

**First Amended and Restated Interlocal Agreement
Regarding
Funding, Development and Operation
of the
Kitsap Regional Conference Center**

KC-198-02A

1. Date and Parties. This Interlocal Agreement, As Amended and Modified ("Agreement") is dated the 28 day of July, 2003, and is entered into by and between KITSAP COUNTY ("County"), a county duly organized and operating pursuant to the Constitution and laws of the State of Washington; the KITSAP PUBLIC FACILITIES DISTRICT ("PFD"), a municipal corporation duly organized and operating pursuant to the laws of the State of Washington and as established by the County; and the CITY OF BREMERTON ("City"), a first class charter city duly organized and operating pursuant to the laws of the State of Washington.

2. General Recitals.

A. The County Commissioners established the PFD, pursuant to the Chapter, to perform any functions, or combination of functions, authorized by the Chapter.

B. The City is cooperating with several governmental agencies, including KT, the County and the PFD, and with private sector parties to develop and finance the Project for the benefit of the residents of Kitsap County.

C. The Conference Center will include not less than 15,000 square feet of gross floor space, including not less than 7,500 square feet of banquet space, and associated parking of approximately 150 parking spaces. The Associated Parking shall be located within the Parking Facility.

D. The cost of the Conference Center will exceed \$10 million.

E. The PFD has determined that the Conference Center is a regional center that meets the criteria of the Chapter and has approved supporting the Project by providing \$6,975,000 of financing.

F. The PFD, under the authority of RCW 82.14.390, imposed the Sales Tax to support the projects selected by the PFD.

G. The PFD has determined that the cost of providing and operating the Kitsap Regional Conference Center can be reduced through partnership with the County and the City, and accordingly the County will issue bonds to finance the Project and the City will assume responsibility for constructing and operating the Project.

H. The County intends to issue the Bonds to fund \$6,900,000 of the principal that the PFD has designated to be used for the construction of the Conference Center.

3. Incorporation of Recitals. The foregoing Recitals are incorporated herein by this reference and made a part hereof.

4. Definitions. All words used in this Agreement shall be given their normal and ordinary meaning unless defined in this Section 4. The following are the special definitions for the purpose of this Agreement only.

"Associated Parking" shall mean the parking area of approximately 150 parking spaces associated with the Conference Center. The Associated Parking will be located in the Parking Facility.

"Bonds" shall mean the limited tax general obligation bonds to be issued by the County to finance the Conference Center and any other bonds or other evidence of indebtedness of the County the proceeds of which will be used to refund Bonds.

"Chapter" shall mean the Revised Code of Washington Chapter 36.100.

"City" shall mean the City of Bremerton, a first class charter city duly organized and operating pursuant to the laws of the State.

"Commencement of Construction" shall mean beginning any construction activity on the Conference Center site, including, but not limited to, demolition of existing improvements that must be removed for the placement of building foundations.

"Conference Center" shall mean the Kitsap Regional Conference Center, a regional tourism related facility which will include no less than 15,000 square feet of gross floor space, including no less than 7,500 square feet of banquet space, the Associated Parking, and related public spaces, including a lobby area and additional break-out spaces, and which facility shall be part of the Project. The Associated Parking will be located in the Parking Facility.

"County" shall mean Kitsap County, a county duly organized and operating pursuant to the Constitution and laws of the State.

"KT" shall mean Kitsap Transit Authority.

"PFD" shall mean the Kitsap Public Facilities District, a municipal corporation duly organized and operating pursuant to the laws of the State and established by the County.

"Parking Facility" shall mean the parking garage that will be part of the Project. The Parking Facility will include the Associated Parking.

"Project" shall mean the development to be located adjacent to the Bremerton Ferry Terminal and will include the Conference Center, the Parking Facility, a restaurant, public transit related facilities, a hotel, pedestrian oriented retail space, pedestrian oriented public spaces, professional office space and possibly residential facilities. The Project is generally described in the City Request For Proposal of February 11, 2002.

"Sales Tax" shall mean the nonvoted sales and use tax to be imposed by the PFD in accordance with RCW 82.14.390 at a rate not to exceed 0.033% of the selling price in the case of a sales tax or value of the article used in the case of a use tax, which tax shall be deducted from the amount of tax otherwise required to be collected or paid over to the State's Department of Revenue and shall expire when the Bonds (or any additional bonds issued to finance the completion of the Kitsap Special Events Center Project) are retired, or in any event not later than July 1, 2026.

