



128 S Main St.
PO Box 445
Condon, OR 97823
P: 541-384-2711
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<http://cityofcondon.com/>

AGENDA
PUBLIC SAFETY COMMITTEE MEETING WORK SESSION

MONDAY, JUNE 24, 2024, 5:30 PM

<https://us02web.zoom.us/j/85025941880?pwd=MPR6KyLufZMaxxaIF0bdYzBXil72ni.1>

Meeting ID: 850 2594 1880
Passcode: 469469

- 1. CALL THE MEETING TO ORDER**
- 2. DISCUSS CONTRACT AND SERVICES WITH GILLIAM COUNTY SHERIFF'S OFFICE**
 - 2.1. Gilliam County Sherriff's Office Contract**
- 3. DISCUSS CONTRACT AND SERVICES WITH GILLIAM COUNTY FIRE SERVICES AND S. GILLIAM RFPD**
 - 3.1. South Gilliam Rural Fire Protection District Contract**
 - 3.2. Gilliam County Fire Service Intergovernmental Agreement**
- 4. OTHER**
- 5. ADJOURN**

The City of Condon is an Equal Opportunity Provider and Employer. Complaints of discrimination should be sent to City of Condon Administrator, PO Box 445, Condon, OR 97823.

Work Session agenda distributed June 19, 2024

INTERGOVERNMENTAL AGREEMENT

Between Gilliam County, the Gilliam County Sheriff, and the City of Condon
For Law Enforcement Services

DATE: July 11, 2018.

PARTIES: Gilliam County, a political subdivision of the State of Oregon ("County")
P.O. Box 685
Condon, OR 97823

AND

Gilliam County Sheriff ("Sheriff")
P.O. Box 685
Condon, OR 97823

AND

City of Condon, a municipal corporation of the State of Oregon ("City")
128 S. Main Street
Condon, OR 97823

RECITALS

- A. County and City have the authority under ORS 190.010 to enter into intergovernmental agreements for the performance of functions and activities by each party.
- B. City desires to contract with County, by and through Sheriff, to provide all necessary law enforcement services to City, allowing City to discontinue its own law enforcement agency.
- C. County and Sheriff desire to provide such law enforcement services on the terms and conditions stated in this Intergovernmental Agreement ("IGA").

NOW, THEREFORE, in consideration of the mutual agreements of the parties, the parties agree as follows:

Section 1. County and Sheriff Responsibilities.

- A. Provide law enforcement services to the City, effective July 1, 2018, and ending June 30, 2019. Law enforcement services includes law enforcement coverage for an average of 40 hours per week.

B. Sheriff shall designate one Deputy as the initial point of contact for the City and provide the City with necessary contact information. The Sheriff agrees to provide law enforcement services to the City, including, without limitation, patrol by car and on foot, enforcement of the criminal laws and motor vehicle code of the State of Oregon and the Ordinances of the City of Condon, and the promotion of public safety and investigations. In addition, the Sheriff will employ at least one Deputy Sheriff who will live within the City limits of Condon. The Sheriff agrees to comply with the following requirements to their best of their ability:

- i. The designated Deputy will attend monthly City of Condon City Council meetings when possible. The Deputy will attend the first meeting after this agreement is signed in order to be sworn in by the Council to "uphold the laws of the City of Condon." If the Deputy is unable to attend the monthly meeting the Deputy will provide a written report of the last month's activities to the City Administrator for review with City Council.

C. Enforcement of City Ordinances at the direction of the City Council and City Administrator. Sheriff shall take a practical approach to achieving citizen compliance with City Ordinances in an effort to attain the best outcome for the citizens of City and the community at large. Sheriff is encouraged to talk to alleged violators of City code rather than immediately issue citations; however, Sheriff is authorized to perform all essential activities in furtherance of achieving compliance. Such activities include, but are not limited to, investigations regarding code violations, issuing citations for code violations, and court appearances in the prosecution of code violations.

D. For the purpose of facilitating the performance of the said law enforcements services, Sheriff and/or County shall furnish and supply all necessary labor, supervision, equipment, training, communication facilities, and supplies necessary to maintain the level of services to be rendered hereunder.

Section 2. City Responsibilities.

A. City agrees to pay **\$1,750.00** per month for the services provided by this Agreement. Payment shall be made within 30 days after receipt of invoice from County.

B. City shall provide their own attorney if they wish to have legal counsel assist in prosecution of City Ordinance or Code violations.

Section 3. Renewal and Termination. The term of this Agreement shall be for one (1) year, to be extended automatically for succeeding one (1) year terms indefinitely, unless either party delivers written notice to the other not less than sixty (60) days prior to the end of the current term. Such notice may request renegotiation or termination of this Agreement; however, in the event the notice requests termination, the then current term shall extend an additional one hundred twenty (120) days, at which time the termination shall be effective. Notwithstanding any other term or provision of this Agreement, either party may terminate this Agreement by delivery of written notice to the other at least one hundred eighty (180) days prior to the date of termination.

Section 4. Supervision and Control. Sheriff shall have the sole responsibility for and control over the Deputies performing law enforcement duties in the City. For all purpose relevant to this Agreement, the Deputies employed by Sheriff pursuant to this Agreement shall be deemed an employee of the County and not of City.

City agrees to designate the City Administrator to be the person responsible for coordinating the performance of the terms of this Agreement.

City will make available office space in City Hall for use by the resident deputy for their convenience in the performance of law enforcement duties.

Section 5. Grant of Police Authority. City grants the Gilliam County Sheriff and Deputies full municipal police authority for City.

Section 6. Liability and Indemnification. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney's fees and costs) arising from the indemnitor's performance of this agreement where the loss or claim is attributable to the negligent acts or omissions of that party. Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.

Section 7. Insurance. Each party agrees to maintain insurance levels, or self-insurance in accordance with ORS 30.282, for the duration of this Agreement, at levels necessary to protect against public body liability as specified in ORS 30.270. This agreement is expressly subject to the tort limits and provisions of the Oregon Tort Claims Act (ORS 30.260 to 30.300).

Section 8. Compliance With Laws. Each party agrees to comply with all local, State and Federal ordinances, statutes, laws and regulations that are applicable to the services provided under this agreement.

