November 13, 2026

VIA E-MAIL to lup-hearings@multco.us

Dan Kearns, Multnomah County Hearings Officer
c/o Alexandra Howard, Deputy Director
Multnomah County Land Use Planning
600 SE 190th Ave.
Portland, OR 97233

Re: Applicant's Submittal for Second Open Record Period
T3-2026-0012

Dear Mr. Kearns:

Please accept this letter and its attachments as Applicant City of Sandy's submittal for the second open record period in Case File T3-2026-0012. With this letter, the Applicant responds to the evidence and argument submitted during the first open record period.

This letter includes the following attachments:

- "Public Comment in First Open Record Period on T3-2026-0012" by Bruce Prenguber, Professional Economist (Attachment A)
- City of Gresham and Rural Fire Protection District 10 Intergovernmental Agreement for Fire Services (Attachment B) and amendment extending its term (Attachment C)

I. Existing Pump Station

Testimony submitted during the first open record period stated that "[t]he City of Sandy already operates a pumping station on Hudson Road near Lusted Road. The City states that this station is not viable but has not explained why." I.5 Opposition to T3-2026-0012 at 1.

No code provision or other authority requires such an analysis to be performed, and the testimony points to none. As demonstrated by the application materials and staff report in this matter, as well as this submittal, all criteria applicable to this application have been met.

Nevertheless, the Applicant offers the following brief explanation for the benefit of the Hearings Officer and the public:

Portland Water Bureau currently chlorinates water at the Bull Run Headworks, so the water is already treated when it arrives at the outlet for Sandy's supply from the Hudson Pump Station, which is located downstream of the Bull Run Headworks. Additionally, the water from Bull Run is currently unfiltered. The Oregon Health Authority(OHA) has Bilateral Compliance Agreements

with both PWB and Sandy requiring filtration of this surface water source. After the Bull Run Filtration Facility (BRFF) is in operation, Portland Water Bureau will no longer be chlorinating at the Bull Run Headworks and will instead be treating water at the BRFF, which is downstream of the outlet for Sandy's supply from the Hudson Pump Station. The purpose of this new pump station is to allow Sandy to obtain treated, filtered water from the BRFF. Without the proposed pump station, if Sandy were to continue to use the Hudson Pump Station, Sandy would need to add treatment capabilities at the Hudson Pump Station because water will be untreated water when it arrives at the outlet for Sandy's supply from the Hudson Pump Station. That option was considered and rejected for a variety of reasons, including the following:

1. The treatment technology that could be used at the Hudson Pump Station (cartridge filters) cannot be used if turbidity is greater than 3 to 5 NTUs, which can occur during fall/winter storms and with impacts from a large fire.
2. The existing Hudson Pump Station does not have sufficient capacity for Sandy's projected future needs. The proposed pump station is being sized for those projected needs.

II. Fire Service

In *I.28 CCPO-PHCA-Response_A.15*, Cottrell Community Planning Organization and Pleasant Home Community Association raise a number of issues relating to the provision of fire service for the proposed facility and the Fire Service Provider Review located at A.15 in the record, which was completed by Gresham Fire and Emergency Services (GFES). Specifically, they argue that the record lacks evidence of GFES's authority to provide fire service to the proposed facility; that the record lacks evidence that Rural Fire Protection District 10 (RFPD10) was notified of the application; and that the record lacks "[a]n assessment of whether the proposed pump station can be served without adversely affecting existing fire-protection resources available to rural Multnomah County residents."

As a preliminary matter, it should be noted that, as described in the staff report, "[t]he incremental demand [of this facility] on fire… services is negligible compared to existing uses in the area." Staff Report at 18.

In response to the concerns raised in I.28, included with this submittal is a copy of the Intergovernmental Agreement (IGA) between the City of Gresham and RFPD10, pursuant to which GFES is obligated to "provide fire service in accordance with the specifications of this Agreement within the territory of the District excluding the City of Maywood Park," including an obligation to staff Station 76, a fire station in RFPD10's service area located approximately 2.6 miles from the subject site. Attachment B and C. This shows that GFES is the appropriate agency for demonstrating compliance with MCC 39.7515(D).

With regard to the "adversely effecting" argument, Applicant notes that there is no reasonable basis to believe that an unstaffed facility generating approximately one service vehicle trip per week, and which replaces two other pump stations in an existing land use approval, would have any measurable effect, much less an adverse effect, on fire protection resources. More importantly, however, nothing in the approval criteria would support requiring such an assessment to be performed. Instead, the applicable criterion under MCC 39.7515(D) is whether the proposal "[w]ill not require public services other than those existing or programmed for the area." The Fire Service Provider Review in the record at A.15 demonstrates that this criterion is met.

III. Conformance with Plans

Testimony during the first open record period expressed a variety of concerns regarding whether the final project would be constructed in conformance with the submitted plans (e.g., with regard to building height). The Staff Report includes the following verbiage on page 4 under the heading "Permit Conformance Requirement and Expiration Standards": "Approval of this land use permit is based on the submitted written narrative(s) and plan(s). All work completed under this permit must conform with the Hearings Officer's final order and decision."

In response to the above-noted concerns and in order to offer clarity on this issue, Applicant proposes that the Hearings Officer adopt the following condition of approval, based on the above-quoted language from the Staff Report:

> Proposed Plan Conformance Condition of Approval
>
> All work completed under this permit must substantially conform with the submitted written narrative(s) and plan(s) and conform with the Hearings Officer's final order and decision. In the event of a conflict between the submitted written narrative(s) and plan(s) on the one hand and the Hearings Officers final order and decision on the other hand, the latter shall control.

IV. Staff Comments

Multnomah County staff submitted comments for the first open record period. Applicant has reviewed those comments and agrees with them in their entirety.

V. Minor Clarifications and Responses

The Applicant offers the following minor clarifications and responses based on statements in submittals from the first open record period:

1. The vegetative screening renderings in the record are based on a ten-year time horizon.

2. The Sandy Pump Station is not part of the approval in Case File T3-2022-16220. Seeking that approval is the purpose of this application.
3. Construction traffic and other temporary construction impacts are not review criteria, as established in *Cottrell Community Planning Organization et al v. Multnomah County*, LUBA No. 2023-086 (Jan 22, 2025) (order at 14-32).
4. It appears that the testimony regarding public notice of this application acknowledges that the code requirements were met and requests future procedural changes. Those requests are outside the scope of the present proceeding.
5. Testimony included various requests to strike particular evidence in the record. The Applicant objects to all of those requests to strike, as no lawful basis was provided or exists to support doing so.
6. Testimony requested that the condition of approval in Case File T3-2022-16220 relating to landscaping be required to be modified prior to ground disturbance. As demonstrated in Applicant's submittal for the first open record period (Figure 2 in Attachment A to Applicant's First Open Record Period Submittal), the ground is already significantly disturbed in this area.

VI. Conclusion

For the foregoing reasons, the Applicant requests that the Hearings Officer approve the application.

