSAP COUNTY FIRE PROTECTION DISTRICT NO. 18 USE AGREEMENT
(STATIONS No. 71, 73, and 77)

THIS KITSAP COUNTY FIRE PROTECTION DISTRICT NO. 18 USE AGREEMENT (“Agreement”) is between Kitsap County, a Washington state political subdivision (“County”) and the Kitsap County Fire Protection District No. 18, a Washington state fire district created pursuant to chapter 52.02 RCW (“District”).

WHEREAS, pursuant to RCW 39.34.080 one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform.

WHEREAS, the Kitsap County Department of Emergency Management (“DEM”) is in need of a location for emergency management training and storage purposes, conduct other activities in the event of an actual emergency, and such other activities deemed appropriate by the parties (collectively “Emergency Services”).

WHEREAS, District has access and control over three fire stations, Fire Station No. 71 located at 911 N.E. Liberty Rd, Poulsbo, Fire Station No. 73 located at 1863 NE Pacific Ave, Keyport, and Fire Station No. 77 located at 1305 NW Pioneer Hill Rd, Poulsbo (collectively “Property”).

WHEREAS, the District is willing to make the Property available to DEM for Emergency Services as it such use will further its mission to and provide additional resources in the event of an emergency.

WHEREAS, the County and District desire to execute this Agreement for the use of the Property subject to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

1. **PURPOSE.** To work cooperatively to provide additional emergency training and resources in an effort to promote a more effective, efficient response, whatever the crisis.
2. **ORGANIZATION.** No separate legal or administrative entity is created by this Agreement nor do the Parties intend to create through this Agreement a separate legal or administrative entity subject to suit.
3. **ADMINISTRATOR.** Each party will be responsible for administering this Agreement on their own behalf. The parties will meet as needed for the purpose of reviewing and discussing the operations and performance of the Services and the assigned Navigator. Neither party is intending to assume responsibility or liability for the actions, or failures to act, of the other party and/or their respective employees.

4. EFFECTIVE DATE/DURATION. This Agreement shall be effective on October 1, 2023, and remain in effective until terminated. Prior to its entry into force, this Agreement shall be filed with the Kitsap County Auditor's Office or, alternatively, listed by subject on the web site or other electronically retrievable public source in compliance with RCW 39.34.040.
5. TERMINATION. Either party may terminate this Agreement with 30-days prior notice to the other party.
6. RESPONSIBILITIES
 - A. The District will provide DEM use of the Property for emergency services upon approval of the fire chief or their designee based on the needs of the District. The District agrees that Use of the property by DEM for Emergency Services will include use and access to rooms, storage, room equipment (e.g., table, chairs, etc.), bathrooms, parking lot, Wi-Fi, and open areas on the Property (collectively "Use").
 - B. DEM may store NEST Kits on the Property at a location agreed to by the Parties. Use of the Property for storage purposes will be perpetual.
 - C. Use of the Property for training purposes will be arranged with prior notice to the executive director.
 - D. DEM will carry out all Use on the Property in such a manner that will not unreasonably interfere with the District's normal use and operation of the Property and will clean up the Property and dispose of any trash generated by DEM Use.
 - E. When possible, DEM will obtain a mission number prior to its Use of the Property.
 - F. The District will provide DEM reasonable access to the Property to provide Emergency Services.
7. COMPENSATION. No fees will be charged to Kitsap for the facilities and use of the Property.
8. PROPERTY. The parties do not anticipate the acquisition of property for the performance of this Agreement and any property acquired by a party during this Agreement shall be held by and remain the property of the acquiring party.
9. INDEPENDENT CAPACITY. The employees and agents of each party who are engaged in the performance of this Agreement will continue to be the employees or agents of that party and will not be considered, for any purpose, to be employees or agents of the other party to this Agreement. Neither party will have the authority to bind the other nor control the employees, agents or contractors of the other party to this Agreement. All rights, duties and obligations of a party will remain with that party.
10. NOTICE. All notices will be delivered in writing to the Contract Administrator for the other party. Notice mailed by regular post (including first class) shall be deemed to have been given

on the third business day following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing. The Contract Administrators are as follows: the DEM Director for the County and the Poulsbo Fire Chief. The administrators may be changed with notice to the other party.

