

**SNOHOMISH COUNTY PUBLIC FACILITIES DISTRICT
PUBLIC RECORDS ADMINISTRATIVE SUPPORT SERVICES AGREEMENT**

This Agreement is made by and between **SNOHOMISH COUNTY PUBLIC FACILITIES DISTRICT**, a Washington municipal corporation ("District"), and **WEED, GRAAFSTRA & BENSON, INC, P.S.**, a Washington professional service corporation (hereafter "WGB"), as follows:

I. RECITALS

1.1 District is a public agency subject to the Washington Public Records Act, Chapter 42.56 RCW ("PRA").

1.2 WGB is a professional service corporation rendering legal and paralegal and administrative support services to clients in Snohomish County, Washington.

1.3 District does not directly employ any employees and desires to engage the services of WGB to provide administrative support services for the receipt and processing of public records requests, if any, directed to the District pursuant to the PRA.

1.4 The District has designated a public records officer ("PRO") who is a member of the District Board of Directors.

1.5 The District has entered into an Administrative Services Agreement with Snohomish County to provide certain administrative services, a copy of which WGB has received.

1.6 Pursuant to the District's Administrative Services Agreement with Snohomish County, Snohomish County maintains a website for the District, provides financial services and other services as outlined therein, some of which involve the maintenance or posting of public records of the District.

1.7 WGB is willing to provide public records administrative support services, as set forth in this Agreement, and to coordinate with the District's PRO and Snohomish County, as reasonable and necessary in performing said administrative support services as set forth below.

For and in consideration of the mutual promises and covenants hereinafter set forth, the sufficiently of which is hereby acknowledged, the parties agree as follows:

II. AGREEMENT

It is agreed between the District and WGB as follows:

2.1 Fees and Costs for Services. The District agrees to pay WGB fees for services rendered pursuant to this Agreement, at the rate set forth in WGB's November 14, 2014 letter of

ORIGINAL

engagement (pages 1 and 2 only), attached hereto as **Exhibit 1** and by this reference incorporated herein, together with reimbursable expenses. Additionally, the District shall pay WGB an annual fee, payable in quarterly installments of \$750 (\$3,000 annually), for providing the District Public Records Office, signage, computer use and copying (not to exceed 100 pages per public records request). Quarterly invoices shall be mailed to the District at the following address: 3000 Rockefeller, Everett, WA 98201. For a public records request responses requiring more than 100 pages of copying, the District will pay WGB \$0.15 per page copied in excess of 100.

2.2 General Scope of Services. WGB shall provide the public records administrative support services set forth in this Agreement, utilizing, primarily, paralegal and/or clerical staff, under the general supervision of Grant K. Weed and such other lawyers of WGB as he may assign; provided any legal research, legal advice and/or legal representation shall be undertaken only at the written direction of the District.

2.3 Specific Services to be Provided. WGB will provide the following:

a. District Office. WGB will designate for the District a physical office area ("District Public Records Office") at a location within its offices. The area designated need not be devoted exclusively to District matters. The primary criterion for the WGB's designation of an appropriate District Public Records Office location shall be the consistent presence at that location, during regular business hours, of at least one (1) WGB employee who is knowledgeable about the requirements set forth in the subsections below. WGB will provide use of a computer laptop or terminal, with internet access to the District web site, within said Office for use of members of the public making public records disclosure requests to access documents posting on the District's web site, and copying/printing facilities for printing and/or copying such public records. WGB will maintain regular office hours for the District's office, coextensive with the regular office hours of WGB, or otherwise from 9:00 AM until 12:00 PM, and 1:00 PM until 4:00 PM, Monday through Friday, excluding holidays.

b. Public Notice of Office Location. WGB will provide and display appropriate directory and building signage in a manner reasonably calculated to provide adequate public notice of the District's Public Records Office location. The District will reimburse WGB for the actual costs associated with purchase and installation of said directory and building signage. WGB will additionally provide public notice of the District's internet website address on said signage. Identity and contact information for the District's Public Records Location shall also be posted by the District on its web site.

