

RESOLUTION NO. 60-2010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE-YEAR INTERGOVERNMENTAL AGREEMENT WITH CLACKAMAS FIRE DISTRICT #1 TO PROVIDE APPARATUS AND VEHICLE MAINTENANCE SERVICES TO THE DISTRICT.

WHEREAS, the City and District have contracted since 1998 for the District to provide Fire and Life Safety services while the City has provided the maintenance of all District vehicles and apparatus; and

WHEREAS, the current contract for provision of Fire and Life Safety services is on-going, the intergovernmental agreement for the provision of maintenance services had a term of two years, through June, 30, 2010; and

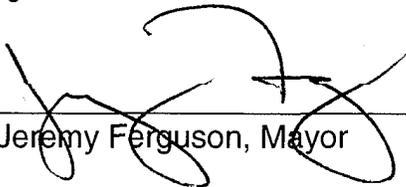
WHEREAS, the City and District have negotiated a new intergovernmental agreement that provides for the City to continue to provide maintenance services for the period from July 1, 2010 through June 30, 2011; and

WHEREAS, the new intergovernmental agreement identifies the services to be provided by City, the vehicles and apparatus covered by the agreement, the level of compensation, and other relevant terms;

NOW, THEREFORE, BE IT RESOLVED that the City of Milwaukie authorizes the City Manager to execute the Intergovernmental Agreement for Apparatus and Vehicle Maintenance with Clackamas County Fire District #1 for the term July 1, 2010 through June 30, 2011.

Introduced and adopted by the City Council on July 20, 2010.

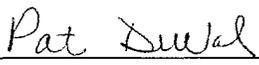
This resolution is effective on July 20, 2010



Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC



Pat Duval, City Recorder



City Attorney

INTERGOVERNMENTAL AGREEMENT FOR APPARATUS AND VEHICLE MAINTENANCE

THIS AGREEMENT authorized by ORS 190.010 is made this 1st day of July, 2010, by and between the CITY OF MILWAUKIE, an Oregon municipal corporation hereinafter referred to as 'CITY,' and the CLACKAMAS COUNTY FIRE DISTRICT #1, an Oregon municipal corporation, hereinafter referred to as "DISTRICT", the promises and agreements of each being in consideration of the promises and agreements of the other.

The parties agree as follows:

1. Term. The term of this Agreement is one (1) year, beginning on the 1st day of July 2010, ending on the 30th day of June 2011.
2. Scope of Services.
 - A. The CITY agrees to provide apparatus and vehicle maintenance to the DISTRICT. In providing these services the CITY shall:
 - 1) Provide apparatus and vehicle maintenance throughout the DISTRICT in a manner consistent with this Agreement between the parties.
 - 2) Provide apparatus and vehicle maintenance throughout the DISTRICT within the following guidelines as well as those outlined in Appendix "A".
 - 3) Maintain, for the DISTRICT, adequate records of past and present activities, which will meet the needs of the DISTRICT for its assessment process from the Commission on Fire Accreditation International and review by Commercial Risk Services (ISO).
 - 4) The CITY shall take all reasonable steps to maintain the DISTRICT'S equipment and apparatus in a good state of repair and shall at all times conduct its operations under this Agreement in a safe and professional manner.
 - B. The CITY agrees to provide the DISTRICT with regular reports of apparatus and vehicle maintenance provided in sections 2A(1) through 2A(5) of this Agreement.
 - C. The Parties recognize that ongoing and effective communication is essential to service delivery; specifically:
 - 1) The CITY shall keep the DISTRICT informed of all new developments, issues, or concerns affecting the fleet operations.
 - 2) The CITY shall provide on-going and detailed status reports for apparatus that is out-of-service, including factors affecting return-to-service.
 - 3) The DISTRICT shall provide clear expectations and monthly performance feedback to the CITY.

