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**INTERLOCAL AGREEMENT FOR
MUTUAL AID
FOR
FIREFIGHTING and EMERGENCY MEDICAL SERVICES**

THIS AGREEMENT, is made and entered into this _____ day of _____, 2005, in duplicate by and between the parties, Thurston County Fire District 9 and McCleary Fire Department, both of which are organized under the laws of the State of Washington.

I. RECITALS.

WHEREAS, the parties hereto have determined that in order to provide the maximum possible protection for the lives and property of the general public within their respective boundaries, it is necessary to pool available resources;

WHEREAS, Thurston County Fire District 9 located in Thurston County and McCleary Fire Department located in Grays Harbor County desire to render to each other whenever possible the maximum cooperation possible in the sharing of personnel, equipment, technical expertise, and other resources in order to deal with fires, conflagrations, medical emergencies, military or terrorist attack, situations and disasters, or non-emergencies;

WHEREAS, the parties have further determined that the possibility for added protection provided to their citizens through a mutual aid agreement is, for all purposes, adequate consideration for the promises, conditions, and terms contained herein; and

WHEREAS, pursuant to RCW 35.84.040 and .050 and RCW 52.12.111 and .121, the governing body of each party to this agreement has determined that each piece of fire apparatus owned, operated, or maintained by that party may be used outside the

jurisdictional boundaries of that party's jurisdiction, and each party's personnel may carry out its duties outside the jurisdictional boundaries of that party's jurisdiction in order to effectuate the terms of the Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto mutually agree as follows:

II. TERMS.

A. DEFINITIONS.

1. "Emergency," means any situation or event causing or having potential to cause property damage, injury or death, or an event or circumstance that may overwhelm the resources of a party to this Agreement.
2. "Fire District," means any Fire District that is a signatory or that becomes a signatory to this Agreement.
3. "City or Cities," means any city and/or town that is a signatory or that becomes a signatory to this Agreement.
4. "Employing agency," means the agency under whose employment a fire fighter is authorized to act in his/her capacity as such.
5. "Fire fighter," means all ranks of employees within an employing agency, including, but not limited to: volunteer fire fighters, fire fighters, emergency medical technicians, paramedics, and management-level employees, officers and officials.
6. "Incident Commander," means the fire department member in overall command of an emergency.
7. "Requesting Agency," means the agency that makes the request for mutual aid assistance, to any other party that is a signatory to this Agreement.
8. "Responding Agency," means the agency or agencies that respond to a request for mutual aid assistance.

B. AUTHORITY

The undersigned parties enter into this Agreement pursuant to the authority vested in them under the following provisions of the laws of the State of Washington: Chapter 39.34 (Interlocal Cooperation Act); and RCW 35.84.040 (Fire apparatus – Use beyond city limits); RCW 52.12.031 (Joint Operations); and RCW 52.12.111 (Use of equipment and personnel outside district – Governmental function).

C. PURPOSE.

The purpose of this Agreement is to provide an orderly method of requesting and providing emergency mutual aid assistance between Thurston County Fire District 9 and McCleary Fire Department in Grays Harbor County.

D. MUTUAL AID ASSISTANCE.

1. Response to Request for Aid. Participation in any mutual aid event is voluntary and at the sole discretion of the responding agency. The requesting agency shall have the primary responsibility of protecting its own constituency and jurisdiction. No party shall be liable to any other party for, or be considered to be in breach of or default under this Agreement for denying a request for mutual aid response. Any party to this Agreement may request aid from another party to this Agreement, in dealing with emergencies. On receiving a request for aid, the responding agency shall:
 - a. Immediately determine if apparatus and personnel are available and can be spared.
 - b. Determine what apparatus might most effectively and efficiently be dispatched.
 - c. If necessary, or desirable, assign personnel and apparatus in accordance with pre-designated mutual aid plans.

- d. Dispatch the designated apparatus with instructions to report to the Incident Commander.
2. Inability To Render Assistance. Rendering assistance under this Agreement is not mandatory. However, the requesting agency shall be informed of the reason why assistance cannot be rendered.
3. Operational Command and Control. All parties will operate under the Incident Management System (also referred to as Incident Command System). WAC 296-305-05001 as written or hereafter amended, shall apply. Agencies and jurisdictions are serving as a resource to the requesting agency. While incident command may be delegated by the requesting agency, overall incident responsibility remains with the requesting agency. Each responding agency is responsible for the care and custody of its own personnel and equipment.
4. Consumable Supplies. A requesting agency shall provide motor fuel, lubricating oil, welfare items and other consumables for fire fighters to the extent of available supplies.
5. Equipment Salvage; Equipment Damage. All agencies involved in a mutual aid assistance operation shall exercise due diligence in salvaging lost or damaged equipment, and ensuring that it is returned to its rightful owner. Each agency shall be responsible for any repairs and/or damages done to their own vehicles or equipment as a result of participation in a mutual aid incident.

