



# WILDFIRE

## ENGINE STORAGE AGREEMENT

**Agreement No. 93-097363**

This Agreement is entered into between the state of Washington, Department of Natural Resources, **South Puget Sound Region**, hereinafter referred to as the DNR, and **Pierce County FPD #18, Orting Valley Fire and Rescue**, hereinafter referred to as the District.

- Purpose: DNR does not have a heated garage facility to store its wildland engine in the **South King/Pierce County** area; and the District has a garage facility at **Orting Valley Fire and Rescue Station #42, 19207 Patterson Road, Orting, WA 98360**. This fire station is utilized as one of the primary park and ride points for DNR Initial Attack wildland engine, crew and their private vehicles. It is necessary to store and park the engines and vehicles in a secure location.

Authority: RCW 76.04.135 administered by DNR provides for the cooperation between fire protection agencies for the exchange of services on a cooperative basis or services in return for cash payment or other compensation.

In consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties mutually agree as follows:

### 1.01 Terms and Conditions:

- (1) **Period of Performance:** This Agreement shall be effective on **May 5, 2018** and shall remain in full force and effect until **May 5, 2023**, unless terminated by either party as provided herein.
- **Treatment of Assets:** Title to all property furnished by the DNR shall remain in the DNR. Any property of the DNR furnished to the District shall, unless otherwise provided herein or approved by the DNR, be used only for performance of this Agreement.

At the beginning, end and annually during the effective period of this agreement, the DNR and the District will jointly inspect the wildland engine, engine equipment and OVFR FS #42 site. The results of the wildland engine, engine equipment and OVFR FS #42 site will be documented and signed, with copies to be retained by both parties. Any damage or losses to the engine, engine equipment or site will be repaired as provided further in this section.

Term: 5/15/2018 - 5/15/2023

The DNR shall be responsible for any loss or damage to property of the District which results from the negligence of the DNR or which results from the failure on part of the DNR to maintain the OVFR FS #42 facilities and site in pre-agreement condition or better. Upon loss or destruction of, or damage to, any District property, the DNR shall notify the District thereof and the DNR shall take reasonable steps to protect that property from further damage, and the DNR shall replace damaged equipment that is not repairable.

The District shall be responsible for any loss or damage to property of the DNR which results from the negligence of the District or which results from the failure on part of the District to maintain and administer that property in accordance with sound management practices. Upon loss or destruction of, or damage to, any DNR property, the District shall notify the DNR thereof and the District shall take all reasonable steps to protect that property from further damage, and the District shall replace damaged equipment that is not repairable.

The District shall surrender to the DNR all property of the DNR upon completion, termination or cancellation of this Agreement. For the purpose of this Agreement, property is defined as the wildland engine and equipment.

All reference to the District under this section shall include any District employees, agents or subcontractors.

- 2.01 Rights and Obligations:** Attachment A contains the general terms and conditions governing work to be performed under this Agreement, the nature of the working relationship between the DNR and the District, and specific obligations of both parties, which is incorporated by reference.
- 3.01 Indemnity:** To the fullest extent permitted by law, the District shall indemnify, defend, and hold harmless the State, its employees, officers, contractors, subcontractors and agents, from and against any and all claims arising out of, resulting from or incident to any intentional or negligent act or omission of the District, its employees, officers, contractors, subcontractors or agents, in the performance of this Agreement or in the use of control of property or equipment provided under this Agreement. The District's obligation to indemnify, defend and hold harmless includes any claim by the District's employees, officers, contractors, subcontractors or agents. The District's obligation to indemnify, defend and hold harmless shall not be eliminated or reduced by the actual or alleged concurrent negligent act or omission of the state, its employees, officials, contractors and subcontractors or agents. "Claims" include but are not limited to damages, actions, expenses, liabilities, financial losses, suits, costs, fees (including attorney fees), penalties or judgments of any nature whatsoever, attributable for bodily injury, sickness, disease or death, injury to or destruction of tangible property including loss of use resulting therefrom, and personal injury and injury to land and other natural resources. The District waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the State, its employees, officers, contractors, subcontractors and agents.