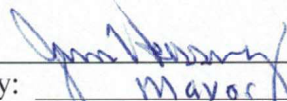
Section 9. Attorney Fees. In the event of any action or proceeding to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees, in addition to costs and disbursement, at arbitration, trial, and on appeal.

Section 10. Final Agreement; Modification. This writing is intended both as the final expression of the agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the agreement. Although this Agreement may be changed by subsequent review, amendment or modification, such changes must be in writing and signed by all three parties' duly authorized representatives.

GILLIAM COUNTY:


Steve Shaffer, Gilliam County Judge
Date: 7-11-18

CITY of CONDON:


By: Mayor
Date: 7-11-18

GILLIAM COUNTY SHERIFF:


Sheriff Gary Bettencourt
Date: 7-11-18

**AGREEMENT BETWEEN SOUTH GILLIAM COUNTY RURAL FIRE PROTECTION DISTRICT
AND
THE CITY OF CONDON
TO PROVIDE FIRE PROTECTION**

1.0 INTRODUCTION

This agreement entered into the 1st day of July, 2017, between the City of Condon and South Gilliam County Rural Fire Protection District (SGCRFPD) for the purpose of providing fire protection for the residents of the City of Condon. The City of Condon agrees to pay SGCRFPD \$11,000 per year for fire protection.

2.0 AUTHORITY

This Agreement is entered into under the authority granted to the parties by their respective charters and/or Oregon Revised Statutes (ORS). Further, ORS 190.010 authorizes units of local government to enter into written agreements with any other units of local government for the purpose of any and all function and activities that the parties to the agreement, its officers or agencies, have authority to perform. Additionally, ORS Chapters 401, 453, and 476 authorize the State Fire Marshal and the Administrator of the Oregon Emergency Management to develop comprehensive statewide plans for the protection of life and property during disaster. This Agreement is intended to be consistent with, and supportive of, such state contingency plans.

3.0 SCOPE OF AGREEMENT

This agreement includes the following:

3.1 PERSONNEL

SGCRFPD agrees to supply personnel and equipment to provide fire protection to the City of Condon. All personnel will be employed by South Gilliam County Rural Fire Protection District and the District will provide workers' compensation and life insurance on all current firefighters.

In the event that multiple fires occur, the Fire Chief or acting Incident Commander will request mutual aid to assist with fires either within the City of Condon or in the SGCRFPD coverage area. SGCRFPD will assure that responding firefighters are adequately trained in accordance with the fire district and NFPA Firefighter I standards.

The City of Condon agrees to provide to South Gilliam County RFPD all structural personal protective equipment currently used by South Gilliam County RFPD and Condon Volunteer firefighters. An inventory of this equipment will take place prior to the beginning of the contract. South Gilliam County RFPD agrees to maintain the PPE properly and return it to the City at the end of contract in good condition, reasonable wear and tear excepted.

3.2 EQUIPMENT & EQUIPMENT MAINTENANCE

The City of Condon agrees to lease, **for \$1 annually**, to South Gilliam County Rural Fire Protection District, its two City Pumps 6722 and 6723 with all of the associated equipment on the engines.

SGCRFPD agrees to maintain City of Condon's Pumpers 6722 and 6723 in working order, including but not limited to regular routine maintenance. If the maintenance or repairs exceed \$500.00 the city will pay for the repairs.

3.3 INSURANCE

South Gilliam County RFPD agrees to maintain workers compensation and life insurance on all firefighters and vehicle insurance on all apparatus operated by the Fire District. Insurance will be maintained on the two City owned engines at no less than the current coverage and naming the City of Condon as the insured on the vehicles.

3.4 WATER

Water shall be provided, free of charge, by the City of Condon to South Gilliam County Rural Fire Protection District for all training and fire suppression activities both within City Limits and/or within South Gilliam County RFPD's protection area.

4.0 WAIVERS

4.1 GENERAL WAIVERS

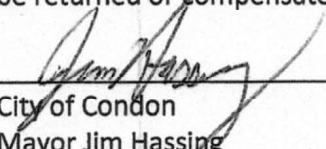
Each party to this agreement waives all claims against all other parties to this Agreement for compensation for any loss, damage, personal injury, or death occurring to personnel and/or equipment as a consequence of the performance of this Agreement.

4.2 HOLD HARMLESS

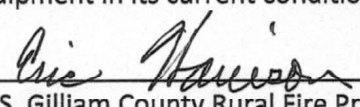
SGRFPD agrees to save and hold harmless and indemnify the City of Condon against any and all third party claims arising from actions or obligations made or undertaken by SGRFPD under this agreement. South Gilliam County Rural Fire Protection District agrees to obtain liability insurance, or equivalent coverage, covering its activities assumed under this Agreement, to the minimum dollar amounts required under the Oregon Tort Claims Act, ORS 30.270(1). SGRFPD shall provide proof of insurance annually to the City of Condon.

5.0 TERMINATION

Any party hereto may terminate this Agreement at any time by giving 180 days notice of the intention to do so to the other party. Such notice being sent to the governing body of the other party and a copy thereof sent to the Chief of the South Gilliam County RFPD. At the time of termination all PPE needs to be returned or compensated for the value of equipment in its current condition.



City of Condon
Mayor Jim Hassing



S. Gilliam County Rural Fire Protection District
President Eric Harrison

Hi Kathryn,

I am sending you a copy of the most recent contract we have with the City. This looked a bit different from the one you emailed me a while back, so I just wanted to make sure we were on the same page.



Shannon

RECEIVED
APR 12 2024
CITY OF CONDON

**SOUTH GILLIAM COUNTY
RURAL FIRE PROTECTION DISTRICT**

**P.O. Box 623
Condon, OR 97823
Telephone: (541) 384-5555
Email: sgrfpd@ortelco.net**

RECEIVED

MAR 15 2024

CITY OF CONDON

Mayor Jim Hassing
Condon City Council
P.O. Box 445
Condon, OR 97823

Dear Mayor Hassing and City Councilors:

Our board has been discussing the contract with the City of Condon. The contract amount was last increased in the 2015-2016 budget year. With this in mind, the Fire District is requesting an increase to the annual contract, raising the current amount from \$11,000.00 per year to \$17,500.00 per year. This amounts to approximately a 5% increase per year from the 2015-2016 budget year.