c. Public Records Act ("PRA") Chapter 42.56 RCW. WGB will maintain within the District Public Records Office a physical and electronic filing system for those public records and files of the District which are in the possession of the WGB, and provide them as necessary to process responses to PRA public records disclosure requests, as provided for in this Agreement. WGB shall not be responsible for District public records which are not in its possession. WGB will provide administrative support services to assist the District and its Public Records Officer ("PRO"), and act as the PRO's Appointee (as referenced in Section 2.3.1 of the PR Policy referenced below) in the processing of public record requests made pursuant to the PRA. PRA requests shall be processed in accordance with this Agreement and with the

District's Public Records Policy and Procedures ("PR Policy"), a copy of which is attached hereto as **Exhibit 2** and by this reference incorporated herein. The District Board of Directors shall designate one of its members as the District's PRO, who is hereby appointed, pursuant to the PRA, as the District's PRO and shall inform WGB of the email, telephone number of the Districts PRO and shall update WGB if the identity of the PRO is changed.

d. Procedure for Certain Specified Public Record Requests. Requests for disclosure of any of the following categories of public records of the District, including inspection and/or copying thereof, shall be handled according to the following procedures:

(i) Records To Be Disclosed Without Prior Review by PRO. In response to public records disclosure requests for any of the records described in Section 2.3.5 of the District's PR Policy, all of which should be posted on the District's web site, the WGB staff assigned to assist the District under this Agreement will provide the requested records in accordance with Section 2.3.2 of the District's PR Policy, without the need for prior review by the PRO. WGB staff shall log the public records disclosure request and response, and retain copies of all correspondence, as provided for in Sections 2.3.2 and 2.3.4 of said PR Policy.

(ii) Records To Be Reviewed By PRO Prior To Disclosure. All requests for disclosure of District public records, other than those referred to in paragraph (i) above, shall be immediately transmitted to the PRO and the District's designated legal counsel (within one business day of receipt) by WGB staff assigned to assist the District. Review of and response to such requests shall be the responsibility of the PRO. WGB agrees to reasonably assist the PRO by providing to the PRO, as soon as practicable upon request, all pertinent records in its possession and will notify Snohomish County through its Finance Department, of the request and ask the County to provide all pertinent District records in its possession for PRO review.

e. Public Inspection and Copying. WGB will designate at least one computer (to be provided at District's expense) at the District Public Records Office, with an attached printer, which computer shall be insulated from the WGB's network, to be used for purposes of public inspection of electronic public records of the District, which are posted on the District website and disclosed under Section (c)(i) above. WGB shall additionally provide public access to one photocopy machine for purposes of copying of any District public records stored in paper format, which are to be disclosed. WGB may charge on behalf of District as its agent a reasonable copying charge, not to exceed \$0.15 per page, for any photocopies requested. Such copying fees shall be remitted to the District.

2.4 Hold Harmless/Indemnity. The District shall indemnify, defend and hold harmless WGB, its officers, agents and any WGB employees acting pursuant to this Agreement (each an "Indemnified Person") from any and all claims and/or liability for judicial awards made pursuant to RCW 42.56.550 as a result of any acts or omissions by any Indemnified Person, while acting in good faith to process any public record request(s) on behalf of the District.

2.5 Termination. This Agreement may be terminated by either party, with or without cause, upon not less than 120 days prior written notice designating the termination date.

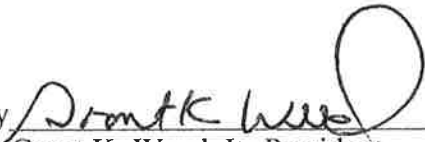
**SNOHOMISH COUNTY PUBLIC FACILITIES
DISTRICT**

Dated: 1/22/15

By 
Travis Snider, Its President

WEED, GRAAFSTRA & BENSON, INC, P.S.

Dated: 2-6-15

By 
Grant K. Weed, Its President

LAW OFFICES OF
WEED, GRAAFSTRA and BENSON, INC., P.S.