**4.01 The DNR Shall:**

- Park the DNR wildland engine and crew vehicles in a place and manner not to interfere with access by district personnel to building, facilities and site.
- DNR wildland firefighting personnel shall access the site on official business only.
- DNR wildland firefighting personnel shall keep the facilities, parking area and site in pre-agreement conditions or better.
- Provide keys that will allow Orting Fire and Rescue District personnel to move the DNR wildland engine, out of harm's way, in case of an emergency.

**5.01 The District Will:**

- Provide a garage facility for the wildland engine at the District's Station # 42 located at 190207 Patterson Road, Orting, WA 98360.
- Allow DNR wildland firefighting personnel access to the Orting Valley Fire and Rescue fire station #42 site.
- Grant permission to locate the DNR wildland crew vehicles at the Orting Valley Fire and Rescue fire station #42 site during the summer fire season.

**6.01 Insurance Requirements:** The District must furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to the DNR, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below. The Certificate of Insurance must reference the DNR and Agreement number. The District must provide proof of coverage before implementing this Agreement.

The Certificate(s) of Insurance must provide 45 days written notice to DNR before the cancellation, non-renewal, or material change of any insurance coverage included therein. Notices must be sent to DNR's **South Puget Sound Regional** office via certified mail.

**7.01 Additional Requirements:**

- (1) All insurance policies must name the state of Washington, Department of Natural Resources as an additional insured.
- (2) All insurance policies must include other insurance provisions that state that the District’s Policy provides primary insurance coverage.
- (3) All insurance policies must provide liability coverage on an occurrence basis unless otherwise specified in this Agreement.
- (4) Policies must be issued by an insurer admitted and licensed by the Insurance Commissioner, to do business in the state of Washington. Excess or “surplus lines” carriers must be approved in advance by the Risk Manager (or other authorized representative) of DNR. All insurers must have a Best’s rating of B+ or better.

**8.01 Breach of Contract:** Failure by the District to maintain or show evidence of insurance or comply with any of the provisions in this Agreement is a material breach of contract. Upon breach of contract, the DNR may, at its discretion, cancel or suspend the Agreement.

All Monies paid by DNR on behalf of the District shall be repaid to DNR on demand. DNR, at its discretion, may offset the cost of any insurance premiums paid for the District with any monies due the District by DNR.

**9.1 Minimum Coverage Requirements:** The minimum coverage requirements set forth the minimum limits of insurance the District may purchase to enter an agreement with DNR. These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these minimum limits of coverage does not relieve the District from liability for losses and settlement expenses greater than these amounts.

During the term of the Agreement, the District must purchase and maintain the insurance coverage and limits specified below:

- (1) **Commercial General Liability (CGL) Insurance:** The District must purchase and maintain CGL on an Insurance Services Office (ISO) form CG 00 01 or equivalent, covering liability arising from premises, operations, independent contractors, personal injury, products-completed operations, and liability assumed under an insured contract. Such insurance must be provided on an occurrence basis. Insurance must include liability coverage with limits not less than those specified below:

<u>Description</u>	<u>Dollar Amount</u>
General Aggregate Limit (Other than products-completed operations)	\$2,000,000
Each Occurrence Limit	\$1,000,000

(2) **Business Auto Policy (BAP) Insurance.** The District must purchase and maintain a BAP on an Insurance Services Office (ISO) form CA 00 01 or equivalent. The description of covered autos must include one or more of the following:

- (1) "Any Auto" (Symbol 1).
- (2) If District-owned personal vehicles are used, the BAP must cover "Owned Autos Only" (Symbol 2).
- (3) If District hires autos, the BAP must cover "Hired Autos Only" (Symbol 8).
- (4) If District employee's vehicles are used, the BAP must cover "Non-Owned Autos Only" (Symbol 9).

