

**AMENDED and RESTATED  
INTERGOVERNMENTAL COOPERATION AGREEMENT  
FOR  
THE USE OF FIRE SUPPRESSION EQUIPMENT AND PERSONNEL**

This agreement made and entered into effective this eighteenth day of June, 2013 by and between the City of Newport ("City") and the Newport Rural Fire Protection District ("District"),

**WITNESSETH:**

**1. PREAMBLE.**

City is a city of the state of Oregon having a fire department with equipment, facilities and personnel for the suppression of fires and for response to other emergencies. District is a rural fire protection district comprising an area north, east and south and immediately adjacent to City, with District at present having little or no equipment and no paid personnel. District depends upon the fire department of City for fire protection within its boundaries.

For their mutual benefit City and District have previously entered into an intergovernmental agreement, hereinafter "Agreement," under which City will furnish fire suppression and emergency response services to District for a consideration described herein, and now desire to extend and modify said Agreement as herein provided.

**2. TERM AND TERMINATION.**

This Agreement, and the rights, responsibilities and obligations of City and District hereunder, shall commence upon the expiration of the present Agreement on May 1, 2013 and continue from May 1, 2013 to and including June 31, 2014, and shall be extended automatically on an annual fiscal year basis thereafter unless, prior to December 31 of the preceding fiscal year, either party gives notice to the other of intent to terminate or modify the agreement. Section 4 of this Agreement provides for the termination of this Agreement in the event District is unable to secure operating funds.

**3. PERFORMANCE.**

Subject to the terms hereinafter set forth, City agrees, upon request, to afford reasonable and available equipment and personnel for services of the type normally and customarily provided by City within its own territorial limits, including but not necessarily limited to fire suppression, beach emergency response, medical emergency or auto accident response for the protection of persons and property in the District that face undue jeopardy, within the meaning of ORS 476.280(1)(a), including threats to persons or property, from existing emergencies in the District. A "request" for the purposes of this Agreement, shall be a report received by the proper personnel of the Fire Department of City of a fire emergency, beach emergency, medical emergency or auto accident within the boundaries of District, by any person and by any means.

City's obligation under this Agreement extends only to carrying out operations within the District at locations that can be reached by thoroughfares of such grade, quality and condition that the City's fire fighting and emergency equipment can traverse them in safety.

It is agreed that the City shall have a continuing first claim upon its own firefighting and emergency equipment and personnel for its own needs, and that the claim of the District shall, at all times, be secondary to the needs of City in protecting persons or property in the boundaries of City.

The City's dispatcher or the commanding officer of City's Fire Department, or of any unit thereof, or any other person assigned such duty, shall exercise his or her judgment, based on the information received by such officer as to the amount and type of equipment and personnel to be dispatched to and/or withdrawn from District in response to, or in the course of, an emergency of a type covered by this Agreement. This exercise of judgment by the dispatcher or commanding officer of City's Fire Department, or unit thereof, shall be considered an exercise of discretion, and shall not create, give rise to or result in any liability against the individual or against City, or defeat the right of City to compensation as herein provided. City makes no warranties whatsoever as to the quality of its services, or as to its ability or capacity to control fire or mitigate any harm arising from emergencies covered by this Agreement. City shall not be responsible for any consequential damages arising from any act or omission in the performance of this Agreement, and this shall not be construed as a third party beneficiary agreement.

The obligation of City under this Agreement is to furnish emergency services and equipment as set forth above and may include the provision of fire prevention services or inspections typically provided by fire departments, at the sole discretion of the City.

#### 4. APPORTIONMENT OF FUNDING RESPONSIBILITY, EXPENSES INCURRED, REVENUE DERIVED.

District, as consideration to City hereunder shall pay to City an annual payment equal to \$.86 per one thousand dollars of assessed value of taxable property within the District. The amount so computed shall be paid to City in three equal installments, with 1/3 of the total due on December 15, 1/3 due on March 15 and 1/3 due on June 15 of each fiscal year in which this Agreement is in effect.

It is further understood and agreed by City and District that no director, officer or other representative of District shall be individually liable for any payments due to City, but each Director, officer and representative of District shall make every reasonable effort to secure voter approval of a tax levy (if any is required) and adoption of a budget, levy or taxes and appropriation of funds each year, in an amount sufficient to pay to City the amount due. In the event that District is unable by October 1 of the applicable year to secure assurance of operating funds sufficient to fund this Agreement in full, District shall notify City no later than October 10 of such year as to the amount district is able to pay, and City shall have the option of terminating this Agreement, in which case District shall pay to City the portion of such consideration earned by City to the date of termination (determined pro-rata on a daily basis from July 1 to the effective date of the termination), or City may elect to accept from District such amount as is actually available from District (not less than the amount

stated in the district notice) as consideration for the entire fiscal year, in which case the Agreement shall remain in effect. However, acceptance of such lesser amount shall not constitute waiver of City's right to receive payment of the full amount (with increases) for that year or for any future years. In the event of District's failure to pay any amount due hereunder, City may immediately terminate all or any part of its services hereunder, and City shall have no further obligation hereunder.

The City shall have the authority to enter into contracts for service, mutual aid, automatic aid or interlocal agreements in order to provide for services to the District.

#### TITLE TO PROPERTY.

This Agreement shall in no way be construed so as to affect City's and District's right and title to real and personal property owned by each entity individually, whether now owned or hereafter acquired.

#### 5. EMPLOYMENT RELATIONSHIP.

This Agreement shall in no way affect the employment relationships, contracts and agreements between the City and City's employees, nor those of District and District's employees. Performance under this Agreement shall in no way constitute a transfer of personnel between employers.

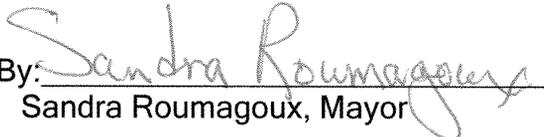
All employment benefits of the employees of City shall continue during periods of performance under this Agreement.

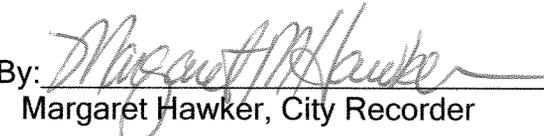
#### 6. SEVERABILITY.

If any part, paragraph, section or provision of this Agreement is found or determined to be invalid or unenforceable, such determination shall not affect the validity of any remaining section, part or provision of this Agreement, and the same shall remain in full force and effect.

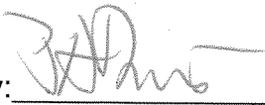
IN WITNESS WHEREOF, the City and the District have executed this Agreement effective as of the date of execution hereof by their authorized representatives.

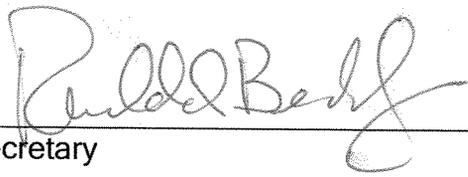
City:

By:   
Sandra Roumagoux, Mayor

By:   
Margaret Hawker, City Recorder

District:

By:   
PRESIDENT

By:   
Secretary