Sincerely,

Josh Soper
Of Attorneys for Applicant City of Sandy

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Dan Kearns, Multnomah County Hearings Official
c/o Alexandra Howard, Deputy Director
Multnomah County Land Use Planning
600 SE 190th Ave.
Portland, OR 97233

November 5, 2026

Subject: Public Comment in First Open Record Period on T3-2026-0012

Dear Mr. Kearns:

I prepared a Farm Impact Study (Exhibit A.6.) reviewing the potential farm impacts of the proposed Sandy Pump Station. My analysis considered the potential for significant change in accepted farm practices and significant increase in the cost of farm practices in the Surrounding Lands. I concluded that the proposal will not force a significant change in, nor significantly increase the cost of, accepted farm practices in the Surrounding Lands.

I have reviewed the latest public testimony, in particular Exhibit I.23 which focusses on my Farm Impact Study. I have also reviewed the Sandy Pump Station application materials and the latest Stantec noise memo (Exhibit I.8). Based on those submittals, my conclusions regarding farm impacts remain the same. Additionally, I believe the new Stantec memo (dated October 28, 2026) shows that noise is even more definitively not a source of farm impacts based on the analysis demonstrating that noise will be inaudible at property lines, regardless of any noise code standards.

Thank you for the opportunity to comment on this application.



Bruce Prenguber

City of Gresham Contract No. 6514

INTERGOVERNMENTAL AGREEMENT FOR FIRE SERVICES

, THIS AGREEMENT is entered into pursuant to ORS Chapter 190 between the CITY OF GRESHAM, a municipal corporation of the State of Oregon (City), and MULTNOMAH COUNTY RURAL FIRE PROTECTION DISTRICT NO. 10, a special district organized and existing under Chapter 478 of the Oregon Revised Statutes (District), to provide fire and related services to territory within the District.

The purpose of this Intergovernmental Agreement is to renew the existing agreement for fire services and to clarify terms and provisions.

THEREFORE, the City and the District agree as follows:

ARTICLE I: DEFINITIONS

The terms used in this Agreement shall have the following meaning:

A. Apparatus means all trucks, engines, and other vehicles used in the provision of fire service.

B. Equipment means all items that are attached to, ride on, or are carried on or in apparatus or that are otherwise used in the provision of fire service.

C. Fire Service means fire prevention, fire suppression, fire investigation, fire inspection, fire code enforcement, fire education, hazardous materials response service, emergency medical service and rescue service, emergency preparedness, and fire service planning.

D. Facilities means Station 75 (600 SE Cherry Park Road, Troutdale), Station 76 (30300 Dodge Park Blvd. Gresham) and the Fire Training Center at 19204 San Rafael.

ARTICLE II: SERVICE TO BE PROVIDED

Section 1. City Assumption of Service.

Beginning on July 1, 2015, at 7:00 a.m., (the expiration of the current agreement for fire services) and continuing for the duration of this Agreement, or until this Agreement is earlier terminated according to its terms, the City shall provide fire service in accordance with the specifications of this Agreement within the territory of the District excluding the City of Maywood Park.

(A) City will provide fire suppression, advanced life support, emergency medical rescue, and Level A hazardous materials response to all alarms as dispatched.

(B) City will provide dispatching though BOEC and telecommunication services including operations and maintenance.

(C) City will provide an active health and safety program meeting all OSHA requirements.

(D) City will provide personal-protective clothing and equipment, including uniforms, for all response personnel.

(E) City will provide an emergency preparedness plan including pre-incident planning for high-risk occupancies.

(F) City will provide on-going career development and training for all personnel.

Section 2. Level of Service.

The City will provide a minimum level of service within the area of the District that is consistent with the service provided within comparable areas of the City; but in no event less than the level of service more specifically required by other provisions of this Agreement, including, but not limited to, Article II. Section 4.

Fiscal constraints could require a reduction in service. If events occur that require a material service reduction, the City will notify and confer with the District prior to any reduction. In the event that the City implements a material service reduction, District shall have the right to notify the City in writing that it is requesting a review of the terms of this Agreement. That notice must be provided within 60 days of the City's implementation of any material service reduction. If the parties are unable to reach agreement after good faith negotiations, the parties shall resolve the dispute by utilizing the procedures set forth in Article VIII of this Agreement.

Section 3. Assumption of Contracts.

The City shall continue to participate in the Multnomah County Fire Mutual Aid Agreement.

Section 4. Station Staffing and Apparatus

(A) The City Fire Chief may relocate and reassign personnel from any fire station under the Chief authority to another, as may be necessary for the efficient provision of fire services, so long as, at all times, the staffing, personnel qualifications, and fire service standards required by this Agreement are met.

(B) City will provide fire service to the District territory from City stations, Station 75 and by staffing Station 76. All City fire personnel providing fire service to District territory covered by this agreement will meet or exceed NFPA standards for the position to which they are assigned. No less than one qualified career officer and two qualified career firefighters will be assigned to, and shall actually staff Station 76, 24 hours per day. Station 76 shall not be left unoccupied because of drills or meetings except for an average of 15 hours per week. City shall use reasonable efforts to minimize the downtime of any assigned apparatus at Station 76. When

Station 76 is unoccupied, a neighboring station will be fully staffed in order to cover calls otherwise covered from Station 76.

(C) The City will maintain all apparatus and other equipment belonging to the District in good condition and repair, including maintaining the District 10 designation, number, color, and design on apparatus. City will not change the station sign from a District 10 sign, or add City of Gresham insignia or name to the apparatus or District stations except as may be approved by the District. The City will be responsible for equipment replacement (including, but not limited to, all items that are attached to, ride on, or are carried on or in apparatus or that are otherwise used in, the provision of fire service) and replacement of supplies. District will be responsible for replacement of apparatus provided by District pursuant to this Agreement.

(D) City shall do the following:

(1) Provide facilities maintenance/repair for stations, structures, and grounds as further described in Appendix A, Use of District 10 Property by the City of Gresham.

(2) Provide routine apparatus maintenance and repair for fire apparatus and vehicles including all annual certification testing.

(3) Provide routine equipment maintenance, repair, and replacement for all portable equipment, including tools, small engines, and radios.

(4) Provide an apparatus replacement schedule and make recommendations to the District Board for management of apparatus in the District's best interests.

(E) The City shall only have the use of the District's facilities, fire apparatus and equipment. The ownership of these properties shall always remain with the District. The District shall provide not less than one Type I, Class A, Triple-Combination Fire Engine throughout the duration of this agreement. The front-line usage of this Engine is expected to be

twelve years, but is not to exceed fifteen years. The District will retain the current Engine for use as a Reserve Engine upon receipt of its replacement.

Section 5. Inspection and Education Services.

(A) City will provide fire safety inspections in schools annually.

(B) City will provide fire cause determinations on all fires as stated in Oregon Revised Statutes.

(C) City will provide scheduled resources for public education. The City's ability to provide public safety education depends on the cooperation of the requestor in providing adequate notification for scheduling events and the committed distribution of resources during the requested time.

Section 6. Community Relations.

City shall do the following to support community relations in the territory of the District described in this Agreement:

(A) Participate in neighborhood associations.

(B) Participate in community events.

(C) Provide station tours and open houses.

(D) Participate in fire prevention week activities.

(E) Provide for a senior citizen fire safety program and burn injury programs.

(F) Provide an active residential smoke detector program to low-income residents.

Section 7. Other Services.

