

INTERLOCAL CONTRACT

CITY OF FERNLEY

&

NORTH LYON COUNTY FIRE PROTECTION DISTRICT

INTERLOCAL CONTRACT

WHEREAS, in an effort to better serve the City of Fernley, this agreement is established to enhance the safety of the City of Fernley in those areas served by the North Lyon Fire Protection District; and

WHEREAS, the North Lyon Fire Protection District (FIRE DISTRICT) and the City of Fernley (CITY) are authorized pursuant to NRS 277.180 to enter into this agreement; and

WHEREAS, all parties are authorized to protect the health and safety of the citizens of the City, County and State; and

WHEREAS, the parties desire to mutually support each other in order to provide emergency services to the city; and

WHEREAS, it is mutually deemed sound, desirable, practicable and beneficial for the parties to this agreement to render assistance to one another for the protection of property and the prevention and suppression of fire;

THEREFORE, in consideration of the aforesaid promises, the parties mutually agree as follows;

AGREEMENT

THIS AGREEMENT, is between the CITY OF FERNLEY, a political subdivision of the State of Nevada, hereinafter referred to as "CITY," and the NORTH LYON COUNTY FIRE PROTECTION DISTRICT, a division of the State of Nevada, hereinafter referred to as "FIRE DISTRICT."

1. **Contract Term**: This Contract shall be effective from the _____ day of _____, 20____, to the 30th day of June, 2029, subject to appropriation.
2. **Notice**: All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand; by certified mail, or by email with a certified return receipt requested, and addressed to the other party at the address specified below:

Notice for the City shall be sent to:

City Manager
City of Fernley
595 Silver Lace Blvd.
Fernley, NV 89408
(775) 784-9864
dhooper@cityoffernley.org

Notice for the Fire District shall be sent to:

District Fire Chief
North Lyon County Fire Protection District
195 East Main Street
Fernley, NV 89408
(775) 575-3310
jnicholl@northlyonfire.com

3. **Attachments:** This Contract also incorporates the following attachments:

ATTACHMENT A: “*North Lyon County Fire Protection District, Scope of Services.*”

4. **Fire District Services:** FIRE DISTRICT shall provide services to the City of Fernley including, but not limited to, the Scope of Services outlined in (Attachment A). The CITY hereby agrees to pay FIRE DISTRICT the sum of \$55,000 on an annual basis in exchange for services related, but not limited, to New Construction Plan Reviews, Fire Protection System Modification Reviews, Annual Fire Inspection Follow-up, and any other inspections related to business licenses and development within City boundaries. Any increases must be agreed upon by the parties prior to the City of Fernley’s annual budget process. Payment shall be made annually every July 1st in advance for the upcoming fiscal year. CITY agrees to provide office space at City Hall located at 595 Silver Lace Blvd. to be used daily by one FIRE DISTRICT staff member. The FIRE DISTRICT shall provide all computers and necessary equipment for its staff member. FIRE DISTRICT also agrees that FIRE DISTRICT staff will attend Development Team meetings unless an emergency arises.
5. **Associated Fees:** FIRE DISTRICT shall collect and record as revenue fees associated with New Construction Plan Reviews, Fire Protection System Modification Reviews, Annual Fire Inspection Follow-up, and other inspections related to business licenses and development within City boundaries. FIRE DISTRICT and CITY shall meet annually to review fees collected. FIRE DISTRICT further agrees to reduce the CITY’s cost for FIRE DISTRICT services

for the following fiscal year by 49% of the fees collected. Annual modification to the City's cost for services shall be agreed upon and produced in writing as a signed Addenda to this agreement. Fees reviewed shall include only the New Construction Plan Reviews, Fire Protection System Modification Reviews, and Annual Fire Inspection Follow-up. These fees are set and enforced by the DISTRICT. A monthly accounting of fees collected and deposited shall be provided to the City each month.

