

AGREEMENT FOR FIRE PROTECTION MUKILTEO FERRY TERMINAL

THIS AGREEMENT is made and entered into on this 10th day of August, 1989, by and between the **WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, MARINE DIVISION**, operator of Washington State Ferries, hereinafter referred to as the "**STATE**", and the **CITY OF MUKILTEO**, hereinafter referred to as the "**CITY**".

WHEREAS, the **STATE**: (i) has structures, buildings, equipment and vessels (when docked) located at the Mukilteo Ferry Terminal within the geographical area of the **CITY**; and (ii) is in need of fire protection services for the protection and safety of personnel and property at the Terminal; and

WHEREAS, the **CITY** represents that it has the necessary equipment, manpower, and expertise to provide the referenced fire protection services for the **STATE**; and

WHEREAS, the funding provided by the Washington State Department of Community Development under Revised Code of Washington (RCW) 35.21.775 is inadequate to compensate the **CITY** for the referenced fire protection services; and

WHEREAS, pursuant to RCW 35.21.777, the parties desire to contract between them to provide additional funding for the referenced fire protection services;

NOW, THEREFORE, it is agreed by the parties that:

I.

The **CITY** shall provide continuous fire protection services for the protection and safety of personnel and property of the **STATE** located within or adjacent

which is by this reference made a part hereof. This Agreement shall commence on July 1, 1989, and shall continue in full force and effect for consecutive, fiscal year terms until cancelled or suspended by the **CITY** or the **STATE**. For the purposes of this Agreement, the fiscal year shall start on the first day of July and end on the thirtieth day of June of the following calendar year.

- A. Cancellation or suspension shall become effective thirty (30) days after written notice of intention to cancel or suspend the Agreement is mailed by the **CITY** to the **STATE** or is mailed by the **STATE** to the **CITY** at their respective offices as indicated on EXHIBIT "A".
- B. Subject to the Agreement remaining in full force and effect, EXHIBIT "A" shall remain effective until amended or revised. Any such amendment of or revision to EXHIBIT "A" shall be evidenced by a replacement EXHIBIT "A" executed by the parties.
- C. EXHIBIT "A" shall show, at a minimum: (i) the list of properties covered by this Agreement; (ii) the Department of Transportation Facilities Number; and (iii) the valuation for each listed property determined by the assessor of the county in which the property is located, pursuant to RCW 84.40.175. In the absence of such a valuation, the parties shall agree upon a valuation in lieu of the assessor's valuation. Any inability of the parties to agree on a valuation will be resolved by submitting any valuation question to said county assessor. Should the county assessor be unable to provide a decision or otherwise fail to resolve a valuation question, the valuation for the listed property in question shall be zero for the period covered by EXHIBIT "A".

II.

The **CITY** shall bill the **STATE** (at the Department of Transportation address shown on EXHIBIT "A") for the cost of fire protection services as specified herein and the **STATE** shall promptly pay such amount. The amount billed for each

fiscal year of fire protection shall be determined by applying the statutory fire protection levy rate to the assessed valuation on each property listed on EXHIBIT "A" and in the manner that is normal and similar to fire protection assessments on other properties within the **CITY** for each such year. The amount billed for each fiscal year shall be offset (reduced) by the amount of fire protection funds offered to the **CITY** through the **CITY'S** (or any other) fire protection agreement with the Washington State Department of Community Development pursuant to RCW 35.21.775 and .777. Such offset or credit is necessary in order that no duplication or overpayment shall occur.

- A. Unless otherwise provided in accordance with Paragraph II. B., below, the billing date and payment date shall reoccur annually following the end of the last completed fiscal year in which this Agreement is in full force and effect.

- B. If agreed to in "EXHIBIT A", a lump sum payment may be made by the **STATE** at the end of the last fiscal year specified in EXHIBIT "A" when a lump sum multiple fiscal year period has been specified in EXHIBIT "A". Such lump sum may cover payment for a period of two (2) or more fiscal years, but not more than a period of five (5) fiscal years. EXHIBIT "A" shall state the amount of the lump sum and the statutory fire protection levy rate (per thousand dollars per year of agreed valuation) upon which the lump sum is based.

III.

The parties hereto agree that the **STATE** shall not be held responsible for damages resulting to third parties from the negligence or other wrongful acts of the **CITY**, its offices, agents or employees.

IV.