"Sales Tax Revenue" shall mean all revenue collected by the PFD from the Sales Tax.

"State" shall mean the State of Washington.

5. Agreement Purpose. This Agreement is being entered into pursuant to RCW 36.100.030(2). The purpose of this Agreement is to set forth the rights and responsibilities of each of the parties with regards to the funding, development and operation of the Conference Center, as a regional tourism-related facility, meeting the definition of a Regional Center, as defined in RCW 35.57.020, while complying with Internal Revenue Code and Regulations regarding tax exempt municipal bond financing.

6. Land Ownership. The City shall own the land upon which the Conference Center is constructed. Other lands within the Project may be owned by the City or other governmental or private sector entities.

7. Commencement of Construction. In order for the Conference Center to qualify for funding from the PFD, RCW 82.14.390 requires that the Commencement of Construction occur no later than December 31, 2002. It is anticipated that the commencement of demolition of the Enetai Building will be the "Commencement of Construction". The City warrants to the PFD and the County that the Commencement of Construction, on behalf of the PFD, shall occur by December 31, 2002. The City may enter into agreements with other entities, including public sector entities, in order to commence demolishing the Enetai Building by December 31, 2002.

8. Conference Center Financial Obligations.

A. County. The County will issue the Bonds in such amount as is necessary to make available to the PFD \$6,900,000 (net of the costs of issuing the Bonds) to be used by the City for construction of the Conference Center. The money shall be made available from the County to the City in accordance with Section 9 of this Agreement. The County shall also disburse to the City any interest on the balance of the Bond proceeds for the Conference Center that are held by the County until distributed to the City, less any arbitrage rebate owed on such investment.

B. PFD. In consideration for the County's agreement to issue the Bonds (which Bonds shall also finance a portion of the Kitsap Special Events Center Project), the PFD shall pay Sales Tax Revenue to the County in the amount needed to repay the Bonds, including the costs of issuing the Bonds. The County shall use the Sales Tax Revenue to pay principal of, interest on and any sinking fund requirements for the Bonds when due. The parties acknowledge and agree that the County will pledge the Sales Tax Revenue to the repayment of the Bonds.

In addition to the Bond proceeds of \$6,900,000, the PFD will contribute excess Sales Tax Revenue in the amount of \$75,000 to the Project. This principal of \$6,975,000, together with interest thereon, shall constitute the PFD's financial contribution to the Project and may only be used by the City for the design, development, and construction of the Project.

The PFD shall file annual financial statements and annual reports with the County and the City within 180 days after the end of each fiscal year.

The PFD agrees to stay in existence as long as the Bonds are outstanding and not to take any action that would impact the tax-exempt status of the Bonds.

C. City. The City is responsible for all funding necessary to construct, furnish and operate the Conference Center, other than the principal of \$6,975,000, together with interest thereon. It is anticipated that the City may use a variety of funding sources, including, but not limited to bond financing, rental revenues, unrestricted funds, grants, contributions and donations. The City may use whatever funding sources are available so long as to do so will not violate the bond covenants set forth in this Agreement. The City warrants that it has or will obtain the funding necessary to develop and construct the Conference Center. In order to meet the 33% local match of the net present value of the Sales Tax required by the Chapter in order for the PFD to impose the Sales Tax, the City will contribute cash and/or in-kind contributions other than the proceeds of the Bonds, which shall be sufficient to satisfy the match. In order to provide adequate assurances to the County and the PFD that the Convention Center construction will be completed, the City shall require the developer/contractor to provide a performance bond, assuring the completion of the Conference Center.

D. Except as expressly set forth in Sections 8(A) and 8(B) above, the PFD and the County shall have no financial responsibility for the construction, maintenance and operation of the Conference Center.

