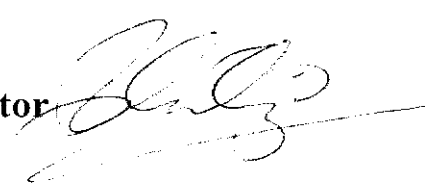


**JEFFERSON COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA REQUEST**

**TO:** Board of County Commissioners

**FROM:** Philip Morley, County Administrator 

**DATE:** December 6, 2010

**SUBJECT:** Agreement for Fire Hall Communications Tower; City of Port Townsend, East Jefferson Fire and Rescue; \$86,720

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**STATEMENT OF ISSUE:**

Board approval is requested of a sale and use agreement between the City of Port Townsend, East Jefferson Fire and Rescue and Jefferson County (on behalf of JeffCom 911).

**ANALYSIS:**

The proposed Agreement would transfer ownership and create a use agreement for the existing communications tower and related equipment at the Fire Hall located at 701 Harrison Street in Port Townsend. The tower is owned by the City of Port Townsend, and is located at the fire station the City leases to East Jefferson Fire and Rescue.

JeffCom desires to purchase the communications tower and related equipment, which are used for JeffCom's backup dispatch center. The negotiated price is \$80,000 plus Washington State Sales Tax, for a total of \$86,720.

The Agreement includes a number of use provisions, including relation to the separate pre-existing station and land lease by East Jefferson Fire and Rescue, access, utilities, insurance, and assignment and transfer of the tower and first right of refusal.

The Agreement has been executed by the City and East Jefferson Fire and Rescue, and was recommended for BoCC approval by a motion passed by the JeffCom Administrative Board on November 4, 2010.

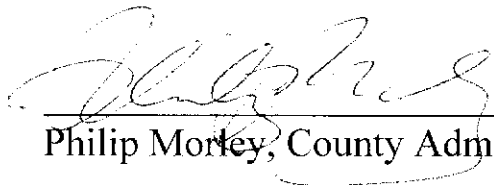
**FINANCIAL IMPACT**

Funds for this purchase would come from fund balance in JeffCom's Fund 122.

**RECOMMENDATION:**

Approve Resolutions 1) Diversion of Road Levy to Traffic Law Enforcement for the 2011 Budget; and 2) Authorizing a Shift of \$219,550 from the Road Levy to the General Fund for the 2011 Budget

**REVIEWED BY:**

  
Philip Morley, County Administrator

12/31/10  
Date

**AGREEMENT FOR FIRE HALL COMMUNICATIONS TOWER**  
**(Sale and Use Agreement)**

THIS AGREEMENT is made at Port Townsend, Washington, this 16 day of November, 2010 (the date which the last party signs this Agreement), by and between

1. **THE CITY OF PORT TOWNSEND**, a Municipal Corporation, hereinafter referred to as "CITY," and
2. **JEFFERSON COUNTY**, a Municipal Corporation, through **JeffCOM**, hereinafter referred to as "COUNTY" or "JeffCOM," and
3. **JEFFERSON COUNTY FIRE DISTRICT 1 (also known as East Jefferson Fire Rescue)**, hereinafter referred to as "District" or "EJFR").

**RECITALS:**

- A. City is the municipal government of the City of Port Townsend. City owns the Fire Hall, located at 701 Harrison Street, Port Townsend and legally described as:

Block Z, Lots 1 and 3 in the plat of Kuhn's Ranch as recorded in Volume 2, Page 26, within the southeast quarter of Section 2, Township 30 North, Range 1 West, W.M., Records of Jefferson County, Washington.

City leased the Fire Hall to Jefferson County Fire District No. 1 ("Fire District") effective January 1, 2007 ("Fire Hall Lease Agreement"), in connection with an INTERLOCAL AGREEMENT FOR JOINT OPERATION AND MANAGEMENT OF FIRE SERVICES (City of Port Townsend, and Jefferson County Fire District 1 (effective, January 1, 2007).

- B. City owns a communications tower (and related equipment) located at the Fire Hall. City desires to sell the communications tower (and related equipment) to JeffCOM subject to the terms of this Agreement.
- C. JeffCOM desires to purchase the communications tower (and related equipment) subject to the terms of this Agreement.
- D. These Recitals are a material part of this Agreement.

**IN CONSIDERATION OF THE RECITALS, TERMS, COVENANTS AND CONDITIONS SET OUT HEREIN, THE CITY AND JeffCOM HEREBY AGREE AS FOLLOWS:**

**1. PURCHASE AND SALE.** CITY does hereby sell and JeffCOM hereby purchases the City's communications tower and related equipment located at the fire hall. The communications tower and related equipment are as follows:

- a. - 80' Self-supporting Lattice Tower including the concrete pad and pier, safety cable, safety harness kit, lightening rod, grounding hardware (including the antenna cable ground system in the Fire Station), and erection drawings.
- b. - 20' x 18" Ice Bridge, Support Posts, and Trapeze Supports

Equipment List- does not include the Emergency Generator (owned by the City, but maintained and tested by the Fire District).

The effective date of the sale and risk of transfer pass on the date of this Agreement.

**2. PRICE; PAYMENT.** The price is Eighty thousand dollars (\$80,000), plus WSST. The price shall be paid to the City within 45 days of the date of this Agreement.

**3. COMMUNICATIONS TOWER LOCATION; FIRE HALL NO LONGER USED AS FIRE HALL.** The communications tower and related equipment may remain in their existing location, including any replacement communications tower and equipment, at no cost, under the terms of an existing lease between the City and Jefferson County Fire District No. 1 dated November 21, 2006 (copy attached).

**4. GENERAL CONDITIONS.**

A. Condition of Purchase. City does not guarantee the condition of the above-described equipment in any fashion. No representation of any warranty of any kind has been or is being made by the City regarding this equipment. The equipment is sold "as is, where is, with all faults." JeffCOM acknowledged it has inspected the equipment to its satisfaction. Any maintenance, repairs, replacement shall be the sole responsibility of JeffCOM.