E. INDEMNIFICATION AND LIMITATION OF LIABILITY

1. a. The parties agree that each of the parties shall, at all times, be solely responsible for the acts or the failure to act of its personnel that occur or arise in any way out of the performance of this Agreement by its personnel only and to save and hold the parties and their personnel and officials harmless from all costs, expenses, losses and damages, including cost of defense, incurred as a result of any acts or omissions of the party's personnel relating to the performance of this Agreement.
- b. In the event that a claim and/or lawsuit is brought against a party to this Agreement, or against any party's officers, officials or employees for actions arising out of their conduct in responding to a request for assistance, it shall be the duty of each such party to promptly notify the other parties that actually responded to the mutual aid event which is the subject of such claim or lawsuit that the same has been initiated.
- c. Each party and their respective defense counsel shall, to the extent reasonably possible and consistent with the best interests of their respective clients, cooperate with other parties to this Agreement and their respective defense counsel in the defense of any lawsuit arising out of a mutual aid response and shall agree, whenever possible, to share non-attorney fee-related costs such as records gathering, preparation of trial exhibits, the retention and payment of expert witnesses, and the cost of deposition reporting and transcription.
- d. Each party hereto shall obtain and maintain in full force and effect public liability and property damage insurance or self-insurance coverage in the amount of \$1 million per occurrence to cover claims for injury to persons

or damage to property arising from the performance of this Agreement. Insurance coverage shall not be cancelled by any party except upon thirty (30) days prior written notice by certified mail, to all other parties. Satisfactory evidence of the requisite insurance coverage shall be provided to each party to this Agreement, prior to execution of this Agreement by any party.

2. Nothing herein shall require or be interpreted to:
 - a. Waive any defense arising out of RCW Title 51.
 - b. Operate to negate the responsibilities of any party under RCW 35.84.050 and RCW 52.12.121 as to benefits for an injured fire fighter.
 - c. Limit or restrict the ability of any party, or any party's officials, officers or employee's or legal counsel for any party, official, officer or employee to exercise any right, defense or remedy which a party to a lawsuit may have with respect to claims or third parties, including any good faith attempts to seek dismissal of legal claims against a party by any proper means allowed under the civil rules in either state or federal court.
 - d. Cover or require indemnification or payment of any judgment against any individual or party for intentional wrongful conduct, conduct outside the scope of employment of any individual, or for any judgment for punitive damages against any individual or party. Payment of punitive damage awards, fines or sanctions shall be the sole responsibility of the individual against whom said judgment is rendered and/or his or her employer, should that employer elect to make said payment voluntarily. This Agreement does not require indemnification of any punitive damage awards or for any order imposing fines or sanctions.

- e. The parties shall, to the best of their ability, coordinate their liability insurance coverages and/or self-insured coverages to the extent possible to fully implement and follow the Agreement set forth herein. However, the consent of any liability insurance carrier or self-insured pool or organization is not required to make this Agreement effective as between the parties signatory to this Agreement and the failure of any insurance carrier or self-insured pool or organization to agree or follow the terms of this provision on liability shall not relieve any individual city or fire district from its obligations under this Agreement. Nothing in this Agreement shall be interpreted to create third party rights in any entity not a signatory to this Agreement.

- f. The provisions of this section shall survive termination of this Agreement, whether termination is by all parties, or by one or more parties.

F. PRE-EMERGENCY PLANNING.

The Fire Chiefs of the parties to this Agreement may, from time to time, mutually establish pre-emergency plans which shall indicate the types of and locations of potential problem areas where initial predesignated emergency assistance would be appropriate, the type of equipment that should be dispatched under various possible circumstances, and the number of personnel that should be dispatched under such circumstances. Such plans shall take into consideration and insure the proper protection by the responding party of its own geographical area. The existence of pre-emergency plans shall not obligate any party to this Agreement to respond to a request for assistance, consistent with the terms of Section III. D., herein.