9. Disbursement of Bond Proceeds.

A. Initial Disbursement. The City has requested that certain funds from the Bond proceeds be disbursed to the City as reimbursement for Project expenses incurred, before the Project is fully designed, approved and permitted. The City will be incurring expenses in connection with the demolition of the Enetai Building, which is deemed commencement of construction. The County, with the approval of the PFD, agrees to make certain proceeds of the Bonds available for the

construction of the Conference Center subject to certain conditions. There may be more than one initial disbursement. The prerequisites for the initial disbursement are:

- i. Commencement of Construction. The City shall have entered into a contract for and started demolition of the Enetai Building not later than December 31, 2002;
- ii. Firm Commitment From Developer. The City shall have executed a firm contract with the developer of the Project for the design for the development of the Project;
- iii. Schematic Design. The City shall have received from the developer a schematic design for the Project;
- iv. Site Availability. The City shall have ownership of all land or property rights (e.g., long term ground leases) necessary to develop and operate the Conference Center and the Project, as of the date of Commencement of Construction;
- v. Substantial Completion Date. The City shall have submitted to the PFD an estimated substantial completion date for the Project; and
- vi. Local Matching Requirement. The City shall provide the PFD with a statement setting forth the cash and/or in-kind contributions to be contributed by the City to satisfy the local match required by RCW 82.14.390.

B. Subsequent Disbursement. After the initial disbursement, the County, with the approval of the PFD, agrees to make the principal of \$6,975,000, together with interest thereon, available for the construction of the Conference Center provided the following prerequisites for disbursement are satisfied:

- i. Project Documents. The City shall have delivered to the PFD, and pursuant to Section 13.B., provided the PFD with opportunity for input on, all design documents for the Project;
- ii. Funding Plan. The City shall have provided the PFD with a plan for funding the Project, with reasonable assurances that such funding is adequate to complete the Project;

iii. Permits. The City shall have obtained all necessary land use and environment permits for the development and construction of the Conference Center;

iv. Timeline for Development. The City shall deliver to the PFD a timeline for the development and the substantial completion of the Project (i.e., issuance of a certificate of occupancy for the various components of the Project). The parties agree that the dates set forth in the timeline shall be target dates, except as otherwise provided; and

v. Developer Contract. The City shall have executed a firm contract with the developer of the Project for the construction and development of the Project.

C. Disbursement Process. To receive an initial disbursement, the City shall submit to the County (with a copy to the PFD) documentation of expenses related to the Conference Center incurred up to the date of the request for the initial disbursement. After the initial disbursement, the City's request for disbursement shall be based upon the payment schedule in the construction contract between the City and the developer for work performed related to the Conference Center and authorized to be financed from the principal of \$6,975,000, together with interest thereon. All requests for disbursements shall be made to the County Director of Administrative Services in writing, with documentation of expenses actually incurred (with a copy to the PFD). The County Director of Administrative Services shall review and approve disbursement requests consistent with the purposes of the Bonds and this Agreement. The County shall further notify the PFD of all disbursement payments to the City. If, upon completion of the Conference Center, the City has not received all of the principal of \$6,975,000, together with interest thereon, the City shall be entitled to receive any remaining balance of such funds; provided, however, that such remaining funds shall be used solely for the design, development, or construction of other public portions of the Project.

D. Reservation of Rights. The PFD and the County reserve the right to transfer the proceeds of the Bonds to other eligible projects should the City default under this Agreement and or otherwise become unable to complete the Project as set forth herein.

10. Bond Covenants. The Conference Center shall be owned and operated by the City. Other elements of the Project will be owned and/or operated by the private sector, other governmental entities, or the City. It is anticipated that the hotel, the

residential portion of the Project, the restaurant, and the retail space shall be owned and/or operated by the private sector. The catering for the Conference Center events may be provided by a private sector business. However, no use of the Conference Center shall be made that would jeopardize the tax exempt status of the Bonds. Accordingly the City covenants and agrees as follows:

A. The City shall not use or permit to be used any of the proceeds of the Bonds in such a manner, and shall not take or allow to be taken any action in such a manner, as to cause the interest on the Bonds to be included in gross income for purposes of federal income taxation. The City specifically covenants and agrees not to take any action or permit any action to be taken if the result of such action would be to cause the Bonds to be bonds "federally guaranteed" within the meaning of Section 149(b) of the Internal Revenue Code.

B. The City shall not use proceeds of the Bonds for any "private business use" as defined by the Internal Revenue Code, if such use would result in the inclusion in gross income of interest on the Bonds. Without the consent of the County, the City shall not enter into any lease of or management contract for all or a portion of the Conference Center with a private party.

C. The City agrees that it will not sell, lease or otherwise transfer the Conference Center in a manner which would cause the interest on the Bonds to become includable in gross income for purposes of federal income taxation or without the approval of the PFD (which shall not be unreasonably withheld).

