

**CITY OF WEST RICHLAND
RESOLUTION NO. 52-23**

**A RESOLUTION OF THE CITY OF WEST RICHLAND, WASHINGTON,
AUTHORIZING THE MAYOR TO EXECUTE AN INTER-LOCAL AGREEMENT
WITH THE CITY OF SEATTLE REGARDING WASHINGTON STATE REFERENCE
NETWORK.**

WHEREAS, the City of Seattle is acting as the Central Processing Center for the Washington State Reference Network by and through Seattle Public Utilities; and

WHEREAS, the Washington State Reference Network was created by Seattle Public Utilities as a cooperative effort with other governmental agencies that will operate continuously operating reference stations within the State of Washington wherein data from such station provide seamless coverage; and

WHEREAS, the Washington State Reference Network eliminates duplication of equipment, software, and operational expenditures, while providing greater coverage and accuracy of real time positioning solutions and data from each continuously operating reference station, and

WHEREAS, using data from satellites owned by the United States of America, global positioning systems provides efficient methods for surveying and mapping activities related to utility, transportation, and other public capital improvement projects; and

WHEREAS, the City of West Richland in exchange for hosting a site for a continuously operating reference station at the city's well #11 site will for the duration of the agreement have unlimited access via up to four specified West Richland accounts for full Washington State Network services; and

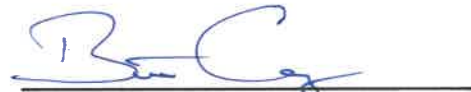
WHEREAS, Ch. 39.34 RCW, the Interlocal Cooperation Act, authorizes local governments to contract for the joint conduct of activities which each of the Parties is individually authorized to perform.

NOW, THEREFORE, the City Council of the City of West Richland, Washington, hereby resolves as follows:

Section 1. That the Mayor is hereby authorized to execute the Interlocal Cooperation Agreement with the City of Seattle regarding Washington State Reference Network.


Section 2. This Resolution will take effect upon the date of approval and signature.

PASSED BY THE CITY COUNCIL OF THE CITY OF WEST RICHLAND, WASHINGTON, at a regular meeting thereof held this 15th day of August 2023.



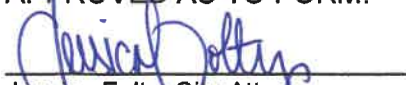
Brent Gerry, Mayor

ATTEST:



Stephanie Haug, City Clerk

APPROVED AS TO FORM:



Jessica Foltz, City Attorney

**WASHINGTON STATE REFERENCE NETWORK AGREEMENT
BETWEEN THE CITY OF WEST RICHLAND AND THE CITY OF SEATTLE**

This Washington State Reference Network Agreement (the "AGREEMENT") is made and entered into by and between **THE CITY OF WEST RICHLAND**, herein referred to as ["WRCH"] and the City of Seattle, acting as the Central Processing Center for the Washington State Reference Network by and through Seattle Public Utilities, herein referred to as (the "SPU"). WRCH and SPU are sometimes referred to individually as the "PARTY" and collectively as the "PARTIES."

RECITALS

- A. Using data from satellites owned by the United States of America, global positioning systems ("GPS") could provide efficient methods for surveying and mapping activities related to utility, transportation and other public capital improvement projects. The speed and accuracy of such technology can be enhanced by linking GPS continuously operating reference stations ("CORS") to a central processing center ("CPC") in a real time GPS network ("Washington State Reference Network" or "WSRN"). Each CORS will transmit live GPS satellite data to the CPC for processing, distribution of real time positioning corrections to members of the WSRN and other authorized users, archiving, and posting on a web page application.
- B. The WSRN was created by SPU as a cooperative effort with other governmental agencies that will operate CORS within the State of Washington and selected reference stations in adjacent states and provinces wherein data from such stations can provide seamless coverage to the borders of Washington State. The WSRN eliminates duplication of equipment, software and operational expenditures, while providing greater coverage and accuracy of real time positioning solutions and data from each CORS. Entities that operate CORS under this Agreement with the SPU are known as "members" of the WSRN.
- C. Each PARTY has determined that cost savings and other public benefits can be achieved if entities, such as WRCH, become a member of the WSRN.
- D. For purposes of the development of a sub-network of the WSRN in and around the various regions of Washington State, SPU, WSRN Partners, and other entities in the regions are entering into individual agreements with SPU for connection of each of their respective CORS, and/or CORS that they support.