6. **Fleet Management**: CITY agrees to maintain light fleet for FIRE DISTRICT when CITY elects to accept the request for maintenance. When accepting the fleet maintenance work, CITY agrees to do maintenance according to any applicable rules and regulations for emergency vehicles. In exchange, FIRE DISTRICT will pay for said services on time and materials billed by one-hour increments using the current hourly rate (including salaries and benefits) of the City of Fernley Fleet Foreman. CITY shall bill FIRE DISTRICT quarterly. FIRE DISTRICT agrees to pay said invoices within 30 days of the invoice date. Failure to pay invoice within 30 days shall result in a \$100 late fee for each month the invoice remains in arrears. Nothing in this paragraph shall prevent FIRE DISTRICT from contracting out any fleet services to another contractor.
7. **Legal Services**: CITY agrees to provide legal services, but for litigation and conflict issues, for an annual flat fee of \$5,000 annually, payable July 1st in advance of the upcoming fiscal year. Either party may terminate this portion of the agreement with a written 30-day notice to the address listed below. The flat fee will be refunded at a pro-rated daily charge. CITY will not be required to

provide legal services for Fire Board agenda items or have a lawyer attend Fire Board Meetings. However, the DISTRICT can request said review and/or appearance. Should FIRE DISTRICT request the attendance of legal at the Board Meeting, and Legal agrees to review and/or attend, lawyer attendance and preparation shall be paid at an hourly rate of \$75 per hour. CITY shall bill FIRE DISTRICT quarterly. FIRE DISTRICT agrees to pay said invoices within 30 days. Failure to pay invoice timely shall result in a \$100 late fee per month. Nothing in this paragraph shall prevent FIRE DISTRICT from contracting out any legal services to another lawyer/law firm. The parties acknowledge that from time to time conflicts may arise which would prevent the CITY from providing legal services to FIRE DISTRICT. In the event a conflict arises which prevents the CITY from providing legal services, FIRE DISTRICT agrees that it will obtain independent legal representation to handle any legal issues which give rise to such a conflict. FIRE DISTRICT will be responsible for paying all costs and fees associated with obtaining the independent counsel to handle conflict issues.

8. **Flow Testing:** FIRE DISTRICT may perform flow testing of CITY fire hydrants at the request of CITY. CITY shall provide 7 (seven) working days' notice to FIRE DISTRICT for routine testing. Immediate needs or emergent testing shall be coordinated through FIRE DISTRICT administration. FIRE DISTRICT shall conduct flow testing in accordance with CITY codes.
9. **Maintenance Program:** CITY will continue to perform a maintenance program per the current adopted "Public Works Department, Hydrant Maintenance Program." CITY shall require that each new fire hydrant be properly installed

according to current City of Fernley Public Work Design Standards, and adopted City Municipal Codes.

10. **Public & Private Fire Suppression Systems:** FIRE DISTRICT shall be responsible to inspect all public and private fire suppression systems in accordance with NRS 477, including public and private hydrants within CITY's jurisdiction.
11. **Fire Hydrant Mapping:** CITY and FIRE DISTRICT will share resources to maintain a map of the fire hydrant locations at CITY.
12. **Water Main Shutdowns:** CITY and FIRE DISTRICT will notify each other by phone or email of any fire hydrant or water main shutdowns. CITY shall require that contractors working on the water system notify CITY and FIRE DISTRICT at least 48 hours in advance when a scheduled shutdown will occur and notice of the extent of the system that will be affected. CITY will confirm that the contractor notifies FIRE DISTRICT of this information. Contractors will place Out-of-Service rings on any non-working fire hydrant until service is restored.
13. **New Hydrant Inspection:** New fire hydrant installation will be inspected by CITY or its approved third-party inspector for conformance to CITY standards. FIRE DISTRICT shall perform duties of the Fire Marshal per NRS (including but not limited to Chapter 44); and the required Out-of-Service rings will be removed by CITY after inspection and acceptance of FIRE DISTRICT. No water service will be allowed in a distribution system segment until the fire hydrants are inspected, approved, and operational according to CITY and FIRE DISTRICT standards.
14. **Fire District Training:**

