

RESOLUTION No. 2016-3254

**A RESOLUTION AUTHORIZING THE CITY MANAGER PRO TEM TO
NEGOTIATE AND EXECUTE AN INTERGOVERNMENTAL AGREEMENT
WITH TUALATIN VALLEY FIRE & RESCUE FOR PROVISION OF FIRE
AND EMERGENCY MEDICAL SERVICES**

RECITALS:

1. Oregon Revised Statute 190.010 provides that units of local government may enter into agreements for the performance of any and all functions and activities that any party to the agreement, its officers, or agents have authority to perform.
2. The City has concerns of maintaining adequate levels of service in the delivery of Fire/EMS.
3. Tualatin Valley Fire and Rescue (TVF&R) currently provides Fire/EMS services to three (3) counties and nine (9) cities with a service area that borders the service area of the City of Newberg Fire/EMS.
4. TVF&R is willing to provide Fire/EMS services for a period of two (2) years to the City that will meet and exceed the needs of the City in delivery of Fire/EMS through an intergovernmental agreement (IGA) which is attached as Exhibit "A".
5. The IGA will give the City the needed levels of service in Fire/EMS at a cost far below the cost of the City providing the same level of service.
6. Both parties see the IGA period as an opportunity to further explore possible annexation into TVF&R through a voter-approved ballot initiative.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Manager Pro Tem is hereby authorized to complete negotiations and execute an IGA to be substantially in the form attached as Exhibit "A" and by this reference incorporated, providing City Fire/EMS services be delivered by Tualatin Valley Fire & Rescue.
2. The IGA shall be subject to the review and approval of the City Attorney as to form and content.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: March 8, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of March, 2016.


DawnKaren Bevill, Deputy City Recorder

ATTEST by the Mayor this 10th day of March, 2016.



Bob Andrews, Mayor

- 1 3) To maintain uninterrupted fire protection and advanced life support
2 emergency medical services at the City's two fire stations, beginning July 1,
3 2016, by staffing each station with a three-person engine company and a two-
4 person medic company twenty-four [24] hours per day, seven days a week.
5
- 6 4) Under no circumstances is the District liable to the City for an interruption or
7 failure of service due to acts of God, unavoidable accident, or other
8 circumstances beyond the control of the District.
9
- 10 5) To maintain mutual aid agreements and automatic aid agreements as may be
11 appropriate for the effective provision of fire protection and emergency
12 services.
13
- 14 6) To provide fire and life safety plan review for new development and
15 construction consistent with applicable codes and ordinances within the
16 Service Area.
17
- 18 7) To investigate fires.
19
- 20 8) To review and propose fire codes and ordinances for adoption.
21
- 22 9) To perform fire inspections.
23
- 24 10) To enforce applicable codes, ordinances, regulations and statutes.
25
- 26 11) To conduct public education programs.
27
- 28 12) To maintain, for the Service Area, accurate records as may be required by the
29 Insurance Services Office, the Oregon State Fire Marshal, and Yamhill
30 County.
31
- 32 13) To participate in mutual aid agreements with all fire protection providers
33 which are contiguous with the City and Newberg Rural Fire Protection
34 District pursuant to the County-Wide Mutual Aid Agreement and establish
35 and maintain automatic aid agreements in areas in which service might be
36 improved by such agreements.
37
- 38 14) To coordinate activities with other City departments. Such activities shall
39 include, but not be limited to emergency management, fire and life safety
40 plans review, water supply and hydrant maintenance, etc.
41
- 42 15) To participate in traditional community events and new events as appropriate.
43

1
2 16) To ensure compliance with all applicable state and federal mandates.
3

4 Compensation
5

6 Effective July 1, 2016, the City hereby subcontracts the Newberg Ambulance Service
7 Area (ASA) to the District that is currently being served by the City, and that all revenue
8 generated by the operation of this ASA from the effective date is solely revenue of the
9 District. The District agrees to comply with all the terms, conditions and performance
10 criteria standards established for operation of the Newberg Ambulance ASA as set forth
11 in the Yamhill County Ambulance Service Area Plan dated December, 2004, and any
12 revisions thereto.
13

14 In consideration for the services to be provided by the District, and the other terms and
15 conditions of this Agreement, the City agrees to pay the District \$4,942,608 for the first
16 12-month period commencing on July 1, 2016 which is inclusive of a \$500,000 ASA
17 transition funding loan and ending June 30, 2017 and \$3,482,238 which is inclusive of
18 the \$500,000 ASA funding loan repayment for the second 12-month period commencing
19 on July 1, 2017 and ending on June 30, 2018. This \$500,000 ASA transition funding is
20 intended to address the collection lag time in ASA revenues billed after July 1, 2016 after
21 transfer of the ASA to the District from the City.
22

23 It is the intent that the City and the District will work towards an annexation process that
24 would occur no later than the end of the 24-month contract period, which will provide for
25 the long term funding needed for the District to provide services to the service area at the
26 levels requested.
27

28 For each contract year, payment shall be made in equal monthly installments on the 1st
29 working day of every month by direct deposit in to the District's local government
30 investment pool account. Penalty for late payment shall take effect on the 5th working day
31 of the month and shall be the greater of a \$50 minimum late fee or the prorated monthly
32 interest rate of the Local Government Investment Pool of the preceding month times the
33 days late.
34

35 Effective July 1, 2016, in addition to the compensation listed above, the City agrees, for
36 the duration of this Agreement, to provide the District with any revenue that is still being
37 collected from the operation of the ASA prior to July 1, 2016 and that is in excess of
38 \$1,400,000 of the ending fund balance in the City's EMS Fund. This EMS Fund is
39 \$576,000 as of March 1, 2016 and is expected to receive additional ASA collections on
40 billings through June 30, 2016 as per past City practices. Amounts received between July
41 1, 2016 and July 20, 2016 will be paid on August 1, 2016. Thereafter, the amount
42 received by the 20th day of each month will be paid on the first day of the following
43 month. This payment will be included with the equal monthly contract payments, but
44 clearly delineated as "past ASA revenue".
45
46
47

1 Term

2
3 The term of this Agreement shall be for a period of 24-months commencing on July 1,
4 2016, and terminating on June 30, 2018. However, the parties shall decide on or before
5 June 30, 2017 whether it is in the interest of the parties respectively to pursue annexation
6 of the territory within the City to the District for purposes of fire and emergency services.
7 In the event the parties determine that annexation is in their best interests, they shall work
8 together in the second year to effect such result. In the event, however, that either party
9 determines it is not in their best interest, the parties shall work together to effectively
10 disassemble the contractual relationship and restore the fire and emergency services
11 under the auspices of the City. If termination is the result, such termination will occur
12 upon expiration of this Agreement.

13
14 If, while pursuing annexation, either party reconsiders and determines that annexation is
15 not in their best interest, either party may terminate this Agreement, without cause, upon
16 notice of not less than 365 days.

17
18 Intergovernmental Communication/Governance

19
20 An intergovernmental council (IGC) composed of six representatives – two City Council
21 members, two District Board members, the City Manager, and the District Fire Chief -
22 shall meet to receive information of interest to the parties and to make recommendations
23 to the governing bodies on policy relating to fire protection and emergency service within
24 the City.

25
26 Committee meetings shall be scheduled at least quarterly but may be cancelled if the
27 parties agree that specific meetings are not required. Special meetings can be called by
28 agreement of any two members of the IGC upon not less than ten (10) days' notice.
29 Emergency meetings may be called by agreement of any two members of the IGC as
30 allowed under Oregon Public Meetings law.

31
32 The governing bodies of the parties, i.e., the City Council and District Board of Directors,
33 shall meet together at least every six months to discuss issues which are of interest or
34 concern to either party. Emergency or additional meetings may be called upon agreement
35 of both presiding officers or by a majority request of either governing body. All meetings
36 held under this paragraph shall be deemed "public meetings" under Oregon law.

37
38 The District shall notify the City of all new developments, issues, or concerns affecting
39 operations of the District within the City. The City shall notify the District of any
40 developments or issues affecting the provision of services under this Agreement.

41
42 The District shall provide service, as described above, within the territorial limits of the
43 City, the area of the Newberg Rural Fire Protection District currently served by the City
44 through contract, and the Newberg ASA. Increase of the Service Area territory by
45 annexation of territory to the City or Newberg Rural Fire Protection District shall require
46 prior notification to the District.

1 Administration

2
3 The City Council and the District Board of Directors of each party will be responsible for
4 oversight of this Agreement on behalf of their entity and shall have the authority to act in
5 identifying elements of potential or pending breach or pointing out areas for possible
6 improvement.

7
8 The City will be responsible for notifying Yamhill County of the subcontracting of the
9 Newberg ASA and will submit this written Agreement to the Administrator of the
10 Yamhill County ASA Ordinance prior to July 1, 2016. If the parties determine that it is in
11 their best interests to proceed with annexation, the parties will work together to effect the
12 transfer of the Newberg ASA to the District.

13
14 The District Fire Chief shall have the sole authority to direct the day-to-day delivery of
15 fire and emergency services within the City.

16
17 The principal office for administrative functions shall be the District's Command and
18 Business Operations Center located at 11945 SW 70th Avenue, Tigard, OR 97223.

19
20 The City agrees that the District shall not be required to duplicate those efforts or services
21 regularly provided by other governmental agencies to the City, nor shall District be
22 required to provide any services which are, or are hereafter, reserved by law for any other
23 governmental agency.