As you are aware, expenses have increased rather significantly during the past eight years. From your own budgeting process, you know the cost for replacing equipment has increased significantly. The Fire District has replaced equipment that is outdated by national standards and equipment that is worn out. SCBAs (Self-Contained Breathing Apparatus), new hose for fighting structure fires and structural turnout gear have all been replaced. Each of these items serve their primary purpose inside the City of Condon city limits. The costs for these replacements are in addition to the increase of everyday operating expenses.

Due to the increased operating expenses outlined, we have determined it is time to revisit our current contract. If you have any questions or concerns, please feel free to contact us.

Thank you for your attention to this matter.

Sincerely,



Eric Harrison
Board President

INTERGOVERNMENTAL AGREEMENT FOR FIRE COORDINATOR SERVICES

This Intergovernmental Agreement for Fire Coordinator Services (this "Agreement") is dated August ____, 2020, but made effective for all purposes as of _____, 2020 (the "Effective Date"), between Gilliam County ("County"), a political subdivision of the State of Oregon, North Gilliam County Rural Fire Protection District ("NGRFPD"), an Oregon special district, South Gilliam County Rural Fire Protection District ("SGRFPD"), an Oregon special district, City of Arlington ("Arlington"), an Oregon municipal corporation, and City of Condon ("Condon"), an Oregon municipal corporation.

RECITALS:

A. The parties entered into a certain Memorandum of Agreement dated May 9, 2001 (the "Original Agreement") pursuant to which the parties formed the "Gilliam County Fire Services Board" (the "Board"). The Board was formed to facilitate the recruitment, selection, and supervision of a fire services coordinator. The parties find it necessary to enter into this Agreement to more particularly describe the parties' respective responsibilities and obligations concerning the fire services coordinator.

B. This Agreement is made pursuant to ORS 190.010, which statute provides that units of local government may enter into agreements for the performance of any functions and activities that any party to the agreement, or its officers or agents, has the authority to perform.

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' respective obligations under this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions. Unless defined elsewhere in this Agreement, capitalized terms contained in this Agreement have the meanings assigned to them in the attached Appendix A.

2. Gilliam County Fire Services Board. The parties affirm and reaffirm the formation and establishment of the Board. The Board's purposes include, without limitation, the following: (a) review, evaluate, and address fire service delivery challenges in a cost-effective manner by providing technical assistance to Gilliam County citizens; (b) endeavor to ensure that Gilliam County citizens receive adequate fire emergency services; (c) assist SGRFPD with the recruitment and selection of the Coordinator; (d) assist the Coordinator and Coordinator's operations; (e) provide administration and resources for the Coordinator as the Board determines necessary or appropriate; (f) provide a forum for communication and consultation among the parties; and (g) carry out such other responsibilities and functions as determined necessary or appropriate by the Board. Without otherwise limiting the generality of the immediately preceding sentence, and subject to the Laws, the Board will have the following general powers: (y) adopt bylaws, rules, regulations, standards, and/or policies necessary to carry out the purposes of the Board and this Agreement; and (z) exercise all powers pursuant to the Laws, including, without limitation, the principal acts of the parties and ORS Chapter 190, which are necessary and/or appropriate to carry out the purposes of the Board and this Agreement.

3. Board Membership; Meetings.

3.1 Membership. The Board will consist of five members. The governing body of each party will appoint one of its elected officials to serve as a Board member. The appointed member will represent his or her appointing party. If a vacancy occurs on the Board, the vacancy will be filled by the governing body of the party that appointed the departed member. Each fiscal year the Board will elect a chairperson and vice-chairperson from its membership, each of whom will serve a one-year term; provided, however, no member will serve more than one year as chairperson in any four-year period. The chairperson will preside at all meetings of the Board and perform such other duties prescribed by the Board from time to time.

3.2 Meetings. A majority of the then-appointed Board members will constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes. Except as this Agreement and/or applicable Law requires otherwise, the express concurrence of a quorum is necessary to decide any question before the Board. Each Board member will be entitled to vote on all Board decisions, subject to applicable Laws. Regular meetings of the Board will be held at least quarterly at such day, time, and place as determined by the Board. All Board meetings are subject to Oregon's Public Meetings Law, ORS 192.311 – 192.478, as amended. Unless otherwise provided, Robert's Revised Rules of Order will govern all procedural matters.

4. Board Responsibilities. Subject to any limitations set forth in this Agreement and/or ORS chapter 190, the Board will have the authority and responsibilities set forth in this Agreement, including this Section 4. The Board will provide, at a minimum, the following administrative and managerial services: (a) assist SGRFPD with the recruitment and selection of the Coordinator; (b) establish a job description, salary, and budget for the Coordinator; (c) receive and review reports from the Coordinator concerning the provision of fire services in Gilliam County; and (d) prepare and provide each party with a monthly financial report consisting of an accounting of the Board Fund. The Board will not have the authority to perform the following: (x) commit the taxing authority or general funds of any party's governing body; (y) impose ad valorem property taxes; and/or (z) expend (or cause the expenditure of) funds in excess of (or inconsistent with) the Budget.

5. Party Responsibilities. In addition to all other party responsibilities contained in this Agreement, including, without limitation, the cost-sharing obligations described in Section 7, each party will (a) require that each party's Board member provide the party's respective governing body with regular updates regarding the Coordinator's activities and the Services, and (b) host any required Board and/or community meetings from time to time. NGRFPD and SGRFPD will provide (y) sufficient furnished office space for the Coordinator, and (z) such equipment, technology, furnishings, and other materials necessary for the Coordinator to timely and properly perform the Services.

6. SGRFPD Responsibilities; Employment of Coordinator.

6.1 Responsibilities; Costs. Subject to the terms and conditions contained in this Agreement, SGRFPD will be responsible for, and is hereby empowered to take, all actions necessary and/or appropriate to support the Board's operation and its affairs in accordance with this Agreement and all Board policies. Without otherwise limiting the generality of the immediately preceding sentence, SGRFPD will provide and/or perform the following: (a) employ and terminate the Coordinator subject to and in accordance with SGRFPD policies and procedures; provided, however, SGRFPD will not appoint, employ, and/or terminate the Coordinator without the Board's prior approval; (b) incur and pay, on the behalf of parties and in accordance with this Agreement and the Budget, all Board expenses; (c) enter into contracts subject to and in accordance with this Agreement, Board policies, and SGRFPD's policies and procedures (including, without limitation, all applicable public contracting rules and procedures); and (d) carry out such other necessary and/or appropriate responsibilities and functions that the Board may require from time to time.