11. Environmental Law Compliance.

A. The City shall be responsible for complying with all environmental laws with regards to the Conference Center construction. This includes, but is not limited to, city regulations, the State Environmental Policy Act (SEPA), CERCLA (42 USC 9603), MTCA (RCW 70.105(D)), and the Clean Water Act (33 USC §1321).

B. Pursuant to WAC 197-11-944, the County and the PFD hereby designate the City as the nominal lead agency, whereby the City shall be responsible for complying with the duties of the lead agency under all applicable SEPA rules.

12. Permits. The City shall be responsible for obtaining all necessary permits and approvals related to the construction and operation of the Conference Center and the Project. The City shall comply with the terms and conditions of all permits and shall be solely responsible for paying any fees related thereto.

13. Conference Center Design and Construction; Hotel to be Part of Project.

A. The Conference Center will be designed to be an integral part of the Project, achieving the mutual benefits of economies of scale and joint use of open space and other common areas.

B. The City shall be primarily responsible for the design and construction of the Conference Center. The PFD shall have the right and reasonable opportunity, taking into consideration the start date for Commencement of Construction, to review and comment on the proposed design and development of the Conference Center at industry standard design milestones and performance specifications, and to provide input on the selection of the Conference Center developer. The PFD shall have the right to review and comment on any development, design/build or construction contract(s) for the Conference Center. The City shall prepare the budget for the Project (including the Conference Center).

C. The City agrees that it will include in the Project the construction of a hotel, as specified in the City's response to the PFD's request for proposal.

D. The City shall perform (or cause to be performed by the developer) the construction and development of the Project according to the standards of the City Request For Proposal of February 11, 2002, and the following standards:

- i. Performance in a good and workmanlike manner and in compliance with all applicable laws;
- ii. Use of materials that are of first class quality and workmanship; and
- iii. First class maintenance of all portions of the Project.

E. The Conference Center shall be named the Kitsap Regional Conference Center unless otherwise agreed by the PFD.

14. Administration.

A. The City shall be the administrator, within the meaning of RCW 39.34.030(4), of this cooperative undertaking for the development and operation of the Conference Center, subject to the terms, conditions and limitations of this Agreement. This shall include responsibility for acquiring, designing, constructing, owning,

remodeling, maintaining, equipping, repairing, preparing budgets for, financing and operating the Conference Center. The City may use an alternative public works procedure, or other legal mechanism, to provide the most economic and efficient way to assure the success of the Conference Center and the Project. The City will seek, review and consider any recommendations from the parties hereto. However, subject to the restrictions imposed by law, and the bond covenants contained herein, the City shall have the responsibility and final authority with regards to the selection of the manner and method used to finance, construct, operate and maintain the Conference Center.

B. The City shall administer the use and operation of the Conference Center in such a manner as to provide residents of both the County and City access to the Conference Center without regard to their place of residence. The City will not discriminate between County and City residents with respect to fees charged or conditions of use.

C. The City shall operate and maintain the Conference Center as a first class conference center facility to be kept at all times in a safe and clean condition. The City shall provide (directly or by contract) all management, supervision, personnel, materials, equipment, services and supplies necessary to operate, maintain and repair the Conference Center and shall take all reasonable precautions to prevent damage, injury or loss by reason of or related to the construction, operation and maintenance of the Conference Center to any person or property. The PFD shall have the right to review and comment on any contracts or agreements that the City proposes to enter into for the management of the Conference Center or the Associated Parking. The City shall comply with all applicable laws and ordinances in constructing, operating and maintaining the Conference Center. The City shall undertake all modifications to the Conference Center required to comply with all applicable laws, regulations, judgments and orders.

D. Each party shall designate a representative (Designated Representative) that will serve as the official contact person for that party regarding the implementation of any provision of this Agreement. The Designated Representative may be changed at any time by giving written notice of the change to the Designated Representative of each party, and to the persons identified in Section 19. The initial Designated Representative for each party, and their address, phone number, fax number and e-mail address is attached hereto as Exhibit A.

