

## LEASE AGREEMENT FOR THE USE OF CITY OWNED PROPERTY

THIS LEASE AGREEMENT (Agreement) is entered into pursuant to RCW Chapter 39.34, by and between VALLEY REGIONAL FIRE AUTHORITY (VRFA), a Washington municipal corporation, in the State of Washington, and the CITY OF PACIFIC (City), A Washington Municipal Corporation, this 14<sup>th</sup> day of April, 2014.

Whereas the citizens of the City and within the VRFA want to improve the efficiency and effectiveness of their fire suppression and protection services and emergency medical response services through a regional delivery system, and

Whereas, the City owns the building at 133 3<sup>rd</sup> Avenue SE, known as the Pacific Public Safety Building, and currently allocates a portion of the premises for use by the VRFA as Fire Station 38, and

Whereas the VRFA has a continuing need of the land and building to operate a fire station, and

Whereas, there was strong support for the creation of the VRFA from the citizens of the City, and

Whereas, the City Council of the City desires to continue with the mutually beneficial support of the community and the VRFA,

Now, Therefore, in consideration of the mutual promises and covenants contained herein, the City and the VRFA hereto agree as follows:

1. **Use of Fire Station #38.** The City hereby offers the use of the Fire Station area of the Public Safety building to the VRFA for the purpose of housing the necessary personnel, apparatus and equipment to provide fire, rescue and emergency medical services to the City and the nearby area.
2. **Term.** The VRFA will have use of the Fire Station for the purposes stated in #1 above indefinitely. If the Fire Station is no longer being utilized for the stated purpose the lease will convert to a month to month lease with either party providing the other party with 180 days advance notice of cancellation.

3. **Lease Payments.** The VRFA will pay ONE and NO/100THS DOLLAR(S) annually to the City.

4. **Entry by the City.** The City shall have the right at reasonable times in non-emergency situations to enter the Fire Station to inspect the premises.

5. **Maintenance, Cleaning, Repair and Utilities.** The VRFA shall maintain the Fire Station in good repair and tenantable condition during the term of this lease. The VRFA shall make all repairs and replacements, whether structural or non-structural, necessary to keep the Fire Station safe and in good working condition, including all utilities, building and other systems serving only the Fire Station portion of the Public Safety Building.

The VRFA will provide up to 50% of the cost of repairs and replacements, whether structural or non-structural, including utilities, building and other systems that jointly serve the Fire Station area and other portions of the building occupied by Pacific Public Safety as mutually agreed by both parties.

The City will notify the VRFA of any pending repair or replacement, whether structural or non-structural, including building or other systems prior to the work being completed unless the work is being completed as a result of an emergency, in which case the VRFA will be notified as soon as possible. Non-emergency work exceeding ONE THOUSAND AND NO/100ths DOLLARS in cost to the VRFA will require the written agreement of the VRFA before the work is commenced.

The City shall pay when due the costs of natural gas, heat, light, power, sewer service, water, refuse disposal and other utilities provided to the Public Safety Building. The VRFA shall reimburse the City fifty percent (50%) of the costs of such utilities and services to the Public Safety Building within sixty (60) days after receipt of the City's invoice therefore, which shall be accompanied by copies of the underlying billings from the providers. The City shall render such invoices regularly and, in any case, not less frequently than once every three months.

6. **Insurance.** The VRFA shall procure and maintain for the duration of the lease, insurance against claims for injuries to persons or damage to property, which may arise from or in connection with the VRFA's operations and use of the Fire Station. As of the date that VRFA executes this Lease, VRFA represents and warrants to the City that (a) Tenant is a member of the Washington Cities Insurance Authority (WCIA), which is a self-insured pool of numerous municipal corporations in the State of Washington, and (b) WCIA has at least \$2,000,000 per occurrence of liability coverage in its self-insured layer that is applicable in the event an

incident occurs that is deemed attributed to the negligence of a member. Property insurance shall be written covering the full value of the Fire Station portion of the building including City property and improvements with no coinsurance provisions. The VRFA shall be responsible for maintaining, during the term of this Lease and at its sole cost and expense, the types of insurance coverage's and in the amounts determined by the City as necessary to adequately protect the Lease premises and the liabilities connected with the Lease, and such other insurance as may be required by law. Such coverage shall include full replacement cost for the Fire Station portion of the property and other personal property subject to the Lease, including coverage for earthquakes, to the extent consistent with the VRFA's Insurance Coverage through WCIA.

7. **Indemnification.** The VRFA shall indemnify and hold the City and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, including attorney fees, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the VRFA's performance or failure to perform any aspect of this agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the VRFA; and provided further, that nothing herein shall require the VRFA to hold harmless or defend the City, its agents, employees, and/or officers. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

8. **Waiver of Subrogation.** The VRFA and the City hereby mutually release each other from liability and waive all right of recovery against each other for any loss caused by fire or other perils which can be insured against under property insurance contracts including any extended coverage endorsements thereto which are customarily available from time to time in the state of Washington, provided, that this paragraph shall be inapplicable to the extent that it would have the effect of invalidating any insurance coverage of the VRFA or the City.

9. **Compliance with Regulations and Laws.** The parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

10. **Assignment.** The parties shall not assign this Agreement or any interest, obligation or duty therein without the express written consent of the other party.