24
25 Personnel

26
27 The terms, conditions, and limitations by which City employees are conditionally
28 transferred to the employ of the District, integrated into the Districts existing workforce,
29 and continue as members of IAFF Local 1660, are established and executed pursuant to
30 the terms of the Memorandum of Understandings ("MOUs") executed between Local
31 1660 and the District, dated as set forth on the MOUs, and are incorporated in Exhibit B.
32 IAFF Local 1660 has represented the employees of the City and the District in
33 negotiating the provisions of Exhibit B for represented employees. The parties agree that
34 they will take all actions necessary to effect the provision of the MOUs. In the event of
35 unforeseen issues with implementation, the parties agree to work with each other in good
36 faith to resolve all issues.

37
38 Any reference to "Operational Contract" references this Agreement. All references to
39 Functional Consolidation in the MOUs refer to an implementation date of July 1, 2016.
40 All references to Functional Consolidation Period mean from July 1, 2016 until such time
41 as annexation is effective and the employees are fully transferred pursuant to ORS
42 chapter 236, or this Agreement is terminated by the parties and the City employees are
43 fully reinstated back to the City pursuant to ORS chapter 236. With regard to
44 "dovetailed" lists, the intent is to merge the lists based on both department seniority and
45 classification seniority dates.

1 Employees will be transferred as conditional employees to the District effective July 1,
2 2016.

3
4 As per ORS 236.610(4)(B), each employee of the City may elect to retain up to 80 hours
5 of vacation leave; and per ORS 236.610(4)(C) retain additional vacation leave based
6 upon the City paying to the District the sum equal to the number of hours of accrued
7 leave retained times the employee's hourly rate of pay fully rolled up for PERS and other
8 payroll taxes such as FICA, Tri-Met and Workers Benefit tax. This payment is over and
9 above the amount of Compensation due to the District as per this agreement.

10
11 As per ORS 236.610(7), both the City and the District participate in Oregon PERS. Any
12 and all PERS unfunded liability and or surplus of the City for its current and prior
13 employees shall remain as a City surplus or liability. Within 60 days of the employee
14 transfer to the District, the District shall be responsible to deliver to the Public Employees
15 Retirement Board this written agreement between the District and the City meeting the
16 requirements of ORS 238.231.

17
18 Due to the limited and conditional transfer and acceptance of the City employees,
19 payment of employee sick leave by the City to the District is not required at this time. In
20 the event of annexation of the territory within the City to the District, the City and the
21 District shall negotiate a mechanism to resolve any transferred sick leave balances as part
22 of an annexation agreement. The parties anticipate that mechanism may include an
23 acceptance by the District of payment from the City which may be partially or wholly in
24 a form other than cash.

25
26 The City and the District acknowledge during the operational and functional
27 consolidation period, prior to expected annexation, that, for PERS retirement purposes,
28 the City shall retain responsibility to report sick leave earned through the effective date of
29 the employee transfer, July 1, 2016, and the District will report to PERS, at retirement of
30 each employee, only such sick leave as has been earned as a legal District employee after
31 July 1, 2016.

32
33 For purposes of sick leave accounting while a District employee, the utilization of sick
34 leave shall be first counted against balances earned while a District employee. The
35 District agrees to retain financial responsibility for ordinary sick leave usage of
36 firefighting and day staff during the course of this Agreement. For individual employee
37 usage above their hours earned while working for the District, at the conclusion of the 24-
38 month contract period, the City shall reimburse the District for sick leave usage in excess
39 of the sick leave hours earned at the District rates of pay.

40
41 The City employees shall retain their general service or police and fire status for PERS
42 which they had at the time of their limited and conditional transfer to the District. City
43 employees not in PERS shall have a one-year period as per ORS 236.620(1)(b) to remain
44 in the City retirement plan. This election must be made by the employee by July 1, 2016
45 in writing.

1 Upon termination of this Agreement, the District shall return, and the City shall accept,
2 all City employees who were employees of City at the time of the limited and conditional
3 transfer of the employees to the District and who are employees of District at the time of
4 termination of this Agreement. The transfer back of City employees shall be at the rank
5 and grade they held at the time of their limited and conditional transferred to the District,
6 subject to the agreements that City may have with its own employees.
7

8 Upon the effective date of this Agreement, the District will enroll City fire department
9 volunteers meeting the qualifications of District Firefighter or Responder Volunteer into
10 the District's LOSAP program, and the District agrees, upon annexation of the territory
11 within the City to the District, to credit the City volunteers who have remained on active
12 service with up to two (2) additional years past service credit.
13

14 Workers Compensation

15
16 The City shall remain liable for all workers' compensation claims filed during, or
17 attributable to, the former City employees, volunteers and interns while employed by the
18 City and prior to July 1, 2016. The District shall insure conditionally transferred
19 employees and volunteers of the City between July 1, 2016 and June 30, 2018.
20

21 Nothing in this agreement is intended to circumvent any rights or requirements regarding
22 the transfer of employees which may be mandated by state statute.
23

24 Facilities

25
26 During the term of this Agreement, the District shall be given occupancy and control of
27 all City fire stations. The District shall remain responsible for the fire stations, including,
28 but not limited to, routine maintenance, property insurance, communication utilities
29 (including such telephone lines which may be required for computer networking) and
30 modifications and upgrades which have been agreed to by both parties. The City agrees
31 to continue to provide, water, sewer and garbage service to the two fire station facilities
32 at no charge to the District. The District shall be responsible for day-to-day cleaning. The
33 District agrees to provide surge protectors, software, additional modems, and other
34 equipment necessary to allow connectivity to the District's email, intranet and other data
35 network system functions. City employee's use of the workout and shower facilities will
36 continue according to the current arrangement. Use of the fire station meeting rooms will
37 be scheduled through the District reservation process. City personnel may enter the fire
38 stations during regular business hours to view or inspect the facilities. In the case of an
39 emergency, City personnel may enter at any time and without prior notice.
40

41 Upon termination of the agreement, the District shall vacate and return control of the
42 facilities to the City. The facilities shall be in a condition that is equal to, or better than,
43 the condition when the District assumed occupancy, less normal wear and tear.
44
45
46
47

1 Vehicles, Apparatus and Maintenance

2
3 The District shall be allowed to use the City's fire and emergency vehicles and apparatus
4 which are identified on Exhibit C. The consideration for this use has been calculated and
5 offset against the amount of consideration paid by the City to the District. This is
6 inclusive of the apparatus that are on lease from the Newberg Rural Fire Protection
7 District to the City, and such leases are hereby assigned to the District and the District
8 agrees to comply will all lease terms. City shall obtain written consent to this assignment
9 of the leases prior to July 1, 2016.

10
11 During the term of this Agreement the vehicles and apparatus shall be subject to standard
12 District policies and procedures, and the District shall provide routine and preventative
13 maintenance. The District shall provide maintenance at its expense after July 1, 2016,
14 and pay all other operating costs including, fuel, parts and insurance to the extent of
15 actual value, for the operation of the City vehicles and apparatus after July 1, 2016. The
16 District shall be responsible for repairs resulting from the negligent or intentional
17 wrongful operation by District personnel.

18
19 Except for normal wear and tear, upon termination of this Agreement, the District shall
20 return such vehicles and apparatus to the City in a condition which is equal to or better
21 than when the District assumed possession.

22
23 Based upon the compensation offered in the first 12-month period and that is funded
24 through the City's Equipment Reserve Fund, should annexation not occur or this contract
25 is terminated within the defined parameters, the District agrees to return to the City two
26 ambulance apparatus that are no older than three years and in good working condition.
27 These returned ambulance apparatus must meet the minimum safe operating criteria as
28 set forth in NFPA.

29
30 Replacement apparatus required within the City during the term of this Agreement shall
31 be provided by the District and will remain the property of the District in the event this
32 Agreement is terminated or not renewed.

33
34 Equipment and Equipment Maintenance

35
36 Except for certain City owned equipment which the District elects not to use, the City
37 shall make available to the District all equipment, owned or leased, which has been
38 assigned to fire department operations. The equipment shall be identified by a fixed asset
39 list with inventory control numbers and stated value and location. The list is included in
40 the attached as Exhibit C.

41
42 During the term of this Agreement the District shall maintain such equipment and, upon
43 termination of this Agreement, return such equipment to the City in a condition which is
44 equal to or better than when the District took possession, excepting normal wear and tear.