(A) City will include within its any Fire Protection Strategic, Long Range, or Master Plan, the District's territory subject to this Agreement.

(B) City will provide data management services, including all incident reporting, hazardous materials incident reporting, site surveys, and pre-fire surveys.

(C) City will cooperate with the District on future fire suppression contracts that will benefit the ratepayers of the District.

ARTICLE III: FINANCIAL OBLIGATIONS

Section 1. Agreement Amount.

During the term of this Agreement, the total cost of providing service to the District will be determined for each fiscal year by applying the rate of $1.90 to each $1,000 of assessed value for all taxable property within the District. In determining the assessed value of all property within the District, no taxable property within the incorporated boundary of the City of Maywood Park shall be included.

Section 2. Time of Payment.

District shall pay to City the amount described in Article III, Section 1, in three equal installments on or before January 1, April 1 and June 1 of that fiscal year.

Section 3. Withdrawals.

If the area of the District is reduced by withdrawal of territory from the District, the amount to be paid City under this Agreement will be likewise reduced in the same proportion that the assessed valuation of the property withdrawn bears to the assessed valuation of the property remaining in the District. The intent of the parties is to provide that District's monetary obligation to City shall be based indirectly on the tax revenues that the District can raise during the contract year; and therefore, if at any time, the District loses tax revenues or is required (as for instance by the operation of ORS 311.821) to refund or pay over to another entity property

taxes as a result of a boundary change, District shall be entitled to a reduction in its contract amount that is proportional to that loss of tax revenues.

"Assessed value" as used in this Agreement means the assessed value of all real, personal, manufactured and utility property located within the District, according to the most recent valuations maintained by the Multnomah County Assessor utilizing the administrative rules of the Oregon Department of Revenue.

The contract amount for the first scheduled payment of each year shall be made on District's best, good faith estimate of the taxable property values for that period, and this payment shall be adjusted according to the actual assessment figures for the taxable property, when those actual figures are available, and the following scheduled payment will be increased or decreased, as the case may be, in order to make the totals paid for the year consistent with the assessment of taxable property.

ARTICLE IV: PROPERTY TRANSFER

Section 1. Real Property and Major Apparatus.

The City shall use the equipment, real property, and apparatus for the purposes of this Agreement, subject to the obligations of this Agreement, and City does not obtain any right, title, or interest in such real property, equipment and apparatus except the right to have temporary possession and to use the property for the purposes of fulfilling its obligations under this Agreement and conditioned on City's performance of this Agreement without breach.

Section 2. Insurance.

City shall insure at all times real property and personal property of the District described in this Agreement, for replacement value, with the District named as loss payee. City shall also insure the apparatus and equipment described in this agreement at actual cash value. If City self-

insures as to any class of property for which insurance is otherwise required, City is not required to purchase third party insurance for such property of the District; but in any case, City shall be liable to the District for damage or loss of such property, without regard to City's fault.

ARTICLE V: INDEMNIFICATION

Subject to Oregon law, the City will indemnify, defend, and hold harmless the District and Board members, employees and agents, from any loss, damage, or expense (including but not limited to attorney fees) or liability to third parties asserted to arise from the City's performance or nonperformance of fire services, or from the operation, maintenance, or condition of any property, real or personal, in the possession of the City as a result this Agreement.

ARTICLE VI: TERMINATION

Section 1. District's Right to Terminate.

Prior written notice is not required (of either party) for termination for material breach under Article VIII.

Section 2. Return of Property on Termination.

Upon the termination of this Agreement, or the termination of the City's right to provide fire service if earlier, City shall return to District the possession of the apparatus received by City from District, and all equipment received by City from District and all equipment provided by City as replacement for equipment received by City from District; City shall return to District the possession of the real property the use of which City obtained under this Agreement; and City shall pay District the value of any equipment, supplies, or other property that City received from District, and that City did not replace with similar property that City turned over to District. All property of whatever kind shall be in as good a condition when returned, except for normal wear

and depreciation, as such property was when District provided it to City; and City shall compensate District to the extent that any property is not in as good a condition (except for normal wear and depreciation) as when provided to City. Any equipment the City adds, over and above the equipment identified in the inventory described in Article IV, Section 1, (or replacement), shall remain the property of the City.

Section 3. Assumption of Contracts.

Effective on the date of termination of this Agreement under this Article, the District shall assume the obligations or contracts of the City which are appropriate to the District's resumed operation of fire services and emergency medical services.

Section 4. Cancellation of Insurance.

Effective on the date of termination of this Agreement under this Article, City shall cancel the insurance required by Article IV, Section 2. City shall provide District with an inventory of property returned to District, and any schedules of fire value of such property that the City may have, and all other information the City may have necessary for District to obtain adequate insurance coverage of the property after termination; and City shall provide that information sufficiently prior to cancellation of insurance to allow District a reasonable time to obtain replacement insurance.

ARTICLE VII: SUBCONTRACTS

The City may not subcontract for services required of it under this Agreement, without the express prior approval of the District Board. Nothing in this Agreement shall be construed to prohibit the City from subcontracting for the provision of fire services within its boundaries at

the time of the subcontract. The rights and duties of the District are controlled solely by this Agreement, regardless of any inconsistency between this Agreement and any other contract.

This provision shall not apply to the District's Full Faith and Credit Financing Agreement with Umpqua Bank dated December 23, 2014, or any subsequent amendment or replacement agreement with Umpqua Bank relating to the financing of Station 76. The District is to give prompt notice of any proposed amendment or replacement of the financing documents so that the City can take a position on the proposal if needed.

ARTICLE VIII: DISPUTES

Section 1. Mediation.

Except as otherwise provided, neither party to this Agreement is entitled to initiate litigation, or to terminate the contract for material breach, without first seeking mediation of any dispute that is to be the basis of litigation or termination. The party having the obligation to seek mediation must give the other party notice of the basis upon which termination or litigation would be initiated and demand mediation. The parties shall designate a mutually acceptable mediator, and shall attend and participate in at least one session of mediation. The cost of the mediation shall be shared equally between the parties unless they otherwise agree. If the parties cannot agree to a mediator, each party shall designate one person, and the two persons thus designated shall select a third person, and the three persons so selected shall determine the mediator by majority vote. If either party shall seek or pursue mediation of a claim, as required in this section, the party who failed to mediate shall not be entitled to seek any relief based on that claim in any subsequent litigation, unless the obligation to mediate was excused by the refusal of the other party to mediate.

Section 2. Remedies Upon Breach.

(A) Upon a breach of the obligations of this Agreement which presents a potential danger to life or property of the public, the party asserting the breach shall have the right to take such steps as are appropriate to protect the public, with or without termination of the contract, and the cost of such measures to protect the public may be collected from the other party as part of damages for breach. Termination of this Agreement for breach of the obligations of this Agreement which presents a potential danger to life or property of the public shall be made effective immediately upon notice to the other party, or upon a date and time for termination fixed in the notice of termination, and the party asserting breach need not seek mediation prior to termination; but shall seek mediation following termination to determine the consequences of termination. Upon breach of this Agreement under this subsection the party asserting breach shall have the right to any additional remedy provided under Subsection (B) of this section, following mediation as provided in that subsection.

