# AN INTERLOCAL AGREEMENT BETWEEN LEWIS COUNTY AND THE CITY OF CHEHALIS FOR FIRE MARSHAL SERVICE

THIS AGREEMENT is made and entered into this 1 day of November, 2010, by and between LEWIS COUNTY, WASHINGTON, a municipal corporation and political Subdivision of the State of Washington, hereinafter referred to as the "County," and the CITY OF CHEHALIS, WASHINGTON, a municipal corporation , hereinafter referred to as the "CITY," under authority of the Interlocal Cooperation Act, Chapter 39.34 RCW.

WITNESSETH:

WHEREAS, pursuant to Chapter 39.34 RCW (Interlocal Cooperation Act), one or more public entities may contract with one another to perform government services that each is by law authorized to perform; and

WHEREAS, the County is required by Ch. 48.48 RCW to provide the services of a Fire Marshal or other such fire authority designated by the Board of County Commissioners to investigate the origin, cause, circumstances and extent of loss of all fires within its jurisdiction; and

WHEREAS, pursuant to RCW 48.48.060(3), the County is expressly entitled to enter into interlocal agreements to carry out such duties in the unincorporated areas of the County, and City has the staff and resources available to provide certain other services in the City and County in an effective and cost-efficient manner; and

WHEREAS, the City and County find it mutually beneficial and in the public interest to enter into an interlocal services agreement for the City to provide fire investigation services to County residents;

NOW, THEREFORE, THE CITY AND COUNTY agree as follows:

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**SECTION 1. PURPOSE, AND TERM OF AGREEMENT.** The purpose of this Agreement is to ensure high quality and uninterrupted fire marshal services to the residents of the County during

the period between January 1, 2011, and December 31, 2011. This agreement may be extended for three (3) additional one-year periods upon written notification by the County to the City of not less than thirty (30) days prior to the expiration of the current-year period, and upon the agreement of the parties to the hourly fee, and other terms or amendments for the following year.

**SECTION 2. SCOPE OF FIRE MARSHAL SERVICES.** The scope of services provided by the City within the unincorporated areas addressed by this Agreement shall be as specified in Sections 4 & 5 of this Agreement, and any attached Appendix or Amendment incorporated herein by reference as fully set forth.

**SECTION 3. FINANCIAL ADMINISTATION.** The fair costs for provision of such fire marshal service shall be provided at the rate of $135.00 per hour, inclusive of all expenses, materials, and cost of provision of such service. The fair cost for provision of fire protection and safety service programs, including plan review shall be provided at the rate of $52.00 per hour and reimbursement for mileage for city-provided transportation at a rate consistent with the State of Washington mileage reimbursement rate under § 4.4. This rate shall cover a period commencing with dispatch to on-site, investigation to return to off-duty status; a minimum of one hour service shall constitute a 'base cost' for investigative services. Preparation and filing of reports, and follow-up investigation shall be satisfied by such base cost; PROVIDED, that death scenes, criminal investigations, and multiple or large structure response may be billed and detailed as to salary, equipment, supplies and administration costs associated with the services.

**SECTION 4. RESPONSIBILITIES OF THE CITY.** The City agrees to provide the following fire marshal services to the County through the City of Chehalis Fire Department:

4.1 Investigations of the origin, cause, circumstances and extent of loss from fire, pursuant to Ch. 48.48 RCW, whether of civil or criminal nature, in cooperation with the state fire marshal, and state and County law enforcement and regulatory personnel.

4.2 Provision for the on-call availability of a properly trained, experienced and equipped fire investigator, 24 hours per day, each and every day of the year. On-call dispatch time of the investigator to the fire scene shall be not more than two (2) hours after first notification by County to the appropriate City representative.

4.3 The City of Chehalis Fire Department shall furnish and supply all necessary labor, supervision, equipment, communication services and supplies, and such administrative services as are necessary to maintain a proper level of fire marshal service to the unincorporated areas of the County. Administrative services shall include, but are not limited to: the filing and storage of fire investigation reports and investigative evidence and responding to public disclosure requests thereto; and accounting services for the purpose of providing a full and complete disclosure to the County of all actual service costs.