- 4) The CITY agrees to take steps necessary to improve performance and efficiency by expanding its commonly used parts inventory and other measures that result in reduced repair cycle times.
 - 5) The DISTRICT's staff liaison will meet with the Shop Foreman on-site at the Maintenance Center no less than twice per month.
- D. The CITY will treat demands in all jurisdictions covered by this Agreement to insure a consistent standard of performance and equal service level. Vehicles and equipment needed for public safety shall have first priority. Priority shall be determined by the mechanics in accordance with a list of vehicles and apparatus that will be agreed upon by the parties and made a part of this Agreement as Appendix "B".
 - E. All Fire mechanics will be EVT (emergency vehicle technician) certified not later than June 30, 2010. Any future fire mechanics will be EVT certified within six (6) months of their hire. All City employees that drive any district fire apparatus will have a commercial driver's license (CDL).
 - F. The CITY agrees to provide, when requested, 24-hour emergency service, and mobile fueling at emergency operations. Cost of providing this service shall be billed by the CITY on a time and material basis with labor costs at time and one half for fire mechanics as well as other CITY personnel providing emergency service or mobile fueling at emergency operations.
 - G. The City agrees to provide the DISTRICT a Preventative Maintenance schedule for all the DISTRICT'S Fire apparatus including cars and light trucks.
3. Compensation. The DISTRICT agrees to pay the CITY a monthly amount to be agreed upon by the parties in each following year of this agreement beginning July 1, 2010, payable within 15 days of each month's end. Payment shall be made in accordance with the following:
- A. By March 30 of each year of this Agreement the CITY and DISTRICT shall renegotiate the service level and/or service cost that will take effect on the following July. In the event the parties cannot agree on the amount of compensation, they shall choose a mutually agreeable third party arbitrator to establish the annual service cost for the coming year. Such arbitration shall not be binding but shall be the basis for the parties meeting to finalize agreement on service level and/or service cost. The cost to provide service that has been negotiated by the parties for 2010/2011 is included as Appendix "C" of this Agreement.
 - B. DISTRICT is responsible for paying the cost of service provided by mechanics and other CITY public works personnel that is the result of additional workload, including service provided under section 2.F of this agreement. CITY will calculate the cost of this service and bill DISTRICT for the service. When preparing estimates of the cost of CITY providing this service, CITY shall take into consideration its cost associated with assigning mechanics to fill in for fire mechanics regularly assigned to perform

preventative maintenance to DISTRICT vehicles. CITY shall deduct all personnel costs that are related to non-fire mechanic personnel performing A or B preventive maintenance to DISTRICT apparatus and vehicles when the need for the non-fire related mechanic is directly caused by fire a mechanic being absent for any reason. All personnel costs related to assigning a non-fire mechanic to perform such work under this circumstance shall be deducted and not charged to the DISTRICT by the CITY.

- C. Except as provided in Sections 3F, and 3G, the DISTRICT intends to appropriate funds during the term of this Agreement sufficient to provide the payments required to be made to the CITY during this Agreement.
 - D. Funds paid to the CITY by the DISTRICT under the terms of this contract shall be dedicated to the operation, maintenance, equipping, and administration of the fleet services. In the event that the CITY should be dissolved, fleet maintenance fund reserves remaining shall be apportioned with respect to the ratio paid to the fund by the DISTRICT and the CITY; and the portion paid by the DISTRICT shall be returned to the DISTRICT, or may, upon agreement by the DISTRICT, be allocated for fleet services.
 - E. It is understood and agreed by the parties that no board member, officer, or other representative of the DISTRICT shall be individually liable for any payments due to the CITY.
 - F. None of the provisions of this Agreement shall be construed to create in the DISTRICT any right, interest, or ownership in any real or personal property of the CITY used for the performance of this Agreement.
 - G. If, during the term of this Agreement the taxing ability of the CITY and/or the DISTRICT is limited by a state-wide ballot measure, legislative action, or a court decision; and if, as a result of the tax limitation, the CITY is unable to provide the level of service described in Section 2 above, the parties agree to renegotiate in good faith the amount of compensation to be paid to the DISTRICT to reflect the decrease in services provided.
 - H. This Agreement is subject to any applicable constitutional debt limitations and is contingent upon funds being appropriated by the DISTRICT. If the DISTRICT fails to appropriate the funds necessary for this Agreement, notice as described in Section 9 shall be given and both parties will immediately negotiate a service transition.
4. Operational Coordination and Supervision.
- A. The DISTRICT will provide a liaison to coordinate with the City's Fleet/Facilities Manager. The Fleet and Facilities Manager will ensure the day-to-day provision of high quality apparatus and fleet maintenance services that is approved by both the CITY and the DISTRICT. All issues will be resolved at the liaison level, if an issue is not able to be resolved in this manner it will be taken to the City Manager and District Fire Chief for resolution. In the event the parties cannot agree on a resolution to the