11. **Attorneys' Fees.** If either party shall be required to bring any action to enforce any provision of this Agreement, or shall be required to defend any action brought by the other

party with respect to this Agreement, and in the further event that one party shall substantially prevail in such action, the losing party shall, in addition to all other payments required therein, pay all of the prevailing party's reasonable costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.

12. **Notices.** All notices and payments hereunder may be delivered or mailed. If mailed, they shall be sent to the following respective addresses:

To the VRFA

Valley Regional Fire Authority  
1101 D Street NE  
Auburn, WA 98002  
Attn: Eric Robertson, Administrator  
Phone: (253) 288-5800

To the City

City of Pacific  
100 3<sup>rd</sup> Avenue SE  
Pacific, WA 98047  
Attn: Leanne Guier, Mayor  
Phone: (253) 929-1108

Or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day following the next day of delivery, 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.

13. **Nondiscrimination.** Each of the parties, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that it will comply with all pertinent statutes, laws, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of any defined protected class including: race, creed, color, national origin, sex, sexual orientation, religion, age, or the presence of any sensory, mental or physical handicap be discriminated against or receive discriminatory treatment by reason thereof.

14. **Miscellaneous.** All of the covenants, conditions and agreements in this Agreement shall extend to and bind the legal successors and assigns of the parties hereto. This agreement shall be deemed to be made and construed in accordance with the laws of the state of Washington jurisdiction and venue for any action rising out of this Agreement shall be in the county in Washington State in which the property or project is located, and if not site specific, then in King County, Washington.

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

Unless otherwise specifically provided herein, no separate legal entity is created hereby, as each of the parties is contracting in its capacity as a municipal corporation of the State of Washington. The identity of the parties hereto is as set forth hereinabove.

The funding of the respective obligations of the parties shall be out of the respective general funds/current expenses of the parties, except as otherwise specifically provided.

The performances of the duties of the parties provided hereby shall be done in accordance with standard operating procedures and customary practices of the parties. Unless a joint oversight board and administration board is created as provided herein, the oversight and administration of this Agreement shall be by the respective named representatives identified in Section 12 hereof, or their designees.

15. **Compliance with Laws; Hazardous Substances.** The VRFA shall, at its cost, obtain all permits, licenses, and approvals necessary or appropriate for the conduct of its business as herein specified. VRFA shall not use the Fire Station nor shall the Fire Station be used, in whole or in part, during any portion of the Term for any purpose or use in violation of, and VRFA shall comply with, any and all, present and/or future laws, ordinances, regulations or rules of any public authority, including but not limited to the Americans with Disabilities Act and any similar federal or state laws relating to the manner and use of the Fire Station.

Except for small quantities stored and used in accordance with applicable law, VRFA shall not keep within, on or around the Fire Station for use, disposal, treatment, generation, storage, or sale any substances designated as, a hazardous, dangerous, toxic material, or substance or any material or substance that is subject to regulation under any local, state or federal law, statute, ordinance, regulation pertaining to health, hygiene, safety or the environment or substance that is otherwise subject to such regulation as hazardous, dangerous, toxic or harmful (collectively "Hazardous Substances"). VRFA shall be solely responsible for and shall defend, indemnify and hold the City and any successors-in-interest to the City, including any lender of the City and their respective agents and employees harmless from all claims, costs, damages, damage, liabilities, including attorneys' fees and costs, arising out of or in connection with the VRFA's breach of its obligations contained in this paragraph or arising out of or in connection with removal, clean-up or restoration deemed reasonably necessary by any governmental entity or the City to remove, clean-up or restore any portions of the Fire Station as the result of

Hazardous Substances used, disposed, treated, generated or stored by the VRFA. VRFA's obligations under this paragraph shall survive expiration and termination of this Lease.

16. No provision of this Agreement shall relieve either party of its public agency obligations and/or responsibilities imposed by law.

17. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a final decision of any court having jurisdiction on the matter, the remainder of this Agreement or the application of such term or provision to persons and circumstances other than those as to which it is held invalid or unenforceable shall not be effected thereby and shall continue in full force and effect, unless such court determines that such invalidity or unenforceability materially interferes with or defeats the purposes hereof, at which time the City shall have the right to terminate the Agreement.

18. This Agreement constitutes the entire agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modifications or amendments of this Agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

19. Copies of this Agreement shall be filed with the Auditor's office of the county in Washington State in which the property or project is located, the Secretary of State of the State of Washington; and the respective Clerks of the parties hereto.

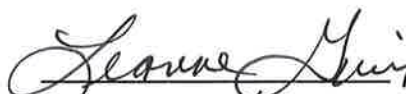
**IN WITNESS WHEREOF** the parties have executed this Agreement as of the day and year first above written.

**Valley Regional Fire Authority**



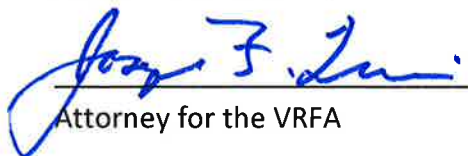
Eric E. Robertson, Administrator

**City of Pacific**

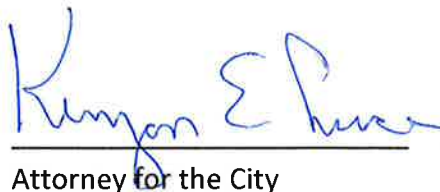


Leanne Guier, Mayor

Approved as to form:



Attorney for the VRFA



Attorney for the City