B. Access. JeffCOM shall have reasonable access to service, maintain, repair and replace the equipment. All work shall be accomplished in a manner that interferes with District operations in the least possible manner.

C. Utilities. JeffCOM shall pay for any utilities (electric) in connection with its use of the communications tower and related equipment. JeffCOM at its cost shall segregate the portion of the Fire Hall's electrical system related to JeffCOM's facility, and move all circuits to a separate panel or panels where all the of electricity related to JeffCOM's facility is separately metered.

D. Accidents, Liability, Insurance, Release. JeffCOM shall hold the City and Fire District harmless from, any claim, action and/or judgment, including reasonable attorney fees and court costs, for any injury to any persons or for damage to any property arising out of JeffCOM's use of the premises. JeffCom shall maintain its own insurance on the communications tower and

equipment for any loss or damage, and waives and releases all claims against City or Fire District, and its employees, and against, with respect to any damage or loss to JeffCom's property for which JeffCom has agreed to provide property insurance as set forth above, from any cause, including negligence, but not including intentional acts by City or Fire District.

E. Assignment or Transfer; First Right of Refusal. JeffCOM shall not assign or transfer this agreement or any interest in the Agreement, without Fire District's and City's prior written consent, which Fire District or City may withhold in its discretion. This section only means that the right to maintain a tower at the site is JeffCOM's right, and JeffCOM cannot give that right to anyone else. The section does not prohibit JeffCOM, in its own discretion, and not with any requirement for City or District approval, from selling the tower, or (subject to applicable city regulations) putting up a different tower.

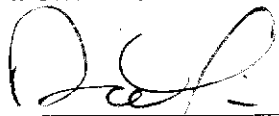
In the event of any proposed sale of the tower by JeffCOM, District shall have a first right of refusal to purchase the tower on the same terms and conditions as a bona fide written offer. District shall have 30 days after presentation of the written offer by JeffCOM to District to determine whether to make the purchase, and if so, shall close on the sale in the same timeframe as the original offer, but in no event more than 30 days after District's determination whether to make the purchase. Any attempt to sell the property without giving notice to District shall not be valid.

F. Arbitration. Any controversy or claim arising out of or related to this Agreement or the breach or alleged breach thereof shall be settled according to the procedures of the American Arbitration Association. Any costs, expenses and legal fees incurred in arbitration shall be awarded as determined in the course of the arbitration, and may be awarded to the prevailing party. Jurisdiction for any arbitration action shall be Jefferson County.

G. Entire Agreement; Revocation Of Prior Agreements; Amendments. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter of this Agreement and use of the premises, and any other agreement, statement, promise, representation or understanding by any party hereto, or any of their respective agents, representatives, employees or principals which is not contained in this Agreement, is hereby mutually rescinded and revoked and shall not be binding or valid.

Any amendments or additions or modifications to this Agreement shall be in writing executed by the parties hereto. Neither party shall be bound by any verbal or implied agreements.

**CITY OF PORT TOWNSEND**

By:   
David Timmons, City Manager  
City Hall  
250 Madison Street, #201  
Port Townsend, WA 98368


**JEFFCOM and JEFFERSON COUNTY**

By: \_\_\_\_\_  
Commissioner

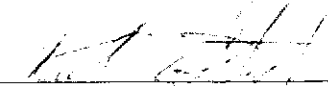
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Commissioner

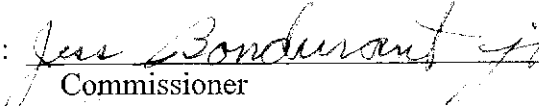
By: \_\_\_\_\_  
Commissioner


Approved as to form only.

 11/30/2010  
Jefferson County Treasurer

**JEFFERSON COUNTY FIRE DISTRICT 1,  
(also known as East Jefferson Fire Rescue)**

By:   
Commissioner

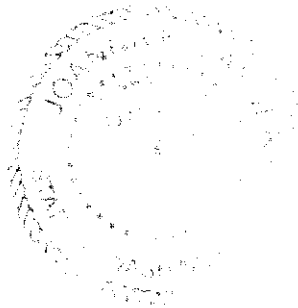
By:   
Commissioner

By:   
Commissioner

STATE OF WASHINGTON        )  
  )ss.  
COUNTY OF JEFFERSON        )

On this \_\_\_\_ day of \_\_\_\_\_, 2010, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared **David Timmons**, known to be the City Manager of the CITY OF PORT TOWNSEND, the municipality that executed the foregoing **Agreement**, and acknowledged the said instrument to be the free and voluntary act of said municipality, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the municipality.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



\_\_\_\_\_  
[Print name]  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_, My  
appointment expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF JEFFERSON )

On this 16 day of November, 2010, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared **Jess Bondurant, Jr.**, known to be the one of the JEFFERSON COUNTY FIRE DISTRICT 1 Commissioners, that he executed the foregoing **Agreement**, and acknowledged the said instrument to be the free and voluntary act of said entity, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the entity.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

**Notary Public**  
**State of Washington**  
LONIBETH M HARBISON  
MY COMMISSION EXPIRES  
April 27, 2011

Lonibeth Harbison  
[Print name]  
NOTARY PUBLIC in and for the State of  
Washington, residing at Jefferson Co.. My  
appointment expires: 4-27-2011

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF JEFFERSON )

On this 16 day of November, 2010, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared **Richard Stapf, Jr.**, known to be the one of the JEFFERSON COUNTY FIRE DISTRICT 1 Commissioners, that he executed the foregoing **Agreement**, and acknowledged the said instrument to be the free and voluntary act of said entity, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the entity.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

**Notary Public**  
**State of Washington**  
LONIBETH M HARBISON  
MY COMMISSION EXPIRES  
April 27, 2011

Lonibeth Harbison  
[Print name]  
NOTARY PUBLIC in and for the State of  
Washington, residing at Jefferson Co.. My  
appointment expires: 4-27-2011

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF JEFFERSON )