George E. Benson
Cheryl L. Beyer
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Grant K. Weed

WGB

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Patrick B. Anderson, Of Counsel
Thom H. Graafstra, Of Counsel

LETTER OF ENGAGEMENT FOR PUBLIC RECORDS ACT
LEGAL SERVICES

November 14, 2014

Debbie Emge
116 Union Avenue
Snohomish WA 98290

RE: Public Records Act Legal Services

Dear Debbie:

As requested, this letter will set forth the terms of our engagement to assist the Snohomish County Public Facilities District (PFD) in matters relating to Public Records Requests under Chapter 42.56. At your request or at the request of the PFD Board of Directors, we will assist in research, staff support and legal services related to Public Records Requests.

Our services would be billed at the rate of \$195.00 an hour for legal and \$140 an hour for paralegal services.

Legal Fees

Whenever it is appropriate, we will use legal assistants or paralegals in our office to keep your costs as low as possible. As supervising attorney, I will be responsible for seeing that the work is carried out in an efficient and economical manner. I may be assisted by other attorneys, paralegals and legal assistants in our office. They are all bound to you by the same duties of loyalty and confidentiality that bind me.

We will bill you on a regular basis, normally each month, for all the time spent on your project and for other costs incurred relating to our work or on your behalf. The activities for which our time will be billed will include: conference time, whether in person or on the telephone; document review, preparation and revision; negotiations; correspondence; staff or attorney supervision; factual and legal research and analysis; and other matters directly pertinent to and related to your business and/or litigation matters handled by our firm. Some of our costs include

an allocation for administrative services that is shared among the firm's clients. Typical of the costs for which you will be billed would be: filing fees; delivery fees; computer assisted legal research; copying; charges of outside experts and consultants. Travel time will not be charged, but there will be a four (4) hour minimum for meetings on site.

Termination

You may terminate our representation at any time, with or without cause, by notifying us. Upon such action, all fees and expenses incurred before the termination are due to the firm. If such termination occurs, your original papers will be returned to you promptly upon receipt of payment for outstanding fees and costs. If you wish to have a copy of your file at the conclusion of our representation, we will provide it to you at the current copy rate per page then in effect at this firm.

Estimates

You may, from time to time, ask us for estimates of our fees and expenses either in whole or in part. We are hesitant to give estimates because of their potential inaccuracy. However, if you require it, and if we do provide you with such estimates, they will be based upon our professional judgment, but always with a clear understanding that it is not a maximum or fixed fee quotation. We cannot guarantee that the actual fees and expenses will be at or below the estimates because of factors outside the control of the firm.

Dispute Resolution

If you disagree with the amount of our fee, please feel comfortable taking up the question with me. Typically such disagreements are resolved to the satisfaction of both sides with little inconvenience or formality. Any disputes relating to this Engagement Letter or the amount of legal fees related thereto that cannot be resolved informally shall be submitted by the parties for resolution through arbitration using JDR, WAMS, JAMS, AAA, or such other arbitration service as the parties agree upon and Weed, Graafstra and Benson, Inc., P.S. and the PDF agree to be bound by the results of such arbitration. In the event of non-payment such that Weed, Graafstra and Benson, Inc., P.S. has to pursue collection of your account, you agree to pay the costs of collecting the debt, including court costs and fees, and a reasonable attorney's fee.

Withdrawal

We reserve the right to withdraw from representing you for any reason allowed by law, including, without limitation, failure to timely pay our fees in accordance with this Agreement.

Disclaimer

You acknowledge that we have made no guarantees regarding the disposition, outcome, or results of your legal or business matters, and all expressions we have made relevant thereto are only our opinions as lawyers based upon the information available to us at the time.

EXHIBIT 2

SNOHOMISH COUNTY PUBLIC FACILITIES DISTRICT ("District")

PUBLIC RECORDS POLICY AND PROCEDURES

I. **Policy.** It is the District's policy to keep and maintain, as public records, those records that are necessary for carrying out the District's purposes, as well as those records that are convenient to the operations of the District or to the individual Board Members in carrying out their official duties, and to implement procedures for complying with applicable legal requirements relating to the maintenance and disclosure of public records, including, without limitation, the Washington State Public Records Act, Chapter 42.56 RCW (the "Act").