E. The Designated Representatives shall meet on a regular basis, and at such other intervals as are necessary to address issues of concern. The

regular meetings will be for the purpose of advising the County and PFD of the current status of planning and construction activities and to seek County and PFD input with regards thereto. It is anticipated that the regular meetings will occur at such frequency as is necessary to provide the PFD and the County with timely relevant information and for the PFD and the County to provide the City with timely input. During the pre-construction and construction process, meetings shall occur on a weekly basis, and in any event, a meeting shall be scheduled no less frequently than once per month. After construction is completed, the regular meetings will be for the purpose of advising the PFD and the County on the Conference Center operations and to seek their input and suggestions with regards thereto. These meetings shall occur less frequently, but no less than twice per year. The obligations under this paragraph E shall terminate when the Bonds are no longer outstanding, unless otherwise agreed by the parties.

F. The City anticipates pledging the revenue from the operations of the Parking Facility to the repayment of City indebtedness for the Project. Once that indebtedness has been paid in full, if Bond proceeds have financed any of the Associated Parking and if the Conference Center is generating sufficient revenue to pay the costs of its maintenance and operations, the City agrees to share net revenue of the Parking Facility with the PFD, based upon the percentage of the Associated Parking financed with Bond proceeds or upon the number of parking stalls financed with Bond proceeds, as further negotiated by the City and the PFD at a later date.

G. It is the mutual intent of the City and the PFD that the Conference Center be accessible to and affordable to Kitsap County-based non-profit organizations ("Community Groups"), without otherwise impairing the City's ability to operate the Conference Center in a fiscally prudent manner. To the extent the City has adopted or does adopt policies for discounts and reduced rates for Community Groups to use other City facilities, the use of the Conference Center will be subject to such policies. Otherwise, the City shall from time to time adopt a policy for reduced rates for the use of the Conference Center by Community Groups.

15. Insurance: Destruction.

A. Insurance Requirements. The City shall maintain and keep in force on the Project and the Conference Center, as applicable, the following insurance:

i. Builder's All Risk Comprehensive Coverage. During construction, the City shall keep or require the developer to keep the Project,

including the Conference Center, insured for Builder's All Risk Comprehensive Coverage (including earthquake and flood) in an amount not less than one hundred percent (100%) of the full replacement cost of the Project, including all fixtures, equipment, improvements, and betterments thereto.

ii. Commercial General Liability Coverage. The City shall carry and require the developer to carry Commercial General Liability insurance providing coverage claims for bodily injury, death, or property damage on the Project with broad form liability and property damage endorsement, written for combined single limits of liability of no less than \$10,000,000 per occurrence, said amount to be adjusted from time to time with coverage deemed customary under like conditions.

iii. Property Damage Insurance. The City shall carry property damage insurance covering the Conference Center, including all improvements, including earthquake, flood, boiler, machinery insurance in an amount equal to at least one hundred percent (100%) of the replacement costs of the Conference Center. Such coverage shall contain coverage against loss or damage by perils no less broad than the current edition of the ISO Special Form, 1985 Edition. The City may request a waiver from the PFD if any of the components of coverage required under this subsection iii or subsection i above, based on (1) information from the City that the cost of such coverage is burdensome, (2) the risk to be insured against is not commensurate with the cost of coverage, and (3) the City has other financial resources to protect against that risk.

B. Insurance Policies. The insurance policies required by this Agreement shall be issued by companies authorized to do business in the State, with no less than an "A" rating as to general policy holders rating and no less than "FSC X" as to financial category in accordance with the latest edition of Best's Key Rating Guide, published by A.M. Best Company, Inc. The policies shall be issued as primary policies and shall carry an endorsement that the policy shall not be cancelled or substantially changed without at least 30 days written notice to the City and the PFD. The City shall make available to the PFD copies of all insurance policies, within 7 days of any request by the PFD.

C. Adjustments. The types of policies, risks insured, coverage amounts, deductibles and endorsements may be adjusted from time to time as the City and the PFD may mutually determine and agree.

D. Destruction.

i. If either the Conference Center or Project is totally or partially destroyed at any time after the execution of this Agreement and the insurance proceeds (less any deductible) are sufficient to pay the cost or reconstruction or restoration, then the City shall reconstruct or repair the damage consistent with the terms and intent of this Agreement; provided that such reconstruction or restoration shall not affect the exclusion of the interest on the Bonds for federal income tax purposes. If the insurance proceeds (less any deductible) are insufficient to reconstruct or repair the Project or Conference Center, then the City may nonetheless elect to reconstruct or repair the Project or Conference Center or to terminate this Agreement; provided that any reconstruction or restoration shall not affect the exclusion of the interest on the Bonds for federal income tax purposes.

ii. If the City is unable to reconstruct or restore the damage to the Conference Center, the County shall be entitled to a pro rata share of the insurance proceeds, based on the ratio of the amount of the proceeds of the Bonds received by the City divided by the total construction costs of the City in the Conference Center. The County shall use such insurance proceeds to pay or defease the Bonds and, if the Bonds are no longer outstanding, the County shall transfer the insurance proceeds to the PFD to finance other projects permitted by the Chapter.