(B) If either party believes the other has committed a breach of this Agreement other than as provided in Subsection (A), the party claiming a breach shall provide written notice of the breach to the other party, and an opportunity of not less than 30 days to cure the breach; and may initiate mediation as provided in Section 1, above, before or after the 30-day period for cure. If the breach is not cured within 30 days after the notice, and if the party asserting breach has satisfied the requirement to seek mediation under Section 1, above, the party shall have a right to any of the following remedies, or any combination of them, for breach by the other party:

(1) Termination of this Agreement based on material breach;

(2) Damages;

(3) Injunctive relief to require specific performance of any provision of this Agreement;

(4) Injunctive relief pending litigation of other claims;

(5) Any other remedy otherwise available at law or in equity.

(C) Under no circumstance shall this Agreement be construed to provide the basis for an order directing either the District or the City to adopt an ordinance, call for an election, or levy taxes or appropriate funds.

(D) Should either party be required to initiate litigation to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees and expert witness fees incurred in the litigation, in mediation entered into as a condition precedent to suit, and upon any appeal or other proceeding relating to the litigation.

(E) If the District does not pay the amounts called for under this Agreement for any reason, such nonpayment shall be a breach of this Agreement subject to immediate termination by the City. City shall be entitled to damages only in the amount of out-of-pocket costs incurred as a result of such breach. City shall not be released from its obligation to provide fire services under this Agreement (so long as this Agreement is not otherwise terminated) so long as District is ready, able, and willing to pay City for fire services at the rate provided in this Agreement, applied pro rata to the period for which service is requested. If either party becomes subject to new legislation or a new interpretation of existing legislation that materially impairs its ability to perform its obligations under this Agreement, the parties agree to reopen the negotiation of the terms of this Agreement; and if they are unable to agree, either party may terminate this Agreement upon six months notice to the other party.

ARTICLE IX: NOTICES

Section 1. Notices.

(A) All written notices, inquiries and other communications concerning the subject matter of this Agreement, or called for by this Agreement, if directed to the District, shall be sent to:

(1) Chairman, Multnomah County Fire Protection District 10, P.O. Box 517, Troutdale, Oregon 97060

(B) If directed to the City, such written notices and other communications shall be addressed to:

(1) City Manager, 1333 N.W. Eastman Pkwy., Gresham, Oregon, 97030;

(2) Fire Chief, 1333 N.W. Eastman Pkwy., Gresham, Oregon, 97030:

Section 2. Effective Dates.

Notice shall be effective on the day personally served in the manner provided for service of summons under the Oregon Rules of Civil Procedure; or shall be effective if mailed by certified mail, return receipt requested, on the second day after the day of mailing; or shall be effective if otherwise delivered, on the day received by the persons receiving notice.

ARTICLE X: DISTRICT BOARD FUNCTIONS

Except as provided in this Agreement, the District shall be responsible for contracting for and compensating agents and such employees as it requires to fulfill its continuing functions as the governing body of the District, and for purchasing supplies for performance of its duties, and for maintaining any insurance it desires related to its continuing functions. The District Board may receive and investigate comments and complaints from members of the public within the District concerning the City's performance of duties under this Agreement, and may pursue concerns of District residents and taxpayers with the City Fire Chief

and Gresham City Council, as the District Board believes appropriate. In order to aid the District in this role, the City Fire Department shall provide an informal monthly update to inform the District Board about activity and matters of possible public concern relating to fire and emergency services with the District, occasions for public recognition of acts of courage or voluntary service and other matters of likely interest to the Board.

ARTICLE XI: DURATION OF CONTRACT

This Agreement shall take effect on July 1, 2015 and shall be in effect until July 1, 2025 at 7:00 a.m., unless earlier terminated.

ARTICLE XII: MISCELLANEOUS

Section 1. Conformance with Laws.

Nothing herein shall be construed to conflict with State law or the Gresham City Charter.

Section 2. Amendments.

This Agreement may be amended in writing by the mutual consent of the parties.

Section 3. Captions.

The captions and headings used in this Agreement are not a substantive part of this Agreement. They are intended as a reference tool and shall not be used in interpreting the terms of this Agreement.

Section 4. Severability.

If any article, section, subsection, clause, or phrase of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid or unenforceable for any reason, such determination shall not affect the validity of the remaining portions of this

Agreement, which shall continue to be in effect, unless the invalidated provision materially alters consideration to either party to this Agreement.

Section 5. Reporting.

City shall provide regular reports of its activities under this Agreement. Upon request by District, City shall provide any information relevant to the City's performance of its obligations under this Agreement. This exception is not intended to allow District to expand regular reporting obligations of the City, but to inquire into particular matters of concern that may arise from time to time in District's monitoring of performance of this Agreement. District shall be entitled to review any documents in the possession of the City that are relevant to City's performance of its obligations under this Agreement subject to reasonable notice to City.

Section 6. Effective Dates.

This Agreement shall be in effect upon its approval by the governing bodies of the respective jurisdictions.

Section 7. Approval of Plans.

Each plan for the District formed by City pursuant to this Agreement, shall be submitted by City to the District Board for its approval, and the planning obligations of City shall not be completed unless the plan has been approved by the District Board.

Section 8. Review of Agreement.

After June 30, 2020, Gresham may notify the District in writing that it is requesting a review of the terms of this Agreement. The District shall grant Gresham's request to review the terms of this Agreement only if there are extraordinary and unforeseeable events that are outside Gresham's control that result in a nine and one-half percent (9.5%) or higher increase from the preceding fiscal year in current expenditures (excluding capital outlay and debt

Appendix A
Use of District 10 Property by the City of Gresham

WHEREAS District owns:

- The Fire Training Center and associated facilities located at 19204 NE San Rafael Street, Portland, Oregon,
- Station 75 located at 600 SE Cherry Park Road, Troutdale, Oregon
- Station 76 located at 30300 Dodge Park Blvd., Gresham, Oregon

WHEREAS City has a current need for the Fire Training Center and the Stations (together referred to as the Facilities) and has expressed an interest in acquiring the Fire Training Center in the future if City develops resources to do so, and

NOW, THEREFORE, District and City agree that the City may use the Facilities described above as follows:

1) Duration of Use. City shall have use of the Facilities during the duration of the Intergovernmental Agreement for Fire Services.

2) Purpose. The City's use of the Facilities shall be for the purpose of fire training, maintenance and housing of fire apparatus, and associated uses relating to fire protection.

3) Payment. The City's use of the Facilities is part consideration for the Intergovernmental Agreement for Fire Services.

4) Insurance. City shall maintain standard fire and other casualty insurance covering the Facilities in an amount it deems adequate. City shall obtain and maintain liability insurance covering risks arising from the use or condition of the Facilities and naming District as an additional insured, in an amount no less than statutory limitations on tort claims against public bodies, appearing in ORS 30.260 to 30.300. In addition, subject to Oregon law, City shall defend and hold District harmless of any claim or loss, of whatever nature or in whatever amount, arising out of or resulting from City's lease, possession, or use of the Facilities, other than a loss against which District is insured by a policy provided for under this paragraph. City shall be responsible for any property taxes, use taxes, fees, levies, or other demands or exactions whatsoever, and however denominated, asserted against the Facilities by any public entity during the period of City's use or possession of the Facilities (whichever is greater), and City shall be responsible for taking any action required to establish and maintain any available tax exemption of the Facilities. City shall keep the Facilities free from any liens or claims adverse to District's interest during the period of the lease or asserted at any time, arising from City's use or possession of the Facilities, or on account of obligations or asserted obligations accruing during the period of City's lease.

