

INTERGOVERNMENTAL AGREEMENT TO PROVIDE FIRE SERVICES

This Intergovernmental Agreement to Provide Fire Services (this "Agreement") is dated ____, 2022, but made effective for all purposes as of _____, 2022 (the "Effective Date"), and entered into between the Town of Lakeview ("Lakeview") an Oregon municipal corporation, Lakeview Rural Fire Protection District ("Lakeview Rural"), and the Lakeview Volunteers Association (LVA). For purposes of this Memorandum, the term "Party(ies)" means (individually and collectively) Lakeview, Lakeview Rural, and LVA.

RECITALS:

A. The Parties desire to contract for fire services on a 24-hour basis. The Parties find that provisions of reliable fire services necessitate the establishment of an intergovernmental entity under ORS Chapter 190, which will provide Fire Services and operate the Fire Department.

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

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein the Parties hereby agree as follows:

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

2. Lakeview Fire Department ("Agency"). (Subject to Change)
Other name ideas: Lake County Fire & Rescue, Warner Mount Fire & Rescue, Goose Lake Fire, Valley Fire & Rescue, etc.

2.1 Formation; Responsibility. The Parties hereby create the Lakeview Fire Department ("Agency"), an intergovernmental entity created pursuant to ORS Chapter 190. Agency will have responsibility and authority for fire suppression, hazard mitigation, rescue and functions incidental thereto, including, without limitation in furtherance of public safety and emergencies within the Service Area. Except as otherwise provided in this Agreement and/or ORS Chapter 190, the Agency will have the authority to oversee and direct operation and performance of the above functions and such other responsibilities assigned by the Parties from time to time. Without otherwise limiting the generality of the immediately preceding sentence, and subject to the Laws, Agency will have the following general powers: (a) adopt, through action of the IGC, such bylaws, rules, regulations, standards, and/or policies necessary to carry out the purposes of Agency and/or this Agreement; (b) perform and exercise all powers pursuant to the Laws, including, without limitation, the principal acts of the Parties and ORS Chapter 190, which are necessary and/or appropriate to perform or cause to be performed the services; and (c) exercise all powers pursuant to the Laws, including, without limitation, the principal acts of the Parties and ORS Chapter 190, which are necessary and/or appropriate to carry out the purposes of Agency and/or this Agreement.

2.2 Purpose. Agency's purposes include, without limitation, the following: (a) to respond to; stabilize and bring to conclusion incidents of hazardous conditions that threaten lives, property and resources of the response area; (b) to establish and maintain such services that will be of substantial benefit to the citizens of the Service Area and the general public; and (c) to carry out such other necessary and/or appropriate responsibilities and/or functions as provided by the Parties.

3. Intergovernmental Council.

3.1 Membership; Meetings.

3.1.1 Agency will be governed by an Intergovernmental Council (the "IGC"). For purposes of this Agreement, the IGC will consist of seven (7) members and the governing body of each of the following will appoint two of its officials to serve as an IGC member: Lakeview, Lakeview Rural, and LVA. LFD once formed, will elect from its membership a board Chairman, vice-chairman and two voting members to sit on the council to represent interests of the volunteers. The Chairman shall only cast a vote to break a tie. If a vacancy occurs on the IGC, the vacancy will be filled by the Party's governing body of the Party that appointed the departed IGC member. The IGC will elect a secretary from its membership to serve a two-year term. The chairperson will preside at all meetings of the IGC and perform other duties prescribed by the IGC from time to time. The Vice-Chairman will not be a voting member of the council unless acting in place of the Chairman and then only in the case of breaking a tie vote.

3.1.2 The attendance of the Chairman or Vice-Chairman and a majority of the then-appointed IGC members will constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes. Except as this Agreement and/or applicable Law requires otherwise, the express concurrence of a quorum is necessary to decide any question before the IGC. IGC meetings are subject to and in accordance with Oregon Public Meetings Law. Regular meetings of the IGC will be held at least quarterly at such day, time, and place as determined by the IGC. Subject to applicable law, special meetings may be called by the chairperson as needed and within seven days after receiving a request from two or more members of the IGC. Each IGC member will be entitled to an equal vote in all IGC decisions.

3.2 Authority. Subject to any limitations set forth in this Agreement and/or ORS Chapter 190, the IGC will have the powers set forth in this Section 3.2.

