

**Interlocal Agreement
Between
Thurston 911 Communications
And
City of Tumwater
For
Subscriber Radio Programming Terminal**

This Agreement is made and entered into by and between Thurston 911 Communications, hereinafter "TCOMM911" and the City of Tumwater, hereinafter "City" or "Fire Department," pursuant to the authority granted by Chapter 39.34 RCW.

It is the purpose of this Agreement to provide an offsite location for a TCOMM911 subscriber radio programming terminal to be located at 311 Israel Rd SW, Tumwater, WA 98501. This equipment would allow TCOMM911 user agencies to efficiently update their TCERN P25 public safety subscriber radio units when needed, benefiting the Tumwater Fire Department, Tumwater Police Department, and City of Tumwater residents.

Therefore, in consideration of the terms and conditions contained herein, or attached and incorporated by reference and made a part hereof, the above-named parties mutually agree as follows:

A. TCOMM911 Responsibilities:

1. TCOMM911 employees shall have permission to enter Tumwater Fire Department Headquarters to install, maintain, monitor and service TCOMM911 owned equipment at this location. TCOMM911 employees will make reasonable attempts to notify the TFD Deputy Chief of Operations or on-duty Battalion Chief in advance at phone numbers on file at TCOMM911. Employees shall check in at the front desk prior to entering secure station areas to access the equipment and shall wear identification and identify themselves whenever requested by Fire Department employees.
2. Typically, work will be done during regular business hours, Monday through Friday. However, access may be needed outside of regular work hours due to an emergency, malfunction, or as deemed necessary by TCOMM911 staff.
3. If an outside contractor is required to work on the equipment, TCOMM911 will notify the Fire Department ahead of time, and ensure that the outside contractor properly checks in at the front desk prior to accessing the equipment. Outside contractors must have valid identification and must be accompanied by Fire Department personnel when accessing secured areas of the facility.
4. All costs associated with the purchase, installation, maintenance, replacement, and repair of equipment shall be the responsibility of TCOMM911.
5. TCOMM911 will provide operating instructions at the time of installation.

B. Fire Department Responsibilities:

1. Fire Department agrees to house the equipment in a secure location, and to keep the equipment turned on and plugged into a power source in order to be utilized by radio subscribers at any time in accordance with TCOMM911's operating instructions.

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2. Fire Department agrees to provide vehicle access within the Wi-Fi coverage area for use by TCOMM911 and other agencies for mobile reprogramming.
3. Fire Department agrees to notify TCOMM911 Radio Systems Department within in 24 hours if there is a loss of power or damage to equipment occurs. Fire Department cannot guarantee uninterrupted service and no liability shall attach as a result of interruption of failure of power or Wi-Fi.
4. The subscriber radio programming terminal operates on a closed network. No other devices may be connected to the network without explicit written permission from TCOMM911.

C. Terms and Conditions

All rights and obligations of the parties to this Agreement shall be subject to and governed by the terms and conditions contained in the text of this Agreement.

1. Term and Termination

- a. Subject to its other provisions, this Agreement shall commence when this Agreement is properly signed by all parties.
- b. The term of this Agreement shall be five (5) years from the date the Agreement is properly signed by all parties. The agreement may be extended by additional five (5) year periods by mutual agreement of the parties.
- c. Either party may terminate this Agreement for their convenience. The terminating party shall provide a minimum of 30 days written notice of termination of this Agreement to the other party. Such notice shall be provided by certified and first-class mail. The notice shall be deemed received not later than the third day after such mailing.

2. Consideration

The parties mutually agree that no cash consideration is required between the parties. The mutual benefit of a functioning programming terminal shall serve as sole compensation.

3. Agreement Changes, Modifications and Amendments

This Agreement may be changed, modified, or amended by written agreement executed by both parties.

4. Contract Management

The representative for each of the parties shall be responsible for all communications pertaining to this Agreement.

Thurston 911 Communications
Executive Director
2703 Pacific Ave SE Suite A
Olympia, WA 98501
360-704-2731

Tumwater Fire Department
Fire Chief
311 Israel Rd SW
Tumwater, WA 98501
360-754-4170

5. 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 if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

6. Indemnity and Limitation of Liability

Each of the Parties agrees to protect, defend, indemnify, and save harmless the other Party, its officers, officials, employees, and agents, while acting within the scope of their employment, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that Party's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No Party will be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a Party's own negligence.

Each of the Parties agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the Parties, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs incurred from the other Party. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

7. Choice of Law

This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to its interpretation and performance. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained in the superior court of Thurston County, Washington.

8. Entire Agreement

Both parties agree that this Agreement is a complete expression of its terms and conditions. Any other representations or understandings not incorporated in this Agreement are specifically excluded.

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In Witness Whereof, the parties have executed this Agreement.

Thurston 911 Communications

Signature

Printed Name

Title

Date

City of Tumwater

Signature

Debbie Sullivan

Printed Name

Mayor

Title

Date

Attest:

Melody Valiant, City Clerk

Approved as to Form

Karen Kirkpatrick, City Attorney