- A. The **CITY** agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, sex, age or handicap, except for a bona fide occupational qualification, with regard to, but not limited to the following: employment upgrading, demotion or transfer, recruitment or any recruitment advertising, layoff or terminations, rates of pay or other forms of compensation, selection for training or rendition of services. The **CITY** understands and agrees that if it violates this provision, the **STATE** may terminate this Agreement. In such event, the **CITY** shall be barred from performing any services for the **STATE** now or in the future unless a showing is made satisfactory to the **STATE** that discriminatory practices have been terminated and that recurrence of such action is unlikely.
- B. During the performance of this Agreement, the **CITY**, for itself, its assigns, and successors in interest agrees as follows:

1. COMPLIANCE WITH REGULATIONS

The **CITY** shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated herein by reference and made a part of this Agreement.

2. SUB-CONTRACTORS

The **CITY**, with regard to the services performed by it during this Agreement, shall not discriminate on the grounds of race, creed, color, sex, age, marital status, national origin or handicap, except for a bona fide occupational qualification, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The **CITY** shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix II of the Regulations.

3. SOLICITATIONS FOR SUB-CONTRACTORS

In all solicitations, either by competitive bidding or negotiation made by the **CITY** for work to be performed under a subcontract, including procurements of materials or leases of equipment, the **CITY** shall notify each potential subcontractor or supplier of the **CITY'S** obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, creed, color, sex, age, marital status, national origin or handicap.

4. INFORMATION AND REPORTS

The **CITY** shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the **STATE** to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the **CITY** is in the exclusive

possession of another who fails or refuses to furnish the information, the **CITY** shall so certify to the **STATE**, and shall set forth what efforts it has made to obtain the information.

5. SANCTIONS FOR NONCOMPLIANCE

In the event of the **CITY'S** noncompliance with the nondiscrimination provisions of this Agreement, the **STATE** shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to: (i) withholding of payments to the **CITY** under this Agreement until the **CITY** complies; and/or (ii) cancellation, termination or suspension of this Agreement, in whole or in part.

6. INCORPORATION OF PROVISIONS

The **CITY** shall include the provisions of Paragraphs B. 1. through B. 7. of this Section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directive issued pursuant thereto. The **CITY** shall take such action with respect to any subcontract or procurement as the **STATE** may direct as a means of enforcing such provisions including sanctions for noncompliance; **Provided**, however, that, in the event the **CITY** becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the **CITY** may request the **STATE** to enter into such litigation to protect the interests of the **STATE**.

7. UNFAIR EMPLOYMENT PRACTICES

In the performance of this Agreement, the **CITY** shall comply with RCW 49.60.180 prohibiting unfair employment practices and the Executive Orders numbered E.O. 70-01 and E.O. 66-1 of the Governor of the State of Washington.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF MUKILTEO

BY: *Ermon Cole*

TITLE: Mayor

**WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
MARINE DIVISION**

BY: *[Signature]*

TITLE: Assistant Secretary For Marine Transportation

Attest For City of Mukilteo

BY: *Linda B. Miller*

DATE: 7-19-89

Approved as to Form For WSDOT:

BY: *Robert M. [Signature]*
Assistant Attorney General

DATE: 6/27/89

EXHIBIT "A"

Agreement between the **CITY OF MUKILTEO**, P. O. Box 178, Mukilteo, Washington, 98275; and

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, MARINE DIVISION, operator of Washington State Ferries, Colman Dock/Pier 52, Seattle, Washington, 98104.

The valuation is shown for each property described below only for those purposes incidental to this Agreement.

<u>LIST OF PROPERTIES</u>	<u>DOT FACILITIES NUMBER</u>	<u>ASSESSOR'S VALUATION</u>
Mukilteo Ferry Terminal	9031LA01	1989-90 \$497,800.00 (Improvements Only)

LEVY RATE

\$1.90 per \$1000.00 valuation

PAYMENT

\$945.82
(100.00) Dept. of Community Development Contribution
\$845.82

(OPTIONAL CLAUSE FOR LUMP SUM PAYMENT AGREEMENT)

IT IS HEREBY AGREED that a lump sum payment shall be made by the **STATE** and forthwith accepted by the **CITY** for fire protection services under this Agreement covering _____ fiscal years beginning on the first day of July, _____, and ending with the thirtieth day of June, _____. Such payment shall be made at the end of the period previously herein specified and shall be in the amount of \$ _____, which amount is based on a levy rate of \$ _____ per year per thousand dollars of agreed valuation as itemized herein above.