6.2 Coordinator.

6.2.1 Employment. Notwithstanding anything contained in this Agreement to the contrary, the Coordinator will be employed by (and serve as an employee of) SGRFPD. SGRFPD will pay all compensation, benefits, taxes, costs, and expenses arising out of or resulting from SGRFPD's employment of the Coordinator, including, without limitation, vacation, sick leave, holidays, social security, unemployment benefits, contributions to the Public Employees Retirement System, workers' compensation insurance, medical insurance, dental insurance, and life and disability insurance; provided, however SGRFPD will use the Contributions to defray Coordinator-related costs and expenses.

6.2.2 Services. The Coordinator will report to the Board. In addition to all other

Coordinator duties and responsibilities identified in this Agreement, the Coordinator will be responsible for the effective and efficient provision of fire services in Gilliam County. Subject to the terms and conditions contained in this Agreement, the Coordinator will perform for and on behalf of the parties those fire coordination services set forth in the attached Exhibit A (the "Services"). The Coordinator will (a) consult with and advise the Board on all matters concerning the Services reasonably requested by the Board, (b) communicate all matters and information concerning the Services to the Board and perform the Services under the general direction of the Board (or its designee), (c) devote such time and attention to the performance of the Services as necessary or appropriate, and (d) perform the Services to the best of the Coordinator's ability in accordance with this Agreement and such employment agreement between the Coordinator and SGRFPD.

6.2.3 Personnel Matters. Subject to the terms and conditions contained in this Agreement, SGRFRD is responsible for all personnel matters concerning the Coordinator, including, without limitation, compensation, benefits, standards of service, discipline, performance of duties, working hours, termination, and employment. The Coordinator will not be entitled to any wages and/or benefits which accrue to employees of the other parties, including, without limitation, unemployment benefits, contributions to the Public Employees Retirement System, workers' compensation insurance, medical insurance, dental insurance, and life and disability insurance. SGRFPD employees (including, without limitation, the Coordinator) are not employees of the other parties.

7. Budget; Contributions; Accounting.

7.1 Operating Budget. The Coordinator will prepare and develop the Board's annual operating budget (the "Budget") for the Board's review and approval. Agency will adhere to the fiscal year budget preparation cycle and will endeavor to adopt its annual budget by June 1 each year. The budget period will be on a fiscal year basis beginning on July 1 each year and ending on the immediately following June 30.

7.2 Contributions. Subject to the terms and conditions contained in this Agreement, the Board's activities, including, without limitation, employment of the Coordinator, will be funded through the cost sharing formula/parties' annual contributions (each a "Contribution") identified in the Contribution Schedule attached hereto as Schedule 7.2 (the "Contribution Schedule"). The Contribution Schedule will be reviewed no less than annually and will be based on the then-applicable Budget. The parties may increase or decrease the total Contribution amount from time to time if and when the Board determines necessary or appropriate; provided, however, no modification to the Contribution Schedule will be binding and effective unless and until County first approves the modification in writing. Any increase in the total Contribution amount will be proportionally borne by all parties consistent with the Contribution percentages identified in the Contribution Schedule.

7.3 Maintenance of Board Fund. SGRFRD will maintain a special reserve fund dedicated to the purpose of recording financial transactions specific to Board activities (the "Board Fund"). Funds contributed in accordance with Section 7.2 will be maintained in the Board Fund. In accordance with and subject to the Laws, the Coordinator may make expenditures for the acquisition, purchase, and/or lease of materials, services, supplies, facilities, and/or equipment as may be necessary or appropriate to perform the Services and/or carry out the purposes of this Agreement; provided, however, expenditures will not exceed funds appropriated by the Board in the Budget for the specific purposes and will be made in accordance with applicable Law.

7.4 Payment. Each party will timely pay its Contribution amount based on the then-applicable Contribution Schedule. No later than July 15 each year, the Board (through the Coordinator) will invoice each party for the party's Contribution amount. Each party will pay the amount due under each invoice within thirty (30) days after the party's receipt of the invoice.

7.5 Accounting. On or before September 1st each year, the Board will complete an accounting of Board expenditures during the immediately preceding fiscal year. If the Board's accounting determines that the Contributions identified in Contribution Schedule were insufficient to cover the Board's

expenditures during the immediately preceding fiscal year, each party will pay the unpaid balance (on a proportionate basis consistent with the party's percentage identified in the Contribution Schedule) within thirty (30) days after the party's receipt of notice from the Coordinator.

8. Indemnification. To the fullest extent permitted under applicable law, each party releases and will defend, indemnify, and hold the other parties and their respective Representatives harmless for, from, and against all claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees and costs, resulting from or arising out of the party's breach and/or failure to perform the party's obligations contained in this Agreement. Notwithstanding the immediately preceding sentence, the parties will not be required to defend, indemnify, and hold SGRFPD and its Representatives harmless for, from, and against any claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees and costs, resulting from and/or related to the Coordinator's employment, including, without limitation, claims of wrongful termination, discrimination, and/or harassment. The parties understand and acknowledge that each party retains all immunities and privileges granted by the Oregon Tort Claims Act (ORS 30.260 through 30.295) and all other statutory rights granted because of their status as public bodies.

9. Relationship. Each party is an independent contractor of the other parties. This Agreement does not create a joint venture and/or agency relationship between the parties and does not establish a joint venture or partnership between the parties. No party has the authority to bind the other party or represent to any person that a party is an agent of the other party. No party will provide any benefits to any other party; each party will be solely responsible for obtaining the party's own benefits, including, without limitation, insurance, medical reimbursement, and retirement plans. Notwithstanding anything contained in this Agreement to the contrary, the Board will not have the authority to bind and/or encumber a party in any manner except as the party agrees through both the policy and administrative authority granted to the party's appointed Board member.