issue a mutually agreeable third party arbitrator will be contacted. Such arbitration shall not be binding, but shall be the basis for the parties meeting to finalize agreement on operational and supervision issues. Identity. All CITY fleet maintenance equipment shall continue to display a CITY Logo and may display a DISTRICT Logo. The CITY shall identify that it serves the DISTRICT in all promotional and educational materials related to Fleet Services.

5. Hold Harmless.

- A. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, CITY shall hold harmless and indemnify DISTRICT, its Directors, employees, and volunteer agents against any and all claims, damages, losses and expenses (including all attorney(s) fees and costs), arising out of or resulting from CITY's performance of this Agreement where the loss or claim is attributable to the acts or omissions of the CITY.
- B. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, DISTRICT shall hold harmless and indemnify CITY, its Councilors, employees, and volunteer agents against any and all claims, damages, losses and expenses (including all attorney(s) fees and costs), arising out of or resulting from DISTRICT's performance of this Agreement where the loss or claim is attributable to the acts or omissions of the DISTRICT.

6. Termination. This Agreement may be terminated by either party as of the 30th day of June of any year during the term of this Agreement by giving written notice to the other party September 30th of the prior year.

7. Renewal. DISTRICT agrees to give nine (9) months notice to CITY prior to the expiration of this Agreement if DISTRICT intends to renegotiate the Agreement.

- A. If DISTRICT has notified CITY of its intent to renegotiate this Agreement, the parties agree that prior to the termination of this Agreement, they will negotiate in good faith concerning the possible renewal of this Agreement or the making of a new Agreement.
- B. If DISTRICT has notified the CITY of its intent to renew or renegotiate this Agreement and renewal or successful renegotiation has not been completed before the end of this contract period, this Agreement shall be automatically extended for 90 days to allow continuing negotiations. This Agreement may be extended further by mutual agreement for additional increments up to 90 days each.

8. Discrimination. The parties agree not to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, or source of income in the performance of this Agreement.

9. Waiver of Breach. A waiver of any breach of any provision of this Agreement by either party shall not operate as a waiver of any subsequent breach of the same or any other provision of this Agreement.

10. Applicable Laws. At all times during the term of this Agreement the DISTRICT and the CITY shall comply with all applicable laws, ordinances, rules, and regulations of the United States of America, the State of Oregon, including all agencies and subdivisions thereof.
11. General Provisions. Unless otherwise specifically prescribed in this Agreement, the following provisions shall govern its interpretation and construction:
- A. When not inconsistent with the context words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.
 - B. Time is of the essence of this Agreement. Neither the DISTRICT nor the CITY shall be relieved of its obligation to comply promptly with any provisions of this Agreement by any failure of the other party to enforce prompt compliance with any of its provisions.
 - C. Unless otherwise specified in this Agreement, any action authorized or required to be taken by the CITY shall be taken by the Council or by the City Manager.
 - D. Every duty and every act to be performed by either party imposes an obligation of good faith on the party to perform such.
12. Notice. All notices, reports, or demands required to be given in writing under this Agreement shall be deemed to be given when delivered personally to the person designated below or when five (5) days have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid, or on the next addressed business day if sent by express mail or overnight air courier to the party to which the notice is being given, as follows:

For CITY
 Pat DuVal
 City Manager Pro Tem
 10722 SE Main
 Milwaukie, Oregon 97222

For DISTRICT
 Ed Kirchhofer
 Fire Chief
 11300 SE Fuller
 Milwaukie, Oregon 97222

Such addresses may be changed by either party upon written notice to the other party given as provided in this section.

