

AN AGREEMENT BETWEEN
THE CITY OF REDMOND, WASHINGTON
AND
THE LAKE WASHINGTON SCHOOL DISTRICT NO. 414
REGARDING FIBER OPTIC LINES AND CITY CONDUIT PLANT

This Agreement ("Agreement") is made and entered into as of the 16 day of March, 2015, for an initial five-year term by and between the **City of Redmond** ("City"), a noncharter code city of the State of Washington, and **Lake Washington School District No. 414** ("District"), a common school district of the State of Washington (jointly, the "Parties"). This Agreement shall run concurrent with the Telecommunications Right-Of-Way Use Authorization agreement.

RECITALS

WHEREAS, on December 17, 2002, the District and the City entered into an Interlocal Agreement and a Telecommunications Right-of-Way Use Authorization agreement (sometimes "ROW Agreement") of even date; and

WHEREAS, the City has requested the District to renew its application for the ROW Use Authorization Agreement and the Parties desire to enter into this Agreement to address their unique cooperative arrangement as two public municipal corporations working together to provide access to fiber optic networks to the public and for their joint benefit; and

WHEREAS, the District has constructed a fiber optic network among its schools and plans to expand the network for the purpose of improving overall learning and achievement by increasing the availability and diversity of training and educational material; and

WHEREAS, the District and the City define Conduit Plant to include 'manholes', 'j-boxes', pull points, and any conduit regardless of size or composition; and

WHEREAS, the City and its citizens have a vested interest in supporting and improving educational opportunities and community communication; and

WHEREAS, the City has conduit plant available that can serve both the City and the District; and

WHEREAS, the District has signed the ROW Use Authorization Agreement allowing the District use of the City's Right of Way; and

WHEREAS, the District may or may not be utilizing all of the City's conduit plant to provide a path for the District's fiber optic cable; and

WHEREAS, the District may need to utilize the City's conduit plant to provide a path to access District sites outside the City of Redmond; and

WHEREAS, the City leases the building where Redmond Elementary School was formerly located from the District, now known as the Old Redmond Schoolhouse Community Center ("the Community Center"), located at 16600 N.E. 80th Street, Redmond, WA 98052.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. The District will continue to fund and complete construction, within the City's Right of Way, of those sections of the City's conduit plant, deemed necessary by the District to create the most effective physical path for the fiber optic cable to be routed to the District's sites, regardless of the City limits. The portion of the conduit plant to be constructed, together with their location and their design, shall be subject to the approval of the City if within city limits.
2. Except as expressly provided in this Agreement, the District will be responsible for any and all costs associated with any portions of the City's conduit plant it constructs under this Agreement, including but not limited to those costs directly related to the design, engineering, materials, traffic control, and construction of those portions of the conduit plant constructed by the District pursuant to Section 1 in order to service those sites as identified by the District.
3. Upon completion of construction and final inspection by the City, the District shall provide 'as-built' documentation of any new conduit plant constructed. The District has provided the City with 'as-built' plans of all conduit plant existing as of the date of this Agreement.
4. Upon completion of construction and final inspection by the City, the City agrees to accept, and the District agrees to grant, all ownership, rights, and responsibilities of any new conduit plant to the City installed after the date of this Agreement. The District agrees that those portions of the conduit plant constructed by the District, and any restoration work done by the District within the City's Right-of-Way as part of the District's construction of the conduit plant, shall remain free from defects in workmanship or materials for a period of two years from acceptance by the City. The District agrees to repair or replace, at the District's sole cost and expense, any defective work discovered by the City or the District during this two year warranty period.
5. The District is in no way responsible for any construction and/or maintenance costs for the City's conduit plant other than those costs expressly provided for in this Agreement.