4.4 When (and unless) agreed to between the parties, the City shall provide fire protection and safety service programs to County citizens to the same extent and level as existed prior to execution of this Agreement, at a rate and schedule as agreed to between the parties, including plans review.

4.5 To assign either the City fire chief or designee to act as a liaison to the Lewis County Department of Community Development on all operational issues and civil investigations, and to act as liaison to the Lewis County Sheriff's Office and Prosecuting Attorney on all criminal investigations.

4.6 The City welcomes input from the County, the Lewis County Sheriff's Office and Prosecuting Attorney on the operation of its fire marshal service. Any operational concerns should initially be raised with the City representative designated under subsection 4.5. In addition, if regular meetings are deemed necessary by the County to discuss issues regarding fire marshal services, they will be arranged by representatives of the Department of Community Development and with said City representative.

**SECTION 5. RESPONSIBILITIES OF THE COUNTY.** The County agrees to meet the following responsibilities under this Agreement:

5.1 The County shall grant to the City of Chehalis Fire Department personnel assigned to provide fire marshal services the authority to enforce the provisions of Ch. 48.48 RCW, and associated County fire marshal duties pertaining to civil and criminal fire investigations.

5.2 The County shall provide to the City of Chehalis Fire Department personnel assigned to fire marshal services the assistance of the Department of Community Development and associated personnel necessary to assist the City in providing fire marshal services.

5.3 Provide for timely payment for the services provided for in this Agreement upon receipt of a properly constituted and prepared billing by the City.

**SECTION 6. ADMINISTRATION.** This Agreement shall be administered by the City Manager and by the Director or acting Director of the Lewis County Department of Community Development.

**SECTION 7. DISPUTE RESOLUTION.** In the event of a dispute between the City and County regarding the delivery of services under or administration of this Agreement, a representative of the City of Chehalis Fire Department and the County Department of Community Development shall review such dispute and options for resolution. Any dispute not resolved by these representatives shall be referred to the City manager and to the County Board. Any agreed decision by the City Manager and County Board regarding the dispute shall be binding on the parties.

If any dispute arising out of or relating to this Agreement or an alleged breach of this Agreement cannot be resolved by the City Manager and County Board, such dispute may be submitted for mediation by a third party mediator agreed to by the parties. If not resolved through mediation, a dispute shall be submitted to binding arbitration in accordance with the rules and procedures set forth in Ch. 7.04 RCW, and the judgment or award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

For purposes of this section, any actions or decision s made by the County Department of Community Development shall be subject to the ratification of the Board of County Commissioners.

**SECTION 8. INDEPENDENT CONTRACTOR.** As used in this Agreement, "County" means the party that solicits and pays for services, and "City" means the party that contracts to provide those services. The City is and shall at all times be deemed to be an independent contractor in the provision of the services set forth in the Agreement. Nothing herein nor in any of the Agreement

shall be construed as creating the relationship of employer and employee, or principal and agent, between the City and County or between any of the City's employees or agents. The City shall retain all authority for provision of services, standards of performance, discipline and control of personnel, and other matters incident to the performance of services by the City pursuant to this Agreement. Nothing in this Agreement shall make any employee of the County an employee of the City or any employee of the City and employee of the County for any purpose, including but not limited to: withholding of taxes; payment of benefits, workers compensation pursuant to Title 51 RCW; or any other rights or privileges accorded their respective employees by virtue of their employment.

**SECTION 9. HOLD HARMLESS/INDEMNIFICATION.** The City in this Agreement agrees to indemnify, defend, save and hold harmless the County, its officials, employees and agents from and against any and all liability, demands, losses, damage, claims, causes of action, suits or judgments, including cost, attorney fees and expenses incurred in connection therewith, or whatsoever kind or nature, including deaths and injuries to persons, arising out of, or in connection with, or incident to, the performance by the City of this Agreement. In the event that any suit based on such a claim, demand, loss, damage, cost, or course of action is brought against the County, the County retains the right to participate in said suit if any principle of public law is involved. This indemnity and hold harmless shall include any claim made against the County by an employee of the City or subcontractor or agent of the City, even if the City is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW.

