INTERLOCAL AGREEMENT BETWEEN CLALLAM COUNTY FIRE DISTRICT 3 AND THE CITY OF SEQUIM REGARDING FIRE SAFETY SERVICES

THIS INTERLOCAL AGREEMENT ("ILA") is made and entered into on the Effective Date below by and between Clallam County Fire District 3 ("District"), a municipal corporation, and the City of Sequim, a municipal corporation and code city ("City"), collectively "the Parties." Both Parties are duly organized and operate under and through the laws of the State of Washington.

WHEREAS, pursuant to RCW 19.27.031 the City of Sequim is charged with the administration and enforcement of the International Building Code and the International Fire Code within its corporate limits; and

WHEREAS, the International Building Code and the International Fire Code require various inspections of new and existing occupancies and buildings; and

WHEREAS, Clallam County Fire District 3 has the statutory authority under RCW 52.12.031, competence and desire to participate with the City in a joint program whereby the District will undertake certain inspections within the city's corporate limits; and

WHEREAS, RCW 39.34 permits governmental entities to enter into agreements to the advantage of each;

NOW, THEREFORE, in consideration of the terms, conditions, and covenants stated herein and the performance to be rendered under this ILA, the Parties agree as follows:

Section 1. Purpose and Authority

The Parties desire to contract with one another to provide jointly funded fire inspection services within their respective jurisdictions. This ILA is based upon the authority of RCW 39.34.030 and RCW 52.12.031(2), which allows public agencies to cooperate and jointly exercise their powers in ways that provide the most efficient use of resources. The Parties agree that this ILA should be liberally construed to effectuate its purpose.

This ILA may be expanded to allow other eligible public agencies to participate. Such participation must be with the written agreement of all Parties via an addendum to or revision of this ILA.

Section 2. Scope of Agreement

The Parties agree as follows:

A. Fire Inspector Position: The Parties agree that the District will select, hire, and supervise an experienced and qualified Fire Inspector as a District employee ("Inspector"), and the City will remit to District one-third of the cost of a full time position or one-half of the cost of a two-third FTE, annualized, including benefits, as consideration for the District providing fire inspection services within the corporate limits of Sequim. The District will ensure that the Inspector position remains filled for the duration of this ILA, and that any Inspector absences are sufficiently covered by another qualified District employee, as necessary.

B. Duties of the Parties:

(1) Each Party will timely and fully comply with their respective hiring, supervisory, and funding responsibilities set forth in Section 2A, above.

(2) The District through its Inspector will be responsible for performing fire safety plan reviews and all fire safety inspections, including assistance with fire code compliance and enforcement, within the Parties' corporate limits that are required by the International Fire Code as currently in effect and as may be amended, including without limitation inspections of existing occupancies and follow up inspections to ascertain if previously-noted deficiencies have been corrected. The Inspector may perform other inspections at the discretion of the District. The Inspector may perform joint inspections with qualified employees of the other Party. The District agrees to develop an annual inspection schedule to ensure that all critical structures[1] and occupancies are inspected on a regular cycle.

(3) The District through its Inspector will provide copies of all inspection reports to the Party having jurisdiction over the property inspected. The report must describe all deficiencies. If a deficiency is deemed to be life threatening, the District must immediately notify the Party having jurisdiction over the subject property.

(4) The City will work cooperatively with the Fire Inspector to ensure that all new buildings and structures within its corporate limits are inspected prior to the issuance of a Certificate of Occupancy.

[1] A list of critical structures will be developed and agreed to by the City.

(5) The City will ensure that the Fire Inspector receives one set of building plans for all new commercial occupancies within the City's corporate limits.

(6) Each Party will ensure that any employee assigned to participate in inspections regularly attends relevant preapplication meetings (both internal and with the applicant) and approved training, and obtains any required certifications prior to engaging in inspection activities.