1 Additional equipment purchased by the District or the City during the term of this
2 Agreement shall be the property of the party purchasing the equipment and shall remain
3 in the possession of the purchasing party upon termination of this Agreement.
4

5 Communications

6

7 During the term of this Agreement, emergency calls will be received by Newberg-
8 Dundee Dispatch Center. Fire and EMS calls will be transferred to Washington County
9 Consolidated Communications Agency (“WCCCA”), which will dispatch the calls under
10 the existing agreement between WCCCA and the District. The cost for the Newberg-
11 Dundee Dispatch Center to access WCCCA will be borne by the District after July 1,
12 2016.
13

14 Liability Insurance

15

16 Through June 30, 2016, each party shall maintain liability insurance or sufficient self-
17 insurance reserves to cover all risks of damage or loss in the form of personal injury,
18 bodily injury or property damage for which either party may be liable for its acts or
19 omissions done in the course and scope of its business, in the minimum amounts for
20 which public entities are liable under Oregon Revised Statutes as those statutes now exist
21 or may be amended. Effective July 1, 2016, the District will provide all liability,
22 property, volunteer, worker’s compensation, and other insurance as part of the Agreement
23 for the City fire stations, employees and Service Area operations.
24

25 Neither party shall be liable to the other for any loss or damage to their facilities,
26 vehicles, apparatus, equipment or other property arising from any cause for which it
27 could have insured against under the parties normal policies, such as fire. Each party, on
28 behalf of its insurer, waives any right of subrogation that it might have against the other
29 party.
30

31 Indemnification

32

33 Each party shall be responsible for the acts of their respective employees under this
34 Agreement.
35

36 Each party agrees to defend, indemnify and hold harmless the other, and its officers,
37 employees, and agents, against any and all claims, actions or suits which may arise out of
38 an act of that party, or that party’s respective officers, employees and agents, occurring in
39 the course and scope of their services under this Agreement. Each party agrees that on
40 formal request of the other it will participate in the defense of any claim or action brought
41 against the other party when a question of fact exists as to whether an employee of the
42 party not named caused or contributed to the damage complained of.
43

44 Waiver

45

46 The failure of either party to enforce any provision of this Agreement shall not constitute
47 a waiver by it of that or any other provision.

1
2 Termination and Default
3

4 A party who has cause to believe that the other is in default of any of the terms and
5 conditions of this Agreement shall request a meeting of the IGC. If satisfaction is not
6 reached through the efforts of the IGC, the party believing the other to be in default shall
7 give the party alleged to be in default notice of the default in writing and allow not less
8 than thirty (30) days in which the default may be cured; and, if not so cured, the
9 complaining party may declare this Agreement and its further obligations to be
10 terminated effective thirty (30) days after the expiration of the period for curing the
11 default, or upon ruling by an arbitrator as set forth below, whichever is later.
12

13 In the event the party declared to be in default believes that declaration to be unjustified,
14 the parties agree to resolve such dispute using the arbitration procedures set forth in
15 ORS 190.710 to 190.800.
16

17 If a party's ability to perform its obligations under this Agreement becomes impractical
18 due to legislative act by an entity not a party to this Agreement, the parties agree to
19 negotiate such changes to the Agreement as may be required to continue operations. If
20 negotiations are unsuccessful, the party that is unable to perform its obligations may
21 terminate its rights and obligations under this Agreement effective six (6) months after
22 the legislation becomes effective.
23

24 Compliance with All Laws
25

26 The parties will comply with all applicable laws in the performance of their obligations
27 under this contract, including but not limited to, the provisions of ORS Chapter 279.
28

29 Entire Agreement; Amendments
30

31 This instrument contains the entire agreement of the parties on the subjects enumerated
32 herein. An addition to or modification of the provisions of this Agreement shall not be
33 effective unless it is in writing and acknowledged by the authorized signature of each
34 party.
35

36 Notices
37

38 All notices required or allowed of one party to the other shall be deemed given when
39 delivered in person, deposited in the United States mail duly certified or registered, return
40 receipt requested with postage prepaid, by overnight delivery service marked for next
41 business day delivery, or by electronic mail with confirmation, to the parties and their
42 attorneys, as listed below. Any notice or other communication will be deemed to be given
43 (a) on the date of personal delivery, (b) three days after the date of deposit in the United
44 States mail, or (c) on the date of confirmed delivery by electronic mail or overnight
45 delivery service. Any party may designate a different address, which shall be substituted
46 for the one specific below, by written notice to the others.
47

1 For City:

2
3 City Manager
4 City of Newberg
5 414 E. First Street, P.O. Box 970
6 Newberg, OR 97132
7

For DISTRICT:

Mike Duyck, Fire Chief/Administrator
Tualatin Valley Fire and Rescue
11945 SW 70th Avenue
Tigard, OR 97223
mike.duyck@tvfr.com

8
9 With a copy to:

10
11 Truman A. Stone, City Manager
12 City of Newberg
13 414 E. First Street, P.O. Box 970
14 Newberg, OR 97132
15 truman.stone@newbergoregon.gov
16

Innova Legal Advisors PC
Attn: Bob Blackmore
One Centerpointe Dr. Suite 530
Lake Oswego, OR 97035
bob.blackmore@innovalegaladvisors.com

17
18 IN WITNESS WHEREOF, the parties by the signatures of their authorized
19 representatives have executed this Agreement effective March 1, 2016.
20

21 Tualatin Valley Fire and Rescue:

22
23
24 By: _____
25 Gordon Hovies, President
26
27 _____
28 Brian Clopton
29 Secretary-Treasurer
30

31 By Board Action Dated: _____

32
33 City of Newberg:

Approved as to form:

34
35 By: _____
36 Stephen A. Rhodes Truman A. Stone
37 City Manager Pro Tem City Attorney
38

39
40 By Council Action Dated: March 7, 2016

Exhibit A

FIRE PROTECTION AGREEMENT

This Agreement, made and entered into by and between the City of Newberg, a municipal corporation, Yamhill County, Oregon, herein call the CITY, and the Newberg Rural Fire Protection District of Yamhill county, Oregon herein called the DISTRICT, and

Recitals:

1. The CITY is an incorporated and Chartered City of the State of Oregon. The CITY maintains fire-fighting equipment and has staff and volunteers to operate the equipment. The DISTRICT is a Rural Fire Protection District, organized under the provisions of ORS chapter 478, and provides fire-fighting equipment for lease to the CITY.
2. The CITY and the DISTRICT agree that the CITY shall lease equipment from the DISTRICT.
3. The CITY and the DISTRICT have identified their common interests through a communication process.

NOW, THEREFORE, THE PARTIES AGREE TO THE FOLLOWING:

1. The CITY shall, upon notice by telephone or otherwise, provide fire prevention, protection, and emergency aid that can be reasonably furnished by the CITY for the protection of the property in the DISTRICT'S area.
2. The CITY shall use its best efforts to maintain all existing automatic and mutual aid agreements with surrounding fire departments. Through those agreements the CITY shall, within the best of its ability, maintain an emergency response capability for response within the DISTRICT.
3. The CITY'S dispatchers, the Commanding Officer of the Fire Department or any unit thereof, shall exercise judgment from the information received as to the amount and type of equipment to be dispatched to the DISTRICT, and no faulty judgment or ill-advised action on the part of a dispatcher or Commanding Officer of the Fire Department or unit thereof, shall create any liability against the individual or against the CITY or deny the right of the CITY to compensation as provided in this agreement.
4. Subject to the conditions set forth in paragraph 6, the parties agree that the DISTRICT shall, in its regular budgets and levies beginning fiscal year 2004-2005 and for the foreseeable future with the continued consent of both parties, levy taxes for fire protection and agrees to pay the CITY, as follows:

Each year the Assessed Value of the DISTRICT shall be determined by Yamhill County. The assessed value certified in September of each fiscal year may be increased as allowed by the State of Oregon under Measure 50 not to exceed three (3) percent. The value will include reductions due to annexations to the CITY, increases due to new construction, and an increase as allowed by the State of Oregon under Measure 50, which is not to exceed three (3) percent. The tax rate 0.4329% shall remain fixed and the Tax Receipts calculated by the usual method of multiplying the rate by the number of thousands of Assessed Value.

The annual agreement amount shall be based on the Tax Receipts multiplied by the collection rate of 90% then subtracting \$15,000 for District apparatus reserve and administration. As an example for the fiscal year 2004-2005 protection agreement, the Assessed Value during fiscal year 2003-2004 was \$668,795,331 plus 3% equals \$688,859,191. The Fixed Tax Rate is \$0.4329/\$1000 providing tax receipts of \$298,207. These tax receipts multiplied by a collection rate of 90% equals \$268,386, less the \$15,000 equals an agreement rate of \$253,386. This formula shall be used to determine the annual payment amount of the agreement subject to pending revisions by the parties.

2004-2005 AGREEMENT FORMULA:

FISCAL YR.	ASSESSED VALUE	PLUS 3%	X .0004329	X 90%	MINUS \$15,000	CONTRACT AMT.
2004-2005	\$668,795,331	\$688,859,191	\$298,207	\$268,386	\$253,386	\$253,386

The parties may meet annually upon the request of either party to discuss the needs of the DISTRICT and the CITY in order to determine any adjustments to the formula including but not limited to the set asides for vehicle reserve and administration, changes in assessed value, annexations, or the taxation rate.

The above agreement shall be paid at the rate of 30 percent on or before January 5, and an additional 40 percent on or before April 5, and the balance of 30 percent by June 5 of each year. Payment shall at no time be in excess of the taxes received for the current fiscal year, less \$5000.00 reserved for DISTRICT cash flow and administration. The payment shall include a reduction of \$1.00 per leased vehicle as addressed in the lease agreements between the CITY and the DISTRICT.

5. The DISTRICT has in the past purchased fire apparatus and leased the apparatus to the CITY. The DISTRICT agrees to continue to lease the fire apparatus to the CITY as per each lease agreement pursuant to the exception of Section 10 of this agreement.
6. The DISTRICT shall, at its discretion, have the authority to require that the CITY reduce the agreement amount and payments in an amount equal to the proportionate loss of DISTRICT tax revenues due to annexation of DISTRICT properties into the CITY and/or tax restrictions or reductions placed on the DISTRICT by the State of Oregon and/or Yamhill County.
7. Either party may request that the terms of the agreement may be renegotiated by giving the other party thirty days written notice of their intention to renegotiate the agreement provisions, other than provisions set forth in number 4 of this agreement. In order for the results of such renegotiation to be effective, both parties must agree, the terms must be in writing, approved by the CITY Council and DISTRICT Board, and signed by the Mayor of the CITY and Chair of the DISTRICT.
8. This agreement shall be in full force and effect commencing as of July 1, 2004 and shall terminate at such time that the parties agree to terminate as of June 30, it being the purpose and intent of the agreement that it shall continue to be renewable as experience determines the propriety of the levy and the services.

