

RESTATED AND AMENDED REAL PROPERTY OWNERSHIP & MANAGEMENT AGREEMENT

THIS IS AN AGREEMENT entered into between **SILVERDALE WATER DISTRICT**, a Washington State Municipal Corporation, hereinafter also called “WATER DISTRICT”, and **CENTRAL KITSAP FIRE & RESCUE**, a Washington State Municipal Corporation, hereinafter also called “FIRE DISTRICT”.

These parties previously entered into a “Commercial Real Estate Purchase and Sale Agreement” dated June 9, 1999, with FIVE C’s, a Washington General Partnership, for the purchase of real property (hereinafter simply referred to as “Property”) on which they built joint operational facilities. The closing of that transaction occurred and the Parties have jointly owned and operated the Property since that time. After the purchase of the Property the Parties entered into a Real Property Ownership and Management Agreement. That Agreement has been in effect since April of 2001. The Parties also entered into Dispute Resolution Agreement in March of 2000. The Parties now desire to update their Agreements regarding the joint ownership and management of the Property.

This Agreement shall supersede and replace the prior Real Property Ownership and Management Agreement and Dispute Resolution Agreements.

Accordingly, the parties now agree it to be in their respective best interests to enter into this Restated and Amended Real Property Ownership and Management Agreement which sets forth in general terms how they will own and manage the Property and resolve any disputes regarding the same.

NOW, THEREFORE, in consideration of the foregoing recitals, and the promises

and covenants of the parties hereinafter set forth, they agree as follows:

1. **Equal Ownership.** The parties are equal owners and managers of the Property in all respects.

2. **Day to Day Property Management.** The day-to-day operations of the Property shall be managed jointly and equally by the general manager of Silverdale Water District ("Water District") and the chief executive officer of Central Kitsap Fire & Rescue ("Fire District"). These two individuals shall hereinafter also be collectively referred to as "co-managers". The co-managers shall establish a schedule of regular meeting times to meet, discuss, and determine issues of mutual importance regarding the Property's daily operations. Pursuant to Washington's Inter-Local Cooperation Act, it is acknowledged no joint funding or joint budget is required to implement this Agreement.

2. **Decision Making Process.** Prior to either party taking any significant action regarding the Property, or its management, or its use, the parties shall discuss the proposed action with one another and reach agreement on the course of action to be taken. All agreements the parties reach of a significant nature regarding the Property or its management shall be reduced to writing at the earliest reasonable opportunity and signed by a representative of each party. Without limiting the generality of the foregoing, the parties shall agree on: all construction plans for the Property; any changes to such construction plans; Property upgrades and improvements; use of the Property; management decisions regarding the Property; what portions of the Property and improvements thereon each shall occupy; how Property maintenance expenses shall be apportioned between them; what rental amount one shall pay to the other if one occupies a greater portion of the Property than the other; and the ultimate disposal of the Property.

3. Spirit of Cooperation. The parties stress their joint goal is to work with one another at all times in an open, reasonable, and fair manner, and in a spirit of mutual cooperation, so any disagreements, or potential disagreements, that arise between them regarding any aspect of their joint ownership and management of the Property may be settled as quickly and fairly as possible, and as informally as possible, at the lowest decision making level.

4. Expenses/Income.

A. Equal Payment of Expenses/Property Income. The parties shall share equally in all expenses of every kind and nature associated with the joint operations of the Property. They shall also share equally in any and all income from other sources that may be generated as a result of the Property's utilization by others. Unless otherwise agreed, each party shall be entitled to utilize one-half of the Property and all improvements thereon for its purposes. The co-managers shall be responsible for developing a reasonable formulae(s) establishing how Property expenses will be apportioned between the Fire District and Water District, which formulae(s) shall seek to fairly apportion these expenses according to the actual estimated cost of each District. This/These apportionment formulae(s), and any explanation notes associated therewith, shall be reduced to writing and shared with each party's staff. The apportionment formulae(s) (and the explanation notes associated therewith) may be amended from time to time by the co-managers to better reflect a fair division of the costs covered thereby between the two Districts, and the most recent apportionment formulae(s) at any time, signed by the co-managers, shall be the apportionment formulae(s) then in effect. The co-managers may also simply determine how payment of any specific expense item is to be split between the two Districts, based upon the guidelines established in this Agreement for determining the division of expenses between the two Districts, and this determination shall be noted on any given billing statement, or by attachment thereto, which shall be dated and initialed by each co-manager, and maintained in an organized manner as determined

by them.

B. Greater Use by One Party. It is agreed, however, that if one party incurs greater expense in its operation, i.e., in the use of utilities, that party shall pay an additional amount equaling its greater usage as agreed to by the parties.