On this 16 day of November, 2010, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared **Zane Wyl, Sr.** known to be the one of the JEFFERSON COUNTY FIRE DISTRICT 1 Commissioners, that he executed the foregoing **Agreement**, and acknowledged the said instrument to be the free and voluntary act of said entity, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the entity.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

**Notary Public**  
**State of Washington**  
LONIBETH M HARBISON  
MY COMMISSION EXPIRES  
April 27, 2011

Lonibeth Harbison  
[Print name]  
NOTARY PUBLIC in and for the State of  
Washington, residing at Jefferson Co.. My  
appointment expires: 4-27-2011



**LEASE AGREEMENT**  
**FOR**  
**FIRE HALL**

THIS LEASE is made at Port Townsend, Washington, this 21 day of November 2006, by and between **THE CITY OF PORT TOWNSEND**, a Municipal Corporation, hereinafter referred to as "LESSOR" or "CITY," and **JEFFERSON COUNTY FIRE DISTRICT 1**, doing businesses as East Jefferson Fire Rescue, hereinafter referred to as "LESSEE" or "DISTRICT."

**RECITALS:**

A. Lessor is the municipal government of the City of Port Townsend. LESSOR owns a Fire Hall, located at 701 Harrison Street , Port Townsend and legally described as: Block Z, Lots 1 and 3 in the plat of Kuhn's Ranch as recorded in Volume 2, Page 26, within the southeast quarter of Section 2, Township 30 North, Range 1 West, W.M., Records of Jefferson County, Washington.

B. Lessee is a political subdivision organized under the laws of the State of Washington.

C. The parties entered into an Interlocal Agreement For Joint Operations and Management ("Interlocal Agreement") effective January 1, 2006. The Interlocal Agreement provided for, among other things, a joint operation of the City and District fire services to realize efficiencies and cost-savings by minimizing duplication of employees and resources and provide for consistency in training and operations. The parties agreed during the term of the Interlocal Agreement to work together to determine if further consolidation served the interests of the City, and District and their citizens by providing fire service in a more efficient, effective, and less costly manner for citizens within both the City and District.

D. As part of further consolidation efforts, the parties entered into a new Interlocal Agreement effective January 1, 2007, which provides, among other things, governance, levels of service, funding, and that the employees of the City will transfer to and become employees of the District, and the City will transfer it's fire service assets to the District. As part of the these consolidation efforts, the parties desire to enter into this Lease Agreement to provide for the terms whereby the City leases its Fire Hall to the District.

E. These Recitals are a material part of this Lease.

IN CONSIDERATION OF THE RECITALS, TERMS, COVENANTS AND CONDITIONS SET OUT HEREIN, THE CITY AND DISTRICT HEREBY AGREE AS FOLLOWS:

**1. PROPERTY DESCRIPTION**

LESSOR does hereby lease to LESSEE the Port Townsend Fire Hall ("Fire Hall") and property described above (hereinafter referred to as the "leased premises," or "premises") together with all improvements on the premises, EXCEPT: None

Provided: (1) City has the unrestricted use of the EOC area during emergency events and for as long as needed to deal with the emergency and the aftermath (as determined by the City).

(2) The parties shall work cooperatively to petition JeffCOM for JeffCOM to acquire the antenna tower and related equipment located on the premises. Purchase proceeds would reimburse the City for the City's acquisition costs. In the event that a mutually satisfactory purchase by JeffCOM does not occur, then City reserves the right to lease the tower space to JeffCOM for tower use, and rent proceeds belong to the City for so long as it takes to reimburse the City for its acquisition costs.

**2. TERM OF LEASE; RENEWAL**

This lease shall be for a period of twenty (20) years, commencing January 1, 2007, and shall expire on December 31, 2027. This lease shall continue for successive five-year renewals on the same terms of this Lease. Provided, on or before January 1, 2024, either party may terminate this Lease Agreement on January 1, 2027, by giving at least three (3) years written notice of termination for the Lease Agreement to terminate on January 1, 2027, and after January 1, 2027, either party may terminate this Lease Agreement by giving at least three (3) years written notice of termination for the Lease Agreement to terminate on the January 1 which is more than three years from the notice.

**3. RENTAL AMOUNT AND PAYMENT SCHEDULE**

In consideration of the lease of the leased premises to LESSEE, LESSEE shall:

(a) Shall pay LESSOR for rental of the above-described premises the sum of \$60,000 a year, payable in twelve (12) monthly installments on or before the 10<sup>th</sup> of each month.

Provided: Upon the payoff of the City's debt service in connection with the City's 2003 LTGO (portion related to fire hall construction), then the sum in this paragraph (a) shall be \$10,000 .

(b) Shall perform all other obligations set forth in this Lease.

4. **TAXES AND ASSESSMENTS**

LESSEE shall pay all taxes and assessments, if any, upon the Fire Hall and upon the buildings and improvements thereon which are assessed during the lease term.

5. **UTILITIES**

(a) LESSEE shall pay, throughout the term of this lease, all charges for all utility services furnished to the leased premises, including but not limited to light, heat, electricity, gas, water, sewage, garbage disposal.

(b) LESSOR shall not be liable for any reason for any loss or damage resulting from an interruption of any of such services.

6. **USE OF LEASED PREMISES**

(a) LESSEE shall use the leased premises for the location and operation of a fire hall only, and no other purposes. Provided, nothing prevents the District from using the fire hall for incidental uses not directly related to the furnishing of emergency services, for example, using the fire hall for community meetings, food drives, or as a voting location.

(b) LESSEE shall comply with all federal, state and local laws and ordinances related to use of the said premises.

7. **FIRST RIGHT TO NEGOTIATE A PURCHASE**

(a) LESSOR agrees that during the term of this lease, including any of its extensions, the real property on which the premises is located, or any adjacent real property owned by LESSOR becomes available for sale by LESSOR, in whole or in part, LESSEE shall have First Right to Negotiate a Purchase.

(b) In that event, LESSOR shall give LESSEE written notice of its intent to sell, the purchase price, and any required terms of sale. LESSEE shall then have sixty (60) days during which to negotiate in good faith with LESSOR according to the required terms and asking purchase price.