(7) The District will schedule an annual meeting at which the time the Parties will review any cost increases of the service provided by the District to the City, the number of inspections, the inspection schedule, the critical structure list, and the number of plan reviews and inspections conducted in the previous year. The annual meeting should occur no later than January 31st of each year of this ILA's term.

Section 3. Additional Terms and Conditions.

A. Relationship of the Parties: No agent, official, employee, servant, or representative of the City is an officer, employee, agent, servant, or representative of the District for any purpose. No agent, official, employee, servant, or representative of the District is an officer, employee, agent, servant, or representative of the City for any purpose.

B. Duration, Renewal, and Termination: Unless terminated by a Party in accordance with this section, this ILA will remain in effect for three years from the date it is signed by the respective Parties. It will automatically renew upon expiration of the initial 3-year term for an additional three years unless either Party has notified the other Party in writing no fewer than 90 calendar days before the initial term expires. Three-year auto renewals will continue unless or until either Party terminates the ILA on at least 90 calendar days' prior written notice. Notice must state the grounds for the termination.

C. Indemnification:

(1) To the fullest extent allowed by law, each Party will be solely and entirely responsible for its acts/omissions and for the acts/omissions of its agents, employees, servants, or representatives.

(2) Each Party agrees to defend and indemnify the other Party and its elected or appointed officers, officials, employees, agents, and volunteers from and against all claims, losses, damages, suits, and expenses, including reasonable attorney fees and costs, to the extent they arise out of the negligence or willful misconduct of the indemnitor or its elected or appointed officers, officials, employees, agents, and volunteers in the performance of this ILA. The indemnitor's duty to defend and indemnify extends to claims by the elected or appointed

officers, officials, employees, agents, and volunteers. The indemnitor waives its immunity under Title 51 (Industrial Insurance) of the Revised Code of Washington solely for the purposes of this provision and acknowledges that this waiver was mutually negotiated.

D. Nonpayment and Other Defaults: In the event of any default hereunder, upon 30 calendar days' written notice by either Party with regard to failure to make any payment required, and if the same is not cured within 60 calendar days, then the requesting Party is entitled, without further notice or demand, to give notice of termination as set forth in the "Duration and Termination" section of this ILA, including any other remedy granted at law or in equity.

E. Disputes: Disputes will be referred to the Parties' authorized representatives for resolution. If disputes are not resolved by the Parties within 30 calendar days of the referral, unless the Parties agree to an extension of time, the dispute will be referred to an arbitrator who has been mutually agreed upon by the Parties. If the Parties cannot agree upon an arbitrator, a Party may apply to the presiding judge of the Clallam County Superior Court for appointment of an arbitrator. The arbitrator's decision is final and binding on both Parties; provided, however, an arbitrator's decision may be appealed to Superior Court if it is based on an error of law, is arbitrary and capricious, is not founded on substantial facts, or exceeds the arbitrator's authority. Each Party will pay one-half of the arbitrator's fee. If mutual written consent to apply for the appointment of an arbitrator is not reached, either Party may seek court action to decide the disputed contract provision.

F. Notice: Any formal notice required to be given by one Party to another must be in writing and deposited in the United States mail, postage prepaid, addressed as follows or at such future address as a Party may provide:

DISTRICT:
Fire Chief
Clallam County Fire District 3
325 N. 5th Avenue
Sequim WA 98382

CITY:
City Manager
City of Sequim
152 West Cedar Street
Sequim WA 98382

With a separate copy addressed to the City Attorney.

This provision does not apply to informal correspondence, which is ordinarily conducted by email.

Notice is deemed to have been given at the time it is deposited in the United States mail in the manner prescribed herein. Nothing in this section precludes personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

G. Entire Agreement: This ILA constitutes the entire Agreement of the Parties regarding fire inspections and supersedes all prior agreements, contracts, and understandings, written or oral, on the subject of fire inspections. The Parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this ILA. Any and all previous agreements, understandings, and the like, oral or otherwise, are hereby revoked. Specifically, section 4 of the "Fire and Emergency Medical Protection Agreement" executed in 1985 between the District and the City of Sequim is revoked and replaced by this ILA.