5) Hazardous Materials. City shall properly handle and store any hazardous materials necessary for its operations on the Facilities for the purposes provided for in the lease, and shall properly dispose of any hazardous waste off the Facilities. City shall be liable to District for any and all costs, losses, and liabilities, including but not limited to costs of investigation and expert consultation, arising from City's possession or use of hazardous materials on the Facilities

regardless of whether City acted negligently, or whether City in fact released hazardous materials, or otherwise handled such materials improperly. District's rights under this paragraph shall be in addition to any rights it may otherwise have under other portions of this lease, and under local, state, and federal law. District shall be solely responsible for the costs associated with any hazardous materials or other contamination existing on the property prior to November 14, 1996.

6) Utilities. City shall pay all utility costs relating to the Facilities, and shall dispose of all rubbish, discarded materials, clippings, and other garbage, off the site and in accordance with applicable state, local and federal laws and regulations.

7) Use of Premises by District. The District will utilize its District Office and District Board Room at Station 76, for regular and special board meetings, in accordance with the District's established practices, and at no cost or charge to the District.

8) Fire Training Programs. Subject to the other obligations of this agreement, City may sublet any portion of the Fire Training Center to public or private parties for use in connection with fire science education programs. In the event that the City should ever derive a substantial net income from training or other activities conducted at these properties, the City agrees to devote that net income to on-site capital improvements that the City determines are necessary.

9) Fixtures. All fixtures installed by City, at City's cost, may be removed by it at the expiration of the Fire Services Agreement or its earlier termination, if City can remove them without damage to District's Facilities, and if not removed such fixtures shall become the Facilities of the District without cost or charge to District.

10) Capital Replacement, Repair and Maintenance, and Major Structural Component Repair.

A) City shall, as its own sole cost, maintain the Facilities in at least as good condition as it shall be at the beginning of the lease term, except for ordinary wear and tear.

B) In the even that in the judgment of District or City, a Facility requires major repairs, outside the course of normal periodic maintenance and upkeep, District may, but is not required to, undertake such repairs at District's sole expense. If District elects not to undertake such repairs after 30 (thirty) day notice by the City may request Mediation under Section 1 of Article VIII: Disputes of this Agreement.

C) Definitions.

i) Capital Replacement means the replacement of any significant system component of a facility. Including significant mechanical components of the building such as boilers/furnaces and HVAC and air-handling systems. Also included are fire station bay doors and the doors' operating systems, as well as fire station emergency generators.

ii) Major Structural Components include building foundation, posts/beams/framing and support of the complete building shell including bearing walls, exterior sheathing/siding and roof & roof drainage system (gutters & downspouts). Major structural components also include the significant utility infrastructure of the building including the building's major plumbing and or septic system, primary wiring and electrical transformer systems. Repair or Replacement of major structural components rest entirely with the Fire District.

iii) Repair and Maintenance means both the preventive maintenance (PM) of the facility as well and the repair/replacement (R&M) of components of the building (or sidewalks or parking lots) that may be damaged, broken, deteriorated but not otherwise failed.

a) Examples of PM include periodic cleaning, lubricating, filter-changing, sealing (includes both interior and exterior painting as well as periodic sealing of roof surface material and asphalt surfaces), and inspecting of all facility system. The City shall be responsible for all normal maintenance including mechanical, electrical, etc.

b) Examples of R&M include minor repairs (as opposed to significant replacement) to roofs, exterior siding, foundation, walkways (if complete replacement due to system deterioration is not necessary), and asphalt (if complete replacement due to system deterioration is not necessary). Also repairs to interior walls, flooring, carpeting, windows, doors, lighting, ducting, HVAC (not including replacement of systems), appliances, and minor plumbing and electrical repairs. Repairs to bay doors and operators (not replacement) are included. R&M also includes pest control and reasonable landscaping.

D) Depending upon the nature and scope of work required (either PM or R&M) the project may either be accomplished by in-house Facilities Maintenance staff, or out-sourced to a qualified contractor.

E) Landscaping maintenance contracts at Station 76 will be an expense to the District outside this Agreement.

F) Financing and Administration of Maintenance and Capital Improvements. It is appropriate for the parties to establish the manner in which maintenance and capital improvements on District facilities are scheduled and financed.

i) Maintenance. The City shall maintain the District facilities used by the City in accordance with accepted Preventive Maintenance Practices City will provide the District with maintenance information upon request.

ii) Capital Improvements. The parties agree to jointly evaluate Capital Improvement for the Facilities. The District will assume responsibility for contracting for the agreed upon capital improvements. The District will contract for those services in accordance with the Oregon Public Contracting Code and will provide continuing reports to the City of the work being undertaken and completed. The City and

District will agree on costs and schedule before the District proceeds with contracting for the work.

iii) The City will be responsible for the cost of the scheduled maintenance. Because the District facilities are available for the benefit of the City's entire service area, the City will be responsible for 80 percent of the cost of agreed capital improvements, and the District will be responsible for 20 percent of that cost. The direct capital cost of a project will include the cost of a construction manager engaged by the District if the use of a construction manager is deemed necessary and appropriate by both parties. If the project cost is estimated to exceed the scheduled amounts, the parties will jointly agree upon the scope and cost of the project.

iv) In addition, the District will be entitled to an administration fee of 1.5 percent of the direct cost of a capital improvement paid by the District.

v) The City will pay to the District for the City's share of capital improvements and the contract administration fee by reducing the amounts of payments by the District to the City under the Amended Agreement.

vi) The maximum amount of reduction in any one fiscal year shall not exceed $50,000 except that payments shall be scheduled so as to fully reimburse the District by the time of expiration of the Amended Agreement.

11) Right to purchase the Fire Training Center. Should the District choose to sell the Fire Training Center, the City shall have the right of first refusal. Likewise, if the City should choose to purchase the Fire Training Center for continued use of its current purpose, the purchase price shall be the value determined by the Appraisal Process defined below. In order to exercise such right to purchase the Fire Training Center, City must deliver a Notice of Purchase in writing to District. The purchase shall be on an all cash basis free and clear of all encumbrances and monetary liens (other than non-delinquent taxes and assessments) unless otherwise agreed by the parties at the time of purchase. As used herein, the "Appraisal Process" shall mean the following process:

(A) Within thirty (30) days of the City Notice of Purchase, District shall obtain an appraisal ("District Appraisal") and provide a copy of the District Appraisal to City.

(B) City shall have thirty (30) days after receipt of District Appraisal to either accept the District Appraisal or notify District that the City intends to obtain its own appraisal.

(C) If the City elects to obtain its own appraisal ("City Appraisal"), City shall do so within thirty (30) days of the date that City notifies District that City will obtain its own appraisal.

(D) If City obtains its own appraisal, City shall provide a copy of City's Appraisal to District.