10. Term; Termination.

10.1 Term. Subject to the terms and conditions contained in this Agreement, the term of this Agreement commenced on the Effective Date and will remain in full force and effect for a period of three years thereafter (the "Initial Term"), unless sooner terminated as provided in this Agreement. Upon expiration of the Initial Term, this Agreement will automatically renew for one or more term(s) of one year each, unless sooner terminated in accordance with this Agreement. Commencing on or about July 1, 2021, and continuing on or about the same day of each year thereafter during the term of this Agreement, the parties will review this Agreement to determine whether any changes and/or modifications to this Agreement are necessary or appropriate. Any changes and/or modifications to this Agreement require the parties' written agreement. Notwithstanding anything contained in this Agreement to the contrary, the parties may terminate this Agreement by the parties' written consent.

10.2 Voluntary Withdrawal by a Party. Any party may elect to terminate its participation in this Agreement (and the Board) by providing six months' prior written notice to the chairperson, each member of the Board, and the governing body of each party. Withdrawal will be effective at 11:59 of the June 30 that is no less than six months after the date of such notice. The withdrawing party will continue to pay its share of, and/or be responsible for, its Contribution amounts and will defend, indemnify, and hold the remaining parties harmless for, from, and against those financial responsibilities and obligations attributable to the withdrawing party and/or accruing prior to the effective date of the withdrawing party's withdrawal. Termination of this Agreement does not relieve any party from its obligations incurred prior to the effective date of termination.

10.3 Distribution of Funds Upon Termination. Upon termination of this Agreement, the Board's cash, if any, will be distributed to each party in proportion to each party's Contribution percentage identified in the Contribution Schedule. All remaining Board assets, if any, will be distributed in the manner agreed upon by the parties.

11. Miscellaneous.

11.1 Coordination; Assignment; Binding Effect. The parties will maintain adequate levels of communication to ensure maximum cooperation and coordination between the parties. No party may assign any of the party's rights and/or obligations under this Agreement to any person without the prior written consent of the other parties. Subject to the immediately preceding sentence, this Agreement will be binding on the parties and their respective heirs, executors, administrators, successors, and permitted assigns and will inure to their benefit. The parties will execute all documents or instruments and will perform all lawful acts necessary or appropriate to carry out the intent of this Agreement. All exhibits, schedules, instruments, and other documents referenced in this Agreement are part of this Agreement.

11.2 Notices; Severability; Remedies. Any notice will be deemed given when personally delivered or delivered by facsimile or email transmission (with electronic confirmation of delivery), or will be deemed given three days following delivery of the notice by U.S. mail, certified, return receipt requested, postage prepaid, by the applicable party to the address shown in Appendix A (or any other address that a party may designate by notice to the other parties), unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed delivered on the next following business day. Each provision contained in this Agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law. If a party breaches and/or otherwise fails to perform any of the party's representations, warranties, covenants, and/or obligations under this Agreement, the non-defaulting parties may, in addition to any other remedy provided to the non-defaulting parties under this Agreement, pursue all remedies available to the non-defaulting parties at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.

11.3 Waiver; Entire Agreement; Amendment; Counterparts. Notwithstanding anything contained in this Agreement to the contrary, no provision of this Agreement may be modified, waived, and/or discharged unless such waiver, modification, and/or discharge is agreed to in writing by the parties. No waiver by a party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement will be deemed a waiver of other provisions or conditions hereof. This Agreement contains the entire agreement and understanding between parties with respect to the subject matter of this Agreement and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, and/or agreements, including, without limitation, the Original Agreement. No addition, modification, amendment, or alteration to this Agreement will be effective against the parties unless specifically agreed upon in writing and signed by the parties. This Agreement may be signed in one or more counterparts.

11.4 Applicable Law; Venue; Attorney Fees. This Agreement will be construed, applied, and enforced in accordance with the laws of the State of Oregon. Any action or proceeding arising out of this Agreement will be litigated in courts located in Gilliam County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Gilliam County, Oregon. With respect to any dispute relating to this Agreement, or if a suit, action, arbitration, or other proceeding of any nature whatsoever is instituted to interpret or enforce the provisions of this Agreement, including, without limitation, any proceeding under the U.S. Bankruptcy Code and involving issues peculiar to federal bankruptcy law or any action, suit, arbitration, or proceeding seeking a declaration of rights or rescission, the prevailing party will be entitled to recover from the losing party(ies) its reasonable attorney fees, paralegal fees, expert fees, and all other fees, costs, and expenses incurred in connection therewith, as determined by the judge or arbitrator at trial, arbitration, or other proceeding, or on any appeal or review, in addition to all other amounts provided by law.

11.5 Legal Representation. The law firm of Bryant, Lovlien & Jarvis, P.C. ("Law Firm") has been employed by County to prepare this Agreement. Law Firm represents only County in the negotiation and preparation of this Agreement. The parties to this Agreement have thoroughly reviewed this Agreement with their own legal counsel or have knowingly waived their right to do so.

11.6 Original Agreement. This Agreement amends, supersedes, and replaces the Original Agreement in its entirety. The Original Agreement is deemed null and void and of no further force and effect as of the Effective Date; provided, however, the parties are not released from (and remain obligated for) any liabilities and/or obligations that have arisen out of or under the Original Agreement prior to the Effective Date. This Agreement will not be construed as an actual or implied waiver and/or release of any party's obligation and/or liability arising out of or under the Original Agreement.

11.7 Person; Interpretation; Signatures. For purposes of this Agreement, the term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. This Agreement may be signed in counterparts.

IN WITNESS WHEREOF, the parties have caused this Agreement to be binding and effective for all purposes as of the Effective Date.

CONDON:

City of Condon,
an Oregon municipal corporation

By: _____
Its: _____

Dated: _____

ARLINGTON:

City of Arlington,
an Oregon municipal corporation

By: _____
Its: _____

Dated: _____

SGRFPD:

South Gilliam County Rural Fire Protection District,
an Oregon special district

By: _____
Its: _____

Dated: _____

NGRFPD:

North Gilliam County Rural Fire Protection District,
an Oregon special district

By: _____
Its: _____

Dated: _____

COUNTY:

County of Gilliam,
a political subdivision of the State of Oregon

By: Elizabeth A. Farrar, Gilliam County Judge

Dated: _____

Appendix A
Definitions

“Agreement” has the meaning assigned to such term in the preamble.