3.2.1 Powers. The IGC will have the authority to perform the following: (a) oversee and have full responsibility for all matters pertaining to agency operations; (b) review and approve the agency budget pursuant to applicable law, including, without limitation, ORS 294.900 to 294.930 (to the extent applicable); (c) determine each Party's projected share of Operating Expenses in accordance with this Agreement; (d) approve capital purchase requests, if not previously approved in the budget; (e) review performance relative to the implementation of agency policies and its budget; and/or (f) carry out such other activities as are necessary, required, and/or implied to accomplish the purposes of the agency, this Agreement, and/or as provided in ORS Chapter 190.

3.2.2 Limitation on Powers. The IGC will not have the authority to perform the following: (a) commit the taxing authority or general funds of a Party's governing body; (b) impose ad valorem property taxes; and/or (c) expend funds in excess of the amount of funds received from the Parties and other sources of income for a fiscal year.

3.3 Delegation of Powers. The IGC may authorize a person or persons (including, without limitation, a Party), or the manner of designating a person or persons, to exercise some or all the powers which would otherwise be exercised by the IGC, including, without limitation, overseeing the operations of the agency. To the extent so authorized, any such person(s) will have the duties and responsibilities of the IGC, and the IGC will be relieved to that extent from such duties and responsibilities.

4. Emergency Services; Agency Management.

4.1 Emergency Services. The agency will perform (or cause to be performed) and provide emergency response services to hazardous conditions for and on behalf of the Parties, including, without limitation, the following (collectively, the "Fire and Rescue"): (a) Incident response, stabilization, and conclusion; (b) hazardous condition mitigation; (c) good faith effort to perform rescue of all that may be in need; (d) such other services designated by the IGC necessary to carry out agencies purposes under Section 2.2; and other services for

public safety purposes as set forth in Exhibit A. Agency will perform the Services on a 24-hour per day, seven days per week basis. Agency will provide the Services in accordance with SOPs.

4.2 Fire Chief. The Fire Chief "Chief" will operate and manage the agency's operations, supervise emergency services, and serve as the operational head for the Agency. Subject to the terms and conditions contained in this Agreement, the Chief will be responsible for all day-to-day operations, administration, and personnel functions of the Agency, including, without limitation, responding to emergencies, record-keeping, communications, security, and other Agency functions subject to and in accordance with the SOPs. Without otherwise limiting the immediately preceding sentence, the Chief will perform financial and administrative functions of Agency including, without limitation, the following: (a) supervising all personnel and volunteers assigned to and/or employed by Agency, including, without limitation, approval of membership, removal from membership, disciplining, and all other Agency membership decisions; (b) managing and supervising all contractors assigned Agency duties; (c) incurring and paying, on the behalf of Parties and in accordance with this Agreement and Agency's approved budget, all Agency expenses; (d) expending funds in accordance with Agency's approved budget and purchasing policies approved by the IGC; (e) providing (or causing to be provided) all personnel administration, financial support staff, insurance, legal advice, management support, and related Agency services in accordance with this Agreement and the approved Agency budget; (f) providing generally for the audit, accounting for, receipt, and custody of Agency funds. The Chief will report to the IGC. Except as expressly provided otherwise by the IGC, Agency members will report to the Chief. The Chief will attend all meetings of the IGC and provide the IGC assistance and advice when requested by the IGC.

4.3 Agency members and Administrative Costs. Subject to the terms and conditions contained in this Agreement, the agency will be responsible for all personnel and administrative costs and expenses Agency incurs to perform its obligations under this Agreement, including, without limitation, costs of medical insurance, social security, employment insurance, and overtime, if applicable.

4.4 Agency Fire Station Lease.

(Option 1) The agency will lease existing fire stations for a sum of \$1 per year from the current party holding title to said stations. Maintenance of existing facilities will be performed by the lessee. All facilities will be maintained to a safe and functional level (at current levels or better) Any conditions that violate OSHA codes will be remediated as soon as possible.

(Option 2,) The agency will lease existing fire stations for a sum of \$1 per year from the current party holding title to said stations. Maintenance of facilities will be performed by the Agency. All facilities will be maintained to a safe and functional level (at current levels or better) Any conditions that violate OSHA regulations will be remediated as soon as possible.