9. Failure of either party at any time to require performance of any provisions of this agreement shall not limit the party's right to enforce the provision, nor shall any breach of any provision constitute a waiver of any succeeding breach of that provision or waiver of that provision.
10. In the event of termination of this agreement, the lease agreements for fire fighting equipment between the CITY and the DISTRICT shall likewise terminate at the option of either party.
11. The CITY and the DISTRICT has established a replacement schedule for fire equipment that is compatible with the reasonable equipment life expectancy and is attached to this agreement as Exhibit A. Replacement of fire apparatus pursuant to Exhibit A shall be determined based on the condition of the apparatus at the time of the expected replacement date and not solely based on the replacement schedule on Exhibit A.
12. The DISTRICT will evaluate the need for Fire Station Number 22 and if considered appropriate will endeavor, with the CITY'S assistance, to acquire property of sufficient size and appropriate location on which to construct Fire Station Number 22. This activity by the DISTRICT shall be at the DISTRICT'S sole discretion and subject to the availability of funding by the DISTRICT.

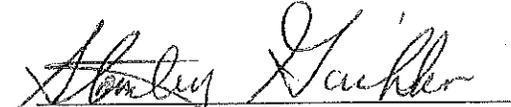
IN WITNESS WHEREOF, the parties hereby have caused these present to be executed by their officers thereunto duly authorized this 29 day of June, 2004.

CITY OF NEWBERG

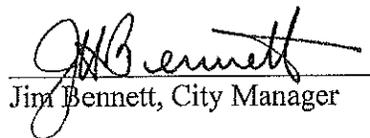
NEWBERG RURAL FIRE PROTECTION DISTRICT



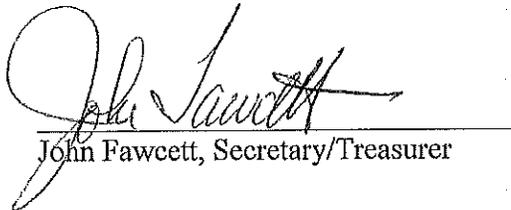
Bob Stewart, Mayor
By Authority of
Resolution No. 2004-2514 (06/22/04)



Stanley Gaibler, Chairperson

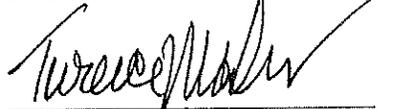


Jim Bennett, City Manager



John Fawcett, Secretary/Treasurer

APPROVED AS TO FORM:



Terrence Mahr, City Attorney

LEASE AGREEMENT FOR NEWBERG RURAL FIRE PROTECTION DISTRICT'S TENDER 23

THIS LEASE AGREEMENT is between the Newberg Rural Fire Protection District, a special district of the State of Oregon, hereinafter referred to as "lessor", and the City of Newberg, a municipal corporation of the State of Oregon, hereinafter referred to as "lessee".

LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. **SUBJECT OF LEASE AGREEMENT:** Lessor hereby leases to lessee one 1986 Ford L9000 chassis, manufactured by Western States., with a 6V92TA Detroit diesel engine, 9 speed Fuller Road Ranger transmission, a 500 gpm Barton PTO pump, 3000 gallon water tank with 12" dump valve, and a 2500 gallon collapsible water tank. This vehicle, bearing serial number 1FDYU90R4GVA22778, shall hereafter be referred to as Tender 23.
2. **RENT:** Lessee shall pay as rent for use of Tender 23 the sum of \$1.00 per year payable to the lessor by an equal amount reduction in the protection agreement payment schedule.
3. **TERM OF LEASE:** The initial term of this lease shall commence on the date hereof and shall continue until June 30, 2005. This lease shall be renewed automatically for successive terms of one year each until either party gives written notice to the other of intention to terminate the lease; said notice to be given at least 30 days prior to the expiration of the final term. Notwithstanding anything to the contrary above stated, this lease shall terminate in the event lessee terminates its contractual obligation to provide lessor with fire protection.
4. **USE OF PROPERTY:** Tender 23 shall be used in fighting fires at the discretion of the Fire Chief of lessee or his designee, and during the term of this lease shall be under the sole and absolute control of lessee.
5. **CONTITIONS OF USE:** Lessor and its agents shall at all times (upon reasonable notice) have free access to the leased property for the purpose of inspecting it and assessing its condition and state of repair.
 - 5a. During the term of this lease, Tender 23 shall be garaged by lessee in a heated building when not in use.
 - 5b. Lessee shall, at its own expense, maintain, service, and repair Tender 23 and furnish all fuel, oil, grease, and parts necessary to keep said Tender 23 in proper operating condition during the term of this lease
 - 5c. Lessee shall keep Tender 23 free from, and shall save and hold harmless lessor from, mechanics liens and all other liens and encumbrances or charges that may be assessed against Tender 23 and shall reimburse lessor for all costs and attorney's fees incurred by lessor in defending against such liens.
 - 5d. Any alterations, improvements, or additions to Tender 23 shall only be conducted by lessee with lessor's permission first had and obtained, and such changes, additions, or alterations shall be at the sole expense of lessee.
 - 5e. All persons allowed to drive Tender 23 shall be properly qualified and approved by the Fire Chief of lessee.

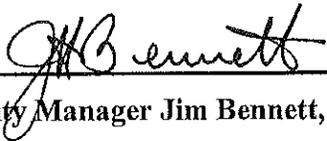
6. **INSURANCE:** Lessee shall, during the term of this lease, keep in full force and effect a policy of public liability and property damage insurance with respect to Tender 23. The policy limits for public liability shall not be less than \$100,000.00 per person and \$300,000.00 per accident and for property damage liability of not less than \$300,000.00, if applicable. In addition, lessee shall maintain vehicle comprehensive insurance coverage insuring the vehicle to the extent of its full insurable value with a deductible amount of not more than \$1,000.00. In the event of an accident or damage claim, all deductible amounts shall be paid by lessee. The policies of insurance shall name lessor as insured and shall contain a clause that the insurer will not cancel or change the insurance without giving lessor 10 days prior notice. The insurance shall be with a reputable insurance company and a certificate of insurance shall be delivered to the lessor.
7. **INDEMNIFICATION:** Lessee shall indemnify, defend, and save and hold harmless lessor from any and all claims, demands, or damages resulting from, or incidental to, lessee's use, maintenance, or operation of Tender 23 during the term of this lease.
8. **OPERATING EXPENSES:** License plates, if applicable, and certificate of title used on Tender 23 shall be issued and maintained in the name of lessor who shall also bear the cost. Lessee shall bear the cost of other operating expenses incidental to the use and operation of Tender 23. All taxes applicable to Tender 23 shall be paid by lessee. Lessee further agrees to comply with all laws, rules, regulations, and orders of lawfully constituted authorities in its operation, maintenance, and use of Tender 23.
9. **RISK OF LOSS:** Lessee hereby assumes all risk of loss and damage to Tender 23 or any of its equipment from any cause and agrees to return it to lessor upon the termination of the lease in as good a condition as received, normal wear and tear and reasonable depreciation excepted.
10. **DEFAULT AND DEFAULT REMEDIES:** Time is of the essence of this lease. Lessor, at its option, may by written notice to lessee declare this lease to be in default on the happening of any of the following:
 - 10a Failure by lessee to pay the annual rental.
 - 10b Failure of lessee to comply with any of the terms and conditions of this agreement.
 - 10c Expiration or cancellation of any policy of insurance agreed to be paid by lessee, or the cessation in force according to its original terms of such insurance, or of any extension or renewal thereof, during the entire term of this lease.On declaration by lessor that the lease is in default, Tender 23 shall be surrendered and delivered to lessor and lessor may take possession of it wherever it may be found, with or without process of law, and for that purpose may enter on the premises of lessee. On default, lessee shall have no right, title, or interest in the vehicle, or the possession or use thereof.
11. **WAIVER:** Failure of lessor in any one or more instances to insist upon the performance of any of the terms of this lease, or to exercise any right or privilege conferred herein, or the waiver of any breach of any term of this lease should not thereafter be construed as a waiver of such term, which shall continue in force as if no waiver had occurred.
12. **LIMITATION OF WARRANTIES:** There are no warranties, express or implied. By lessor to lessee and lessor shall not be liable for any loss or damage to lessee, nor to anyone else of any kind and however caused, regarding the lease and use of Tender 23.

13. **ASSIGNMENT:** Lessee shall not assign this lease or Tender 23 without lessor's written consent first had and obtained.
14. **ATTORNEY'S FEES:** In the event any action is filed in relation to this lease, the unsuccessful party in the action shall pay to the successful party, in addition to all other sums that either party may be called upon to pay, a reasonable sum for the successful party's attorney's fees.
15. **RIGHT OF FIRST REFUSAL:** In the event that lessor during the term of this lease desires to sell Tender 23, lessee shall have the right of first refusal to purchase the engine. The purchase price of Tender 23 shall be negotiated between the parties.