- E. Many of the WSRN members serve solely as sites hosts, otherwise providing a suitable site on which the WSRN members may construct and operate a suitable GPS sensor. Or offer to provide one or more elements of a CORS, such as a site for an installation, power, communications, installation materials and/or labor, or as in the case of this agreement, providing only the site and power.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the PARTIES agree as follows:

AGREEMENT

1. CENTRAL PROCESSING CENTER (CPC)

- 1.1. The SPU shall own and be responsible, at its expense, for all aspects of the operation and maintenance of the CPC, including without limitation servers, PIVOT and other software necessary for the CPC to accomplish its tasks as set forth in this section 1.
- 1.2. Based on received data streams from a grid of CORS, the CPC will send system information and real-time corrections via cellular connections to WSRN Partners and agents of the academic community via FTP, mobile devices for positioning, locating and navigating with satellites of the GPS. The CPC also shall make data files available for static GPS post processing. All digital products will be made available to WRCH if requested. WRCH is NOT responsible for the equipment, configuration thereof of any other WSRN user equipment nor any aspect of use of any of the digital products derived with any data from the GPS sensor mounted at the CORS site referenced in section 2.1.
- 1.3. SPU shall operate and maintain a web application to display the system status, data generated by PIVOT software for notification of system status, availability, component quality, static data files, and general information.
- 1.4. SPU will provide telephonic Help Desk services, from Monday through Friday, 9:00 a.m. to 3:00 p.m., but only to troubleshoot connections to the CPC servers. The Help Desk will not answer questions concerning individual user hardware or software, surveying or other field data collection methods, commercial cellular connections, system status or monitoring report data that is available from the web application.
- 1.5. The SPU shall provide centralized data logging and archiving, access to CORS logged data files, access to real time corrections via wireless technology, and system monitoring for the WSRN.

1.6. The services to be provided by the SPU and described in this section 1 are referred to as the "WSRN Services."

2. CONTINUOUSLY OPERATING REFERENCE STATIONS (CORS)

2.1. For the duration of this Agreement, WRCH shall provide a site for a CORS, that WSRN will activate to provide live uninterrupted data access. The proposed CORS station designated as "WRCH" that will be located in THE CITY OF WEST RICHLAND Washington, at the WRCH well site facility at approximately:

46° 19' 16.32" N
119° 24' 10.50" W

Station "WRCH" will be operated by the WSRN.

2.1.1. The hardware for the CORS, to include the dual frequency GPS receiver, compatible antenna, enclosure, broadband modem, and any peripheral cables and connectors will remain the property of the WSRN. WRCH is only responsible for the site, and AC power.

2.2. For the duration of this Agreement, WRCH may participate with other members of the WSRN in a technical advisory committee to be staffed and administered by the members. This committee may identify solutions, upgrades and other desired enhancements to the WSRN.

3. CPC ACCESS

3.1. For the duration of this Agreement, WRCH, if requested, shall have unlimited access via up to [4] specified WRCH accounts for full WSRN services in exchange for site hosting of said CORS specified in this Agreement.

4. MANAGEMENT; COMPENSATION

4.1.1. There will be no initial or ongoing costs to WRCH beyond assistance in the initial installation and AC power.

4.1.2. In exchange for hosting the site for the CORS specified in this agreement, WRCH will have full rights to network service accounts as specified in section 3.1.

5. DURATION

The initial term of this Agreement shall be 5 years, commencing upon the date of its execution by WRCH. The term may be extended by mutual agreement of the parties.

Upon termination of this Agreement, WRCH shall have no further liability or responsibility to any Party or member of WSRN.

