

AGREEMENT TO PROVIDE COMMUNICATIONS EQUIPMENT

THIS AGREEMENT is made and entered into this 11th day of February 2011 between WHATCOM COUNTY PUBLIC WORKS, a division of Whatcom County (hereinafter "WCPW"); and WHATCOM COUNTY FIRE DISTRICT #11 (hereinafter "WCFD 11").

WITNESSETH:

WHEREAS, WCPW is the entity which manages and controls the operations of the Lummi Island Ferry "Whatcom Chief"; and

WHEREAS, WCFD 11 is the Lummi Island Volunteer Fire Department; and

WHEREAS, WCFD 11 is the primary responder to the emergency calls (911) placed by Lummi Island residents; and

WHEREAS, typically, when a 911 call is placed for a Lummi Island emergency, whether medical or fire related, the services of the Lummi Island Ferry ("Whatcom Chief") are requested, either to transport medical assistance to and from Lummi Island or to transport additional firefighting equipment from Gooseberry Point to Lummi Island; and

WHEREAS, both parties agree that neither WCPW nor its employees are responsible, directly or indirectly, for emergency response activity related to emergency 911 calls or responses. Both parties further agree that WCPW and/or its employees assume no responsibility for any impact, direct or indirect, as a result of any emergency 911 activity, and

WHEREAS, during normal operating hours there is no problem with ferry availability for meeting emergency requirements, but during the ferry's down time (typically from midnight to 5:00 a.m.) the parties agree that there needs to be in place an effective means of summoning the ferry crew when a 911 call is placed or received; and

WHEREAS, The Federal Communication Commission has mandated that all public safety and business industrial land mobile radio systems must be operating with narrowband technology by January 1, 2013; and

WHEREAS, WCFD 11 secured grant funding to purchase communications equipment with narrowband technology; and

WHEREAS, the parties desire to equip the ferry and crew with the necessary communication devices in the form of pagers and radio; and

Now, therefore, in consideration of the mutual benefits contained herein, IT IS AGREED as follows:

1. Pagers. On or before March 31st, 2011, WCFD 11 shall provide, at its own expense, one pager to each ferry crew member who is not also WCFD 11 personnel so that the ferry crew on duty can be notified of emergency calls during ferry down time. These pagers will be activated by the same activating tones that activate WCFD 11 pagers.
2. Radio. WCFD 11 shall, at its own expense, supply a radio and associated equipment, including installation and programming, to WCPW for the ferry.
3. Ownership: WCFD 11 shall maintain ownership of the pagers, radio, and associated equipment provided to WCPW.
4. WCFD 11 Personnel. WCFD 11 personnel who are also crew members on the ferry will be issued pagers by WCFD 11. When any of these existing ferry crew members are no longer employed by the WCFD 11, their pagers will be returned to WCFD 11.
5. Recordkeeping. WCPW shall be responsible for maintaining records for the pagers and to whom each was distributed. The records shall be provided to WCFD 11 within two weeks of the following: upon initial distribution, whenever changes occur and if requested by WCFD 11.
6. Maintenance. From and after the date of this agreement, it shall be the responsibility of WCFD 11 to provide for the maintenance and repairs to the pagers and radio provided pursuant to this agreement. The responsibility to provide maintenance shall include batteries. In the event the repairs required are from misuse, neglect or negligence, WCPW shall be responsible for the repair or replacement of the pager that it or its employee who is not also WCFD 11 personnel, is responsible for the alleged misuse, neglect and/or negligence.
7. Point of Contact. Each party shall authorize one individual within its agency to execute the provisions of this agreement. Each party shall notify the other with said individuals name and contact information.
8. Notice. Any notice sent pursuant to this agreement shall be sent to:

Whatcom County Public Works Attn: Ferry Department
322 N. Commercial St,
Suite 210
Bellingham, WA 98225

and to:

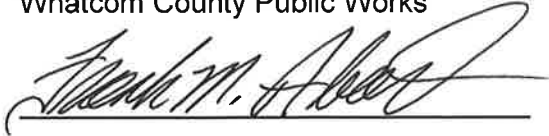
Whatcom County Fire District 11,
Attn: Fire Chief
PO Box 130, Lummi Island, WA 98262

9. Term. This agreement shall be effective the day, month and year first set forth above and shall continue in full force and effect until modified or terminated. The agreement may be terminated by either party by giving notice of such intent in writing to the other party at least ninety days in advance of the effective date of termination. In the event that the agreement is terminated, the pagers and radio equipment supplied by WCFD 11 shall be returned to it by WCPW within 10 days of the effective date of termination.
10. Consideration. Consideration for this agreement is the improvement of service to the general public resulting from the implementation of the agreement outlined above.
11. Miscellaneous Provisions. This document contains the complete agreement of the parties and may not be modified unless done so in writing and signed by all parties hereto. In the event of any default hereunder, the non-defaulting party shall be entitled to reasonable attorney's fees and costs incurred in connection with the enforcement of this agreement. This agreement shall be construed and enforced in accordance with the laws of the State of Washington. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns.
12. Non-appropriation of Funds. If sufficient funds are not appropriated or allocated for providing the equipment under this Agreement the District will so notify WCPW and shall not be obligated to provide the equipment. No penalty or expense shall accrue to WCFD 11 in the event sufficient funds are not appropriated or allocated for the equipment. If the District does not have adequate funds for providing the equipment under this Agreement, WCPW shall also have no obligation to provide, or otherwise fund the provision of, the equipment.
13. Benefits. This agreement is entered into for the benefit of the parties to this agreement only and shall confer no benefits, direct or implied, on any third persons.

14. Filing/Web Site. This Agreement shall either be filed with the County Auditor or by listing on either party's website in accordance with RCW 39.34.040.

By signing below, I acknowledge and accept the terms and conditions contained herein:

Frank Abart, Director
Whatcom County Public Works



Handwritten signature of Frank M. Abart, Director of Whatcom County Public Works, written over a horizontal line.

Wendell Terry, Board Chair
Whatcom County Fired District #11



Handwritten signature of Wendell Terry, Board Chair of Whatcom County Fired District #11, written over a horizontal line.

Approved as to Form:



Handwritten signature of Daniel L. Gibson, Deputy Prosecuting Attorney of Whatcom County, written over a horizontal line.

Whatcom County Dep. Pros. Atty.