5. Fee.

5.1 Budget. The annual operating budget will be developed by the Chief and approved by the IGC. In accordance with and subject to the Laws, including, without limitation, applicable Oregon Local Budget Law provisions, the agency may make expenditures for the acquisition, purchase, and/or lease of materials, services, supplies, facilities, personnel, and/or equipment as may be necessary or appropriate to carry out the purposes of Agency and/or this Agreement. Expenditures will not exceed funds appropriated for the specific purposes and will be made in accordance with applicable law. Revenues in excess of operational costs may also be returned to the Parties when such action is made a part of the agency's adopted budget. The Chief will prepare, develop, and recommend the agency's annual operating budget for IGC's review and approval. The agency will adhere to the fiscal year budget preparation cycle and will endeavor to adopt its annual budget in November of each year. The budget period will be on a fiscal year basis beginning on January 1 each year and ending on the immediately following December 31.

5.2 Party Obligations. Each Party will timely pay a fee for Emergency Services (the "Fee") based on the cost-sharing formula described in the attached Exhibit B, which may be modified from time to time by the IGC. Each Party's Fee will include the Party's share of Operating Expenses (as calculated in the cost-sharing formula described in the attached Exhibit B). Agency will invoice each Party for its Fee bi-annually, service based on the cost-sharing formula and approved budget. The agency will submit invoices to each Party on or about the 1st day of January and July of each year for the respective next 6 months service. Each Party will pay the amount due under each invoice within thirty (30) days after the Party's receipt of invoice.

6. Equipment. Agency's initial equipment and furnishings will, to the extent the agency determines to be practical and efficient, be composed of those items assigned to the agency as of the effective date. The agency will be responsible for budgeting, maintaining, and repairing apparatus and equipment. The Chief will, at the time of preparation of the proposed budget for the following year, submit to IGC a complete inventory of all equipment and furnishings owned by, leased, and/or temporarily assigned to the agency. In case of the agency's dissolution and termination of this Agreement, such assigned and/or loaned items will be returned to the lending government entity and all other items, or funds derived from the sale thereof, will be refunded and distributed to those governmental agencies in proportion to their financial participation averaged over the immediately preceding three-year period. Agency is responsible for maintaining equipment and response capabilities that match or exceed the existing emergency response capabilities.

7. Indemnification; Insurance. To the fullest extent permitted under applicable law, each Party will defend, indemnify, and hold the other Parties and their respective Representatives harmless for, from, and against all claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees and costs, resulting from or arising out of the Party's breach and/or failure to perform the Party's obligations contained in this Agreement. The agency will provide for adequate insurance to cover the directors, officers, employees, staff, contractors, agents, and activities undertaken by the agency. The Parties understand and acknowledge that each Party retains all immunities and privileges granted by the Oregon Tort Claims Act (ORS 30.260 through 30.295) and all other statutory rights granted as a result of their status as local public bodies.

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

9. Term; Termination.

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

9.2 Dissolution. Upon dissolution of the agency, each Party on the date of dissolution will be responsible for its Fee through the date of dissolution. Upon dissolution and subject to applicable law, (a) the agency's cash, if any, will be distributed to each Party in proportion to each Party's percentage of the cost share (as described in Exhibit B), (b) all remaining Agency assets will be distributed in the manner agreed upon by the Parties, which may include, without limitation, the sale of the agencies facilities and equipment, and (c) Agency personnel and employees will be transferred subject to and in accordance with ORS 236.605 to 236.640.

9.3 Voluntary Withdrawal by a Party. Any Party may elect to terminate participation in this Agreement by providing six months prior written notice to the chairperson, each member of the IGC, and the governing body of each Party. Withdrawal will be effective at 11:59 of the December 30 no less than six (6) months after the date of such notice. The withdrawing Party will continue to pay its share of, and/or be responsible for, its Fee incurred prior to the Party's written notice of withdraw, and will defend, indemnify, and hold the remaining Parties and agency harmless for, from, and against those financial responsibilities and obligations attributable solely to the withdrawing Party. Expenditures contracted for by the agency after the date of notice of intent to withdraw will not constitute an obligation on the part of the Party providing notice of withdrawal.

9.4 Default. If a Party to this Agreement is in default of its obligations under this Agreement, the IGC may so declare and terminate Emergency Services to that Party thirty (30) days after the date of mailing a notice of default (the "Default Notice"), unless the defaulting party cures the default in full prior to the expiration of the thirty (30) days set forth in the notice. The Default Notice will be issued by the Agency. The defaulting Party will continue to be responsible to pay its Fee as determined in accordance with this Agreement following the termination of Emergency Services.

