

**INTERLOCAL SERVICES AGREEMENT
BETWEEN THE CITY OF DUVALL
AND THE CITY OF MARYSVILLE
CONCERNING PROVISION OF TELEMETRY AND SCADA SERVICES**

THIS INTERLOCAL AGREEMENT BETWEEN THE CITY OF DUVALL AND THE CITY OF MARYSVILLE CONCERNING PROVISION OF TELEMETRY AND SCADA SERVICES (this "Agreement") is made and entered into as of this 24th day of October, 2011, by and between The City of Marysville, a Washington municipal corporation (Marysville), and the City of Duvall, a Washington municipal corporation (Duvall).

Recitals

WHEREAS, this Agreement is made pursuant to the authority granted by Chapter 39.34 RCW, the Interlocal Cooperation Act; and

WHEREAS, Duvall requires supplemental Telemetry and SCADA (supervisory control and data acquisition) services; and

WHEREAS, Marysville has employed Telemetry and SCADA professionals; and

WHEREAS, Duvall and Marysville have similar Telemetry and SCADA systems which use similar skill sets to plan, manage, program, control, and use;

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Marysville and Duvall agree as follows

1. Scope of Telemetry and SCADA Services:

a. Marysville will provide Telemetry and SCADA goods and services to Duvall according to Supplemental Work Orders ("SWO"). Each SWO will include a description of the specific services to be provided, the term, and the costs of such service from quotation or from the published rate or fee schedule, and any other terms or conditions applicable to that service. The scope of Telemetry and SCADA Goods and Services to be provided under this Agreement are limited to the following:

- i. Assisting in the planning, management, control, and use of Telemetry and networking services for the implementation of water and waste water SCADA systems.
- ii. Assisting in the planning, programming, management, control, and use of water and waste water PLCs (programmable logic controllers) and SCADA systems.
- iii. Other functions as may be mutually agreeable.

2. Treatment of Assets: PLC and Computer application programs and other software systems furnished to Duvall by Marysville are furnished on an "as is" basis with no representations or

warranties regarding use or results including any warranties of merchantability or fitness for a particular purpose, unless indicated in an SWO for service.

Title to all property furnished by Marysville shall remain in Marysville. Title to all property purchased by Duvall for which Duvall is not reimbursed by Marysville shall remain in Duvall. Title to all property purchased by Duvall for which Duvall is reimbursed by Marysville and is used as component of services provided under this Agreement shall pass to and vest in Marysville upon completion, termination, or cancellation of the relevant SWO or this Agreement.

Any property of Marysville furnished to Duvall shall, unless otherwise provided in this Agreement, or approved by Marysville, be used only for the performance of this Agreement or SWO. Duvall shall be responsible for any loss or damage to Marysville property that Marysville furnishes to Duvall.

If any Marysville property is lost, destroyed, or damaged, Duvall shall immediately notify Marysville and shall take all reasonable steps to protect the property from further damage.

3. **Surrender of Property:** Duvall shall surrender to Marysville all property of Marysville upon completion, termination, or cancellation of this Agreement. Conversely, Marysville shall surrender to Duvall all property of Duvall upon completion, termination, or cancellation of this Agreement.
4. **Time of Performance:** This Agreement shall become effective upon signature by both parties and recording of the same with the Marysville City Clerk and the Duvall City Clerk and shall remain in force for a period up to five (5) years, unless terminated earlier by either party upon sixty (60) days written notice.

This Agreement may be extended by mutual written agreement of Marysville Mayor, or his/her designee, and an authorized agent for Duvall.

5. **Compensation:** Duvall may request an estimate or quotation of cost for proposed Telemetry and SCADA goods or services from Marysville. Specific agreements addressing costs, terms, schedules, and other factors will be described in an associated SWO developed from initial estimates or quotations.

Duvall will pay Marysville for services provided hereunder and as set out in each SWO.

SWO rate and fee schedules are subject to change at the discretion of Marysville. Rate and fee schedule changes shall be effective sixty (60) days after written notice of change is provided to Duvall, postage paid in the US mail.

Marysville will submit an invoice, or advice of charge, to Duvall monthly, or as defined in a SWO, detailing charges for services rendered during the preceding month. Payment is due in full upon receipt of the invoice by Duvall and becomes delinquent thirty (30) days thereafter.

A late payment fee may be applied to any remaining balance sixty (60) days after invoice. Late payment charges, if any, will be imposed on the unpaid balance at a rate of one percent (1.0 %) per month. Invoices related to SWOs with balances more than ninety (90) days past due may be terminated and services discontinued. Amounts disputed by Duvall under the Paragraph 7 of this Agreement are not subject to late payment charges.

6. **Obligations of Duvall are as follows:** As to all new Duvall acquisitions of any Telemetry and SCADA equipment, software or systems to be serviced by Marysville under this agreement, Duvall shall undertake such acquisitions in accordance with guidelines, standards or procedures established by Duvall and supportable by Marysville Staff.

Payment to Marysville of all submitted invoices or advices of charge pursuant to the preceding section.

7. **Mutual Covenants:** Duvall will promptly notify Marysville in writing of issues regarding invoices, or of services which Duvall believes do not conform with the agreed upon terms of this Agreement and/or SWO, within thirty (30) days of discovery that services are not adequate or invoice is not accurate, whichever occurs later. Failure to give written notice within thirty (30) days of discovery that services are not adequate or an invoice is not accurate constitutes waiver of any objection to services or invoices.

The parties shall attempt to resolve any issues arising under this Agreement and/or any applicable SWO through negotiation and consultations. If that fails, the parties will seek to resolve disputes through the aid of a mutually selected, independent third party. All costs associated with the use of a third party mediator will be shared equally between Duvall and Marysville.

This Agreement may only be modified by a written amendment effective upon execution by both Duvall and Marysville. An SWO may only be modified by written agreement of the parties.

8. **Marysville Review/Approval:** Upon submittal of any request to execute a SWO or to perform optional services under any executed SWO, Marysville may, following review by Marysville, agree to perform such work or reject it, or request such modification or additions as it deems appropriate.

9. **Indemnification and Hold Harmless:** Subject to the liability limitations stated in Paragraph 10 of this Agreement, Duvall shall hold harmless, indemnify, and defend, at its own expense, Marysville, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, arising out of Duvall's performance of this agreement, including claims by Duvall's employees or third parties, except for those losses or claims for damages solely caused by the negligence or willful misconduct of Marysville, its elected and appointed officials, officers, employees or agents.

Subject to the liability limitations stated in Paragraph 10 of this Agreement, Marysville shall hold harmless, indemnify, and defend, at its own expense Duvall, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, arising out of Marysville's performance of this Agreement, including claims by Marysville employees or third parties, except for those losses or claims for damages solely caused by the negligence or willful misconduct of Duvall, its elected and appointed officials, officers, employees or agents.

Subject to the liability limitations stated in Paragraph 10 of this Agreement, in the event of liability for damages of any nature whatsoever arising out of the performance of this Agreement by Duvall and Marysville, including claims by Duvall's and Marysville's own officers, officials, employees,