(c) If a negotiated agreement is not reached by the end of the 60-day option period, LESSOR may then offer the Property to any other Buyer.

8. **ALTERATION**

(a) Subject to LESSOR'S prior written permission (which shall not be unreasonably withheld), LESSEE may undertake at LESSEE'S expense leasehold improvements. All work shall be done in a manner consistent with applicable legal requirements.

(b) LESSEE and LESSOR agree to cooperate in applying for grants to fund LESSEE or LESSOR improvements.

(c) Upon termination of this lease, either by expiration of the lease or by default of LESSEE, any leasehold improvements shall be considered a part of the real property of LESSOR free from any interest of the LESSEE. By way of example only: leasehold improvements include things attached to or incorporated into the premises like wiring, walls, and light fixtures; leasehold improvements do not include things like demountable pictures and signage.

**9. SIGNS AND BUILDING IDENTIFICATION**

No signs shall be erected or maintained on the property without LESSOR'S prior written consent, which shall not be unreasonably withheld.

**10. FIRE DISTRICT ANNEXATION**

In the event the City annexes to the Fire District, the following applies:

The City shall provide a fully executed quit claim deed transferring in fee simple its interest in the premises and improvements to the District, in the form attached as **Attachment A**. The City's transfer is subject to the following terms, which terms (or equivalent) shall be reflected in the deed (**Attachment A**) and/or other instrument in form acceptable to the City Attorney:

1. The District shall continue to pay the City's debt service in connection with the City's 2003 LTGO (portion related to fire hall construction). Subject to the terms of the LTGO, the District may provide funds to the City for the City to pre-pay the LTGO or otherwise defease the LTGO.
2. At any time that the premises, fire hall, and improvements on the premises are no longer primarily used by the District for fire and emergency service purposes, which includes housing equipment to respond to emergencies in the City of Port Townsend, then the premises, fire hall, and improvements shall automatically revert to the City at no cost, and the City shall have the right to re-enter the premises and take possession of them, free and clear of any interest of the District or any third party claiming through the District. Nothing prevents the District from using the fire hall for incidental uses not directly related to the furnishing of emergency services, for example, using the fire hall for community meetings, food drives, or as a voting location.
3. During District's use of the premises and improvements, District, at its sole cost, shall keep the fire hall, including the roof and foundation, in good order, condition and repair, and as may be required to comply with any laws and regulations, provided, nothing prevents the District from replacing or remodeling the fire hall with a substantially equal or better structure in the event the District determines the same is necessary.
4. In the event following annexation to the District, the City de-annexes from the District, then the fire hall reverts to City ownership and the District shall quit claim in fee simple its interest to the City without cost

**11. CONDITION OF PREMISES.**

LESSEE accepts the premises in "as is" condition as of the date of the Lease, and the City makes no warranties or guarantees of any kind as to the condition of the same. The City agrees to transfer and assign any and all interest it may have in any manufacturer's, contractors or vendor's warranties related to the building or any portion thereof.

Notwithstanding the foregoing, the LESSOR shall be responsible to repair concrete work in the vicinity of the walkway adjacent to the back parking lot to bring the same into ADA compliance, and the City is further responsible for any sidewalk repairs or maintenance adjacent to the building.

**12. MAINTENANCE AND REPAIR**

(a) LESSEE.

(1) During the existence of this Lease Agreement, LESSEE shall, at its own expense, at all times keep the leased premises in a neat, clean, sanitary, and well-maintained manner, and use the premises and the common areas in accordance with applicable laws, ordinances, rules, regulations and requirements of governmental authorities. The LESSEE shall permit no waste, damage or injury to the Premises.

(2) LESSEE's obligation to keep and maintain the premises in good order, condition, and repair includes without limitation all plumbing and sewage facilities in the premises, floors (including floor coverings), doors, locks, and closing devices, window casements and frames, glass and plate glass, grilles, all electrical facilities and equipment, HVAC systems and equipment, and all other appliances and equipment of every kind and nature, and all landscaping upon, within, or attached to the premises. In addition, LESSEE will at its sole cost and expense install or construct any improvements, equipment, or fixtures required by any governmental authority or agency as a consequence of LESSEE'S use and occupancy of the premises. LESSEE will replace any damaged plate glass within forty-eight (48) hours after the occurrence of such damages.

(3) LESSOR will assign to LESSEE, and LESSEE will have the benefit of, any guarantee or warranty to which LESSOR is entitled under any purchase, construction, or installation contract relating to a component of the premises that LESSEE is obligated to repair and maintain. LESSEE will have the right to call upon the contractor to make such adjustments, replacements, or repairs that are required to be made by the contractor under such contract.

(4) At the expiration of this Lease, LESSEE shall return the premises to LESSOR in the same condition in which received (or, if altered by LESSEE with LESSOR'S consent, then the premises shall be returned in such altered condition), reasonable wear and tear excepted.

(5) LESSEE, at its sole cost, shall keep the structure of the Fire Hall, including the roof and foundation, in good order, condition and repair, and as may be required to comply with any laws and regulations, subject to and provided as follows:

- (i) LESSEE shall not be responsible for damage caused by the negligence of LESSOR or its agents, employees, contractors, or invitees. LESSOR shall pay for the repair of any damage caused by LESSOR, its representatives, agents, employees, invitees, guests, independent contractors or principals (but not including acts or omissions of LESSEE).
- (ii) LESSOR shall not be responsible for any interruption or disturbance of LESSEE's business, service, or occupancy because of any maintenance or repair of any items or for any damage, injury or loss for failure to maintain or repair of any items.
- (iii) LESSEE shall notify LESSOR of any hazardous conditions which become apparent to LESSEE or its agents, employees, contractors, or invitees.
- (iv) LESSEE shall notify LESSOR of LESSEE's intent to perform work or repairs under this section 12, paragraph (5) of the Lease Agreement. Said notice shall be in writing and be given at least sixty (60) days in advance of the work or repairs unless an emergency exists that makes giving notice impractical and impossible (in which event, notice shall be given immediately). All work and repairs shall be undertaken in a professional and workmanlike manner according to applicable laws and regulations.