“Arlington” means City of Arlington, an Oregon municipal corporation, whose address is
_____.

“Board” has the meaning assigned to such term in Recital A.

“Board Fund” has the meaning assigned to such term in Section 7.3.

“Budget” has the meaning assigned to such term in Section 7.2.

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“Contribution Schedule” has the meaning assigned to such term in Section 7.1.

“Coordinator” means the then-employed Gilliam County Fire Services Coordinator.

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Exhibit A
Fire Coordinator Services

Subject to the terms and conditions of this Agreement, the Coordinator will provide for and on behalf of the Parties fire coordination services including, without limitation, the following:

DRAFT

Schedule 7.2
Contribution Schedule

Unless and until modified in accordance with this Agreement, each party will make the contribution amount set forth below:

<u>Party</u>	<u>Contribution Amount</u>	<u>Percentage of Total Contribution</u>
Gilliam County	\$60,000.00	69%
NGRFPD	\$5,500.00	6.5%
SGRFPD	\$5,500.00	6.5%
Arlington	\$8,000.00	9%
Condon	<u>\$8,000.00</u>	<u>9%</u>
Total Contribution	\$87,000.00	100%

INTERGOVERNMENTAL AGREEMENT FOR FIRE COORDINATOR SERVICES

This Intergovernmental Agreement for Fire Coordinator Services (this "Agreement") is dated August ____, 2020, but made effective for all purposes as of _____, 2020 (the "Effective Date"), between Gilliam County ("County"), a political subdivision of the State of Oregon, North Gilliam County Rural Fire Protection District ("NGRFPD"), an Oregon special district, South Gilliam County Rural Fire Protection District ("SGRFPD"), an Oregon special district, City of Arlington ("Arlington"), an Oregon municipal corporation, and City of Condon ("Condon"), an Oregon municipal corporation.

RECITALS:

A. The parties entered into a certain Memorandum of Agreement dated May 9, 2001 (the "Original Agreement") pursuant to which the parties formed the "Gilliam County Fire Services Board" (the "Board"). The Board was formed to facilitate the recruitment, selection, and supervision of a fire services coordinator. The parties find it necessary to enter into this Agreement to more particularly describe the parties' respective responsibilities and obligations concerning the fire services coordinator.

B. This Agreement is made pursuant to ORS 190.010, which statute provides that units of local government may enter into agreements for the performance of any functions and activities that any party to the agreement, or its officers or agents, has the authority to perform.

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' respective obligations under this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions. Unless defined elsewhere in this Agreement, capitalized terms contained in this Agreement have the meanings assigned to them in the attached Appendix A.

2. Gilliam County Fire Services Board. The parties affirm and reaffirm the formation and establishment of the Board. The Board's purposes include, without limitation, the following: (a) review, evaluate, and address fire service delivery challenges in a cost-effective manner by providing technical assistance to Gilliam County citizens; (b) endeavor to ensure that Gilliam County citizens receive adequate fire emergency services; (c) assist SGRFPD with the recruitment and selection of the Coordinator; (d) assist the Coordinator and Coordinator's operations; (e) provide administration and resources for the Coordinator as the Board determines necessary or appropriate; (f) provide a forum for communication and consultation among the parties; and (g) carry out such other responsibilities and functions as determined necessary or appropriate by the Board. Without otherwise limiting the generality of the immediately preceding sentence, and subject to the Laws, the Board will have the following general powers: (y) adopt bylaws, rules, regulations, standards, and/or policies necessary to carry out the purposes of the Board and this Agreement; and (z) exercise all powers pursuant to the Laws, including, without limitation, the principal acts of the parties and ORS Chapter 190, which are necessary and/or appropriate to carry out the purposes of the Board and this Agreement.

3. Board Membership; Meetings.

3.1 Membership. The Board will consist of five members. The governing body of each party will appoint one of its elected officials to serve as a Board member. The appointed member will represent his or her appointing party. If a vacancy occurs on the Board, the vacancy will be filled by the governing body of the party that appointed the departed member. Each fiscal year the Board will elect a chairperson and vice-chairperson from its membership, each of whom will serve a one-year term; provided, however, no member will serve more than one year as chairperson in any four-year period. The chairperson will preside at all meetings of the Board and perform such other duties prescribed by the Board from time to time.

3.2 Meetings. A majority of the then-appointed Board members will constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes. Except as this Agreement and/or applicable Law requires otherwise, the express concurrence of a quorum is necessary to decide any question before the Board. Each Board member will be entitled to vote on all Board decisions, subject to applicable Laws. Regular meetings of the Board will be held at least quarterly at such day, time, and place as determined by the Board. All Board meetings are subject to Oregon's Public Meetings Law, ORS 192.311 – 192.478, as amended. Unless otherwise provided, Robert's Revised Rules of Order will govern all procedural matters.

4. Board Responsibilities. Subject to any limitations set forth in this Agreement and/or ORS chapter 190, the Board will have the authority and responsibilities set forth in this Agreement, including this Section 4. The Board will provide, at a minimum, the following administrative and managerial services: (a) assist SGRFPD with the recruitment and selection of the Coordinator; (b) establish a job description, salary, and budget for the Coordinator; (c) receive and review reports from the Coordinator concerning the provision of fire services in Gilliam County; and (d) prepare and provide each party with a monthly financial report consisting of an accounting of the Board Fund. The Board will not have the authority to perform the following: (x) commit the taxing authority or general funds of any party's governing body; (y) impose ad valorem property taxes; and/or (z) expend (or cause the expenditure of) funds in excess of (or inconsistent with) the Budget.

5. Party Responsibilities. In addition to all other party responsibilities contained in this Agreement, including, without limitation, the cost-sharing obligations described in Section 7, each party will (a) require that each party's Board member provide the party's respective governing body with regular updates regarding the Coordinator's activities and the Services, and (b) host any required Board and/or community meetings from time to time. NGRFPD and SGRFPD will provide (y) sufficient furnished office space for the Coordinator, and (z) such equipment, technology, furnishings, and other materials necessary for the Coordinator to timely and properly perform the Services.

