

INTERGOVERNMENTAL AGREEMENT FOR USE OF CITY PROPERTY

BETWEEN: Sweet Home Fire and Ambulance District, (“District”)
an Oregon Special District under ORS Chapter 478,

AND: City of Sweet Home, (“City”)
an Oregon municipal corporation.

EFFECTIVE: September 1, 2020.

RECITALS

- A.** City owns a building known as the old City Hall building (“City Hall”) located at 1140 12th Avenue in the City of Sweet Home (“Property”).
- B.** District desires to make use of City Hall for fire personnel training purposes and related District uses. City has no present use for City Hall or the Property and is willing to allow District to make use of City Hall as set forth in this Agreement. The City plans to demolish City Hall once the City develops its future plans for the Property.

AGREEMENT

Now, therefore, in consideration of the foregoing Recitals, which by this reference are incorporated herein, and of the mutual covenants, conditions and obligations on the part of each party to be kept and performed, it is hereby agreed as follows:

1. Term; Possession.

1.1 Term. The Agreement term shall commence on the effective date and continue until terminated as provided in this Agreement.

1.2 Acceptance of City Hall. City allows District to use and occupy City Hall as provided in this Agreement. District accepts City Hall and Property “AS IS,” with no expectation of improvements or significant repairs made by the City.

2. Consideration. City agrees to allow District’s use of City Hall as set out in this Agreement without payment. City’s consideration is District’s obligations under this Agreement and the benefits to the community in providing a place for District to train its fire personnel.

3. Use of City Hall and Property.

3.1 Permitted Use. District shall have the right to use and occupy City Hall for training purposes, so long as such training does not include live fire, water or purposeful destruction of the building or its fixtures. Generally speaking, the allowed

training activities are known as “dry” fire and rescue training and may include use of smoke. District may also make use of City Hall as a space for personnel exercise and work-outs.

3.2 Compliance with Laws. In connection with its use, District shall comply, at its sole expense, with all applicable federal, state and local laws, regulations and requirements of any public authority, including those regarding maintenance, operation and use of City Hall and the Property, except that District may withhold compliance in connection with a good faith dispute so long as City’s property interest is not jeopardized. City believes that the Property is free from all hazardous substances; however, District shall satisfy itself as to the condition of the Property prior to commencement of this Agreement.

4. Maintenance and Alternations. District, at its sole expense, shall keep City Hall in good repair, taking into account the age of City Hall and its intended future destruction. District’s obligation is to maintain the structure in a safe and habitable condition; District is not responsible for athletics or fitness of City Hall as an office space. District’s maintenance obligation will include keeping City Hall free of trash and providing basic janitorial services. District is responsible for securing City Hall from uninvited guests. District will not be obligated to make repairs or improvements to City Hall that would incur expenses in excess of \$5,000 in the aggregate over the term of this Agreement. City shall maintain the exterior areas of the Property, including the land, parking areas, sidewalks and landscaping. If repairs to City Hall would necessitate expenditure in excess of \$5,000, neither party is obligated to make such repairs, but either party may immediately terminate this Agreement if such repairs are necessary to maintain habitability of City Hall for District’s intended uses. City acknowledges that District’s training exercises and use of City Hall may damage non-structural elements of City Hall such as floor coverings and interior walls; District will be under no obligation to make repairs to such non-structural elements of City Hall.

5. Payment of Utilities Charges. District’s use of City Hall includes the use of the following basic utilities: water, sewer, and electricity. District shall be responsible for these basic utility charges and will reimburse City for the basic utility charges upon request by City.

6. Indemnification of City. To the extent permitted by the Oregon Constitution and subject to the Oregon Tort Claims Act, District will indemnify and hold City and City’s officers, employees and agents harmless against any and all claims, demands, losses, liabilities, costs and expenses (including, without limitation, attorney fees at trial and on any appeal or petition for review) arising during the term of this Agreement on account of injury to any person or damage to any property caused by District’s actions or inactions in relation to District’s use of the Property. District will not be required to indemnify or defend City for any liability arising out of acts of a third party, or a third party’s officers, employees, or agents. The provisions of this paragraph shall survive the expiration or earlier termination of this Agreement.

7. Insurance. District shall continuously maintain at its expense throughout the term of this Agreement public liability and property damage insurance with the combined single limit of not less than One Million Dollars (\$1,000,000). Such insurance shall provide coverage for bodily injury, death or property damage in connection with District's use and occupancy of the Property.

8. Casualty Damage. If fire or other casualty causes damage to any improvements on the Property, City in City's sole discretion shall decide whether insurance proceeds covering the Property shall be used for the repair or replacement of such improvements. City shall not have any obligation to repair or replace City Hall. If City elects to not make repairs or replace damage to the Property, and the damage reasonably impacts District's use, District may immediately terminate the Agreement upon written notice to City.

9. Termination. This Agreement may be terminated by either party with or without cause upon giving 30 days' prior written notice to the other party. Termination will not impact District's obligations under Section 5 to reimburse City for basic utility charges up through the date of termination. Upon termination, District shall vacate City Hall and tender occupancy of City Hall to City free of District equipment and other personal property and in a broom clean condition, wear and tear excepted taking into account Section 4.

10. Dispute to be Arbitrated. If any dispute arises between the parties, either party may request arbitration. The parties shall choose an arbitrator. If the choice of an arbitrator is not made within ten (10) days, then either party may apply to the presiding judge of the Linn County Oregon Circuit Court for the appointment of the required arbitrator. The arbitrator shall proceed according to the Oregon Uniform Arbitration Act, ORS 36.600 et seq., and the award of the arbitrator shall be binding upon both parties.

11. General Provisions.

11.1 Nonwaiver. Waiver of performance of any provision of this Agreement shall not be a waiver of nor prejudice the party's rights otherwise to require performance of the same provision or any other provision.

11.2 Transfer. District shall not transfer its interests under this Agreement to a third party.

11.3 Notices. Any notice required or permitted under this Agreement shall be given when actually delivered or when deposited with postage prepaid in the United States mail as registered or certified mail, addressed as follows:

To City: Ray Towry, City Manager
 City of Sweet Home
 3225 Main St
 Sweet Home, OR 97386

To District: Dave Barringer, Fire Chief
Sweet Home Fire and Ambulance District
1099 Long St
Sweet Home, OR 97386

or to such other address as may be specified from time to time by either of the parties in writing.

11.4 Inspection. City shall have the right to enter upon the Property for inspecting District's compliance with this Agreement or to perform needed repairs. Entry shall be at reasonable times following notice to District except in case of emergency.

11.5 Entire Agreement. This Agreement contains the entire agreement between the parties concerning the Property and supersedes all prior agreements, oral and written. This Agreement may be modified only in writing, signed by the parties.

City

District

By: Ray Towry
Title: City Manager
Date: _____

By: Dave Barringer
Title: Fire Chief
Date: _____