(b) LESSOR. LESSOR has no maintenance or repair obligations under this Lease Agreement.

### 13. INSPECTION BY LESSOR

LESSOR reserves the right to inspect the leased premises at any and all reasonable times throughout the term of this lease; provided that it shall not interfere unduly with LESSEE's operations. The right of inspection reserved to LESSOR hereunder shall impose no obligations on the LESSOR to make inspections to ascertain the condition of the premises and shall impose no liability upon LESSOR for failure to make such inspections.

### 14. ACCIDENTS, LIABILITY, INSURANCE, RELEASE

(a) LESSEE Hold Harmless. LESSOR shall not be liable, and LESSEE agrees to defend, indemnify, and hold LESSOR, its employees, agents, contractors and invitees harmless from, any claim, action and/or judgment, including reasonable attorney fees and court costs, for any injury to any persons or for damage to any property of LESSEE or others, including LESSEE'S employees, agents, contractors and invitees regardless of how such injury or damage was caused, sustained or alleged to have been caused or sustained by the LESSEE or by others as

a result of any condition (including existing or future defects in the premises) or occurrence whatsoever related in any way to the premises and to the areas adjacent thereto, or related in any way to LESSEE's use or occupancy of the premises and the areas adjacent thereto, unless caused by LESSOR'S sole negligence.

(b) LESSEE Insurance. At all times during the term and any renewals, Lessee will carry and maintain, at Lessee's expense, the following insurance, in the amounts specified or such other amounts as LESSOR may from time to time reasonably request:

(1) Liability. Bodily injury and property damage liability insurance, with a combined single occurrence limit of not less than \$1,000,000. All such insurance will be equivalent to coverage offered by a commercial general liability form including, without limitation, personal injury and contractual liability coverage for the performance by Lessee of the indemnity agreements set forth in this lease;

(2) Property. Insurance covering all of LESSEE'S furniture and fixtures, machinery, equipment, stock, and any other personal property owned and used in LESSEE'S business and found in, on, or about the project, and any leasehold improvements to the premises in an amount not less than the full replacement cost, or otherwise in form as deemed satisfactory and sufficient to LESSEE, to fully insure LESSEE'S property, or the property of others located on the premises. Property forms will provide coverage on a broad form basis insuring against "all risks of direct physical loss" (including earthquake). All policy proceeds will be used for the repair or replacement of the property damaged or destroyed; however, if this Lease ceases under the provisions of Damage or Destruction, LESSEE will be entitled to any proceeds resulting from damage to LESSEE'S furniture and fixtures, machinery and equipment, stock, and any other personal property; LESSOR shall be named as a loss payee to the extent of LESSOR's interests.

(3) LESSEE agrees to supply LESSOR with appropriate evidence to establish that insurance obligations as herein provided have been met; that the insurance policy or policies as herein required are not subject to cancellation without at least ten (10) days advance written notice to LESSOR; and that the LESSOR is named as an additional insured.

(c) LESSOR Insurance. LESSOR agrees to maintain such "all risk" coverage on the premises including earthquake and flood insurance as is typically provided by City's insurance authority WCIA, in such amount as LESSOR periodically designates with WCIA. To the extent typically provided by WCIA, insurance shall be for the full replacement value of the building. Deductibles shall be within the City's discretion, however, shall be consistent with deductibles on other buildings owned by LESSOR.

(d) LESSEE'S Release. LESSEE waives and releases all claims against LESSOR, its employees, and against, with respect to any damage or loss to LESSEE'S property for which LESSEE has agreed to provide property insurance as set forth above, from any cause, including LESSOR'S negligence, but not including intentional acts by LESSOR, and LESSEE

acknowledges and agrees that its property insurance will fully satisfy any loss or damage it sustains from any loss or damage however caused.

(e) Waiver of Subrogation. It is further specifically and expressly understood that the indemnification provided herein constitutes the Lessee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

#### 15. ASSIGNMENT OR SUBLEASE

(a) Because consideration for this Lease Agreement is based in part on LESSEE providing a substantial public benefit, LESSEE shall not assign or transfer this lease, without LESSOR'S prior written consent, which LESSOR may withhold in LESSOR'S sole discretion.

(b) LESSEE may, upon approval of the LESSORS, sublet a portion of the Fire Hall to other emergency services providers if in the judgment of the LESSEE and LESSOR that sublet is beneficial to the operations of Public Safety Services within the jurisdiction.

(c) This Lease Agreement or any interest therein shall not be assignable or transferable by operation of law or by any process or proceeding of any court, or otherwise, without the written consent of the LESSOR.

#### 16. DEFAULTS

(a) LESSEE Defaults. Time is of the essence of this agreement, and in the event of the failure of LESSEE to perform its obligations, or to keep any of the covenants or agreements herein set forth to be kept and performed, the LESSOR may elect to terminate this lease and re-enter and take possession of the premises with or without process of law; provided, however, that LESSEE shall be given thirty (30) days notice in writing stating the nature of the default in order to permit LESSEE to remedy such default within said thirty day period, or in the event the default cannot be reasonably remedied within said thirty days, that LESSEE commence to remedy within that period and diligently prosecute such remedy to completion.

(b) LESSOR Defaults. In the event LESSOR shall fail to keep and perform any of the covenants and agreements herein contained, and such failure continues for thirty (30) days after written notice from the LESSEE (unless such failure cannot be cured within such thirty (30) day period and LESSOR commences to cure within that period and diligently prosecutes such cure to completion), then the LESSEE shall have all rights and remedies applicable at law or in equity.