Such insurance must be provided on an occurrence basis. The BAP insurance must include liability and physical damage coverage with limits not less than those specified below. The District is responsible for any deductible.

<u>Description</u>	<u>Each Accident</u>
Bodily Injury and Property Damage	\$1,000,000

#### 10.1 Agreement Managers:

The Agreement Manager for the District is

(Name) Zane Gibson  
(Title) Fire Chief  
(Telephone) 360-893-2221


The Agreement Manager for the DNR is

(Name) Jane Potter  
(Title) Fire Regulations/Dispatch Coordinator  
(Telephone) 360-802-7030

**10.1 Signatures:**


**FIRE PROTECTION DISTRICT**

Dated 4/25, 2018

Signature:   
By: Zane Gibson  
Title: Fire Chief  
Address: P.O. Box 386, Orting, WA 98360

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES**

Dated 5/15, 2018

Signature:   
By: Scott Sargent  
Title: South Puget Sound Region Manager  
Address: 950 Farman Ave No., Enumclaw, WA  
98022

Engine Storage Agreement  
Approved as to Form  
By the Assistant Attorney General  
State of Washington, December 23, 1996

## ATTACHMENT A

### GENERAL TERMS AND CONDITIONS

- 1.01 Independent Capacity:** The District and its employees or agents performing under this Agreement are not employees or agents of the DNR.
- 2.01 Assignability:** This Agreement, and any claim arising under this agreement, is not assignable or delegable by the District either in whole or in part.
- 3.01 Non-discrimination:** During the performance of this Agreement, the District shall comply with all federal and state non-discrimination laws, regulations and policies. In the event of the District's non-compliance or refusal to comply with any non-discrimination law, regulation, or policy, this Agreement may be rescinded, canceled or terminated in whole or in part, and the District may be declared ineligible for further agreements with the DNR.
- 4.01 Unilateral Termination:** The DNR may unilaterally terminate this Agreement in the event that funding from federal, state or other sources becomes no longer available to the DNR, or is not allocated for the purpose of meeting the DNR's obligation hereunder. Such action is effective immediately upon written notification of termination by the DNR.
- 5.01 Termination:** Either party may terminate this Agreement by giving written notice to the other, at the address first noted herein, of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination.
- 6.01 Disputes:** When a dispute arises concerning this Agreement between the DNR and the District, it shall be determined in the following manner:
- Each party will designate an arbitrator, and those two arbitrators will appoint a third arbitrator to the panel.
- (1) The panel will render a decision on the dispute.
- (2) Both parties agree to be bound by the determination of the panel of arbitrators.
- 7.01 Waiver:** A failure by the DNR to exercise its rights shall not constitute a waiver of any rights under this Agreement unless stated to be such in writing and signed by an authorized representative of the DNR and attached to the original Agreement.
- 8.01 Right of Inspection:** The District shall provide right of access to its facilities to the DNR, any of its officers, or any other authorized agent or official of the state of Washington or the federal government at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

**9.01 Governing Law:** This Agreement shall be governed by the laws of the state of Washington. In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- (1) Applicable federal and state statutes and regulations;
- (2) The Terms and Conditions;
- (3) Statement of Work attached hereto and incorporated by reference herein; and
- (4) Any other provisions or attachments of the Agreement whether incorporated by reference or otherwise.

**10.1 Retention of Records:** The District shall maintain books, records, documents, and other materials which sufficiently and properly reflects all direct and indirect costs of any nature expended in the performance of this Agreement. These materials shall be available at all reasonable times for inspection, review, or audit by personnel duly authorized by the DNR and state or federal officials so authorized by law, rule, regulation, or contract. The District will retain these materials for six (6) years after settlement or termination.

**11.1 Severability:** If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

**12.1 Entire Agreement:** This document contains all covenants, stipulations and provisions agreed by both parties, no agent or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this Agreement.