II. **Procedures.**

2.1 **Generally.** Generally, the District shall take such actions as are necessary to comply with applicable requirements of law, and as further directed by its Board of Directors, including, without limit, as set forth in these procedures.

2.2 **Specifically.** Without limiting the foregoing, the District shall implement the following procedures:

2.2.1 **Interlocal Administrative Services.** The District shall enter into and maintain one or more interlocal agreements, with one or more constituent local municipal entities, to provide the District with administrative services, including, in part, administrative services support to assist the District to carry out these public records policies and procedures.

2.2.2 **Public Records Media.** The District will keep its public records in such available media as are useful and convenient for accomplishing the purpose of these public records policies and procedures, and including, without limit, as are appropriate for different records, as paper documents and/or electronic records.

2.2.3 **Record Indexing.** The District's public records should be indexed by all of the following:

- Title, if any;
- Date;
- Type of record (e.g., agreement, correspondence, agenda, budget, financial report(s), insurance policy, report, District policy, resolution, meeting minutes, notice, etc.);
- Subject of content (brief descriptive term).

2.2.4 Record Storage. The District's public records shall be stored as follows:

(a) Those public records which originated as paper documents shall be scanned and stored electronically, with the original paper copies being retained in appropriate file storage, in accordance with applicable record retention requirements, at the District's designated place of business or public records office.

(b) Those public records which originated as electronic records shall be retained and stored electronically in a fashion convenient to the District, including, without limitation, by downloading onto electronic data storage media (e.g., flash drives, compact discs, cloud storage, or other devices or media that permit electronic retrieval for viewing and printing). Such physical media or data retrieval devices shall be stored and available at the District's designated place of business or public records office.

2.2.5 Board Member Use of E-Mail. It is the law in Washington that private e-mail accounts, when used to conduct District business, may become subject to District inspection for records responsive to public records requests. Therefore, in the interests of protecting the privacy interests of Board Members, it shall be the policy of the District that Board Members shall not use their personal e-mail accounts for purposes of receiving or sending e-mails relating to District business. In the event the District is unable to provide Board Members with official District e-mail accounts, Board Members shall each create a private e-mail account to be reserved for official use (e.g., boardmembersmith@gmail.com). Board Members are required to conduct any District-related electronic communication using this official e-mail account. In the event a Board Member receives a District-related e-mail at his or her personal e-mail address, the Board Member shall immediately "forward" that e-mail, unaltered, to his or her official e-mail address and respond to the sender from the official address, calling the sender's attention to the official e-mail address and requesting future correspondence be sent to the official address.

2.2.6 Board Member Use of Personal Devices. It is the law in Washington that personal electronic devices (e.g., laptop computers, tablets, cellular phones, etc.), when used to conduct District business, may become subject to District inspection for records responsive to a public records request. This includes "metadata" that may be stored on the device's hard drive. Therefore, in the interests of protecting the privacy interests of Board Members, it shall be the policy of the District that Board Members shall not use their personal electronic devices for any purpose related to District business, not limited to the following: receiving, viewing, or sending e-mails; downloading, viewing, editing, or creating documents; sending or receiving text messages; or making or receiving telephone calls. Electronic laptop or tablet devices will be made available to Board Members for their official District uses. Board Members may make District-related telephone calls from these devices using an internet telephone provider (e.g., "Skype").

2.2.7 Public Records To Be Permanently Transferred From Board Member Personal Devices and Personal E-mail Accounts. In the event a Board Member has previously carried out District business using his or her personal electronic device or personal e-mail account, the District will request the Board Member to participate in a one-time transfer of

any and all public records stored on the device or in the e-mail account (including documents, metadata, call logs, and text messages). Such public records shall be copied onto a physical media or data retrieval device, such as an external hard drive. The District will retain the services of an information technology consultant ("Consultant") for purposes of advising on the proper method of transfer and storage, and for carrying out any needed data transfers.