#### 17. DAMAGE OR DESTRUCTION

In the event the premises or any portion of the premises are destroyed by reason of fire or other cause, LESSEE will immediately notify LESSOR. If the building, or any portion of the



building, is damaged or destroyed by fire or any other cause, LESSOR will promptly repair or rebuild the building at LESSEE'S expense, so as to make the building as least equal in value to the building immediately prior to the occurrence and as nearly similar to it in character as is practical and reasonable. LESSOR will apply and make available the net proceeds of any fire or other casualty insurance paid to LESSOR, after deduction of any costs of collection including attorney fees, for repairing or rebuilding. Cost of repair and rebuilding includes the cost of any architect and engineer to prepare and review any plans and specifications. Rent is not abated pending the repairs and rebuilding except to the extent LESSOR receives a net sum as proceeds of any rent insurance.

If the building is damaged by fire or otherwise and the Lessee determines that expenses to repair after application of insurance shall exceed \$100,000.00, this constitutes an emergency event under the parties Interlocal Agreement (effective January 1, 2007) then the District shall so inform the Joint Board and the following shall occur: the Joint Board shall prepare a report and recommendation to be submitted to the legislative body of each of the parties for review. The parties agree to review any recommendation of the Joint Board, and if necessary to consider, in order to fund emergency expenses, approving the issuance and sale of general obligation bonds, submitting to the respective voters of the City and District for their approval a tax levy, or other options presented by the Joint Board.

If during the last five years of the term, as extended according to this Lease Agreement, the building is so damaged by fire or otherwise that the cost of restoration exceeds fifty percent of the replacement value of the building (exclusive of the foundations) immediately prior to the damage, either LESSOR or LESSEE may within thirty days of the damage give notice of its election to terminate this Lease Agreement, Provided, LESSEE will have no obligation to repair or rebuild, and the entire insurance proceeds will belong to LESSOR.

**18. LIENS; ENCUMBRANCES**

LESSEE shall keep the Premises free from any liens or encumbrances arising out of any work performed for, materials furnished to, or obligations incurred by LESSEE and shall hold LESSOR harmless against the same, and further, shall not place any liens or encumbrances against the premises, or the Fire Hall, and the same shall be void and of no effect.

**19. EMINENT DOMAIN**

Nothing prevents the LESSOR, acting in its governmental capacity, from exercising powers of eminent domain pursuant to law to acquire LESSEE'S interest in the Lease Agreement.

**20. WAIVER OF SUBROGATION**

LESSEE and LESSOR each release, relinquish and relieve the other of and waive their respective rights of recovery against the other for damage, injury or loss arising out of or incidental to fire, explosion, or any other perils covered under any property insurance or commercial general liability policy applicable to the Premises, which occurs in, on or about the premises, whether due to the negligence of either party, their agents, representatives, employees,

invitees, guests, independent contractors or principals. LESSOR and LESSEE will cause their respective insurers to issue appropriate waivers of subrogation rights endorsements to all policies of insurance carried in connection with Fire Hall or the premises or the contents of either one; Provided that, this release, relinquishment and waiver shall not be effective or operative if, because of its existence or operation, the LESSOR cannot obtain property coverage or commercial general liability insurance on the Property with companies and with content and in amounts reasonably satisfactory to LESSOR or LESSOR's bondholders or lenders, or if obtainable, an additional premium is required.

**21. INSOLVENCY**

If LESSEE shall file a petition in bankruptcy, or if LESSEE shall be adjudged bankrupt or insolvent by any court, or if a receiver of the property of LESSEE shall be appointed in any proceeding brought by or against LESSEE, or if LESSEE shall make an assignment for the benefit of creditors, or if any proceeding shall be commenced to foreclose any mortgage or any other lien on LESSEE'S interest in the premises or on any personal property kept or maintained on the premises by LESSEE, the LESSOR may, at its option, terminate this lease.

**22. WAIVER**

The acceptance of the benefits of this Lease Agreement by the LESSOR for any period or periods after a default by LESSEE shall not be deemed a waiver of such default unless the LESSOR shall so intend and shall so advise LESSEE in writing. No waiver by the LESSOR of any default hereunder by LESSEE shall be construed to be or act as a waiver of any subsequent default by LESSEE.

**23. QUIET ENJOYMENT; LESSEE and LESSOR COVENANT**

(a) Providing LESSEE observes and performs all terms and provisions of this Lease to be observed or performed by LESSEE, LESSOR shall secure to LESSEE during the Lease Term the quiet and peaceful possession of the Premises as against any adverse claim of LESSOR or any party claiming under LESSOR in accordance with the terms and provisions of this Lease.

(b) LESSOR states that in its use of the premises adjacent to the leased premises that it shall permit no excessive noise, noxious odors, vibrations, or any discharge of whatsoever nature, which would be incompatible with the uses of LESSEE on the leased premises or which may constitute a nuisance at law, except during periods of construction, maintenance, repair, or replacement, and the parties agree to cooperate to allow construction, maintenance, repair, or replacement determined appropriate by LESSOR to occur, without liability (except for damage caused by LESSOR's negligence).

**24. SURRENDER**

At the end of the Lease, LESSEE will surrender the premises in good order and condition, ordinary wear and tear excepted. LESSEE will not remove any trade fixtures or equipment fastened to the building without LESSOR'S consent.

25. **ARBITRATION**

Any controversy or claim arising out of or related to this Agreement or the breach or alleged breach thereof shall be settled according to the procedures of the American Arbitration Association. Any costs, expenses and legal fees incurred in arbitration shall be awarded as determined in the course of the arbitration, and may be awarded to the prevailing party. Jurisdiction for any arbitration action shall be Jefferson County.

26. **ADVANCES BY LESSOR FOR LESSEE**

If LESSEE shall fail to do anything required to be done by it under the terms of this lease, the LESSOR may, at its sole option, do such act or thing on behalf of LESSEE, and upon notification by LESSOR of the cost thereof to the LESSEE, LESSEE shall promptly pay LESSOR the amount of that cost. Any such payment made by LESSOR on behalf of LESSEE shall bear interest at the rate of twelve (12%) percent per annum until paid in full.