H. Construction: In the event of a dispute between the Parties as to the meaning of terms, phrases, or specific provisions of this ILA, the authorship of this ILA will not be cause for this ILA to be construed against any Party nor in favor of any Party.

I. Execution: This ILA is executed by each Party acting with authority granted, where required, by its governing body. This ILA may be executed in counterpart originals. A copy of each such executed counterpart original will be delivered to each Party upon that Party's execution of a counterpart original.

J. Administration: This ILA will be jointly administered by the Parties. This ILA does not create any separate legal or administrative entity. However, nothing in this ILA is intended to prevent or otherwise interfere with discussions or decisions that may be made by the Parties during a review of this ILA. Further, the Parties understand and agree that there will be communication between the Parties to effectuate the terms of this ILA.

K. Financing; Budget: This ILA does not contemplate a joint budget. Funding for the Inspector position is discussed in Section 2A.

L. Property Acquisition and Disposition: This ILA does not contemplate the joint acquisition of property by the Parties. At termination, each Party will remain the sole owner of its own property.

M. Applicable Law and Venue: This ILA will be governed by and construed in accordance with the laws of the State of Washington. The venue for any court action will be in Clallam County in any court with jurisdiction. In the event disputes over the terms of this ILA reasonably necessitate the procurement of legal services, each party is responsible for its own attorney fees and costs. The Parties do not waive the right to a jury trial.

N. Nondiscrimination: The Parties agree not to discriminate against any employee or applicant for employment or any other person in the performance of this ILA because of race, creed, color, national origin, marital status, sex, sexual orientation, age, disability, or other

circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification. The Parties will comply with all federal, state, and local laws and ordinances applicable to the work to be done under this ILA. Violation of this section is a material breach of the ILA and grounds for cancellation, termination, or suspension by the Parties, in whole or in part.

O. Waiver: Failure to insist upon strict compliance with any terms, covenants, or conditions of this ILA is not a waiver of such. A waiver by a Party of any terms or conditions of this ILA is not deemed or construed to be a waiver of any other term or condition, nor is the waiver of any breach or default by a Party under this ILA to be deemed or construed to constitute a waiver of any subsequent breach or default, whether of the same or any other term or condition of this ILA. Any waiver of a breach or default under this ILA must be done in writing and signed by the authorized representatives of the Parties.

P. Files: All files and other documents maintained by a Party relating to this ILA or the services provided pursuant to this ILA belong to that Party. On request, such files will be made available for review by the other Part(ies) through a duly authorized representative during normal business hours.

Q. Public Records Requests: Each Party is responsible for timely and adequately responding to requests for records addressed to it under the Public Records Act or other demand for disclosure.

R. Challenges: Entry into this ILA will not be construed to be a waiver or abandonment of any defense or claim a Party may have against another.

S. Survival of Certain Provisions. Any term of this ILA that by reasonable implication contemplates continued performance, rights, or compliance beyond its expiration or termination, survives the ILA and continues to be enforceable. Without limiting the generality of this provision, the Parties' obligation to indemnify each other survives for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

T. Severability. If any term of this ILA is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected and, if possible, the rights and

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obligations of the Parties are to be construed and enforced as if the ILA did not contain that term.

The Effective Date of this Agreement is the 24th day of March, 2021.

CLALLAM COUNTY FIRE DISTRICT 3	CITY OF SEQUIM
Printed Name: Ben Andrews Fire Chief, as authorized by Board of Commissioners Date of Signature: 3/23/2021	Charisse Deschenes, Interim City Manager, as authorized by the City Council. Date of Signature: March 24, 2021 APPROVED AS TO FORM: Kristina Nelson-Gross, City Attorney Date of Signature: 3/24/2021