6. The City agrees to allow the District to occupy City-owned conduit, up to a maximum of one third (1/3) of a conduit, necessary for the District to provide fiber optic cable to those sites identified by the District and agreed to by the City.
7. The City agrees to allow the District whatever space is necessary within manholes, j-boxes, pull points, etc. to allow the District to maintain the fiber optic cable in an appropriate manner, including but not limited to storing slack cable, splice cabinets and other approved portions of the conduit plant, to the extent that such space is available and can be provided without interfering with the use of said manholes, j-boxes, pull points, and other portions of the conduit plant for City purposes. Nothing in this Agreement shall require the City to construct any facilities in order to accommodate the District's use. If additional space is required by either party, both parties agree to cooperate administratively and financially to determine the most fair and equitable solution that meets the needs of both parties in a timely manner.
8. During the term of this Agreement, if the City expects it will require any additional space in manholes, j-boxes, or any portion of the conduit plant other than the conduit itself and expects the District to pay for the installation or creation of said space, the City will provide the District with at least six (6) months' written notice. The City will reasonably consider alternatives submitted by the District. The final decision for the review of alternatives will rest with the Director of Public Works. Conduit space granted to the District from the City is addressed in Section 6 of this Agreement. Should the City require additional conduit space beyond the existing capacity, the District agrees to fund 50% percent of the cost for increasing capacity.
9. The District agrees to not occupy an excessive amount of space in any manholes, j-boxes, pull points, etc. that would interfere with the City's ability to install its own fiber optic cable within the City's conduit plant.
10. The District agrees to purchase and install, entirely at the District's cost, the District's fiber optic cable that will be placed within the City's conduit plant.
11. The District agrees to pay for any removal, repair, and replacement, including materials, necessary to allow the District to place its fiber optic cable in the City's conduit plant consistent with this Agreement and the New ROW Agreement.
12. The District and the City agree to continue a mutual point of presence in the Main Distribution Facility ("MDF"), located in the southwest quadrant of the Community Center.
13. The District has terminated multiple strands of a fiber optic cable from the District's Resource Center to the MDF in the Community Center, allowing a minimum of 4 strands to be available for City and District interconnections.

14. The City agrees to continue to provide reasonable space as necessary in the Community Center to provide for the proper termination of the fiber optic cable pursuant to Sections 12 and 13 as designed by the District to the extent that such space is currently unused and available and can be provided without interfering with the City's current use of the Community Center for the purpose specified in the City's lease. Nothing in this Agreement shall require the City to construct or otherwise provide any additional space for the District's facilities beyond that which is currently unused and available.
15. During normal business hours (Monday through Friday, 8:00 am - 5:00 pm, excluding federal holidays), the City agrees to provide District staff access when requested to the MDF in the Community Center. For access to the MDF outside normal business hours, the District will dial 425-556-2500 and request the standby person for maintenance and operations who will then make arrangements to provide the District access to the MDF within four hours unless another time has been agreed to either verbally or in writing by both parties. After hour access to the MDF will be billed to the District at the City's actual cost to allow access, but not to exceed \$300 per incident.
16. With the exception of the application fee of \$2,064.92 charged by the City pursuant to Section 12.14.100 of the Redmond Municipal Code, the City agrees that the District's performance of its obligations under this Agreement, including the building out of the City's conduit plant as provided herein, constitutes full compensation to the City for any and all other fees and charges would normally be incurred by the District or which the City charges third parties for use of the City's right-of-way. These fees include but are not limited to: inspection fees, permit fees, and City personnel time to review, supervise or administer this agreement.
17. The District shall be solely responsible for its cables, regardless of type.
18. The City shall be solely responsible for its cables, regardless of type.
19. The City and the District agree not to use the other party's cable without prior written permission regardless of whether the cable is in use or not.
20. The City and the District have developed a cable labeling standard to clearly designate which fiber optic cable belongs to which party and agree to continue to implement and utilize this cable labeling standard during any and all construction.
21. The Parties recognize that they will have cables located in close proximity to each other and that they may need to test, repair, maintain, replace or remove ("Work") its optical fibers, equipment, and related facilities ("Property"). The Parties will endeavor not to damage or degrade each other's Property during the performance of any work. With respect to any underground Property, the Parties' duties and liabilities for any damage or degradation of such property shall be determined according to the provisions of the state underground utilities law, Chapter 19.122

RCW. In the case of such damage, the Party causing the damage shall restore the damaged property to its pre-damaged condition as soon as practicable and at no cost to the injured Party. Both parties agree to work together in a timely and reasonable manner to pay for and correct damage caused to the conduit plant by an unknown source in a fair and equitable manner. The Parties will be responsible for all Work done on their behalf regardless of whether the Work is actually done by the Party, its employees, agents, or contractors. In addition, if either Party installs any modifications or improvements above, over, across, along, in or under the area where a Party's Property is located, the Party agrees to preserve the Property of the other Party already installed and to refrain from taking any action that would prevent, inhibit, or increase the cost to the other Party of Working on the Property. To facilitate this, the Parties agree to provide each other with at least ten (10) business days written notice prior to beginning any major Work in an area where the other Party has Property and to provide as much notice as practicable for emergency Work. The Parties also agree that all third parties with whom they have contracts or agreements relating to the Property will comply with these notice requirements. Any Work in an area where the other Party has Property that is deemed not to be major Work shall be communicated to the other Party via email, voicemail, or in writing to a person designated by such other party to receive such notification, no later than 8 hours before the Work begins. Work that is deemed not to be major is work that occurs in the normal operation of a fiber cable plant after construction and acceptance by the fiber cable owner. Examples of work deemed not to be major include but are not limited to: cross connects terminations, troubleshooting, monitoring, moves/adds/changes, and equipment connections.