- a. FIRE DISTRICT shall maintain a training program in accordance with applicable State Law and Industry standard.
 - b. Only appropriately trained fire personnel shall operate fire hydrants.
- 15. **Fire Hydrant Paint Maintenance Program**: CITY will continue to implement a fire hydrant paint maintenance program.
- 16. **Water Usage**: All City of Fernley distributed water usage by FIRE DISTRICT, including fires, training, and testing shall be estimated and reported by the last day of the month in writing to CITY.
- 17. **Abandonment of Fire Hydrants**: Abandonment of fire hydrants will be reviewed and jointly determined by CITY and FIRE DISTRICT. The abandoned hydrant will be completely removed and capped.
- 18. **Water Distribution Modeling**: CITY will approve and model water distribution for new development.
- 19. **Plan Review**: FIRE DISTRICT will provide plan review for new construction, remodels, etc., as part of community development through CITY in accordance with adopted Fire District and City codes. FIRE DISTRICT will provide reviews for all permissible construction contracts according to those adopted City Codes.
- 20. **Fittings**: All newly installed fire hydrants will be equipped with a Storz fitting with cap. CITY requires Storz fitting according to City of Fernley Public Work Design Standards, and City Municipal Codes.
- 21. **Public v. Private Fire Hydrants**: Only public property fire protection hydrants attributed to CITY shall be maintained by CITY. Private fire protection facilities

shall be maintained by the Private parties and are regulated under the State Fire Marshal and FIRE DISTRICT.

22. **Code Enforcement Support:** FIRE DISTRICT will assist CITY with code enforcement relative to current adopted IFC code issues.

23. **Reporting:** The Fire District will provide a monthly report to the City of services provided, collection and deposit of fees

24. **Contract Termination:**

- a. Termination Without Cause: Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated without cause by (1) written mutual consent of both parties, or (2) unilateral termination by either party after service of formal Thirty Day (30) written notice as specified above.
- b. Contingent Funding: The continuation of this Contract beyond the current fiscal year is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by both parties. Either party may terminate this Contract, and the parties mutually agree to waive any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the parties' funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.
- c. Default or Breach: A default or breach may be declared with or without termination. The following shall constitute a default or breach:

- i. If FIRE DISTRICT or CITY becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of another governmental agency or the bankruptcy court;
or
- ii. For any other good or sufficient reason, including, but not limited to, dishonesty, fraud, ethical violations, bribery, or other similar acts.

25. **For Cause Termination and Time to Correct:** This Contract may be terminated by the non-defaulting party upon a declared default or breach only after service of formal written notice as specified in paragraph (4), and the subsequent failure of the defaulting party within 15 calendar days of receipt of that notice to provide evidence, satisfactory to the non-defaulting party, showing that the declared default or breach has been corrected.

26. **Winding Up Affairs Upon Termination:** In the event that this Contract is terminated for any reason, the parties agree that the provisions of this paragraph survive termination:

- a. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- b. The parties shall preserve, protect and promptly deliver possession to CITY or FIRE DISTRICT of all proprietary information.

- c. In the event that dispute(s) arise during the winding up of affairs upon termination, the parties agree to meet and negotiate in good faith to resolve any such dispute(s).
27. **Remedies:** Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages exclusive of lost profits.
28. **Attorneys' Fees, Costs, And Expenses:** Unless otherwise stated herein, the Parties will bear their own attorneys' fees, costs, and expenses in connection with the negotiation, execution, and performance of this Agreement.
29. **Limited Liability:** Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the Attachments.
30. **Force Majeure:** Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.
31. **Indemnification:** As respects negligent acts, errors or omissions in the performance of professional services, the parties agree to indemnify and hold

harmless each other, including their elected officials, officers, employees, and agents from and against reasonable defense costs, including reasonable attorney fees, liability or claims arising directly out of the party's negligent acts, errors or omissions in the performance of its work under the terms of this Agreement, to the extent the liabilities are determined to have been proximately caused by the negligent acts, errors or omissions of the parties, their employees, agents, or representatives. The parties shall provide notice of receipt of a written demand/claim or lawsuit arising from the contract. The parties agree to hold harmless, indemnify, and defend each other, including their elected officials, officers, employees, and agents from loss or liability resulting from any claim, demand, suit, action, or cause of action based on bodily injury, including death, or property damage, caused by any negligent or intentional acts, errors or omissions, either direct or passive, on the part of the parties, their employees, agents, or representatives, arising from the performance of work under this Agreement. The collective group to be indemnified shall hereinafter be referred to as "Indemnitees." If an "Indemnitees" is found to be liable in the proceeding, then the parties obligation here under shall be limited to the proportional share of the liability attributed to each party.

32. **Assignment/Delegation:** To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by CITY, such offending portion of the assignment shall be

void, and shall be a breach of this Contract. The parties shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent.