27. **NOTICES**

All notices hereunder may be personally served, delivered or mailed. If mailed, they shall be sent by certified or registered mail to the addresses:

LESSOR:

City Manager  
City of Port Townsend  
City Hall  
250 Madison Street, #201  
Port Townsend, WA 98368

LESSEE:

Fire Chief  
East Jefferson Fire and Rescue  
Jefferson County Fire District No. 1  
1256 Lawrence Street  
Port Townsend, WA 98368

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices sent by mail shall be deemed to have been given when properly mailed, and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

28. **SEVERABILITY**

If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of the Lease will not be affected, and in lieu of each such provision that is found to be illegal, invalid, or unenforceable, provision will be added as a part of this Lease that is as similar to the illegal, invalid, or unenforceable provision as may be legal, valid, or enforceable.

29. **"LESSEE" INCLUDES LESSEES, ETC.**

The words "LESSOR" and "LESSEE", when used herein, shall be applicable to one or more persons, as the case may be, and the singular shall include the plural, the neuter shall include the masculine and feminine, and if there be more than one principal in the LESSEE, the obligations of the LESSEE hereunder shall be joint and several among all its principals. The words "person(s)" whenever used shall include individuals, firms, associations and corporations and any other legal entity. The language in all parts of this Lease shall in all cases be construed as a whole and in accordance with its fair meaning, and shall not be construed strictly for or against LESSOR or LESSEE, both LESSOR and LESSEE having negotiated and bargained for this Lease and its terms and provisions.

30. **ENTIRE AGREEMENT; REVOCATION OF PRIOR AGREEMENTS**

This Lease contains the entire agreement of the parties hereto with respect to the leasing and use and occupancy of the Premises and use of the Property, and no other agreement, statement, promise, representation or understanding by any party hereto, or any of their respective agents, representatives, employees or principals which is not contained in this Lease is hereby mutually rescinded and revoked and shall not be binding or valid.

31. **AMENDMENTS**

Any amendments or additions or modifications to this Lease shall be in writing executed by the parties hereto. Neither LESSEE nor LESSOR shall be bound by any verbal or implied agreements.

32. **VENUE**

Venue for any action hereunder shall be the Superior Court of Jefferson County, Washington and the laws of the State of Washington shall govern this lease. LESSEE consents to the jurisdiction of such court.

33. **CAPTIONS**

The captions of this lease are for convenience only and do not in any way limit or amplify the provisions of this lease.

34. **ADVICE OF COUNSEL; CONSTRUCTION**

The parties warrant and represent to each other that they have had representation by legal counsel and/or have had the opportunity to be represented by legal counsel during all stages in

the negotiation of this Lease. The parties further agree that they have participated in the negotiating and drafting of this Lease and stipulate that this Lease shall not be construed more favorably with respect to either party.

**35. AUTHORIZATION**

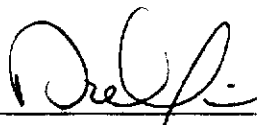
The undersigned warrant and represent that they are authorized on behalf of each corporate entity to execute this Lease on behalf of each entity. The City warrants that it has approved the Lease by duly adopted Resolution approved by the legislative body in open public meeting.

**36. RECORDING**

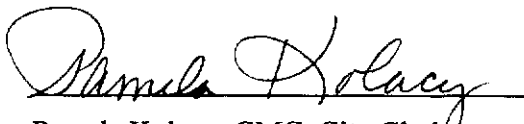
On execution of this Agreement by both parties, either party may record a Memorandum of Lease Agreement in Jefferson County.

**Attachments:**  
A - form of deed

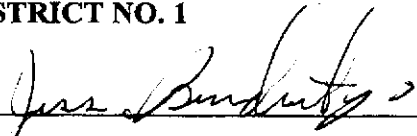
**LESSOR**  
**CITY OF PORT TOWNSEND**

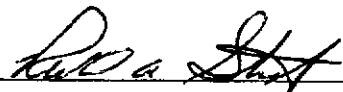
By   
David G. Timmons, City Manager  
Date: 12/29/06

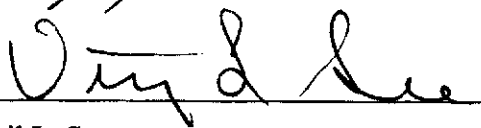
Attest:

  
Pamela Kolacy, CMC, City Clerk

**LESSEE**  
**JEFFERSON COUNTY FIRE**  
**DISTRICT NO. 1**

By   
Jess Bondurant, Jr.  
Date: 1/16/07

By   
Richard Stapf, Jr.  
Date: 1/16/07

By   
Virgil L. See  
Date: 1-16-07

Fire Hall Lease

Approved as to Form:



John P. Watts, City Attorney

By Zane Wyll Sr.

Zane Wyll, Sr.

Date: 1/14/17

By \_\_\_\_\_

Edward L. Davis

Date: \_\_\_\_\_

By Terry Heineman

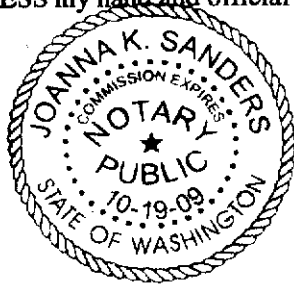
Terry Heineman

Date: 1/16/07

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF JEFFERSON )

On this 29<sup>th</sup> day of December, 2006, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared **David Timmons**, known to be the City Manager of the CITY OF PORT TOWNSEND, the municipality that executed the foregoing **Lease Agreement for the Fire Hall**, and acknowledged the said instrument to be the free and voluntary act and deed of said municipality, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the municipality.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



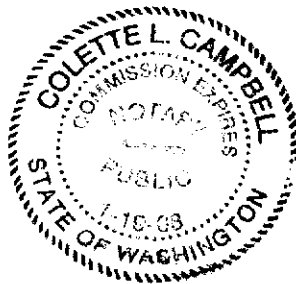
*Joanna K Sanders*

[Print name]  
NOTARY PUBLIC in and for the State of Washington, residing at Port Townsend, WA  
My appointment expires:

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF JEFFERSON )

On this 16 day of Jan, 2007, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared Jess Bandman known to be the Commissioner JEFFERSON COUNTY FIRE DISTRICT 1, that executed the foregoing **Lease Agreement for the Fire Hall**, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the entity.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