Because purely personal records and e-mails are not public records and are therefore not subject to disclosure, and because the District does not wish to unnecessarily violate the privacy interests of Board Members, Board Members will not be required to surrender their devices and e-mail accounts for indiscriminate perusal by the Consultant. Board Members will be asked, instead, to meet and coordinate with the Consultant to identify which records located on the Board Member's personal device or e-mail account are public records relating to District business, and are thus subject to extraction. All public records stored on personal devices or e-mail accounts should be transferred, even if the Board Member believes the record may be subject to an exemption from public disclosure. If a Board Member has any question as to whether an item is a public record, the Board Member should err on the side of disclosing the item, and should consult with the District's legal counsel as needed.

The data transfer having been completed, the Consultant will permanently expunge the original public records existing on the personal devices or accounts of Board Members. The physical media or data retrieval devices shall be stored and available at the District's designated place of business or public records office.

2.2.8 Affidavits. Upon completion of the transfer of records contemplated in Section 2.2.7, the Board Member shall provide a sworn affidavit identifying the personal devices and/or accounts accessed, describing the efforts taken to identify any and all records relating to District business on such devices or accounts, and attesting to the completion of the transfer. A similar affidavit (substantially in the form of the Sample Declaration attached hereto) will be produced by the Consultant attesting to the completion of the transfer and the fact that the copies stored on the external hard drive are identical to the originals in all respects, including with respect to metadata. A sworn declaration may be used in place of an affidavit, unless otherwise Directed by the District Board or by a judicial order.

2.3 Public Records Disclosure Procedures.

2.3.1 Public Records Officer. The District Board of Directors shall appoint and publicly identify one of its members as its Public Records Officers ("PRO"), whose responsibility it shall be to serve as a point of contact for members of the public in requesting disclosure of public records, and to oversee the District's compliance with the requirements of the Act. The District's PRO may appoint an employee or official of another public agency or a competent private entity (the "Appointee") to serve as the point of contact for members of the public in requesting disclosure of public records from the District. Any such appointment shall be made pursuant to a written agreement by which the Appointee agrees to document all requests by time, date, and name of requestor, and enter the same into a "Public Records Disclosure Request Log," as set forth in further detail under Section 2.3.4 below, and, further, providing that

the Appointee will immediately notify the PRO and transmit a copy of each such public record request to the PRO, not later than 24 hours after receipt thereof.

2.3.2 Request Response. The PRO, or his or her Appointee, upon receipt of a public records disclosure request, shall immediately take all necessary action to ensure that a proper timely written response is made to the requestor (within five (5) business days of the date the request was originally received), in accordance with RCW 42.56.520), by either:

(a) Providing the records; or

(b) Providing a web address to the District's web site where the specific records requested may be viewed (except if the requestor notifies the District that he or she cannot access the records through the Internet, in which case the District shall provide copies of the records or allow the requestor to view copies using a computer maintained by or for the District); or

(c) Acknowledging that the District has received the request, providing a reasonable estimate of the time the District will require to respond to the request (which estimate should be updated, from time to time, if it is determined that the District will require more time than originally estimated), and requesting clarification of the request, if clarification is reasonably needed; or

(d) Denying the request, or some portion of it, and stating the reasons for the denial (e.g., the record does not exist in the District's files, or disclosure of the specific record is not required), with citation to the specific exemption(s) in the Act or any other provision of law that apply. In the event only a portion of a public record is subject to an exemption, the exempt portion must be redacted, and the remaining, non-exempt portion of the document must be disclosed. The basis for the claimed exemptions must be detailed in an "exemption log," as set forth under Section 2.3.3 below.

Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and whether a denial should be made as to all or part of the request.

If the request is unclear as to what information is being requested, when acknowledging receipt of the request the PRO may ask the requestor to clarify what information he or she is seeking. If the requestor then fails to clarify the request, the District need not respond further, although a letter documenting abandonment of the request may be sent to the requesting party to officially close the request.

