

WASHINGTON STATE REFERENCE NETWORK AGREEMENT

Subscription Account

This Washington State Reference Network Agreement (the "Agreement") is made and entered into by and between _____ [individual, public sector entity representative or company representative], representing _____ [company, public sector entity, or "self"], herein referred to as (the "subscriber") and the City of Seattle, acting by and through Seattle Public Utilities (the "City"). The subscriber and the City are sometimes referred to individually as the "party" and collectively as the "parties."

1 RECITALS

- A. Using data from satellites owned by the United States of America, global positioning systems ("GPS") can 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 ("Puget Reference Station 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 the City as a cooperative effort with other governmental agencies that will operate CORS within the State of Washington. 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, or otherwise contribute to the infrastructure of the network, under agreement with the City are known as "members" of the WSRN, and are provided with access accounts by agreement. Users of the network services with access accounts under agreement with the City for an annual fee are known as "subscribers".
- C. Each party has determined that cost savings and other public benefits can be achieved if the party becomes a subscriber of the WSRN.

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

2 AGREEMENT

1. **CENTRAL PROCESSING CENTER (CPC)**

- 1.1 The City shall own and be responsible, at its expense, for all aspects of the operation and maintenance of the CPC, including without limitation servers, GPSNet 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 the subscriber's 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.
- 1.3 The City shall operate and maintain a web application to display the system status, data generated by GPSNet software for notification of system status, availability, component quality, static data files, and general information.
- 1.4 The City 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 subscriber's hardware or software, surveying or other field data collection methods, commercial cellular connections, or system status or monitoring report data that is otherwise available from the web application.
- 1.5 The City 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 City and described in this section 1 are referred to as the "WSRN Services."

2. CONTINUOUSLY OPERATING REFERENCE STATIONS (CORS)

This section applies to WSRN members; those entities that operate CORS, or otherwise contribute to the infrastructure of the network, under agreement with the City. This section has been included in the body of this agreement to provide context to provisions cited in section 6.

- 2.1 By agreement with the city, WSRN members own and operate their own CORS. For the duration of said member agreements, each CORS provides to the CPC unlimited 24-hour-a-day access via Internet protocol to a data stream from each of the respective CORS. The data streams are in a form suitable for the GPSNet software at the CPC. Failure to provide data streams in such a form subjects the respective members to the provisions of section 3.6. The member shall be responsible for all costs associated with the acquisition, installation, configuration, compatibility, operations, maintenance, and any upgrades of its CORS. An individual subscribers is not responsible in any way for the acquisition, installation, configuration, compatibility, operations, maintenance, and any upgrades of any member CORS, unless a subscriber has entered into a separate member agreement with the city.
- 2.2 By agreement, members agree to give the City 48 hours' written notice before any of the members CORS is taken out of service for planned maintenance. If members CORS temporarily stops operating on an unplanned basis, the member shall notify the City in writing as soon as practicable.
- 2.3 The members have agreed to give the City 180 days' written notice before the member discontinues operation of a CORS. The City may, within 60 days of receipt of such notice or in accordance with section 3.8, notify the member that the City desires to assume operation of a non-operating or inadequately operating CORS. In such event, the members have agreed to grant the City the right of access to that CORS for as long as the City operates it; the City shall refund the pro-rata portion of the any annual fees specified in the original member agreement and the member will have no further responsibility for that CORS.
- 2.4 For the duration of this Agreement, the subscriber may participate with other members of the WSRN in a technical advisory committee to be staffed and administered by the members and subscribers. This committee may identify solutions, upgrades and other desired enhancements to the WSRN.

3. CPC ACCESS

- 3.1 For the duration of this Agreement, the subscriber shall have unlimited access via the number of accounts to be invoiced for per attached application form; provided, that such accounts may only be used by the individual subscriber, their company, or public sector entity (if subscriber represents a public sector entity) unless otherwise permissible as specified in section 3.4.
- 3.2 Authorized account users shall access WSRN Services only via authenticated login and passwords provided under signed agreements with the City. Authentication will be achieved by using the public domain Ntrip protocol (Networked Transport of RTCM via Internet Protocol).
- 3.3 The subscriber shall be responsible for the purchase, installation, maintenance, ownership and operation of all equipment needed to use WSRN Services, including without limitation the Ntrip protocol.
- 3.4 The subscriber shall not transfer access to any of its accounts to any person or entity not an employee of the subscriber's company or public sector entity. In the case of public sector subscribers, a contractor or consultant under contract with said public sector entity may use the account only per the provisions in sections 3.4.1 and 3.4.2.
 - 3.4.1 If the public sector subscriber wishes to have one of its consultants or contractors access one of its accounts, the public sector subscriber will provide prior written notification to the City, with the company name, postal and e-mail address, and phone number, as well as duration of access (not to exceed three months, but may be extended via written request). Forty-eight hours after the end of the requested access time, the City will change the login and password for that account.
 - 3.4.2 If access actually is needed for a shorter period than estimated, the public sector subscriber will notify the City within 48 hours of the end of the access period, and the City will change the login and password for that account.
- 3.5 The City will monitor, log and enforce account usage.