DEM Contract Administrator	District Contract Administrator
Jan Glarum, DEM Director 8900 Imperial Way SW Bremerton, WA 98312 (360) 900-8556 jglarum@kitsap.gov	Jim Gillard, Poulsbo Fire Chief 911 NE Liberty Rd Poulsbo, WA 98370 (360) 779-3997 jgillard@poulsbofire.org

11. INDEMNIFICATION. To the extent not covered by a mission number, each party shall indemnify, defend, and hold harmless the other parties, and the other parties' officers, employees, and agents from any and all complaints, losses, claims, damages, attorneys' fees, or costs for wrongful and/or negligent acts or omissions of the party and/or its officers, employees, agents or volunteer relating to or arising out of this Agreement. Nothing in this Agreement is intended to waive any defense under Title 51 RCW.
12. INSURANCE. Each party shall maintain in good standing during the term of this Agreement adequate general liability insurance to protect against losses and risks arising out of or related to the Services provided under this Agreement in such amounts as are prudent and customary for the jurisdiction.
13. NONDISCRIMINATION. No party will discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P. L. 88-354 and Americans with Disabilities Act of 1990 in the performance of this Agreement.
14. COMPLIANCE WITH LAWS. During the term of this Agreement, each party shall comply with all applicable laws, rules, and regulations pertaining to them in connection with the activities covered in the Agreement, including without limitation applicable regulations of the Washington Department of Labor and Industries, including WA-DOSH Safety Regulations, and all relevant state and federal workplace safety requirements.
15. IMPLIED CONTRACT TERMS. Each provision of law and any terms required by law to be in the Agreement are made a part of the Agreement as if fully stated in it.
16. PUBLIC RECORDS ACT. Notwithstanding any provisions of this Agreement to the contrary, to the extent any record, including any electronic, audio, paper or other media, is required to be kept or indexed as a public record in accordance with Washington state law, each party agrees

- to maintain all records constituting public records and to produce or assist the other party in producing such records, within the time frames and parameters set forth in state law.
17. NO JOINT VENTURE. Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture, or other joint enterprise between the parties.
 18. SEVERABILITY. The provisions of this Agreement are severable. Any term or condition of this Agreement or application thereof deemed to be illegal, invalid or unenforceable, in whole or in part, shall not affect any other terms or conditions of the Agreement and the parties' rights and obligations will be construed and enforced as if the Agreement did not contain the particular provision.
 19. SURVIVAL. Those provisions of the Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include, without limitation, the respective responsibilities of each party and indemnification.
 20. HEADINGS. Headings of this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
 21. ENTIRE AGREEMENT. The parties acknowledge the Agreement is the product of negotiation between the parties and represents the entire agreement of the parties with respect to its subject matter. All previous agreements and representations, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by the Agreement.
 22. AMENDMENT. This Agreement may be amended from time to time as deemed appropriate by the parties, provided, any such amendment will not become effective unless written and signed by both parties to this Agreement with the same formality as this Agreement.
 23. DISCLAIMER. Nothing in this Agreement will be construed in any manner that would limit a party's authority or powers under law.
 24. NO THIRD-PARTY BENEFICIARIES. This Agreement is intended to be solely between the parties. Nothing in this Agreement will be construed as giving any benefits, rights, remedies, or claims to any other person, firm, corporation, or other entity including, without limitation, the public or any member thereof, or to authorize anyone not a party to this Agreement to maintain a suit for breach of contract, personal injuries, property damage, or any other relief in law or equity in connection with this Agreement.
 25. ASSIGNMENT. The rights or obligations under this Agreement, and any claims arising thereunder, are not assignable or delegable by any party, without the prior written consent of the parties. Any attempt to assign this Agreement in violation of this provision shall be void and constitute a default in this Agreement.
 26. NO WAIVER. A failure by any 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.

27. GOVERNING LAW, VENUE, FEES. The Agreement will be governed in all respects by the laws of the State of Washington, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Agreement may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, Washington or as provided by RCW 36.01.050. Should any party bring any legal action, each party in such action shall bear the cost of its own attorney's fees and court costs.
28. COUNTERPARTS, ELECTRONIC SIGNATURE. The Agreement may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement. A facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute original signatures and deemed to constitute duplicate originals.
29. AUTHORIZATION. Any authorizations, actions required or permitted to be taken, and any document required or permitted to be executed under this Agreement will be taken or executed only by a duly authorized representative of the party. Each party warrants and represents to the other that the person signing below has been properly authorized and empowered to execute this Agreement on behalf of the party for whom they sign.

Dated this 20 day of October, 2023.

Dated this ____ day of _____, 2023.

KITSAP COUNTY FIRE
PROTECTION DISTRICT NO. 18

KITSAP COUNTY

JIM GILLARD, Fire Chief

JAN GLARUM, Director
Emergency Management Department

DATED or **ADOPTED** this ____ day of _____, 2023.

**BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON**

CHARLOTTE GARRIDO, Chair

KATHERINE T. WALTERS, Commissioner

CHRISTINE ROLFES, Commissioner

ATTEST:

Dana Daniels, Clerk of the Board