The PRO, or its Appointee, must retain copies of all correspondence to or from the District relating to public records requests. Copies of all public records disclosed shall also be retained in the file, for purposes of demonstrating the records'

original content in the event of an attempt to tamper with the record. These records disclosure correspondence files shall be maintained as District public records in accordance with applicable record retention requirements.

2.3.3 Exemption Logs. If any portion of a public record is withheld based on an exemption, the specific statutory basis for the exemption should be identified in an “exemption log,” which must be made available upon request and maintained as a public record, in accordance with applicable records retention requirements. An exemption log must identify the type of record or a description of the record, its date and number of pages, and unless otherwise protected from disclosure, the author and recipient (including CCs, if applicable), or if protected, other means of sufficiently identifying the particular records without disclosing protected content. Where use of any identifying features whatever would reveal protected content, the District may designate the records by a numbered sequence.

2.3.4 Public Records Disclosure Request Log. All disclosure requests, and the responses thereto, shall additionally be entered into a “public records disclosure request log,” which should state, at a minimum, the date the request is received, the name of the requestor, the subject of the request, the name and job title of the individual(s) who carried out the search, the search terms used, the type(s) of search performed, the amount of time spent engaged in the search, the date of the District’s response, and the type of response (e.g., production, request for clarification, denial, etc.). In the event of a legal challenge to the reasonableness of the District’s search for records responsive to a request, these logs will provide needed documentation of the search efforts performed. The logs shall be maintained as District public records; in accordance with applicable record retention requirements. The PRO shall periodically review said logs, not less than quarterly.

2.3.5 Posting or Linking Public Records on Web Site. The District should post or link electronic access to commonly requested District public records on the District’s web site, including, without limitation, the following documents:

- All Interlocal Agreements and other agreements to which the District is a party;
- All Resolutions adopted by the Board of Directors;
- Notices and Agendas for pending meetings of the Board of Directors;
- Minutes of all meetings of the Board of Directors, upon approval thereof;
- All policies and procedures adopted by the Board of Directors;
- The District’s Charter and Bylaws; and
- Chapter 2.19 of the Snohomish County Code, as amended.

2.3.6 Consultation With Legal Counsel. The PRO should consult with the District’s legal counsel in cases where there is any question regarding whether or not a document constitutes a public record of the District, or whether or not an exemption may apply to a requested disclosure.

2.3.7 Public Records Formerly Maintained on Board Member Personal Devices. All data transfers contemplated under Section 2.2.7 above having been accomplished, and all Board Members having complied with Sections 2.2.5 and 2.2.6 above, the District anticipates no longer having cause to search the personal devices or personal e-mail accounts of Board Members in response to public records requests. In the event of a legal challenge to the adequacy of the District's search for records, in addition to the affidavits previously produced under Section 2.2.7, Board Members may be required to submit additional affidavits attesting in good faith to their ongoing compliance with Sections 2.2.5 and 2.2.6 above, as of and after such time as the data transfer contemplated under Section 2.2.7 was carried out.

2.4 Records Retention/Destruction Procedures.

2.4.1 Compliance with CORE Schedule. The PRO, or its Appointee, shall carry out, from time to time, the regular destruction of District public records when permitted under the Washington Secretary of State's Local Government Common Records Retention Schedule (CORE) (Version 3.0). In the interests of streamlining and simplifying the District's responses to public records requests, the PRO, or its Appointee, shall endeavor to destroy District public records as soon as permitted under the CORE Schedule, without sacrificing compliance with any provision of law, including, without limitation, the provisions of Chapter 40.14 RCW ("Preservation and Destruction of Public Records") or Chapter 43-662 WAC ("Preservation of Electronic Public Records"). (See attached, Selected Public Record Retention Requirements.)

2.5 PRO Indemnification.

The District shall indemnify and hold the designated Public Records Officer and any other member of the District's Board of Directors when , acting pursuant to the Act and/or this Policy and Procedure (each an "Indemnified Person") harmless from any and all claims and/or liability for judicial awards made pursuant to RCW 42.56.550 as a result of any acts or omissions by any Indemnified Person, while acting in good faith to process any public record request(s) on behalf of the District.