The County in this agreement agrees to indemnify, defend, save and hold harmless the City, its officials, employees and agents from and against any and all liability, demands, losses, damage, claims, causes of action, suits or judgments, including cost, attorney fees and expenses incurred in connection therewith, or whatsoever kind or nature, including deaths and injuries to persons, arising out of, or in connection with, or inci dent to, the performance by the County of this Agreement. In the event that any suit based on such a claim, demand, loss, damage, cost, or course of action is brought against the City, the County retains the right to participate in said suit if any principle of public law is involved. This indemnity and hold harmless shall include any claim made against the City by an employee of the County or subcontractor or agent of the County, even if the County is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW.

**SECTION 10. ASSIGNMENTS/SUBCONTRACTING.** Neither the City nor the County shall transfer or assign, in whole or in part, any or all of their respective rights or obligations under this Agreement without the prior written consent of the other party. The City shall not subcontract for the provisions of any services it is to provide the County under this Agreement without the prior written consent of the County.

**SECTION 11. NON-DISCRIMINATION.** In connection with the provision of services pursuant to this Agreement, the City shall not discriminate against any employee or applicant for employment or against any consumer of an applicant for services because of age, sex, race, creed, religion, color, national origin, marital status, pregnancy, veteran status, the presence of any physical, mental or sensory disability, or perceived or actual sexual orientation. The County and City each certify that it is an Equal Opportunity Employer.

**SECTION 12. NO THIRD PARTY BENEFICIARY.** The City does not intend by this Agreement to assume any contractual obligations to anyone other than the County. The County does not intend by this Agreement to assume any contractual obligations to anyone other than the City. The City and County do not intend that there be any third-party beneficiary to this Agreement.

**SECTION 13. NOTICE.** Any notices to be given under this Agreement shall, at a minimum, be delivered, postage prepaid and addressed to:

To the County:

Lewis County Department of Community Development
2025 NE Kresky Ave.
Chehalis, WA 98532

Attention: Department Director

To the City:

City of Chehalis Fire Department
City of Chehalis
350 N Market Blvd.
Chehalis, WA 98532

Attention: Fire Chief

The name and address to which notices shall be directed may be changed by either the City or County by giving the other party notice of such change as provided in this section.

**SECTION 14. WAIVER.** No waiver by either party of any term or condition of this Agreement or agreement incorporated in this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision.

**SECTION 15. ENTIRE AGREEMENT.** This Agreement contains all of the agreements of the parties with respect to the subject matter covered or mentioned therein, and no prior Agreement(s) shall be effective to the contrary.

**SECTION 16. AMENDMENT AND TERMINATION.** The provisions of this Agreement may be amended with the mutual consent of the parties. No additions to, or alterations of, the terms of this Agreement shall be valid unless make in writing and formally approved and executed by the duly authorized agents of both parties. Either party may terminate this agreement for public convenience upon not less than sixty (60) days prior written notice to the other party.

**SECTION 17. DOCUMENT EXECUTION AND FILING.** The City and County agree that there shall be duplicate originals of this Agreement procured and distributed for signature by the necessary officials of the City and County. Upon execution, the executed duplicate original of this Agreement shall be returned to the City Clerk who shall file copies of this Agreement with the County Auditor and the Washington State Secretary of State. Upon receipt by the City Clerk of the duplicate original, each such duplicate original shall constitute an Agreement binding upon both the City and County.

**SECTION 18. SEVERABILITY**. If any section or part of this Agreement is held by a court to be invalid, such action shall no affect the validity of any other part of this Agreement.

IN WITNESS THEREOF, THE City and County have caused this Agreement to be executed in their respective names by their duly authorized officers and have caused this Agreement.

Agreements to be dated as of the 1st day of November, 2010, the same being subject to ratifying legislative actions of the respective parties hereto.

CITY OF CHEHALIS, a municipal corporation

By: _____
City Manager

DEPT. OF COMMUNITY DEVELOPMENT
FOR LEWIS COUNTY, WASHINGTON

By: _____
Director of Community Development

Approved as to form only:

By: _____
City Attorney

Approved as to form:
Michael Golden, Prosecuting Attorney

By: _____
Deputy Prosecuting Attorney