(E) District and City shall seek to reach agreement on the value of the Fire Training Center within ninety (90) days of the date the City provides District with the City's Appraisal.

(F) If the City and District cannot agree upon the appraised amount, either party can seek to have a neutral appraiser selected pursuant to the procedures of the Arbitration Services of Portland to decide whether City's Appraisal or District's Appraisal most closely is consistent with such neutral appraiser's determination of value. Such decision of the Neutral appraiser shall be deemed the appraised value (it being understood that the neutral appraiser's only authority is to select one or the other appraisal)

(G) Each appraiser used in the Appraisal Process must be a MAI appraiser with not less than ten (10) years' experience to be selected.

(H) The District reserves the right to maintain ownership, should the City's intended uses of the Fire Training Center be for other uses, development, or resale.

service) that Gresham incurs to provide fire services excluding hazmat services. The increase in expenditures must be the direct result of an unfunded mandate from another jurisdiction that Gresham must comply with, such as a change in the laws that are adopted by the Oregon Legislature, United States Congress, or a state or federal agency, or a ruling from an arbitrator as a result of mandatory binding arbitration.

Any modification to the terms of this Agreement, following a review as provided above, shall be in writing and approved by the authorized signature of each of the parties, which shall review and approve the modified Agreement individually.

DATED THIS 7th day of July, 2015.

For City of Gresham:

Shane T. Bemis, Mayor

Erik Kvarsten, City Manager

For Multnomah County Rural Fire Protection District #10:

Mike McKeel, Chairman

Vice Chairman

Director

Director

Director

Approved as to Form:

David R. Ris, City Attorney

For the District

Attachment C

City of Gresham Contract # 311012
Renewal

INTERGOVERNMENTAL AGREEMENT FOR FIRE SERVICES

THIS AGREEMENT is entered into pursuant to ORS Chapter 190 between the CITY OF GRESHAM, a municipal corporation of the State of Oregon (City), and MULTNOMAH COUNTY RURAL FIRE PROTECTION DISTRICT NO. 10, a special district organized and existing under Chapter 478 of the Oregon Revised Statutes (District), to provide fire and related services to territory within the District.

The purpose of this Intergovernmental Agreement is to renew the existing agreement for fire services and to clarify terms and provisions.

THEREFORE, the City and the District agree as follows:

ARTICLE I: DEFINITIONS

The terms used in this Agreement shall have the following meaning:

A. Apparatus means all trucks, engines, and other vehicles used in the provision of fire service.

B. Equipment means all items that are attached to, ride on, or are carried on or in apparatus or that are otherwise used in the provision of fire service.

C. Fire Service means fire prevention, fire suppression, fire investigation, fire inspection, fire code enforcement, fire education, hazardous materials response service, emergency medical service and rescue service, emergency preparedness, and fire service planning.

D. Facilities means Station 75 (600 SE Cherry Park Road, Troutdale), Station 76 (30300 SE Dodge Park Blvd., Gresham) and the Fire Training Center (19204 NE San Rafael, Portland).

ARTICLE II: SERVICE TO BE PROVIDED

Section 1. City Assumption of Service.

Beginning on July 1, 2025, at 7:00 a.m., (the expiration of the current agreement for fire services) and continuing for the duration of this Agreement, or until this Agreement is earlier terminated according to its terms, the City shall provide fire service in accordance with the specifications of this Agreement within the territory of the District excluding the City of Maywood Park.

(A) City will provide fire suppression, advanced life support, emergency medical rescue, and Operations Level hazardous materials response to all alarms as dispatched.

(B) City will provide dispatching through BOEC, or similar Public Safety Answering Point (PSAP), and telecommunication services including operations and maintenance.

(C) City will provide an active health and safety program meeting all OSHA requirements.

(D) City will provide personal-protective clothing and equipment, including uniforms, for all response personnel.

(E) City will provide an emergency preparedness plan including pre-incident planning for high-risk occupancies.

(F) City will provide on-going career development and training for all personnel.

Section 2. Level of Service.

The City will provide a minimum level of service within the area of the District that is consistent with the service provided within comparable areas of the City; but in no event less than the level of service more specifically required by other provisions of this Agreement, including, but not limited to, Article II. Section 4.

Fiscal constraints could require a reduction in service. If events occur that require a material service reduction, the City will notify and confer with the District prior to any reduction. In the event that the City implements a material service reduction, District shall have the right to notify the City in writing that it is requesting a review of the terms of this Agreement. That notice must be provided within 60 calendar days of the City's implementation of any material service reduction. If the parties are unable to reach agreement after good faith negotiations, the parties shall resolve the dispute by utilizing the procedures set forth in Article VIII of this Agreement.

Section 3. Assumption of Contracts.

The City shall continue to participate in the Multnomah County Fire Mutual Aid Agreement, as signed on October 19, 2004.

Section 4. Station Staffing and Apparatus

(A) The City Fire Chief may relocate and reassign personnel from any fire station under the Chief authority to another, as may be necessary for the efficient provision of fire services, so long as, at all times, the staffing, personnel qualifications, and fire service standards required by this Agreement are met.

(B) City will provide fire services to the District territory from City stations, Station 75 for so long as the City provides fire services to the City of Troutdale and by staffing Station 76. All City fire personnel providing fire service to District territory covered by this agreement will meet or exceed NFPA standards for the position to which they are assigned. No less than one qualified career officer and two qualified career firefighters will be assigned to, and shall actually staff Station 76, 24 hours per day. Station 76 shall not be left unoccupied because of drills or meetings except for an average of 15 hours per week. City shall use reasonable efforts

to minimize the downtime of any assigned apparatus at Station 76. When Station 76 is unoccupied, a neighboring station will be fully staffed in order to cover calls otherwise covered from Station 76.

(C) The City will maintain all apparatus and other equipment belonging to the District in good condition and repair, including maintaining the District 10 designation, number, color, and design on apparatus. City will not change the station sign from a District 10 sign, or add City of Gresham insignia or name to the apparatus or District stations except as may be approved by the District. The City will retain ownership of fire equipment and be responsible for fire equipment, replacement (including, but not limited to, all items that are attached to, ride on, or are carried on or in apparatus or that are otherwise used in, the provision of fire service) and replacement of supplies. District will be responsible for replacement of apparatus provided by District pursuant to this Agreement.

(D) City shall do the following:

(1) Provide facilities maintenance/repair for stations, structures, and grounds as further described in Appendix A, Use of District 10 Property by the City of Gresham.

(2) Provide routine apparatus maintenance and repair for fire apparatus and vehicles including all annual certification testing.

(3) Provide routine equipment maintenance, repair, and replacement for all portable equipment, including tools, small engines, and radios.

(4) Provide an apparatus replacement schedule and make recommendations to the District Board for management of apparatus in the District's best interests.

(E) The City shall only have the use of the District's facilities, fire apparatus and equipment. The ownership of these properties shall always remain with the District. The

District shall provide not less than one Type I, Class A, Triple-Combination Fire Engine throughout the duration of this agreement. The front-line usage of this Engine is expected to be twelve years, but is not to exceed fifteen years. The District will retain the current Engine for use as a Reserve Engine upon receipt of its replacement.