6. SGRFPD Responsibilities; Employment of Coordinator.

6.1 Responsibilities; Costs. Subject to the terms and conditions contained in this Agreement, SGRFPD will be responsible for, and is hereby empowered to take, all actions necessary and/or appropriate to support the Board's operation and its affairs in accordance with this Agreement and all Board policies. Without otherwise limiting the generality of the immediately preceding sentence, SGRFPD will provide and/or perform the following: (a) employ and terminate the Coordinator subject to and in accordance with SGRFPD policies and procedures; provided, however, SGRFPD will not appoint, employ, and/or terminate the Coordinator without the Board's prior approval; (b) incur and pay, on the behalf of parties and in accordance with this Agreement and the Budget, all Board expenses; (c) enter into contracts subject to and in accordance with this Agreement, Board policies, and SGRFPD's policies and procedures (including, without limitation, all applicable public contracting rules and procedures); and (d) carry out such other necessary and/or appropriate responsibilities and functions that the Board may require from time to time.

6.2 Coordinator.

6.2.1 Employment. Notwithstanding anything contained in this Agreement to the contrary, the Coordinator will be employed by (and serve as an employee of) SGRFPD. SGRFPD will pay all compensation, benefits, taxes, costs, and expenses arising out of or resulting from SGRFPD's employment of the Coordinator, including, without limitation, vacation, sick leave, holidays, social security, unemployment benefits, contributions to the Public Employees Retirement System, workers' compensation insurance, medical insurance, dental insurance, and life and disability insurance; provided, however SGRFPD will use the Contributions to defray Coordinator-related costs and expenses.

6.2.2 Services. The Coordinator will report to the Board. In addition to all other

Coordinator duties and responsibilities identified in this Agreement, the Coordinator will be responsible for the effective and efficient provision of fire services in Gilliam County. Subject to the terms and conditions contained in this Agreement, the Coordinator will perform for and on behalf of the parties those fire coordination services set forth in the attached Exhibit A (the "Services"). The Coordinator will (a) consult with and advise the Board on all matters concerning the Services reasonably requested by the Board, (b) communicate all matters and information concerning the Services to the Board and perform the Services under the general direction of the Board (or its designee), (c) devote such time and attention to the performance of the Services as necessary or appropriate, and (d) perform the Services to the best of the Coordinator's ability in accordance with this Agreement and such employment agreement between the Coordinator and SGRFPD.

6.2.3 Personnel Matters. Subject to the terms and conditions contained in this Agreement, SGRFRD is responsible for all personnel matters concerning the Coordinator, including, without limitation, compensation, benefits, standards of service, discipline, performance of duties, working hours, termination, and employment. The Coordinator will not be entitled to any wages and/or benefits which accrue to employees of the other parties, including, without limitation, unemployment benefits, contributions to the Public Employees Retirement System, workers' compensation insurance, medical insurance, dental insurance, and life and disability insurance. SGRFPD employees (including, without limitation, the Coordinator) are not employees of the other parties.

7. Budget; Contributions; Accounting.

7.1 Operating Budget. The Coordinator will prepare and develop the Board's annual operating budget (the "Budget") for the Board's review and approval. Agency will adhere to the fiscal year budget preparation cycle and will endeavor to adopt its annual budget by June 1 each year. The budget period will be on a fiscal year basis beginning on July 1 each year and ending on the immediately following June 30.

7.2 Contributions. Subject to the terms and conditions contained in this Agreement, the Board's activities, including, without limitation, employment of the Coordinator, will be funded through the cost sharing formula/parties' annual contributions (each a "Contribution") identified in the Contribution Schedule attached hereto as Schedule 7.2 (the "Contribution Schedule"). The Contribution Schedule will be reviewed no less than annually and will be based on the then-applicable Budget. The parties may increase or decrease the total Contribution amount from time to time if and when the Board determines necessary or appropriate; provided, however, no modification to the Contribution Schedule will be binding and effective unless and until County first approves the modification in writing. Any increase in the total Contribution amount will be proportionally borne by all parties consistent with the Contribution percentages identified in the Contribution Schedule.

7.3 Maintenance of Board Fund. SGRFRD will maintain a special reserve fund dedicated to the purpose of recording financial transactions specific to Board activities (the "Board Fund"). Funds contributed in accordance with Section 7.2 will be maintained in the Board Fund. In accordance with and subject to the Laws, the Coordinator may make expenditures for the acquisition, purchase, and/or lease of materials, services, supplies, facilities, and/or equipment as may be necessary or appropriate to perform the Services and/or carry out the purposes of this Agreement; provided, however, expenditures will not exceed funds appropriated by the Board in the Budget for the specific purposes and will be made in accordance with applicable Law.

7.4 Payment. Each party will timely pay its Contribution amount based on the then-applicable Contribution Schedule. No later than July 15 each year, the Board (through the Coordinator) will invoice each party for the party's Contribution amount. Each party will pay the amount due under each invoice within thirty (30) days after the party's receipt of the invoice.

7.5 Accounting. On or before September 1st each year, the Board will complete an accounting of Board expenditures during the immediately preceding fiscal year. If the Board's accounting determines that the Contributions identified in Contribution Schedule were insufficient to cover the Board's

expenditures during the immediately preceding fiscal year, each party will pay the unpaid balance (on a proportionate basis consistent with the party's percentage identified in the Contribution Schedule) within thirty (30) days after the party's receipt of notice from the Coordinator.

8. Indemnification. To the fullest extent permitted under applicable law, each party releases and will defend, indemnify, and hold the other parties and their respective Representatives harmless for, from, and against all claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees and costs, resulting from or arising out of the party's breach and/or failure to perform the party's obligations contained in this Agreement. Notwithstanding the immediately preceding sentence, the parties will not be required to defend, indemnify, and hold SGRFPD and its Representatives harmless for, from, and against any claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees and costs, resulting from and/or related to the Coordinator's employment, including, without limitation, claims of wrongful termination, discrimination, and/or harassment. The parties understand and acknowledge that each party retains all immunities and privileges granted by the Oregon Tort Claims Act (ORS 30.260 through 30.295) and all other statutory rights granted because of their status as public bodies.