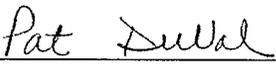
13. Captions. The paragraph captions and headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
14. Time Computation. Where the performance or doing of any act, duty, matter, payment, or thing is required hereunder and the period of time or duration for the performance is prescribed and fixed herein, the time shall be computed so as to exclude the first and

include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

City of Milwaukie, an Oregon municipal Corporation

Clackamas County Fire District #1, an Oregon special district

by:

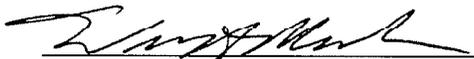


Pat DuVal, City Manager Pro Tem

Don Trotter
CCFD #1 Board Chair

Toby Forsberg
CCFD #1 Secretary

Approved as to form:



Bill Monahan, City Attorney

John W. Osburn, CCFD #1 Attorney

APPENDIX - A

The CITY agrees to provide the services listed below. It is understood that this is not an all inclusive list but is intended to display intent and to meet the expectations of the DISTRICT.

1. Provide a schedule for twice a year preventative maintenance on all district fire apparatus. An agreed upon checklist will be utilized.
2. Provide maintenance on district small power equipment as needed (saws, Holmatro tools, fans, etc.).
3. Provide ladder repair.
4. Provide welding on district apparatus as needed.
5. Provide once a year safety checks and P.M. on all staff cars.
6. Provide every 2000-mile safety check and service on front line battalion chief vehicles.
7. Coordinate and schedule all outside repairs and work.
8. Maintain a record and history of all district vehicles.
9. Provide monthly and annual staff reports on labor, parts and expenses.
10. Assist in preparing an apparatus replacement schedule.
11. Coordinate and schedule all D.E.Q. testing that is needed.
12. Assist in the preparation and writing of all Standard Operating Guidelines pertaining to maintenance

APPENDIX - B

Vehicle and Apparatus Preventive Maintenance Priority

First Priority:

All fire fighting equipment including engines, pump trucks, ladder trucks, brush rigs, water tenders, water rescue vehicles, squad vehicles and buses.

Second Priority:

All cars and light trucks.

APPENDIX – C

City of Milwaukie cost to provide service to CCFD#1 FY 2010-11

	08/09 & 09/10			2010/11			
	COST	%	Ann Charge	COST	Ann Charge	Proposed Charge/Month	Agreed upon Charge/Month
Ops Director (Supervisor)	\$0	0.05	\$0	\$131,812	\$0,591	\$549	\$549
Mechanic 1	72,247	1.00	\$72,247	\$83,217	\$83,217	\$6,935	\$6,935
Mechanic 2	62,326	1.00	\$62,326	\$74,116	\$74,116	\$6,176	\$6,176
Mechanic 3	74,828	1.00	\$74,828	\$66,020	\$66,020	\$5,502	\$5,502
Fleet Supervisor	92,405	0.40	\$36,962	\$84,739	\$33,896	\$2,825	\$2,825
Administrative Assistant	72,004	0.25	\$18,001	\$76,469	\$19,117	\$1,593	\$1,593
Facility Charge	206,983	0.40	\$82,793	\$196,000	\$78,400	\$6,533	\$3,500
Facility Maint Expense	7,875	0.40	\$3,150	\$5,000	\$2,000	\$167	\$167
Office Supplies	3,150	0.40	\$1,260	\$2,000	\$800	\$67	\$67
Education and Training	6,000	0.60	\$3,600	\$3,000	\$1,800	\$150	\$150
Fee and Licenses	550	0.40	\$220	\$300	\$120	\$10	\$10
Vehicle expense	11,000	1.00	\$11,000	\$23,000	\$23,000	\$1,917	\$1,000
Uniforms/coverals	3,000	1.00	\$3,000	\$3,000	\$3,000	\$250	\$250
TOTAL	\$612,368		\$369,387	\$748,673	\$385,486	\$32,124	
Total per month			\$30,782				\$28,965

Actual mo
contract
charge
08/09 and
09/10 was
\$28,050