10. Miscellaneous.

10.1 Coordination; Additional Parties. The Parties will maintain adequate levels of communication to ensure maximum cooperation between the Parties. Subject to the Laws, including, without limitation, ORS Chapter 190, the IGC may authorize a new party to join the Agency only if approved by a unanimous vote of the IGC. The addition of an additional party may be accomplished by the new party taking the actions necessary under ORS Chapter 190 and signing a copy of this Agreement, as amended, after approval of the additional membership by the IGC.

10.2 Expenses; Notices. Subject to the terms and conditions contained in this Agreement, each Party will pay all wages and benefits due to the Party's personnel, including, without limitation, overtime, workers' compensation, and death benefits. Any notice will be deemed given when personally delivered or delivered by facsimile or email transmission (with electronic confirmation of delivery), or will be deemed given three days following delivery of the notice by U.S. mail, certified, return receipt requested, postage prepaid, by the applicable Party to the address shown in Appendix A (or any other address that a Party may designate by notice to the other Party), unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed delivered on the next following business day.

10.3 Severability; Remedies. Each provision contained in this Agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law. If a Party breaches or otherwise fails to perform any of its representations, warranties, covenants, and/or obligations under this Agreement, the agency and/or the non-defaulting Parties may, in addition to any other remedy provided to agency and/or the non-defaulting Parties under this Agreement, pursue all remedies available to agency and/or the non-defaulting Parties at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.

10.4 Waiver; Entire Agreement. Notwithstanding anything contained in this Agreement to the contrary, no provision of this Agreement may be modified, waived, and/or discharged unless such waiver, modification, and/or discharge is agreed to in writing by the Parties. No waiver by a Party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement will be deemed a waiver of other provisions or conditions hereof. This Agreement contains the entire agreement and understanding between Parties with respect to the subject matter of this Agreement and contains all the terms and conditions of the Parties' agreement and supersedes any other oral or written negotiations, discussions, representations, and/or agreements.

10.5 Assignment; Binding Effect. No Party may assign any of the Party's rights and/or obligations under this Agreement to any person without the prior written consent of the other Party. Subject to the immediately preceding sentence, this Agreement will be binding on the Parties and their respective heirs, executors, administrators, successors, and permitted assigns and will insure to their benefit. Parties will execute all documents or instruments and will perform all lawful acts necessary or appropriate to secure their rights hereunder and to carry out the intent of this Agreement. All exhibits, schedules, instruments, and other documents referenced in this Agreement are part of this Agreement.

10.6 Applicable Law; Attorney Fees. This Agreement will be construed, applied, and enforced in accordance with the laws of the State of Oregon. Except as provided otherwise under ORS 403.160, any action or proceeding arising out of this Agreement will be litigated in courts located in Lake County, Oregon. Each Party consents and submits to the jurisdiction of any local, state, or federal court located in Lake County, Oregon. With respect to any dispute relating to this Agreement, or if a suit, action, arbitration, or other proceeding of any nature whatsoever is instituted to interpret or enforce the provisions of this Agreement, including, without limitation, any proceeding under the U.S. Bankruptcy Code and involving issues peculiar to federal bankruptcy law or any action, suit, arbitration, or proceeding seeking a declaration of rights or rescission, the prevailing party will be entitled to recover from the losing party its reasonable attorney fees, paralegal fees, expert fees, and all other fees, costs, and expenses incurred in connection therewith, as determined by the judge or arbitrator at trial, arbitration, or other proceeding, or on any appeal or review, in addition to all other amounts provided by law.

10.7 Person; Interpretation; Signatures; Legal Representation. For purposes of this Agreement, the term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. This Agreement may be signed by counterparts. A fax or email transmission of a signature page will be considered an original signature page. At the request of a Party, the other Party or Parties will confirm a fax or email transmitted signature page by delivering an original signature page to the requesting Party. Each Party has employed its own independent legal counsel to assist in the Party's review and negotiation of this Agreement (and any document referenced herein).

[end of agreement – signature page(s) follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date first written above but made effective for all purposes as of the Effective Date.

Lakeview Volunteer Association
an Oregon Non-Profit

Town of Lakeview:
an Oregon municipal corporation

By: _____
Its: _____
Dated: _____

By: _____
Its: _____
Dated: _____

Lakeview Rural Fire Protection District
An Oregon Rural Fire Protection District

By: _____
Its: _____
Dated: _____

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Appendix A
Definitions

“Agency” means the Lakeview Fire Department Agency, whose physical and mailing address is 245 South F St. Lakeview, OR 97630.