6. TERMINATION

- 6.1. Should WRCH wish to discontinue hosting the CORS specified in the agreement, WRCH shall give the SPU 180 days' written notice before WRCH discontinues hosting the CORS specified in this Agreement, a period in which SPU will remove the equipment at the site. Decommissioning of the CORS terminates this agreement.
- 6.2. SPU may, for operational or technical reason, seek to decommission said CORS. SPU shall give WRCH 180 days written notice of the intent to decommission said CORS. SPU shall remove the equipment at the WRCH hosted site specified in this agreement. By the end of said 180-day period. Decommissioning of the CORS terminates this agreement.

7. NO WARRANTIES; LIMITATION OF LIABILITY

- 7.1. Use of these WSRN services, if requested, is at WRCH's sole risk. The SPU provides WSRN Services on an "as is" basis. Neither other WSRN members, nor the SPU, its officers, employees, vendors, or third-party service providers (collectively as used in this section 6, "SPU") makes any express or implied representation or warranty of any kind with respect to WSRN Services. By way of example and not of limitation, there is no representation or warranty (a) that WSRN Services will be uninterrupted or error free, (b) that the results obtained from using WSRN Services will be accurate, reliable, complete or current, or (c) of merchantability or fitness for a particular purpose. WSRN Services and information related thereto are subject to change without prior notice.
- 7.2. Neither the SPU nor WRCH, any third parties WRCH may have entered into an agreement with for the purposes of establishment, operations and maintenance of a CORS, or other WSRN members, is liable for any damages arising out of or in connection with WSRN Services, including without limitation mistakes, omissions, interruptions, deletion of files, errors, defects, viruses, delays in operation or transmission, or failures of the CORS. This is a comprehensive

limitation of liability that applies to all damages of any kind, including compensatory, direct, indirect or consequential damages, loss of data, income or profit, loss of or damage to property and claims of third parties.

8. DISPUTE RESOLUTION

In the event that a dispute arises under this Agreement which can not be resolved between the Parties, the dispute shall be settled in the following manner: Each Party to this Agreement shall appoint a member to a dispute board. The members so appointed shall jointly appoint a third member to the dispute board who is not employed by or affiliated in any manner with the two Parties to this Agreement. The dispute board shall evaluate the facts, contract terms, and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the Parties hereto.

9. NOTICES

All notices and invoices required in connection with this Agreement shall be in writing and deemed to have been duly given if personally delivered or sent by; mail, fax, United States mail or overnight delivery service, each with proof of receipt, as indicated below or as otherwise indicated in writing by one party to the other.

CITY OF SEATTLE
Seattle Public Utilities
Engineering and Technical
Services Division
PO Box 34018
Seattle, WA 98124-4018
Fax: 206-684-7396
E-mail:
gavin.schrock@seattle.gov

THE CITY OF WEST RICHLAND
City of West Richland
Stephanie Haug
City Clerk
3100 Belmont Blvd.
West Richland, WA 99353
E-mail:
cityhall@westrichland.org

10. INSURANCE AND INDEMNIFICATION

10.1. **Indemnification.** SPU shall defend, indemnify, and hold harmless the City of West Richland, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of SPU's acts, errors or omissions, or from the conduct of SPU's business, or from any activity, work or thing done, permitted, or suffered by SPU arising from or in connection with this

Agreement, except only such injury or damage as shall have been occasioned by the sole negligence of the City of West Richland.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the SPU and the WRCH, its officers, officials, employees, and volunteers, the SPU's liability hereunder shall be only to the extent of the SPU's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the SPU's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

- 10.2. **Insurance Term.** The SPU shall procure and maintain for the duration of the Agreement and as long as SPU has Facilities in the rights-of-way, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Agreement and use of the rights-of-way.
- 10.3. **No Limitation.** The SPU's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the SPU to the coverage provided by such insurance, or otherwise limit the WRCH's recourse to any remedy available at law or in equity.
- 10.4. **Minimum Scope of Insurance.** The SPU shall obtain insurance of the types and coverage described below:
 1. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The WRCH shall be named as an additional insured under the SPU's Commercial General Liability insurance policy with respect this Franchise Agreement using ISO endorsement CG 20 12 05 09 if the franchise agreement is considered a master permit, or CG 20 26 07 04 if it is not, or substitute endorsement providing at least as broad coverage
 2. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
 3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