Nothing in this Agreement shall prevent the City from constructing or authorizing the construction of facilities or improvements within the City's Rights-of-Way other than the City's fiber optic cable or conduit plant, and the City shall not be required to notify the District of any such construction, provided that the same does not unreasonably interfere with the District's ability to test, repair, operate, maintain, replace, or remove its Property within the Rights-of-Way.

22. Notices under the Agreement shall be as follows:

To the City of Redmond:

**Director of Public Works
City of Redmond
PO Box 97010
Redmond, WA 98073-9710**

To the Lake Washington School District:

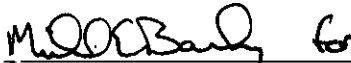
**Technology Department
PO Box 97039
Redmond, WA 98073-9739**

Either Party may change the person(s) to be notified or the address for the notification by giving written notice of the change, in writing, to the persons then designated to receive routine notices.

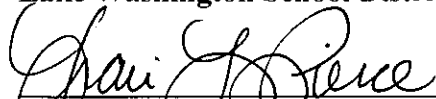
23. Subject to the provisions of RMC Section 12.14.0250, the City and the District hereby reserve the right to alter, amend or modify the terms and conditions of this Agreement upon written agreement of both parties to such alteration, amendment or modification. This Agreement may only be modified by a written agreement signed by an authorized representative of each Party. If there are any inconsistent provisions in this Agreement with the provisions contained in the New ROW Agreement, then the provisions in this Agreement shall prevail.
24. All provisions of this Agreement, including both its benefits and burdens are binding upon the Parties' successors, agents, and assigns.
25. The individuals signing this Agreement are duly authorized by their respective organizations to sign this Agreement and to bind their organizations to its performance.
26. Renewal of this Agreement will be consistent with the terms and authority of the New ROW Agreement and is available by mutual agreement by both parties and will not be unreasonably withheld by either party. If the New ROW Agreement is in effect through automatic renewal or otherwise, this Agreement shall also continue in full force and effect.
27. The reimbursement time under Section 10.A of the New ROW Agreement is changed from 10 days to 30 days.
28. The fifth sentence of Section 16.C of the New ROW Agreement is omitted.
29. As the District is a Washington municipal corporation, no performance or restoration bond will be required as requested in Section 20 of the New ROW Agreement and the District shall not be required to provide security in favor of the City as set forth in Section 21 of the New ROW Agreement
30. The District will provide a Self-Insured Letter of Coverage versus an insurance certificate as requested in Section 17 of the New ROW Agreement.
29. Section 32 of the New ROW Agreement concerning eminent domain and the first sentence of Section 38 of the New ROW Agreement are omitted.
30. Whenever in this Agreement the approval or consent of either Party is necessary, the party whose consent is necessary shall not unreasonably withhold, delay or condition such consent.
31. The District may lease or otherwise grant the right to other entities to use the District's fiber, as long as (a) the District notifies the City of each such lease or grant and provides the name and contact information of the lessee or grantee, (b)

the District and the lessee or grantee understand that the City is not bound by any of the terms of the lease or grant and that all such leases or grants are subject to all terms and conditions of this Agreement; and (c) if the lessee or grantee is an entity that is required to obtain a franchise, right-of-way use authorization, or right-of-way use permit under Chapter 12.14 of the Redmond Municipal Code, the entity shall be required to obtain the same prior to exercising any rights to use the District's fiber under the lease or grant.

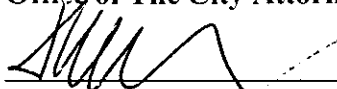
City of Redmond


By: John Marchione
Its: Mayor

Lake Washington School District No. 414


By: Traci Pierce
Its: Superintendent

**Approved As To Form:
Office of The City Attorney:**


By: James E. Haney