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

“Default Notice” has the meaning assigned to such term under Section 9.4.

“Fire Chief” means the person, entity, or firm appointed by the IGC to operate and manage the Department and provision of the Emergency Services.

“Department” means the entity designated by Agency for purposes of providing Emergency Services. As of the Effective Date, the Emergency Services Center is located at 245 South F St. Lakeview, OR 97630 with stations at _____, _____. The ten-digit non-emergency phone number is 541-947-2504.

“Emergency Services” has the meaning assigned to such term under Section 4.1.

“Effective Date” means _____, 2022.

“Fee” has the meaning assigned to such term in Section 5.2.

“IGC” has the meaning assigned to such term under Section 3.1.1.

“Law(s)” mean all federal, state, and local laws, statutes, ordinances, and/or regulations directly or indirectly affecting Agency, this Agreement, and/or the Emergency Services, including, without limitation, the Americans with Disabilities Act of 1990 (and the rules and regulations promulgated thereunder) and ORS Chapter 190, all as now in force and/or which may hereafter be amended, modified, enacted, or promulgated.

“Operating Expense(s)” means all costs and expenses necessary or appropriate for operation of Agency which are common to all Parties, including, without limitation, the following: (a) costs and expenses incurred to perform the Dispatch Services and/or operate and maintain the Dispatch Center, including, without limitation, personal services, accounting, audits, legal, planning, personnel, administrative, operations, maintenance, certification, testing, and otherwise; (b) costs and expenses for insurance policies required under this Agreement; and (c) all other costs and expenses necessary or appropriate for the performance of the Emergency Services and/or operation of the Agency.

“Party(ies)” has the meaning assigned to such term in the preamble.

“Representative(s)” mean the officers, employees, volunteers, and authorized representatives of the identified person.

“Service Area” means all areas lying within the geographic boundaries of Lake County, as depicted on the attached Exhibit C. As of the Effective Date, the population of the Service Area is approximately _____ persons.

“SOG(s)” means the standard operating guideline applicable to the agency developed and recommended and approved by the IGC.

Exhibit A
Emergency Services

Subject to the terms and conditions of this Agreement, the agency provides for and on behalf of the Parties; emergency services. The services provided under this Agreement will be performed by FireFighters and Rescue Technicians certified by the State of Oregon (as required by applicable law) and include, without limitation, the following:

1. Services will be delivered with the following priorities: Life, Property, Resources.
2. Provide rescue services to the best of our abilities and training.
3. Respond to and stabilize fire and hazardous incidents, bringing them to conclusion (conclusion is the point where the incident has a limited chance of expanding and the threat to further life, property and resource damage has been eliminated)
4. Maintain a roster of adequately staffed and trained membership to perform Emergency Services as required.
5. Maintain the equipment and facilities necessary to perform Emergency Services as required.
6. Maintain and distribute records and recordings of the agency's activities performed as required by applicable law. Subject to and in accordance with applicable law, records requests pertaining to active investigations will be deferred to the Lake County District Attorney's Office.
7. Excluding equipment funded and maintained by the Department's as of the Effective Date, and notwithstanding anything contained in the Agreement to the contrary, if a Party requires the installation of equipment and/or performance of special services dedicated to the Party's functions, and such installation and/or performance is to the exclusion of other Parties, such Party will bear all costs and expenses of such equipment, installation, maintenance, and operation unless approved, in writing, by the Parties.

Exhibit B
Cost Sharing Formula

For purposes of calculating the annual fees and subject to the terms and conditions of this Agreement, cost distribution to each Party for the Agency's first year of operation are as follows:

Lakeview	\$330,000.00
Lakeview Rural	\$ 60,000.00
Lakeview Volunteer Association	\$ 40,000.00
Total First year funding	\$430,000.00

The Lakeview Volunteer Association funds will be immediately placed into a reserve account to be used for emergency repairs, purchases or other necessary uses as determined by the IGC.

Cost distribution for subsequent years will be set by IGC in December before the service year begins. The Chief will present a proposed budget to the IGC no later than the November prior to the IGC setting cost sharing for the following year.

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Exhibit C
Service Area

The attached maps encompass the service area; Lakeview Rural Fire Protection District North; Lakeview Rural Fire Protection District South; and Town of Lakeview Fire.

(attached)

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