9. Relationship. Each party is an independent contractor of the other parties. This Agreement does not create a joint venture and/or agency relationship between the parties and does not establish a joint venture or partnership between the parties. No party has the authority to bind the other party or represent to any person that a party is an agent of the other party. No party will provide any benefits to any other party; each party will be solely responsible for obtaining the party's own benefits, including, without limitation, insurance, medical reimbursement, and retirement plans. Notwithstanding anything contained in this Agreement to the contrary, the Board will not have the authority to bind and/or encumber a party in any manner except as the party agrees through both the policy and administrative authority granted to the party's appointed Board member.

10. Term; Termination.

10.1 Term. Subject to the terms and conditions contained in this Agreement, the term of this Agreement commenced on the Effective Date and will remain in full force and effect for a period of three years thereafter (the "Initial Term"), unless sooner terminated as provided in this Agreement. Upon expiration of the Initial Term, this Agreement will automatically renew for one or more term(s) of one year each, unless sooner terminated in accordance with this Agreement. Commencing on or about July 1, 2021, and continuing on or about the same day of each year thereafter during the term of this Agreement, the parties will review this Agreement to determine whether any changes and/or modifications to this Agreement are necessary or appropriate. Any changes and/or modifications to this Agreement require the parties' written agreement. Notwithstanding anything contained in this Agreement to the contrary, the parties may terminate this Agreement by the parties' written consent.

10.2 Voluntary Withdrawal by a Party. Any party may elect to terminate its participation in this Agreement (and the Board) by providing six months' prior written notice to the chairperson, each member of the Board, and the governing body of each party. Withdrawal will be effective at 11:59 of the June 30 that is no less than six months after the date of such notice. The withdrawing party will continue to pay its share of, and/or be responsible for, its Contribution amounts and will defend, indemnify, and hold the remaining parties harmless for, from, and against those financial responsibilities and obligations attributable to the withdrawing party and/or accruing prior to the effective date of the withdrawing party's withdrawal. Termination of this Agreement does not relieve any party from its obligations incurred prior to the effective date of termination.

10.3 Distribution of Funds Upon Termination. Upon termination of this Agreement, the Board's cash, if any, will be distributed to each party in proportion to each party's Contribution percentage identified in the Contribution Schedule. All remaining Board assets, if any, will be distributed in the manner agreed upon by the parties.

10.4 Dissolution and Wind Up. In the event that the Parties agree to terminate this Agreement (as provided above) and dissolve SGRFPD, the dissolution motion shall provide an estimated timeline for the dissolution and shall name two Board members (called “Dissolution Managers” in this Agreement) responsible for overseeing the dissolution process. The Dissolution Managers may retain professional assistance as needed and shall take immediate steps to begin to permanently terminate and dissolve the Board. Such dissolution steps shall include but are not limited to the following:

- 10.4.1 Providing written notice to all Parties’ elected officials of the pending dissolution, including the proposed timeline for a final dissolution and the Board’s expected process for ending employment relationships.
- 10.4.2 Notification to all neighboring governments, all necessary State and federal agencies, and all partners of such dissolution.
- 10.4.3 Creation of a budget document which shall account for all Board funds, revenues, and assets and all Board debts and financial responsibilities.
- 10.4.4 Satisfaction of all Board debts and financial responsibilities, including a final financial and accounting of all debts and resources.
- 10.4.5 Any funds or revenues remaining in Board accounts after satisfying all Board debts and financial responsibilities shall be distributed to the Parties in proportion to their funding contributions. Such distribution plan shall be documented in writing and shall be provided to all Parties prior to distribution.
- 10.4.6 Any personal property, equipment and furnishings not identified for return to a third party or a Party shall be sold in accordance with applicable public contracting and procurement law. After ensuring payment or satisfaction of all Board debts or financial responsibilities, the funds from such sale shall be distributed to the Parties in proportion to their funding contribution to the Board. Such distribution plan shall be documented in writing and provided to all Parties prior to distribution.
- 10.4.7 Any other actions or decisions required to fully dissolve the Board, as determined by the Board’s Dissolution Managers, including specifically a plan for either maintaining or abandoning the infrastructure.

11. Miscellaneous.

11.1 Coordination; Assignment; Binding Effect. The parties will maintain adequate levels of communication to ensure maximum cooperation and coordination between the parties. No party may assign any of the party’s rights and/or obligations under this Agreement to any person without the prior written consent of the other parties. Subject to the immediately preceding sentence, this Agreement will be binding on the parties and their respective heirs, executors, administrators, successors, and permitted assigns and will inure to their benefit. The parties will execute all documents or instruments and will perform all lawful acts necessary or appropriate to carry out the intent of this Agreement. All exhibits, schedules, instruments, and other documents referenced in this Agreement are part of this Agreement.

11.2 Notices; Severability; Remedies. Any notice will be deemed given when personally delivered or delivered by facsimile or email transmission (with electronic confirmation of delivery), or will be deemed given three days following delivery of the notice by U.S. mail, certified, return receipt requested, postage prepaid, by the applicable party to the address shown in Appendix A (or any other address that a party may designate by notice to the other parties), unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed delivered on the next following business day. Each provision contained in this Agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law. If a party breaches and/or otherwise fails to perform any of the party’s representations, warranties, covenants, and/or obligations under this Agreement, the non-defaulting parties may, in addition to any other remedy provided to the

non-defaulting parties under this Agreement, pursue all remedies available to the non-defaulting parties at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.

11.3 Waiver; Entire Agreement; Amendment; Counterparts. Notwithstanding anything contained in this Agreement to the contrary, no provision of this Agreement may be modified, waived, and/or discharged unless such waiver, modification, and/or discharge is agreed to in writing by the parties. No waiver by a party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement will be deemed a waiver of other provisions or conditions hereof. This Agreement contains the entire agreement and understanding between parties with respect to the subject matter of this Agreement and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, and/or agreements, including, without limitation, the Original Agreement. No addition, modification, amendment, or alteration to this Agreement will be effective against the parties unless specifically agreed upon in writing and signed by the parties. This Agreement may be signed in one or more counterparts.

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11.5 Legal Representation. The law firm of Bryant, Lovlien & Jarvis, P.C. ("Law Firm") has been employed by County to prepare this Agreement. Law Firm represents only County in the negotiation and preparation of this Agreement. The parties to this Agreement have thoroughly reviewed this Agreement with their own legal counsel or have knowingly waived their right to do so.

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Its: _____

Dated: _____

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DRAFT

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