IN WITNESS WHEREOF, the parties have executed this lease at Newberg, Oregon, on this 29th day of June, 2004.



Chairperson Stan Gaibler, Newberg Rural Fire Protection District (Lessor)



City Manager Jim Bennett, City of Newberg (Lessee)

LEASE AGREEMENT FOR NEWBERG RURAL FIRE PROTECTION DISTRICT'S BRUSH 24

THIS LEASE AGREEMENT is between the Newberg Rural Fire Protection District, a special district of the State of Oregon, hereinafter referred to as "lessor", and the City of Newberg, a municipal corporation of the State of Oregon, hereinafter referred to as "lessee".

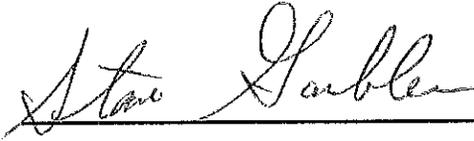
LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. **SUBJECT OF LEASE AGREEMENT:** Lessor hereby leases to lessee one 1988 4X4 Ford 1 Ton F350 Chassis, manufactured by Western States., with a 460 V-8 gasoline engine, manual transmission, and a 300 gallon aluminum water tank with Godiva pump (18 hp Briggs motor). This vehicle, bearing serial number 2FDKF38G7JCB19633, shall hereafter be referred to as Brush 24.
2. **RENT:** Lessee shall pay as rent for use of Brush 24 the sum of \$1.00 per year payable to the lessor by an equal amount reduction in the protection agreement payment schedule.
3. **TERM OF LEASE:** The initial term of this lease shall commence on the date hereof and shall continue until June 30, 2005. This lease shall be renewed automatically for successive terms of one year each until either party gives written notice to the other of intention to terminate the lease; said notice to be given at least 30 days prior to the expiration of the final term. Notwithstanding anything to the contrary above stated, this lease shall terminate in the event lessee terminates its contractual obligation to provide lessor with fire protection.
4. **USE OF PROPERTY:** Brush 24 shall be used in fighting fires at the discretion of the Fire Chief of lessee or his designee, and during the term of this lease shall be under the sole and absolute control of lessee.
5. **CONTITIONS OF USE:** Lessor and its agents shall at all times (upon reasonable notice) have free access to the leased property for the purpose of inspecting it and assessing its condition and state of repair.
 - 5a. During the term of this lease, Brush 24 shall be garaged by lessee in a heated building when not in use.
 - 5b. Lessee shall, at its own expense, maintain, service, and repair Brush 24 and furnish all fuel, oil, grease, and parts necessary to keep said Brush 24 in proper operating condition during the term of this lease
 - 5c. Lessee shall keep Brush 24 free from, and shall save and hold harmless lessor from, mechanics liens and all other liens and encumbrances or charges that may be assessed against Brush 24 and shall reimburse lessor for all costs and attorney's fees incurred by lessor in defending against such liens.
 - 5d. Any alterations, improvements, or additions to Brush 24 shall only be conducted by lessee with lessor's permission first had and obtained, and such changes, additions, or alterations shall be at the sole expense of lessee.
 - 5e. All persons allowed to drive Brush 24 shall be properly qualified and approved by the Fire Chief of lessee.

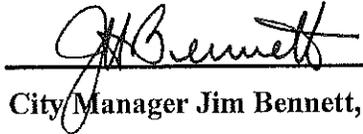
6. **INSURANCE:** Lessee shall, during the term of this lease, keep in full force and effect a policy of public liability and property damage insurance with respect to Brush 24. The policy limits for public liability shall not be less than \$100,000.00 per person and \$300,000.00 per accident and for property damage liability of not less than \$300,000.00, if applicable. In addition, lessee shall maintain vehicle comprehensive insurance coverage insuring the vehicle to the extent of its full insurable value with a deductible amount of not more than \$1,000.00. In the event of an accident or damage claim, all deductible amounts shall be paid by lessee. The policies of insurance shall name lessor as insured and shall contain a clause that the insurer will not cancel or change the insurance without giving lessor 10 days prior notice. The insurance shall be with a reputable insurance company and a certificate of insurance shall be delivered to the lessor.
7. **INDEMNIFICATION:** Lessee shall indemnify, defend, and save and hold harmless lessor from any and all claims, demands, or damages resulting from, or incidental to, lessee's use, maintenance, or operation of Brush 24 during the term of this lease.
8. **OPERATING EXPENSES:** License plates, if applicable, and certificate of title used on Brush 24 shall be issued and maintained in the name of lessor who shall also bear the cost. Lessee shall bear the cost of other operating expenses incidental to the use and operation of Brush 24. All taxes applicable to Brush 24 shall be paid by lessee. Lessee further agrees to comply with all laws, rules, regulations, and orders of lawfully constituted authorities in its operation, maintenance, and use of Brush 24.
9. **RISK OF LOSS:** Lessee hereby assumes all risk of loss and damage to Brush 24 or any of its equipment from any cause and agrees to return it to lessor upon the termination of the lease in as good a condition as received, normal wear and tear and reasonable depreciation excepted.
10. **DEFAULT AND DEFAULT REMEDIES:** Time is of the essence of this lease. Lessor, at its option, may by written notice to lessee declare this lease to be in default on the happening of any of the following:
 - 10a Failure by lessee to pay the annual rental.
 - 10b Failure of lessee to comply with any of the terms and conditions of this agreement.
 - 10c Expiration or cancellation of any policy of insurance agreed to be paid by lessee, or the cessation in force according to its original terms of such insurance, or of any extension or renewal thereof, during the entire term of this lease.On declaration by lessor that the lease is in default, Brush 24 shall be surrendered and delivered to lessor and lessor may take possession of it wherever it may be found, with or without process of law, and for that purpose may enter on the premises of lessee. On default, lessee shall have no right, title, or interest in the vehicle, or the possession or use thereof.
11. **WAIVER:** Failure of lessor in any one or more instances to insist upon the performance of any of the terms of this lease, or to exercise any right or privilege conferred herein, or the waiver of any breach of any term of this lease should not thereafter be construed as a waiver of such term, which shall continue in force as if no waiver had occurred.
12. **LIMITATION OF WARRANTIES:** There are no warranties, express or implied. By lessor to lessee and lessor shall not be liable for any loss or damage to lessee, nor to anyone else of any kind and however caused, regarding the lease and use of Brush 24.

13. **ASSIGNMENT:** Lessee shall not assign this lease or Brush 24 without lessor's written consent first had and obtained.
14. **ATTORNEY'S FEES:** In the event any action is filed in relation to this lease, the unsuccessful party in the action shall pay to the successful party, in addition to all other sums that either party may be called upon to pay, a reasonable sum for the successful party's attorney's fees.
15. **RIGHT OF FIRST REFUSAL:** In the event that lessor during the term of this lease desires to sell Brush 24, lessee shall have the right of first refusal to purchase the engine. The purchase price of Brush 24 shall be negotiated between the parties.

IN WITNESS WHEREOF, the parties have executed this lease at Newberg, Oregon, on this 27th day of June, 2004.



Chairperson Stan Gaibler, Newberg Rural Fire Protection District (Lessor)



City Manager Jim Bennett, City of Newberg (Lessee)

LEASE AGREEMENT FOR NEWBERG RURAL FIRE PROTECTION DISTRICT'S BRUSH 25

THIS LEASE AGREEMENT is between the Newberg Rural Fire Protection District, a special district of the State of Oregon, hereinafter referred to as "lessor", and the City of Newberg, a municipal corporation of the State of Oregon, hereinafter referred to as "lessee".

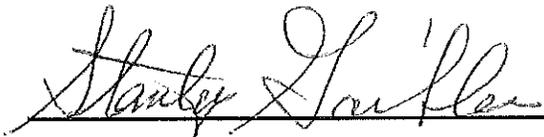
LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. **SUBJECT OF LEASE AGREEMENT:** Lessor hereby leases to lessee one 2004 Ford Super Duty F550 Chassis 4X4 with a 6 liter turbo diesel engine, 5 speed automatic transmission, 400 gallon water tank with a 15 gallon foam cell, 18 hp Briggs and Stratton Van Guard motor and 250 gpm pump. This vehicle, bearing serial number 1FDAW57P24EC65803, shall hereafter be referred to as Brush 25.
2. **RENT:** Lessee shall pay as rent for use of Brush 25 the sum of \$1.00 per year payable to the lessor by an equal amount reduction in the protection agreement payment schedule.
3. **TERM OF LEASE:** The initial term of this lease shall commence on the date hereof and shall continue until June 30, 2005. This lease shall be renewed automatically for successive terms of one year each until either party gives written notice to the other of intention to terminate the lease; said notice to be given at least 30 days prior to the expiration of the final term. Notwithstanding anything to the contrary above stated, this lease shall terminate in the event lessee terminates its contractual obligation to provide lessor with fire protection.
4. **USE OF PROPERTY:** Brush 25 shall be used in fighting fires at the discretion of the Fire Chief of lessee or his designee, and during the term of this lease shall be under the sole and absolute control of lessee.
5. **CONTITIONS OF USE:** Lessor and its agents shall at all times (upon reasonable notice) have free access to the leased property for the purpose of inspecting it and assessing its condition and state of repair.
 - 5a. During the term of this lease, Brush 25 shall be garaged by lessee in a heated building when not in use.
 - 5b. Lessee shall, at its own expense, maintain, service, and repair Brush 25 and furnish all fuel, oil, grease, and parts necessary to keep said Brush 25 in proper operating condition during the term of this lease
 - 5c. Lessee shall keep Brush 25 free from, and shall save and hold harmless lessor from, mechanics liens and all other liens and encumbrances or charges that may be assessed against Brush 25 and shall reimburse lessor for all costs and attorney's fees incurred by lessor in defending against such liens.
 - 5d. Any alterations, improvements, or additions to Brush 25 shall only be conducted by lessee with lessor's permission first had and obtained, and such changes, additions, or alterations shall be at the sole expense of lessee.
 - 5e. All persons allowed to drive Brush 25 shall be properly qualified and approved by the Fire Chief of lessee.