16. No County or PFD Obligation. Neither the PFD nor the County shall be responsible for any construction or operation funding shortfalls, or any other financial commitments or obligations beyond the specific commitments set forth in Section 8.

17. Indemnity and Hold Harmless.

A. The City shall defend, indemnify and hold the County and the PFD, and their respective elected officials, officers, employees and agents, including its development coordinator (Indemnitees) harmless from all claims, regardless of the nature of the claim, arising directly or indirectly from the planning, permitting, construction and operation of the Conference Center, except for claims arising from the sole negligence of any Indemnitee. In the case of concurrent negligence of the City and an Indemnitee, each party shall hold the other party harmless from their proportionate share of the resulting damages.

B. This indemnity and hold harmless obligation shall extend to all claims of whatsoever kind or nature. It shall include attorneys fees, expert witness fees, court costs, arbitration costs, administrative fines and penalties, and any other direct expense that are a direct consequence of a breach of any provision of this Agreement or any negligent act or failure to act. It shall include the duty to promptly accept tender of defense and provide defense to the Indemnitees.

18. Dispute Resolution.

A. If a dispute arises between the parties with regards to the performance of any provision of this Agreement or the interpretation thereof, the parties agree to follow the procedure set forth in this Section 18. It is the goal of the parties to resolve their differences as early in this step process as possible.

B. Step One - Informal Discussions. The Designated Representatives shall meet to see if the matter can be informally resolved. This may involve more than one meeting.

C. Step Two - Written Notification and Resolution. If informal discussions are not successful then a written notice of dispute shall be mailed to the address for notices set forth in Section 19, as well as to the Designated Representative. The notice shall set forth the nature of the dispute and the desired outcome. A written response shall be provided within ten business days. The response shall provide the responding party's version of the dispute and a proposed resolution. The parties shall meet within ten business days after the response is received in order to see if the matter can be amicably resolved. If the matter is amicably resolved at this stage the affected parties shall sign a memorandum of understanding with regards thereto.

D. Step Three - Mediation. If the parties are unable to resolve their differences at Step Two, the parties will endeavor to settle the dispute by mediation under such mediation rules as shall be mutually agreeable to the parties. Such mediation will be non-binding but a condition precedent to having said dispute decided in court by a judge or jury. Mediation shall commence, unless otherwise agreed, within 30 days of a party's written request for mediation of a dispute. Any resolution at this stage shall be reduced to writing and, if it involves an interpretation of the Agreement, it shall be considered an addendum to this Agreement.

E. Litigation. In the event any action is brought to enforce any of the provisions of this Agreement, the parties agree to be subject to exclusive in personam

jurisdiction in the Kitsap County Superior Court for the State and agree that in any such action venue shall lie exclusively in Kitsap County, Washington.

19. Notices. All notices and other written communications required by this Agreement shall be in writing and, except as expressly provided elsewhere in this Agreement, shall be deemed to have been given at the time of delivery if personally delivered, or at the time of mailing if mailed by first class, postage pre-paid and addressed to the party at its address as stated below or at such address as any party may designate at any time in writing.

To City: Mayor
City of Bremerton
239 4th Street
Bremerton, WA 98337

To PFD: Chair
Kitsap Public Facilities District
1200 N.W. Fairgrounds Road
Bremerton, WA 98311

To County: Director of Administrative Services
Kitsap County
614 Division Street
Port Orchard, WA 98366

20. Severability. It is the intent of the parties that if any provision of this Agreement or its application is held by a court of competent jurisdiction to be illegal, invalid or void, the validity of the remaining provisions of this Agreement or its application to other entities, or circumstances shall not be affected. The remaining provisions shall continue in full force and effect. The rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular invalid provision. However, if the invalid provision or its application is found by a court of competent jurisdiction to be substantive and to render performance of the remaining provisions unworkable and non-feasible, and is found to seriously affect the consideration and/or is inseparably connected to the remainder of this Agreement, then the entire Agreement shall be null and void.