G. DURATION.

The term of the Agreement shall be for 5 years, commencing on _____, and terminating on December 31, 2010. Absent written modification, this Agreement will be automatically renewed for one additional five-year term. This document, once reviewed and properly executed, supersedes any and all previous Mutual Aid agreements between the two Districts.

H. JOINT ACQUISITION AND DISPOSITION OF PROPERTY; FINANCING.

The parties shall not jointly acquire property and therefore there is no need to set forth a means of disposition of such property. Each party shall assume responsibility for the financing involved in acquiring its apparatus and equipment, and for paying salaries and benefits of its officers, officials and employees, subject to Section D, herein.

I. NO SEPARATE LEGAL ENTITY CREATED; ADMINISTRATION.

No separate legal entity is created by this Agreement. No administrator or joint board is created by this Agreement. The parties agree to meet annually to review and discuss the terms of this Agreement, and to verify each party's requirement for insurance coverage under Section E. (2)(e), herein.

J. COOPERATIVE PURCHASING.

In accordance with RCW Chapter 39.34 and applicable provisions of any party's governing body, the parties hereby agree to a cooperative governmental purchasing agreement for the purpose of purchasing various supplies, materials, and equipment, using the parties' competitively awarded contracts. The following terms and conditions apply:

1. Each party in contracting for the purchase of supplies, materials, and equipment, agrees, at its sole discretion, to extend said contracts to the other party to the extent permitted by law, and agreed upon by the parties and the vendor(s).
2. Each party shall be responsible for compliance with any additional or varying laws and regulations governing purchases by or on their own behalf, including, but not limited to, compliance with the applicable provisions of RCW Title 39.
3. Any purchases shall be implemented by purchase order and directed to the vendor. The purchase order shall specify that the item(s) ordered are to be delivered to the party that placed the order.
4. No party shall accept responsibility for the performance of any vendor contracted for by another party as a result of this Agreement.
5. No party shall be responsible for the payment of any item(s) contracted for by another party as a result of this Agreement.
6. Each item purchased shall become the sole property of the party that placed the order. No other party shall have a right or interest in or claim of title to that property.
7. The Administrator for this Section of this Agreement is the party that made the particular purchase.

K. MODIFICATION; TERMINATION.

1. Modification. This Agreement may only be modified by mutual agreement of all parties hereto, executed in writing, in the same manner as this Agreement.

2. Termination. This Agreement may be terminated as to any single party, when the party provides notice to all other parties in writing at least 60 days prior to its intended withdrawal from this Agreement, per the requirements of Section III., L., herein. Any party to this Agreement that allows its insurance coverage to lapse will be deemed terminated from this Agreement, regardless whether notice of such lapse has been provided to the other parties.

L. COMMENCEMENT OF AGREEMENT; FILING.

This Agreement and any amendments thereto shall become effective upon the later of the approval of the Agreement by the governing body of each party and the recordation of this Agreement with the Thurston County Auditor.

M. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

N. ATTORNEY FEES AND COSTS.

If any legal proceeding is brought by any party against any other party for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, subject to Section E, herein, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

O. JURISDICTION AND VENUE.

This Agreement has been and shall be construed as having been made and delivered with the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof, shall be

instituted and maintained only in any of the courts of competent jurisdiction in Thurston County, Washington.

P. SEVERABILITY.

If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

Q. ENTIRE AGREEMENT.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by all parties, according to the terms of Section III., H, herein. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

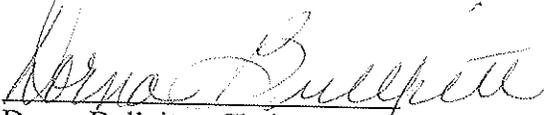
IN WITNESS WHEREOF, the parties hereto have set their corporate names by their duly-authorized offices the day and year written below.

Signatures starting on next page

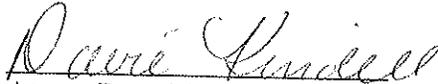
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FOR
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BETWEEN THURSTON COUNTY FIRE DISTRICT 9 and MCCLEARY
FIRE DEPARTMENT**

Signature Page

Thurston County Fire District 9
4131 Mud Bay Rd SW
Olympia, WA 98502


Dorna Bullpitt – Chairperson

Dated: September 8, 2005


Attest: Board Secretary

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Signature Page

McCleary Fire Department - *City of McCleary*
100 S. 1st. St.
McCleary, WA 98557

Wallace Bentley
Chairperson

Dated: *2/10/06*

A. S. Rutledge
Attest: ~~Board Secretary~~
Clerk-Treasurer