If the parties agree, either party may utilize a greater portion of the Property or improvements thereon, the party utilizing the greater portion thereof shall be obligated to bear a greater share of the expenses associated with its usage in proportion to its expanded use, and that party shall also be obligated to compensate the other party in a reasonable manner and on a regular basis for the reasonable rental value of that portion of the Property it is utilizing that is greater than the other party's utilization.

Prior to any said expanded use of the Property occurring by one party, the party's shall negotiate with one another and enter into a written understanding of what share of the Property expenses each party shall bear, and what rental amount the party utilizing the greater portion of the Property shall pay to the other.

5. Quiet Enjoyment of Property by Each. Each party shall strive to use the Property in a manner which does not unreasonably interfere with the other party's usage thereof. If such interference does occur which reasonably interferes with the other's party usage on an ongoing or regular basis, the party's shall meet and attempt to work out an arrangement whereby the said interference is eliminated, or reduced to a reasonably acceptable level to the other party.

6. Dispute Resolution.

6.1. 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.

6.2. 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 Kitsap County Superior Court, Kitsap 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.

6.3. 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 Kitsap County Superior Court. The court shall determine all questions of law and fact without empaneling 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.

6.4. 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.

7. **Reasonable Construction**. The terms of this Agreement shall be provided with a reasonable construction and interpretation so the terms and spirit of this Agreement may be fully implemented. This Agreement shall not be construed in favor of or against either party for the reasons that both parties have provided equal input in the drafting of this Agreement.

8. **Indemnification & Insurance**.

8.1. The Water District shall protect, defend, indemnify and save harmless the Fire District, its officers, employees and agents from any and all costs, claims, judgments or awards of damages arising out of or in any way resulting from negligent acts or omissions of the Water District, its officers, employees or agents in performing the Agreement.

8.2. The Fire District shall protect, defend, indemnify and save harmless the Water District, its officers, employees and agents from any and all costs, claims, judgments or awards of damages arising out of or in any way resulting from negligent acts or omissions of the Fire District, its officers, employees or agents in performing the Agreement.

8.3. The Water District and the Fire District shall each, either maintain commercial comprehensive general liability policies, or shall maintain self-insured liability coverage for any injury occurring related to this Agreement. Commercial policies shall contain a provision requiring the carrier to provide at least thirty (30) days notice prior to cancellation or amendment of the policy. If commercial comprehensive general liability coverage is maintained by either the Fire District or the Water District, a certificate of insurance shall be provided, to the party requesting information about the coverage. If self-insurance is maintained by either party a letter shall be provided to the other party clarifying applicable coverage which will be generally comparable to current forms of such insurance.

9. **Sale/Purchase of Property**. Upon approval and execution of this Agreement, the Parties, through their respective Co-Managers identified herein, agree to pursue a joint RESTATED AND AMENDED REAL PROPERTY OWNERSHIP & MANAGEMENT AGREEMENT


effort/policy to establish and identify a collaborative process to be followed in the event either Party determines that it no longer needs its space on the Property or has interest in acquiring additional space on the Property.

10. Filing. As required by RCW 39.34.040, the Agreement shall be filed with the County Auditor or alternatively, listed on the district's website or other electronically retrievable public source.

11. Complete Agreement. This Agreement constitutes the full and complete agreement of the parties regarding the matters contained herein. No prior verbal understandings between the parties, or any written agreements or memorandums, concerning the matters contained herein shall be effective or be provided with any legal effect. All amendments to this Agreement shall be placed in writing and approved by each party.

IN WITNESS WHEREOF, we, the undersigned, hereby represent that this Agreement was duly considered and entered into by each party's board of commissioners at a duly scheduled meeting of each board, and has been entered into according to law.

SILVERDALE WATER DISTRICT

by: 
MARCUS HOFFMAN, Commissioner

Date: 5/4/23

by: 
JOHN POPPE, Commissioner

Date: MAY 4, 2023

by: 
JOY RAMSDELL, Board Chairman

Date: 5/4/23

Silverdale Water Address:

5300 NW Newberry Hill Rd #100
Silverdale, WA 98383

CENTRAL KITSAP FIRE & RESCUE

by: 
BOB MUHLEMAN, Board Chairman

Date: 25 APR 23

by: 
GUY EARLE, Commissioner

Date: 5-3-23

by: 
KEN ERICKSON, Commissioner

Date: 5-3-23

by: 
NATE ANDREWS, Commissioner

Date: 5-3-23

by: 
ROD ELMORE, Commissioner

Date: 5-3-23

Central Kitsap Address:

5300 NW Newberry Hill Rd. # 101
Silverdale, WA 98383