33. **Public Records:** Pursuant to NRS 239.010, information or documents received from FIRE DISTRICT or CITY may be open to public inspection and copying. CITY and FIRE DISTRICT will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. CITY and FIRE DISTRICT may label specific parts of an individual document as a "trade secret" or "confidential," provided that both parties thereby agree to indemnify and defend each other for honoring such a designation. The failure to so label any document that is released by either shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

34. **Proper Authority:** The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. FIRE DISTRICT acknowledges that as required by statute or regulation this Contract is effective upon signing and only for the period of time specified in this Contract. Any services performed by FIRE DISTRICT before this Contract is effective or after it ceases to be effective are performed at the sole risk of FIRE DISTRICT.

35. **Governing Law & Venue:** This Agreement will be interpreted, and the rights and liabilities of the Parties determined, in accordance with the laws of the State of Nevada, excluding its conflict of laws rules. In any action or proceeding arising under this Agreement, each Party to this Agreement hereby (a) consents to the

jurisdiction of Nevada Courts, and of the pertinent appellate courts, and consents to the venue of such action or proceeding in Lyon County, Nevada courts, (b) irrevocably agrees that all actions or proceedings arising out of or relating to this Agreement shall be litigated in such courts, and (c) consents to personal jurisdiction within Lyon County, Nevada. Each Party to this Agreement accepts for itself, generally and unconditionally, the exclusive jurisdiction and venue of the aforesaid courts and waives any defense of lack of personal jurisdiction, improper venue or inconvenient forum or any similar defense, and irrevocably agrees to be bound by any non-appealable judgment rendered thereby in connection with this Agreement.

36. **Integrated Agreement:** This Agreement contains the entire agreement and understanding among the Parties regarding the matters set forth herein and supersedes all previous negotiations, discussions, and understandings regarding such matters. The Parties acknowledge and represent that they have not relied on any promise, inducement, representation, or other statement made in connection with this Agreement that is not expressly contained herein. The terms of this Agreement are contractual and not a mere recital.

37. **Counterparts:** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

38. **Advice of Counsel:** Each Party hereto represents and agrees that it has had the opportunity to seek and has sought from attorneys any such advice as it deems appropriate with respect to signing this Agreement or the meaning of it. Each

party has undertaken such independent investigation and evaluation as it deems appropriate and is entering into this Agreement in reliance on that and not in reliance on any advice, disclosure, representation or information provided by or expected from any other Party or Party's attorneys. This is an agreement of settlement and compromise, made in recognition that the Parties may have different, disputed or incorrect understandings, information and contentions, as to facts and law, and with each Party compromising and settling any potential correctness or incorrectness of its understandings, information and contentions as to the facts, law, claims, duties, disclosures and conduct occurring before or during the entry into this Agreement. No conduct, failure, misunderstanding or misinformation and no claim of fraud or fraudulent inducement occurring prior to or in connection with the execution hereof shall be a ground for rescission hereof or for recovery of damages, except as otherwise expressly provided herein.

39. **Modification; No Waiver:** The provisions of this Agreement, including this paragraph, may be modified or waived only in writing signed by all Parties. No waiver with respect to any portion of this Agreement shall apply to any other portion of the Agreement, and a waiver on one occasion shall not be deemed to be a waiver of the same or any other breach on a future occasion. No course of dealing by any Party, and no failure, omission, delay, or forbearance by any Party in exercising such Party's rights or remedies shall be deemed a waiver of any such rights or remedies or a modification of this Agreement.

40. **Interpretation of Agreement:** This Agreement shall be construed without regard to the Party or Parties responsible for its preparation, and shall be deemed to

have been prepared collectively by the Parties. Any ambiguity or uncertainty arising herein shall not be interpreted or construed against any Party hereto on the basis that a Party prepared or drafted a particular provision of this Agreement.

41. **Cooperation of Parties:** The Parties agree to cooperate to accomplish the purpose of this Agreement and to execute any and all supplementary documents and to take all additional actions not inconsistent with the terms set forth in this Agreement that are necessary and appropriate to give full force and effect to the terms and intent of this Agreement.

42. **Non-Discrimination:** In connection with the performance of work under this contract, the FIRE DISTRICT agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship. The FIRE DISTRICT further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

43. **Acknowledgement and Execution.** In witness whereof, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

Mayor, City of Fernley

Date

City Clerk

Date

Chief, North Lyon Fire Protection District

Date

Secretary

Date

Attachment A
Scope of Services