Section 5. Inspection and Education Services.

(A) City will provide fire safety inspections in schools annually.

(B) City will provide fire cause determinations on all fires as stated in Oregon Revised Statutes.

(C) City will provide scheduled resources for public education. The City's ability to provide public safety education depends on the cooperation of the requestor in providing adequate notification for scheduling events and the committed distribution of resources during the requested time.

Section 6. Community Relations.

City shall do the following to support community relations in the territory of the District described in this Agreement:

(A) Participate in neighborhood associations.

(B) Participate in community events.

(C) Provide station tours and open houses.

(D) Participate in fire prevention week activities.

(E) Provide an active residential smoke detector program to low-income residents.

Section 7. Other Services.

(A) City will include within any Fire Protection Strategic, Long Range, or Master Plan, the District's territory subject to this Agreement.

(B) City will provide data management services, including all incident reporting, hazardous materials incident reporting, site surveys, and pre-fire surveys.

(C) City will cooperate with the District on future fire suppression contracts that will benefit the ratepayers of the District.

ARTICLE III: FINANCIAL OBLIGATIONS

Section 1. Agreement Amount.

During the term of this Agreement, the total cost of providing service to the District will be determined for each fiscal year by applying the rate of $1.90 to each $1,000 of assessed value, for all taxable property within the District as of the date that this agreement is fully executed. In determining the assessed value of all property within the District, no taxable property within the incorporated boundary of the City of Maywood Park shall be included.

Section 2. Time of Payment.

District shall pay to City the amount described in Article III, Section 1, in three equal installments on or before January 1, April 1 and June 1 of that fiscal year.

Section 3. Withdrawals.

If the area of the District is reduced by withdrawal of territory from the District, the amount to be paid City under this Agreement will be likewise reduced in the same proportion that the assessed valuation of the property withdrawn bears to the assessed valuation of the property remaining in the District. The intent of the parties is to provide that District's monetary obligation to City shall be based indirectly on the tax revenues that the District can raise during the contract year; and therefore, if at any time, the District loses tax revenues or is required (as for instance by the operation of ORS 311.821) to refund or pay over to another entity property

taxes as a result of a boundary change, District shall be entitled to a reduction in its contract amount that is proportional to that loss of tax revenues.

"Assessed value" as used in this Agreement means the assessed value of all real, personal, manufactured and utility property located within the District, according to the most recent valuations maintained by the Multnomah County Assessor utilizing the administrative rules of the Oregon Department of Revenue.

The contract amount for the first scheduled payment of each year shall be made on District's best, good faith estimate of the taxable property values for that period, and this payment shall be adjusted according to the actual assessment figures for the taxable property, when those actual figures are available, and the following scheduled payment will be increased or decreased, as the case may be, in order to make the totals paid for the year consistent with the assessment of taxable property.

Section 4. Annexation – Mergers – Consolidations – Disincorporation's

The District must notify the City of any impending annexation(s), mergers, consolidations, or disincorporation within a minimum of 120 calendar days before the annexation would take effect, or as soon as the District is aware of potential annexation, whichever is later.

If the geographic area or political or taxable boundary of the District is extended by annexations, mergers, consolidations, or disincorporation of territory, then Article III of this Agreement may be reopened for negotiation between the parties. The District and City agree the purpose of reopening terms of this Agreement is to adjust the agreement, including increasing the amount to be paid to the City, to account for the change to the service area and other impacts.

If the parties do not reach an agreement on the amended terms of Article III within 60 calendar days following the reopener notification, then either party may request mediation under Section 1 of Article VIII: Dispute of this Agreement, and the amendment will be resolved through mediation as described in Section VIII.

ARTICLE IV: PROPERTY TRANSFER

Section 1. Real Property and Major Apparatus.

The City shall use the real property and apparatus for the purposes of this Agreement, subject to the obligations of this Agreement, and City does not obtain any right, title, or interest in such real property and apparatus except the right to have temporary possession and to use the property for the purposes of fulfilling its obligations under this Agreement and conditioned on City's performance of this Agreement without breach.

Section 2. Insurance.

City shall insure at all times real property and personal property, including non-firefighting furnishings, equipment, and computers of the District described in this Agreement, for replacement value, with the District named as loss payee. City shall also insure the apparatus and equipment described in this agreement at actual cash value. If City self-insures as to any class of property for which insurance is otherwise required, City is not required to purchase third party insurance for such property of the District; but in any case, City shall be liable to the District for damage or loss of such property, without regard to City's fault.

ARTICLE V: INDEMNIFICATION

Subject to Oregon law, the City will indemnify, defend, and hold harmless the District and Board members, employees and agents, from any loss, damage, or expense (including but not limited to attorney fees) or liability to third parties asserted to arise from the City's

performance or nonperformance of fire services, or from the operation, maintenance, or condition of any property, real or personal, in the possession of the City as a result this Agreement.

ARTICLE VI: TERMINATION

Section 1. Right to Terminate.

Prior written notice is not required (of either party) for termination for material breach; however, the terminating party must first seek mediation under Article VIII: Disputes before the effective date of the termination for material breach.

Section 2. Return of Property on Termination.

Upon the termination of this Agreement, or the termination of the City's right to provide fire service if earlier, City shall return to District the possession of the apparatus received by City from District. City shall return to District the possession of the real property, the use of which City obtained under this Agreement.

Section 3. Assumption of Contracts.

Effective on the date of termination of this Agreement under this Article, the District shall assume the obligations or contracts of the City which are appropriate to the District's resumed operation of fire services and emergency medical services.

Section 4. Cancellation of Insurance.

Effective on the date of termination of this Agreement under this Article, City shall cancel the insurance required by Article IV, Section 2. City shall provide District with an inventory of property returned to District, and any schedules of fire value of such property that the City may have, and all other information the City may have necessary for District to obtain

adequate insurance coverage of the property after termination; and City shall provide that information sufficiently prior to cancellation of insurance to allow District a reasonable time to obtain replacement insurance.

ARTICLE VII: SUBCONTRACTS

The City may not subcontract for services required of it under this Agreement, without the express prior approval of the District Board. Nothing in this Agreement shall be construed to prohibit the City from subcontracting for the provision of fire services within its boundaries at the time of the subcontract. The rights and duties of the District are controlled solely by this Agreement, regardless of any inconsistency between this Agreement and any other contract.

ARTICLE VIII: DISPUTES

Section 1. Mediation.

Except as otherwise provided, neither party to this Agreement is entitled to initiate litigation, or to terminate the contract for material breach, without first seeking mediation of any dispute that is to be the basis of litigation or termination. The party having the obligation to seek mediation must give the other party notice of the basis upon which termination or litigation would be initiated and demand mediation. The parties shall designate a mutually acceptable mediator, and shall attend and participate in at least one session of mediation. The cost of the mediation shall be shared equally between the parties unless they otherwise agree. If the parties cannot agree to a mediator, each party shall designate one person, and the two persons thus designated shall select a third person, and the three persons so selected shall determine the mediator by majority vote. If either party shall seek or pursue mediation of a claim, as required in this section, the party who failed to mediate shall not be entitled to seek any relief based on

that claim in any subsequent litigation, unless the obligation to mediate was excused by the refusal of the other party to mediate.