- 3.6 **The password and login for a specific account shall not be used concurrently by more than one party for any WSRN Services.**
- 3.7 The subscriber shall notify the City of any use of any subscriber access account by an individual who is not and employee of their company or respective public sector entity.

4. MANAGEMENT; COMPENSATION

4.1 Within 30 days of complete execution of this Agreement and subsequent invoicing, the subscriber shall pay a subscription fee based on one of the following options (the subscriber will check and initial) as an annual fee for one year WSRN services:

- \$1,900 for [1] one account ___ Initials _____
- \$5,700 for [5] five accounts ___ Initials _____
- \$10,000 for [10] ten accounts ___ Initials _____
- \$15,000 for [20] twenty accounts ___ Initials _____
- \$20,000 for [40] forty accounts ___ Initials _____

4.1.1 Subscribers who have selected either the 5 or 10 account options in section 4.1 also agree to participate in the research and outreach efforts of the WSRN cooperative. Such participation may include such activities as agreement to allow photographing of the subscribers field activities for the purposes of developing outreach materials, user testimonials, a report, or other written feedback. Said outreach shall be in the amount of at least one suitable photo per year and/or one user report or one-page testimonial, or other documented feedback. Research participation may include provision of field observation results, particularly for observations made of NGS (National Geodetic Survey), or WSDOT (Washington State Department of Transportation) monuments and benchmarks, or other report(s) on aspects of network quality, positional integrity, accessibility, or availability. Said research or outreach contributions will be submitted, digitally or in hard copy via mail or email to the CPC during the subject year of subscription per this agreement.

- 4.2 Commencing one year after the anniversary date as agreed to in section 5.2, and annually thereafter, the subscriber will be invoiced for each subsequent year of service unless otherwise notified in writing of intent to terminate service. The subscriber will be notified of any changes in the fee structure prior to the end of each year for which the fee has been paid. The subscriber shall pay the City within 30 days of receipt of an annual invoice.
- 4.3 The City shall determine which entities may become members and subscribers of the WSRN.

5. DURATION

- 5.1 This agreement is effective upon signature by both parties and will remain in effect through each subsequent year for which the subscribers has paid the annual subscriber fee.
- 5.2 The anniversary date for this agreement shall be:
_____, 2018.
Note: This date will be entered by "The City" upon execution
- 5.3 The account access will be opened upon receipt by the city of a signed agreement and complete application form. The first year of service will extend until the anniversary date of the initial invoice. An invoice for each subsequent year will be issued before said anniversary date. The service year for each subscriber will, provided the invoice is paid within 30 days of issue, continue through to subsequent anniversary dates.
- 5.4 Should there be a lapse in payment beyond 30 days of an invoice, the account will temporarily be closed and the service year anniversary date will reset accordingly.

6. NO WARRANTIES; LIMITATION OF LIABILITY

- 6.1 Use of these WSRN services is at the subscriber's sole risk. The City provides WSRN Services on an "as is" basis. Neither WSRN members, nor the City, its officers, employees, vendors, or third-party service providers (collectively as used in this section 6, "Seattle") 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.

6.2 Neither Seattle nor the subscriber, or 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.

7. DISPUTE RESOLUTION

In the event of a dispute between the parties regarding this Agreement, the parties shall attempt to resolve the matter informally. If the parties are unable to resolve the matter informally within 30 days, the matter shall be decided by subscriber and the Public Utilities subject to any other legal remedies the parties may have, including, but not limited to, mediation or litigation.

8. 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 e-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.

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

[Subscriber mailing address below]

E-mail:

9. OTHER PROVISIONS

- 9.1 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 City, the subscriber, or their officials, employees, agents, or representatives, to any party not a signatory to this Agreement.
- 9.2 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.
- 9.3 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.
- 9.4 The captions in this Agreement are for convenience only and do not in any way limit or amplify the provision of this Agreement.
- 9.5 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 or written, not incorporated herein are excluded.
- 9.6 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.
- 9.7 This Agreement may be amended only by an instrument in writing, duly executed by both parties.
- 9.8 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.

The City of Seattle

The Subscriber

[Sign] _____

Eleanor Jackson
Interim Director
Engineering and Technical
Services Division
Seattle Public Utilities

[Sign] _____

[Print Name] _____

[Title] _____

[Representing] _____

Date: _____

Date: _____