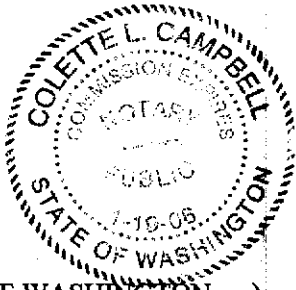
*Colette L Campbell*  
[Print name]  
NOTARY PUBLIC in and for the State of Washington, residing at Georgetown  
My appointment expires: 1-19-09

Fire Hall Lease

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF JEFFERSON )

On this 14 day of Jan, 2007, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared Rich Stept Jr., known to be the Commissioner JEFFERSON COUNTY FIRE DISTRICT 1, that executed the foregoing Lease Agreement for the Fire Hall, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the entity.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



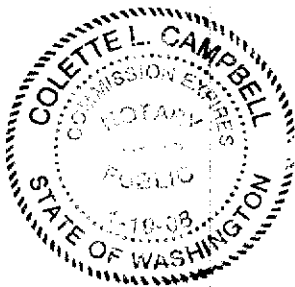
Colette Campbell

[Print name]  
NOTARY PUBLIC in and for the State of Washington, residing at Gardiner.  
My appointment expires: 1-19-08

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF JEFFERSON )

On this 14 day of Jan, 2007, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared Virgil See, known to be the Commissioner JEFFERSON COUNTY FIRE DISTRICT 1, that executed the foregoing Lease Agreement for the Fire Hall, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the entity.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Colette Campbell

[Print name]  
NOTARY PUBLIC in and for the State of Washington, residing at Gardiner.  
My appointment expires: 1-19-08



STATE OF WASHINGTON )  
 )ss.  
COUNTY OF JEFFERSON )

On this 14 day of Jan, 2007, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared Zain Wyl, Sr. known to be the Commissioner JEFFERSON COUNTY FIRE DISTRICT 1, that executed the foregoing Lease Agreement for the Fire Hall, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the entity.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



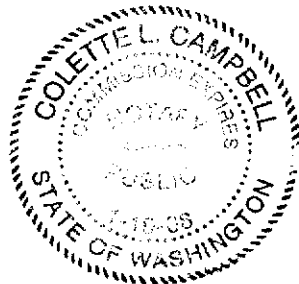
Colette L Campbell

[Print name]  
NOTARY PUBLIC in and for the State of Washington, residing at Gardner.  
My appointment expires: 1-19-08

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF JEFFERSON )

On this 16 day of Jan, 2007, before me the undersigned, a Notary Public duly commissioned and sworn, personally appeared Terry Holman known to be the Commissioner JEFFERSON COUNTY FIRE DISTRICT 1, that executed the foregoing Lease Agreement for the Fire Hall, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the entity.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Colette L Campbell

[Print name]  
NOTARY PUBLIC in and for the State of Washington, residing at Gardner.  
My appointment expires: 1-19-08

**Attachment A to Fire Hall Lease  
(Form of Deed – see section 10 of Lease)**

<b>RETURN TO:</b> John P. Watts, City Attorney City of Port Townsend 250 Madison Street Port Townsend, WA 98368 Telephone: 339-5047 Fax: 385-4290
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**QUIT CLAIM DEED  
(Subject to Terms Including Right of Reversion and Reentry)**

**Grantor(s):** City of Port Townsend, a Washington municipal corporation

**Grantee:** Jefferson County Fire District No. 1, a Washington municipal corporation

**Brief Legal Description(s):**

Block Z, Lots 1 and 3 in the plat of Kuhn's Ranch as recorded in Volume 2, Page 26, within the southeast quarter of Section 2, Township 30 North, Range 1 West, W.M., Records of Jefferson County, Washington.

**Jefferson County Assessor Tax Parcel No. 965 703 001 and 965 703 003**

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**FOR AND IN CONSIDERATION OF** a Lease Agreement dated \_\_\_\_\_, 2006 between the parties, a Memorandum of which is recorded under AFN \_\_\_\_\_, and other good and valuable consideration, the receipt of which is hereby acknowledged by the Grantor, **City of Port Townsend, a Washington municipal corporation, Grantor**, hereby conveys and quit claims to the **Jefferson County Fire District No. 1, a Washington municipal corporation, grantee**, and successors and assigns, the following described real estate, situated in the County of Jefferson, State of Washington:

Block Z, Lots 1 and 3 in the plat of Kuhn's Ranch as recorded in Volume 2, Page 26, within the southeast quarter of Section 2, Township 30 North, Range 1 West, W.M., Records of Jefferson County, Washington.

**TOGETHER WITH all improvements on the premises, including, the fire hall; and**



### **Exhibit A to Deed**

1. Jefferson County District 1 ("District") shall continue to pay the debt service of the City of Port Townsend ("City") in connection with the City's 2003 LTGO (portion related to fire hall construction). Subject to the terms of the LTGO, the District may provide funds to the City for the City to pre-pay the LTGO or otherwise defease the LTGO.
2. At any time that the premises, fire hall, and improvements on the premises are no longer primarily used by the District for fire and emergency service purposes, which includes housing equipment to respond to emergencies in the City of Port Townsend, then the premises, fire hall, and improvements shall automatically revert to the City at no cost, and the City shall have the right to re-enter the premises and take possession of them, free and clear of any interest of the District or any third party claiming through the District. Nothing prevents the District from using the fire hall for incidental uses not directly related to the furnishing of emergency services, for example, using the fire hall for community meetings, food drives, or as a voting location.
3. During District's use of the premises and improvements, District, at its sole cost, shall keep the fire hall, including the roof and foundation, in good order, condition and repair, and as may be required to comply with any laws and regulations, provided, nothing prevents the District from replacing or remodeling the fire hall with a substantially equal or better structure in the event the District determines the same is necessary.
4. In the event following annexation to the District, the City de-annexes from the District, then the fire hall reverts to City ownership and the District shall quit claim in fee simple its interest to the City without cost