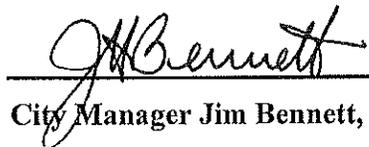
6. **INSURANCE:** Lessee shall, during the term of this lease, keep in full force and effect a policy of public liability and property damage insurance with respect to Brush 25. The policy limits for public liability shall not be less than \$100,000.00 per person and \$300,000.00 per accident and for property damage liability of not less than \$300,000.00, if applicable. In addition, lessee shall maintain vehicle comprehensive insurance coverage insuring the vehicle to the extent of its full insurable value with a deductible amount of not more than \$1,000.00. In the event of an accident or damage claim, all deductible amounts shall be paid by lessee. The policies of insurance shall name lessor as insured and shall contain a clause that the insurer will not cancel or change the insurance without giving lessor 10 days prior notice. The insurance shall be with a reputable insurance company and a certificate of insurance shall be delivered to the lessor.
7. **INDEMNIFICATION:** Lessee shall indemnify, defend, and save and hold harmless lessor from any and all claims, demands, or damages resulting from, or incidental to, lessee's use, maintenance, or operation of Brush 25 during the term of this lease.
8. **OPERATING EXPENSES:** License plates, if applicable, and certificate of title used on Brush 25 shall be issued and maintained in the name of lessor who shall also bear the cost. Lessee shall bear the cost of other operating expenses incidental to the use and operation of Brush 25. All taxes applicable to Brush 25 shall be paid by lessee. Lessee further agrees to comply with all laws, rules, regulations, and orders of lawfully constituted authorities in its operation, maintenance, and use of Brush 25.
9. **RISK OF LOSS:** Lessee hereby assumes all risk of loss and damage to Brush 25 or any of its equipment from any cause and agrees to return it to lessor upon the termination of the lease in as good a condition as received, normal wear and tear and reasonable depreciation excepted.
10. **DEFAULT AND DEFAULT REMEDIES:** Time is of the essence of this lease. Lessor, at its option, may by written notice to lessee declare this lease to be in default on the happening of any of the following:
 - 10a Failure by lessee to pay the annual rental.
 - 10b Failure of lessee to comply with any of the terms and conditions of this agreement.
 - 10c Expiration or cancellation of any policy of insurance agreed to be paid by lessee, or the cessation in force according to its original terms of such insurance, or of any extension or renewal thereof, during the entire term of this lease.On declaration by lessor that the lease is in default, Brush 25 shall be surrendered and delivered to lessor and lessor may take possession of it wherever it may be found, with or without process of law, and for that purpose may enter on the premises of lessee. On default, lessee shall have no right, title, or interest in the vehicle, or the possession or use thereof.
11. **WAIVER:** Failure of lessor in any one or more instances to insist upon the performance of any of the terms of this lease, or to exercise any right or privilege conferred herein, or the waiver of any breach of any term of this lease should not thereafter be construed as a waiver of such term, which shall continue in force as if no waiver had occurred.
12. **LIMITATION OF WARRANTIES:** There are no warranties, express or implied. By lessor to lessee and lessor shall not be liable for any loss or damage to lessee, nor to anyone else of any kind and however caused, regarding the lease and use of Brush 25.

- 13. **ASSIGNMENT:** Lessee shall not assign this lease or Brush 25 without lessor's written consent first had and obtained.
- 14. **ATTORNEY'S FEES:** In the event any action is filed in relation to this lease, the unsuccessful party in the action shall pay to the successful party, in addition to all other sums that either party may be called upon to pay, a reasonable sum for the successful party's attorney's fees.
- 15. **RIGHT OF FIRST REFUSAL:** In the event that lessor during the term of this lease desires to sell Brush 25, lessee shall have the right of first refusal to purchase the engine. The purchase price of Brush 25 shall be negotiated between the parties.

IN WITNESS WHEREOF, the parties have executed this lease at Newberg, Oregon, on this 27th day of June, 2004.



Chairperson Stan Gaibler, Newberg Rural Fire Protection District (Lessor)



City Manager Jim Bennett, City of Newberg (Lessee)

LEASE AGREEMENT FOR NEWBERG RURAL FIRE PROTECTION DISTRICT'S ENGINE 28

THIS LEASE AGREEMENT is between the Newberg Rural Fire Protection District, a special district of the State of Oregon, hereinafter referred to as "lessor", and the City of Newberg, a municipal corporation of the State of Oregon, hereinafter referred to as "lessee".

LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. **SUBJECT OF LEASE AGREEMENT:** Lessor hereby leases to lessee one 1994 Ford L900 engine, manufactured by H&W Fire Equipment Co., with an L-10 Cummings Diesel engine, 300 hp with Allison 750 DR transmission, and a 1250 gpm front mount pump. This vehicle, bearing serial number FDYK90L4RVA40685, shall hereafter be referred to as Engine 28.
2. **RENT:** Lessee shall pay as rent for use of Engine 28 the sum of \$1.00 per year payable to the lessor by an equal amount reduction in the protection agreement payment schedule.
3. **TERM OF LEASE:** The initial term of this lease shall commence on the date hereof and shall continue until June 31, 1998. This lease shall be renewed automatically for successive terms of one year each until either party gives written notice to the other of intention to terminate the lease; said notice to be given at least 30 days prior to the expiration of the final term. Notwithstanding anything to the contrary above stated, this lease shall terminate in the event lessee terminates its contractual obligation to provide lessor with fire protection.
4. **USE OF PROPERTY:** Engine 28 shall be used in fighting fires at the discretion of the Fire Chief of lessee or his designee, and during the term of this lease shall be under the sole and absolute control of lessee.
5. **CONTITIONS OF USE:** Lessor and its agents shall at all times (upon reasonable notice) have free access to the leased property for the purpose of inspecting it and assessing its condition and state of repair.
 - 5a. During the term of this lease, Engine 28 shall be garaged by lessee in a heated building when not in use.
 - 5b. Lessee shall, at its own expense, maintain, service, and repair Engine 28 and furnish all fuel, oil, grease, and parts necessary to keep said Engine 28 in proper operating condition during the term of this lease
 - 5c. Lessee shall keep Engine 28 free from, and shall save and hold harmless lessor from, mechanics liens and all other liens and encumbrances or charges that may be assessed against Engine 28 and shall reimburse lessor for all costs and attorney's fees incurred by lessor in defending against such liens.
 - 5d. Any alterations, improvements, or additions to Engine 28 shall only be conducted by lessee with lessor's permission first had and obtained, and such changes, additions, or alterations shall be at the sole expense of lessee.
 - 5e. All persons allowed to drive Engine 28 shall be properly qualified and approved by the Fire Chief of lessee.

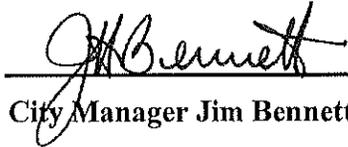
6. **INSURANCE:** Lessee shall, during the term of this lease, keep in full force and effect a policy of public liability and property damage insurance with respect to Engine 28. The policy limits for public liability shall not be less than \$100,000.00 per person and \$300,000.00 per accident and for property damage liability of not less than \$300,000.00, if applicable. In addition, lessee shall maintain vehicle comprehensive insurance coverage insuring the vehicle to the extent of its full insurable value with a deductible amount of not more than \$1,000.00. In the event of an accident or damage claim, all deductible amounts shall be paid by lessee. The policies of insurance shall name lessor as insured and shall contain a clause that the insurer will not cancel or change the insurance without giving lessor 10 days prior notice. The insurance shall be with a reputable insurance company and a certificate of insurance shall be delivered to the lessor.
7. **INDEMNIFICATION:** Lessee shall indemnify, defend, and save and hold harmless lessor from any and all claims, demands, or damages resulting from, or incidental to, lessee's use, maintenance, or operation of Engine 28 during the term of this lease.
8. **OPERATING EXPENSES:** License plates, if applicable, and certificate of title used on Engine 28 shall be issued and maintained in the name of lessor who shall also bear the cost. Lessee shall bear the cost of other operating expenses incidental to the use and operation of Engine 28. All taxes applicable to Engine 28 shall be paid by lessee. Lessee further agrees to comply with all laws, rules, regulations, and orders of lawfully constituted authorities in its operation, maintenance, and use of Engine 28.
9. **RISK OF LOSS:** Lessee hereby assumes all risk of loss and damage to Engine 28 or any of its equipment from any cause and agrees to return it to lessor upon the termination of the lease in as good a condition as received, normal wear and tear and reasonable depreciation excepted.
10. **DEFAULT AND DEFAULT REMEDIES:** Time is of the essence of this lease. Lessor, at its option, may by written notice to lessee declare this lease to be in default on the happening of any of the following:
 - 10a Failure by lessee to pay the annual rental.
 - 10b Failure of lessee to comply with any of the terms and conditions of this agreement.
 - 10c Expiration or cancellation of any policy of insurance agreed to be paid by lessee, or the cessation in force according to its original terms of such insurance, or of any extension or renewal thereof, during the entire term of this lease.On declaration by lessor that the lease is in default, Engine 28 shall be surrendered and delivered to lessor and lessor may take possession of it wherever it may be found, with or without process of law, and for that purpose may enter on the premises of lessee. On default, lessee shall have no right, title, or interest in the vehicle, or the possession or use thereof.
11. **WAIVER:** Failure of lessor in any one or more instances to insist upon the performance of any of the terms of this lease, or to exercise any right or privilege conferred herein, or the waiver of any breach of any term of this lease should not thereafter be construed as a waiver of such term, which shall continue in force as if no waiver had occurred.
12. **LIMITATION OF WARRANTIES:** There are no warranties, express or implied. By lessor to lessee and lessor shall not be liable for any loss or damage to lessee, nor to anyone else of any kind and however caused, regarding the lease and use of Engine 28.