21. Modification. This Agreement represents the entire agreement between the parties. No change, termination or attempted waiver of any of the provisions of this Agreement shall be binding on any of the parties unless executed in writing by each of the parties. This Agreement shall not be modified, supplemented, or otherwise affected by the course of dealings between the parties.

22. 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.

23. Assignment. The rights granted by this Agreement may not be assigned without the written consent of all the parties hereto.

24. Supplemental Documents. The parties agree to complete and timely execute all supplemental documents necessary or appropriate to fully implement the terms of this Agreement.

25. Duration of Agreement. This Agreement shall continue in full force and effect until such time as the Bonds issued by the County for the construction of the Conference Center are fully paid and redeemed. The County will not extend the terms of the Bonds, or refund the Bonds or otherwise extend the term beyond the initial Bond term without the written consent of the City. The City shall own the Conference Center upon the termination of this Agreement. All rights to indemnification under Section 17 of this Agreement, all rights to future revenue sharing under Section 14.F. of this Agreement and the provisions of Section 14.G. of this Agreement shall survive the termination of this Agreement and remain in force until such fees and costs are paid and such indemnification provision satisfied.

26. Filing of Agreement with County Auditor. Within five days from the date of this Agreement, as set forth in Section 1, the original of the Agreement shall be filed by the City with the Kitsap County Auditor as required by the provisions of RCW 39.34.040. The City shall provide the PFD and the County with the Auditor's recording number.

27. Specific Performance. The parties acknowledge that any party may require specific performance of any of the terms and conditions of this Agreement, in addition to any other remedies that may be available as a matter of law.

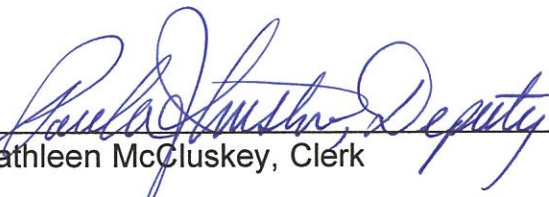
28. Complete Agreement. This Agreement represents the entire agreement between the parties hereto concerning the subject matter hereof. This Agreement may not be amended except as provided herein.

29. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

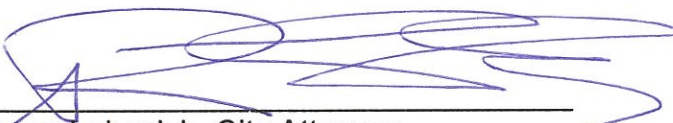
CITY OF BREMERTON

By: 
Cary Bozeman, Mayor

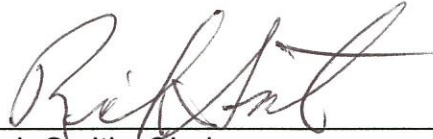
Attest:


Kathleen McCluskey, Clerk

Approved as to form:



Roger Lubovich, City Attorney

**KITSAP PUBLIC FACILITIES
DISTRICT**



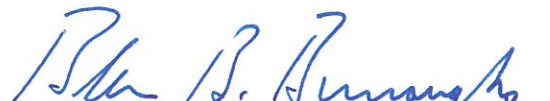
Rick Smith, Chair

Attest:




Stephen Stagner, Treasurer

Approved as to form:



Blair B. Burroughs, Special Counsel

**KITSAP COUNTY BOARD OF
COMMISSIONERS**



Jan Angel, Chair


Not Present

Chris Endresen, Commissioner



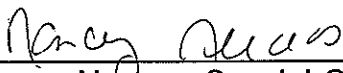
Patty Lent, Commissioner

Attest:



~~Holly Anderson~~, Clerk of the Board

Approved as to form:



Nancy Neraas, Special Counsel

**EXHIBIT A
DESIGNATED REPRESENTATIVES**

The Mayor of the City:

Cary Bozeman, Mayor
City of Bremerton
239 Fourth St
Bremerton, WA 98337
(360) 478-5266 (phone)
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The Chair of the PFD:

Rick Smith
2843 NW Kitsap Place
PO Box 68
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(360) 692-5566 (phone)
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som@tscnet.com (e-mail)

The County Director of Parks and Recreation:

Cristofer Gears
Director of Parks and Recreation
1200 NW Fairgrounds Road
Bremerton, WA 98311
360-337-5361 (phone)
360-337-5385 (fax)
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