- 10.5 **Minimum Amounts of Insurance.** The SPU shall maintain the following insurance limits:
1. Commercial General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$5,000,000 general aggregate.
 2. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$5,000,000 per accident.
- 10.6 **Other Insurance Provisions.** SPU's Commercial General Liability and Automobile Liability insurance policy or policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect the WRCH. Any insurance, self-insurance, or self-insured pool coverage maintained by the WRCH shall be excess of the SPU's insurance and shall not contribute with it.
- 10.7 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- 10.8 **Verification of Coverage.** The SPU shall furnish the WRCH with original certificates and a copy of the amendatory endorsements annually, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Agreement. Upon request by the WRCH, the SPU shall furnish certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' coverage.
- 10.9 **Subcontractors.** The SPU shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the SPU-provided insurance as set forth herein, except the SPU shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The SPU shall ensure that the WRCH is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 26.
- 10.10 **Notice of Cancellation.** SPU shall provide the WRCH with written notice of any policy cancellation within two business days of their receipt of such notice.
- 10.11 **Failure to Maintain Insurance.** Failure on the part of the SPU to maintain the insurance as required shall constitute a material breach of Agreement, upon which the WRCH may, after giving five business days notice to the SPU to correct the breach, terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the WRCH on demand.

- 10.12 **WRCH Full Availability of SPU Limits.** If the SPU maintains higher insurance limits than the minimums shown above, the WRCH shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the SPU, irrespective of whether such limits maintained by the SPU are greater than those required by this Agreement or whether any certificate of insurance furnished to the WRCH evidences limits of liability lower than those maintained by the SPU.
- 10.13 **SPU – Self-Insurance.** If the SPU is self-insured or becomes self-insured during the term of the Franchise Agreement, SPU or its affiliated parent entity shall comply with the following: (i) provide the WRCH, upon request, a copy of SPU’s or its parent company’s most recent audited financial statements, if such financial statements are not otherwise publicly available; (ii) SPU or its parent company is responsible for all payments within the self-insured retention; and (iii) SPU assumes all defense and indemnity obligations as outlined in the indemnification section of this Agreement.

11. OTHER PROVISIONS


- 11.1. Nothing contained herein is intended to, nor shall be construed to; create any rights in any party not a signatory to this Agreement, or to form the basis for any liability on the part of the SPU, WRCH, or their officials, employees, agents, or representatives, to any party not a signatory to this Agreement.
- 11.2. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any prior or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 11.3. If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the PARTIES.
- 11.4. The captions in this Agreement are for convenience only and do not in any way limit or amplify the provision of this Agreement.
- 11.5. This Agreement, including Recitals (which by this reference are incorporated herein) contains the entire agreement of the parties and any representations or understandings, whether oral, written or not incorporated herein are excluded.
- 11.6. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions herein contained in order to achieve the objectives and purposes of this Agreement. Each PARTY and its counsel (if the PARTY so desires) has reviewed and revised this Agreement. Each PARTY agrees that the usual rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

11.7. Only an instrument in writing, duly executed by both PARTIES, may amend this Agreement.

11.8. This Agreement shall be governed and construed in accordance with the laws of the State of Washington.


IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date last written below.

CITY OF SEATTLE

[Sign] 

Tanya Treat
Director
Engineering and Technical
Services Division
Seattle Public Utilities
Date: 08/18/2023

THE CITY OF WEST RICHLAND


[Sign] 

Brent Gerry
Mayor
City of West Richland

Date: 8/15/23

Signature: 

Gavin Schrock (Aug 18, 2023 08:00 PDT)
Email: Gavin.Schrock@seattle.gov

Signature: 

Dean Huber (Aug 18, 2023 08:36 PDT)
Email: Dean.Huber@seattle.gov