13. **ASSIGNMENT:** Lessee shall not assign this lease or Engine 28 without lessor's written consent first had and obtained.
14. **ATTORNEY'S FEES:** In the event any action is filed in relation to this lease, the unsuccessful party in the action shall pay to the successful party, in addition to all other sums that either party may be called upon to pay, a reasonable sum for the successful party's attorney's fees.
15. **RIGHT OF FIRST REFUSAL:** In the event that lessor during the term of this lease desires to sell Engine 28, lessee shall have the right of first refusal to purchase the engine. The purchase price of Engine 28 shall be negotiated between the parties.

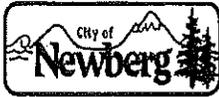
IN WITNESS WHEREOF, the parties have executed this lease at Newberg, Oregon, on this 27th day of June, 2004.



Chairperson Stan Gaibler, Newberg Rural Fire Protection District (Lessor)



City Manager Jim Bennett, City of Newberg (Lessee)



RESOLUTION No. 2004-2514

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH THE NEWBERG RURAL FIRE PROTECTION DISTRICT TO COMMENCE JULY 1, 2004.

RECITALS:

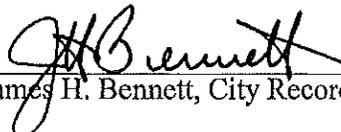
1. The City has entered into agreements with the Newberg Rural Fire Protection District ("District") for provisions of fire service to the Rural District.
2. This agreement would go into effect on July 1, 2004, and remain in effect until such time as the parties agree to terminate at the end of any fiscal year (June 30th); it being the "purpose and intent of agreement that it shall continue to be renewable as experienced determines the proprietary of the levy and the services."
3. The agreement provides that either party may request terms to be renegotiated by giving the other party 30-days written notice of their intention.
4. This agreement provides a long term working framework by which the City and the Fire District can continue in their efforts to provide fire protection to the citizens of the District and meet one another's need to finance those services.
5. The agreement also adopts the lease agreements where the District leases the equipment it has purchased to the City.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The Mayor is hereby authorized to sign an agreement, which is attached to this resolution as Attachment "A" and by this reference incorporated, between the City of Newberg and the Newberg Rural Fire Protection District, which commences July 1, 2004.
2. The City Manager is hereby authorized to sign the lease agreements (for District Tender Nos. 23, 24, 25, and 28) on behalf of the City, which is attached to this resolution as Attachment "B" and by this reference incorporated, for the Newberg Rural Fire Protection District, commencing July 1, 2004.

➤ EFFECTIVE DATE of this resolution is the day after the adoption date which is: June 22, 2004.

ADOPTED by the City Council of the City of Newberg, Oregon, this 21st day of June, 2004.


James H. Bennett, City Recorder

ATTEST by the Mayor this 27th day of June, 2004.

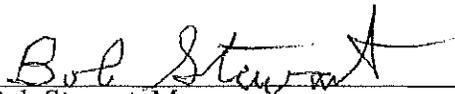

Bob Stewart, Mayor

Exhibit B

MEMORANDUM OF UNDERSTANDING

Comp Time Proposal

- All accrued Comp Time will be converted to alternate benefit options currently available within the TVF&R CBA.
 - Options;
 - Deferred Comp
 - Vacation holding account per Article 22.11
 - HRA deposit per Article 21.3
 - PEHP contribution per Article 12.4.1 and 22.8
- Comp Time balances must be converted and zeroed out prior to the July 1, 2016 functional consolidation implementation.

Memorandum of Understanding

Holiday Time Cash Out:

Newberg members' Holiday Time accruals will be cashed at their **normal hourly rate** (Excluding AIC and Paramedic Preceptor Incentive Pay) on June 30, 2016 by the City of Newberg and each member will receive 72 hours of Personal Leave applied to their individual Personal Leave Bank by Tualatin Valley Fire & Rescue on July 1, 2016

MEMORANDUM OF UNDERSTANDING

Captain Proposal

- Create the position of Captain and conduct Newberg promotional test for one Captain
 - Closed process to Newberg members that meet eligibility requirements
 - Eligibility requirements must be equivalent to TVF&R requirements for Captain
 - Eligibility list to be disposed of upon list expiration or functional consolidation occurs.
- Allow for one non bargaining unit Division Chief to assume the new rank of Captain
- Assign one Captain to each Newberg station
 - This action to happen as soon as possible and prior to a functional consolidation
 - Newberg Captains are available for reassignment to a TVF&R station after initiation of the functional consolidation as long as it is mutually agreed upon by all parties
- At the time of functional consolidation, Newberg employees are able to take future TVF&R promotional exams, reside on list, but are not available for TVF&R position consideration until annexation occurs.

MEMORANDUM OF UNDERSTANDING

Current Newberg Fire Contract Freeze:

The current Local 1660-Newberg Fire Collective Bargaining Agreement will freeze effective at the time of the functional consolidation. The contract will remain indefinitely until such time an annexation of the City of Newberg occurs.

The current Newberg wages will increase by the same parameters established in Article 10 and Appendix Each year of the functional consolidation.

The current Local 1660-Newberg Fire Health Care plan will remain the same or similar as what is available now and the Newberg Fire member contribution rate as listed in Article 10.

Should an annexation not occur and Newberg members return to Newberg, all parties agree to open negotiations for the purposes of ratifying a new contract.

MEMORANDUM OF UNDERSTANDING

Oregon State Fire Marshal Incident Management Team participation during the functional consolidation:

Current represented Newberg employees or those that become represented employees under Local 1660 and that are participants on the OSFM Incident Management Team, may continue under the following parameters:

1. Has the support of the Fire Chief
2. Are current with the training and expectations as listed in the current State Fire Marshals Mobilization Plan
3. Are in good standing as it relates to current individual compliance training as set forth in TVF&R SOG
4. Does not have adverse impacts on staffing of the District
5. Will not exceed a total participant head count of five represented positions within the District, with the transferring Newberg employees given priority

Union Proposal
TA 1-25-16

January 7, 2016

Memorandum of Understanding

Mandatory 96 hours of Overtime for Newberg members:

Newberg members, upon initiation of TVF&R operational contract on July 1st, shall be required to work 48 hours of overtime by December 15th, 2016.

Union Proposal
TA 1-25-16

January 7, 2016

MEMORANDUM OF UNDERSTANDING

Part-time Firefighters:

Effective the last day before the functional consolidation, the city of Newberg will hire the current part-time Firefighters as full-time firefighters. These members will become probationary firefighters under the TVFR labor contract.

MEMORANDUM OF UNDERSTANDING

Seniority for Newberg members:

TVFR department seniority will be established based upon the members initial full time hire date into Newberg Fire Department. Seniority will be consistent with Article 7 of the current TVFR contract, and any affected leaves will be calculated as written in Article 7.

Benefit Calculation date and department seniority will be the same date for Newberg members.

Seniority in classification will be as detailed in Article 7 of the TVFR contract. Newberg Engineer promotion dates will be established by utilizing the date in which the NFD began paying the Engineer incentive pay, as listed in the wage slot proposal.

Both department seniority and classification seniority will be dovetailed into the current TVFR structure.

MEMORANDUM OF UNDERSTANDING

Staffing of the Newberg stations during the functional consolidation:

Based upon the available financial resources offered from the City of Newberg to TVF&R during the contract phase, each Newberg station will be staffed in the following manner:

1 Captain

2 Lieutenants

3 Apparatus Operators

9 Firefighters

Of the above mentioned positions, at least one position per Engine will be ALS and two (2) Paramedics assigned to each medic unit. The intent is to field a 3-person engine company and a 2-person medic from each station.

Of the above mentioned positions, six positions (2 per shift) at station 20 need to be water rescue qualified and will be eligible for water rescue incentive pay consistent with the current CBA. The District would then recognize that the maximum head count for the Water Rescue Team (Stations 59 and 20) moves from 15 to 24. All applicable aspects of SOG 5.9.1 apply.

Existing Newberg members will fill the water rescue staffing requirements at Station 20 if they meet the current requirements as listed in 5.9.1. Should a Newberg member not be qualified as listed in 5.9.1, the District shall have 12 months to get those individuals qualified.