Section 2. Remedies Upon Breach.

(A) Upon a breach of the obligations of this Agreement which presents a potential danger to life or property of the public, the party asserting the breach shall have the right to take such steps as are appropriate to protect the public, with or without termination of the contract, and the cost of such measures to protect the public may be collected from the other party as part of damages for breach. Termination of this Agreement for breach of the obligations of this Agreement which presents a potential danger to life or property of the public shall be made effective immediately upon notice to the other party, or upon a date and time for termination fixed in the notice of termination, and the party asserting breach need not seek mediation prior to termination; but shall seek mediation following termination to determine the consequences of termination. Upon breach of this Agreement under this subsection the party asserting breach shall have the right to any additional remedy provided under Subsection (B) of this section, following mediation as provided in that subsection.

(B) If either party believes the other has committed a breach of this Agreement other than as provided in Subsection (A), the party claiming a breach shall provide written notice of the breach to the other party, and an opportunity of not less than 30 days to cure the breach; and may initiate mediation as provided in Section 1, above, before or after the 30-day period for cure. If the breach is not cured within 30 days after the notice, and if the party asserting breach has satisfied the requirement to seek mediation under Section 1, above, the party shall have a right to any of the following remedies, or any combination of them, for breach by the other party:

(1) Termination of this Agreement based on material breach;

(2) Damages;

(3) Injunctive relief to require specific performance of any provision of this Agreement;

(4) Injunctive relief pending litigation of other claims;

(5) Any other remedy otherwise available at law or in equity.

(C) Under no circumstance shall this Agreement be construed to provide the basis for an order directing either the District or the City to adopt an ordinance, call for an election, or levy taxes or appropriate funds.

(D) Should either party be required to initiate litigation to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees and expert witness fees incurred in the litigation, in mediation entered into as a condition precedent to suit, and upon any appeal or other proceeding relating to the litigation.

(E) If the District does not pay the amounts called for under this Agreement for any reason, such nonpayment shall be a breach of this Agreement subject to immediate termination by the City. The City shall be entitled to damages only in the amount of out-of-pocket costs incurred as a result of such breach. City shall not be released from its obligation to provide fire services under this Agreement (so long as this Agreement is not otherwise terminated) so long as District is ready, able, and willing to pay City for fire services at the rate provided in this Agreement, applied pro rata to the period for which service is requested. If either party becomes subject to new legislation or a new interpretation of existing legislation that materially impairs its ability to perform its obligations under this Agreement, the parties agree to reopen the negotiation of the terms of this Agreement; and if they are unable to agree, either party may terminate this Agreement upon six months' notice to the other party.

ARTICLE IX: NOTICES

Section 1. Notices.

(A) All written notices, inquiries and other communications concerning the subject matter of this Agreement, or called for by this Agreement, if directed to the District, shall be sent to:

(1) Chairman, Multnomah County Fire Protection District 10, P.O. Box 517, Troutdale, Oregon 97060

(B) If directed to the City, such written notices and other communications shall be addressed to:

(1) City Manager, 1333 N.W. Eastman Pkwy., Gresham, Oregon, 97030;

(2) Fire Chief, 1333 N.W. Eastman Pkwy., Gresham, Oregon, 97030:

Section 2. Effective Dates.

Notice shall be effective on the day personally served in the manner provided for service of summons under the Oregon Rules of Civil Procedure; or shall be effective if mailed by certified mail, return receipt requested, on the second day after the day of mailing; or shall be effective if otherwise delivered, on the day received by the persons receiving notice.

ARTICLE X: DISTRICT BOARD FUNCTIONS

Except as provided in this Agreement, the District shall be responsible for contracting for and compensating agents and such employees as it requires to fulfill its continuing functions as the governing body of the District, and for purchasing supplies for performance of its duties, and for maintaining any insurance it desires related to its continuing functions. The District Board may receive and investigate comments and complaints from members of the public within the District concerning the City's performance of duties under this

Agreement, and may pursue concerns of District residents and taxpayers with the City Fire Chief and Gresham City Council, as the District Board believes appropriate. In order to aid the District in this role, the City Fire Department shall provide an informal monthly update to inform the District Board about activity and matters of possible public concern relating to fire and emergency services with the District, occasions for public recognition of acts of courage or voluntary service and other matters of likely interest to the Board.

ARTICLE XI: DURATION OF CONTRACT

This Agreement shall take effect on July 1, 2025, and shall be in effect until July 1, 2035, at 7:00 a.m., unless earlier terminated.

ARTICLE XII: MISCELLANEOUS

Section 1. Conformance with Laws.

Nothing herein shall be construed to conflict with State law or the Gresham City Charter.

Section 2. Amendments.

This Agreement may be amended in writing by the mutual consent of the parties.

Section 3. Captions.

The captions and headings used in this Agreement are not a substantive part of this Agreement. They are intended as a reference tool and shall not be used in interpreting the terms of this Agreement.

Section 4. Severability.

If any article, section, subsection, clause, or phrase of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid or unenforceable for any reason, such determination shall not affect the validity of the remaining portions of this

Agreement, which shall continue to be in effect, unless the invalidated provision materially alters consideration to either party to this Agreement.

Section 5. Reporting.

City shall provide regular reports of its activities under this Agreement. Upon request by District, City shall provide any information relevant to the City's performance of its obligations under this Agreement. This exception is not intended to allow District to expand regular reporting obligations of the City, but to inquire into particular matters of concern that may arise from time to time in District's monitoring of performance of this Agreement. District shall be entitled to review any documents in the possession of the City that are relevant to City's performance of its obligations under this Agreement subject to reasonable notice to City.

Section 6. Effective Dates.

This Agreement shall be in effect upon its approval by the governing bodies of the respective jurisdictions.

Section 7. Approval of Plans.

Each plan for the District formed by City pursuant to this Agreement, shall be submitted by City to the District Board for its approval, and the planning obligations of City shall not be completed unless the plan has been approved by the District Board.

Section 8. Review of Agreement.

After June 30, 2030, Gresham may notify the District in writing that it is requesting a review of the terms of this Agreement. The District shall grant Gresham's request to review the terms of this Agreement only if there are extraordinary and unforeseeable events that are outside Gresham's control that result in a nine and one-half percent (9.5%) or higher increase from the preceding fiscal year in current expenditures (excluding capital outlay and debt

service) that Gresham incurs to provide fire services excluding hazmat services. The increase in expenditures must be the direct result of an unfunded mandate from another jurisdiction that Gresham must comply with, such as a change in the laws that are adopted by the Oregon Legislature, United States Congress, or a state or federal agency, or a ruling from an arbitrator as a result of mandatory binding arbitration.

Any modification to the terms of this Agreement, following a review as provided above, shall be in writing and approved by the authorized signature of each of the parties, which shall review and approve the modified Agreement individually.

DATED THIS 18th day of February, 2025.

For City of Gresham:

Travis Stovall, Mayor

Eric Schmidt, City Manager

For Multnomah County Rural Fire Protection District #10:

Mike McKeel, Chairman

Vice Chairman

Director

Director

Director

Approved as to Form:

Ellen Van Riper, City Attorney

For the District