Should the City of Newberg not pass through their available financial resources to TVF&R, and therefore there are not adequate funds to staff at the above mentioned level, Labor and Management agree to reconvene to discuss the ramifications of such decision.

Should the City of Newberg be annexed by TVF&R at some point in the future, TVF&R will commit to staff one apparatus at each of the original Newberg stations to the level consistent with TVF&R staffing models, within 24 months. The District agrees to consider a SAFER Grant to up staffing to 4-person engine companies at the time the District is actively in the annexation process.

MEMORANDUM OF UNDERSTANDING

Transfer to/from Newberg stations during the contract period:

Provided that each station will have a station Captain, Newberg members may remain assigned to a Newberg station, if they desire, during the functional consolidation.

In the absence of enough TVFR members requesting assignment to a Newberg station, current Newberg members will remain assigned Newberg stations, during the functional consolidation.

Overtime filling will not be affected by the above provisions, and paid time off vacancies will be filled district at large according to SOG 5.2.1.

MEMORANDUM OF UNDERSTANDING

Use of Volunteers during the functional consolidation period:

Volunteers

Volunteers will not "co-staff" Newberg Fire Department apparatus.

Volunteers will not be used in a manner to replace career staffing on primary response apparatus.

Volunteers will be utilized in a firefighting role on second out engines, water tenders and brush units.

Volunteers will be held to the same standards as outlined in TVF&R SOG 5.8.1

Employee	Newberg Job Title	Hire Date	Years of Service by 7/1/16	Promotion Date	Newberg Hourly Base Salary	Newberg Total to map	Newberg Annual Salary (2912 hrs)	TVFR Job Title	Closest (= or >) TVFR Hourly Salary (Adjusted to 56 hr week)	Closest (= or >) TVFR Hourly Base Salary (51 hr week)	PM Premium	Closest (= or >) TVFR Hourly Total Salary (51 hr week)	Closest (= or >) TVFR Annual Salary (2629.68 hrs)
Erwin, Michael R	Firefighter	7/8/15	0	7/8/15	\$21.98	22.86	66568.32	Apparatus Operator	25.1630197	25.476	2.3889	27.8649	73275.72
Mau, Gregory D	Firefighter	7/23/15	0	7/23/15	\$21.98	22.86	66568.32	Apparatus Operator	25.1630197	25.476	2.3889	27.8649	73275.72
Rojo, Griffin D	Firefighter	2/25/15	1	2/25/15	\$21.98	22.86	66568.32	Apparatus Operator	25.1630197	25.476	2.3889	27.8649	73275.72
Hartmann, Donald A E	Firefighter - AO	1/22/15	1	1/22/15	\$24.23	25.68	74780.16	Apparatus Operator	26.4720402	26.8012	2.5132	29.3144	77087.64
Boyes, Daniel J	Firefighter - AO	9/1/08	7	9/1/08	\$28.05	29.17	84943.04	Apparatus Operator	29.2454362	29.6155	2.7701	32.3856	85163.88
Schnell, Ryan J	Firefighter - AO	10/9/07	8	2/3/09	\$28.05	29.17	84943.04	Apparatus Operator	29.2454362	29.6155	2.7701	32.3856	85163.88
Sorensen, Colin P	Firefighter - AO	2/25/07	9	2/12/08	\$28.05	29.17	84943.04	Apparatus Operator	29.2454362	29.6155	2.7701	32.3856	85163.88
Hankel, Shannon M	Firefighter - AO	3/18/09	7	9/14/09	\$28.05	29.73	86573.76	Apparatus Operator	30.685128	31.0554	2.9108	33.9662	89356.32
Henry, Brandon J	Firefighter - AO	8/21/10	5	11/21/10	\$28.05	29.73	86573.76	Apparatus Operator	30.685128	31.0554	2.9108	33.9662	89356.32
Sherrman, Michael M	Firefighter - AO	10/11/07	8	10/11/09	\$28.05	29.73	86573.76	Apparatus Operator	30.685128	31.0554	2.9108	33.9662	89356.32
Tarmichael, Joseph F	Firefighter - AO	5/17/04	12	7/7/07	\$28.05	29.73	86573.76	Apparatus Operator	30.685128	31.0554	2.9108	33.9662	89356.32
Tish, John A	Firefighter - AO	10/1/01	14	7/1/05	\$28.05	29.73	86573.76	Apparatus Operator	30.685128	31.0554	2.9108	33.9662	89356.32
Dickenson, Lawrence W	Lieutenant	2/22/00	16	1/1/07	\$32.26	32.26	93941.12	Lieutenant	32.9187374	33.5425	2.9108	36.4533	95860.68
Friedrich, Jeremy E	Lieutenant	1/1/07	9	9/21/09	\$32.26	32.26	93941.12	Lieutenant	32.9187374	33.5425	2.9108	36.4533	95860.68
Hardeman, Clinton A	Lieutenant	1/1/05	10	7/21/15	\$32.26	32.26	93941.12	Lieutenant	32.9187374	33.5425	2.9108	36.4533	95860.68
Pettijohn, Ronald L	Lieutenant	8/1/02	13	8/1/02	\$32.26	32.26	93941.12	Lieutenant	32.9187374	33.5425	2.9108	36.4533	95860.68
Whitmire, Burk A	Lieutenant	11/17/07	8	10/29/07	\$32.26	32.26	93941.12	Lieutenant	32.9187374	33.5425	2.9108	36.4533	95860.68
Willette, Andrew J	Lieutenant	8/21/10	5	8/21/10	\$32.26	32.26	93941.12	Lieutenant	32.9187374	33.5425	2.9108	36.4533	95860.68
Haven, Alexander B	Division Chief	3/18/03	13	11/17/07			100464	Captain	35.9624593	36.9131	2.9108	39.8239	104724.12

Part time employees

Employee	Newberg Job Title	Hire Date	Years of Service by 7/1/16	Newberg Hourly Base Salary	Newberg Total to map	Newberg Annual Salary (2912 hrs)	TVFR Job Title	Closest (= or >) TVFR Hourly Salary (Adjusted to 56 hr week)	Closest (= or >) TVFR Hourly Base Salary (51 hr week)	PM Premium applied if licensed	Closest (= or >) TVFR Hourly Total Salary (51 hr week)	Closest (= or >) TVFR Annual Salary (2629.28 hrs)
Carr, Brent	Firefighter PT	3/27/14	2	\$19.88	19.88	57890.56	Firefighter	21.5724647	23.8888		23.8888	62819.88
Cowan, Jacob	Firefighter PT	6/5/15	1	\$19.88	19.88	57890.56	Firefighter	21.5724647	23.8888		23.8888	62819.88
Green, Bryan	Firefighter PT	7/23/15	0	\$19.88	19.88	57890.56	Firefighter	21.5724647	23.8888		23.8888	62819.88
Jennings, Michael	Firefighter PT	9/21/10	5	\$23.04	23.04	67092.48	Firefighter	23.8182717	26.3758		26.3758	69359.76

Exhibit C

Newberg 20 - Downtown (14)	5-122; 1991 Ford L9000 PUMPER (E203)	PUMPER-RESERVE
	5-127; 2000 American LaFrance / Central States PUMPER (E202)	PUMPER
	5-149; 2012 Pierce TRANSPORT/PUMPER (E20)	PUMPER-TRANSPORT
	5-226; 2000 Central States 105' TRUCK (TR20)	TRUCK
	5-331; 2004 Ford F550 LIGHT BRUSH (BR20)	LIGHT BRUSH
	5-332; 2004 Freightliner TENDER (WT20)	TENDER
	5-334; 2007 International RESCUE (R20)	TECHNICAL RESCUE
	5-340; 2008 Ford F350 WATER RESCUE TRUCK (WR20)	WATER RESCUE
	5-447; 2011 Chevrolet EIV MEDIC (M20)	MEDIC
	5-539; 2007 Ford F350 LIGHT BRUSH (FM20)	LIGHT BRUSH
	5-541; 2008 Ford F350 CODE 3 DUTY CHIEF (C21)	CODE 3 STAFF
	5-543; 2010 Chevrolet Tahoe CODE 3 STAFF (C22)	STAFF CODE 3
	5-544; 2011 Chevrolet Tahoe CODE 3 STAFF (C2)	STAFF CODE 3
	5-550; 2013 Chevrolet Tahoe CODE 3 STAFF (C20)	STAFF CODE 3
5-946; 1979 Woodridge WATER RESCUE BOAT (BOAT20)	WATER RESCUE	
Newberg 21 - Springbrook (9)	5-123; 1994 Ford L9000 PUMPER RESERVE (E212)	PUMPER-RESERVE
	5-128; 2000 American LaFrance / Central States PUMPER (E21)	PUMPER
	5-335; 2008 Ford F550 LIGHT BRUSH (BR21)	LIGHT BRUSH
	5-345; 2012 Freightliner TENDER (WT21)	TENDER
	5-425; 1995 GMC MEDIC RESERVE (M213)	MEDIC RESERVE
	5-433; 2005 Ford MEDIC RESERVE (M212)	MEDIC RESERVE
	5-448; 2012 Chevrolet G4500 MEDIC (M21)	MEDIC
	5-538; 2000 Chevrolet Tahoe CODE 3 STAFF RESERVE (C20R)	STAFF CODE 3
	5-636; 1996 Chevrolet PU Truck STAFF (UT21)	STAFF