**INTERGOVERNMENTAL AGREEMENT**

**FOR LAW ENFORCEMENT SERVICES**

**CITY OF JOHN DAY**

**GRANT COUNTY DOCUMENT #2022-XXXX**

This Intergovernmental Agreement for Law Enforcement Services (this "Agreement") is dated \_\_\_\_\_\_\_\_\_\_\_, 2022 but made effective for all purposes as of the Effective Date (as defined below), and is entered into between Grant County ("County"), a political subdivision of the State of Oregon, acting by and through Grant County Sheriff’s Office ("Sheriff'), and City of John Day ("City"), an Oregon municipal corporation.

Recitals

A. City desires to contract with Sheriff for law enforcement services within its boundaries; and

B. Sheriff agrees to provide the law enforcement and related services set forth in this

Agreement (collectively, the "Services"), which law enforcement services will be consistent with

those law enforcement services provided throughout County; and

C. Sheriff and City are committed to community policing principles and will partner to

provide superior public safety and services to City's citizens in accordance with City input and

Sheriff’s customer service philosophy; and

D. ORS 190.010 authorizes Sheriff and City to enter into this Agreement.

It is agreed as follows:

**1. Duration**

 1.1 Effective Date. This Agreement will be deemed binding and effective for all purposes

as of the date this Agreement is fully executed by the parties (the "Effective Date").

1.2 Term; Termination.

1.2.1 The term of this Agreement will commence on \_\_\_\_\_\_\_, 2022. Unless extended or terminated earlier in accordance with its terms, this Agreement shall terminate at 11:59 p.m. on \_\_\_\_\_\_\_\_\_ (the ''Term"). Subject to the terms and conditions contained in this Agreement, this Agreement may be terminated by either party upon 90 days' prior written notice to the other party; provided, however, neither party may terminate (unilaterally) this Agreement prior to \_\_\_\_\_\_\_\_\_\_ unless such termination is "for cause" under Section 1.2.2. The Term may be extended only by the parties' mutual written agreement.

1.2.2 Either party may terminate this Agreement (for cause) immediately upon notice to the other party upon the occurrence of any of the following events: (a) continuous and/or repeated documented problems occur in connection with the other party's performance of its obligations under this Agreement; and/or (b) the other party breaches and/or otherwise fails to perform any of such other party's representations, warranties, covenants, and/or obligations contained in this Agreement.

1.2.3 Prior to a party's termination of this Agreement for cause under Section 1.2.2, the non-defaulting party will provide the alleged defaulting party prior written notice of the alleged default (the "Default Notice"), which Default Notice will specify with reasonable particularity the default the non-defaulting party believes exists. Commencing on the alleged defaulting party's receipt of the Default Notice, the alleged defaulting party will have ten (10) days within which to cure or remedy the alleged default(s) (the "Cure Period"); provided, however, if the nature of the default(s) is such that it cannot be completely remedied or cured within the Cure Period, there will not be a default by the alleged defaulting party under this Agreement if the alleged defaulting party begins correction of the default within the Cure Period and thereafter proceeds with reasonable diligence to effectuate the remedy as soon as practicable.

1.2.4 Notwithstanding anything contained in this Agreement to the contrary,

termination of this Agreement shall not (a) affect any obligations or liabilities

accrued prior to such termination, and/or (b) constitute a waiver or termination of

any rights, claims, and/or causes of action the non-defaulting party may have against the defaulting party.

**2. Statement of Work**

 2.1 In addition to all other Sheriff obligations under this Agreement, Sheriff agrees to:

2.1.1 Provide all law enforcement services within the corporate limits of City. Sheriff shall perform duties and functions of the type customarily provided by Sheriff, including, but not limited to response to calls for service, patrol in City's corporate limits, traffic enforcement, criminal investigation and apprehension of criminal suspects.Sheriff will perform all Services subject to and in conformance with applicable laws and standards and practices generally accepted within the Oregon law enforcement profession, including, but not limited to, those imposed under and/or promulgated by Oregon Department of Public Safety Standards and Training ("DPSST").

2.1.2 Be responsible for standards of performance and discipline of all Sheriff personnel performing the Services, and matters in the performance of the law enforcement services. Sheriff is responsible for submitting all reports and documents to Grant County District Attorney's Office and all other appropriate governing courts, jurisdictions or agencies.

2.1.3 Provide City a quarterly report of' releasable information consistent with Oregon law and Sheriffs practices, and all other information reasonably requested by City (in coordination with the Sergeant (as defined below)), of all law enforcement activities, including number of deputy dispatches, number of traffic stops and results, and number of arrests and violations performed by Sheriff within City's incorporated limits.

2.1.4 At least once per month during the Term, Sergeant will be directed to regularly attend Council meetings to provide a report on Sheriff's law enforcement services. Sheriff reserves the right to send the Undersheriff or other designee in the Sergeant's place.

2.1.5 Sheriff will furnish and provide, at Sheriff's cost and expense, all labor, supervision, materials, vehicles, equipment (including cell phones and applicable data plans), radio communication facilities, computers (including software and email addresses), and supplies necessary or appropriate to perform the Services (the parties acknowledge that the compensation payable by City to Sheriff under this Agreement is intended to compensate Sheriff for all such costs and expenses). Sheriff will be solely responsible for obtaining Sheriffs own benefits and providing such benefits to Sheriff personnel, including, but not limited to, insurance, medical reimbursements, and retirement plans. Notwithstanding anything contained in this Agreement to the contrary, Sheriff employees assigned to City will remain employees of Sheriff; City will not be deemed a joint employer of Sheriffs employees. Sheriff personnel are not entitled to any benefits which accrue to employees of City, including: unemployment benefits, contributions to the Public Employee Retirement System, workers' compensation insurance, medical insurance, dental insurance, and life and disability insurance.

2.1.6 Provide fully equipped patrol vehicles that include the standard Grant County Sheriff’s Office markings. The Grant County Sheriff’s Office will not be responsible for providing additional markings for City designated patrol vehicles. Sheriff will maintain City designated patrol cars in good and operable appearance and condition and will pay for all patrol vehicle maintenance, repairs, and insurance (and will be responsible for all vehicle damage).

2.1.7 During the Term, Sheriff will assign one Sergeant (the "Sergeant”) to serve as Sheriff's primary contact for purposes of communication and coordination with City concerning the Services. Sheriff will assign the Sergeant subject to and in accordance with the assignment procedures under Section 2.1.8. Sergeant will directly supervise assigned Sheriff deputies. Sergeant will remain accessible and responsive to City. If the city manager reasonably determines necessary, and approved by the Sheriff (or designee), Sergeant will (a) attend and participate in City management (department head) meetings, and (b) attend and participate in official City functions, celebrations, commissions, community meetings, and other functions. Subject to the terms and conditions contained in this Agreement, the city manager may provide input to Sergeant concerning the Services, including input concerning the following: (x) enforcement priorities and City goals; (y) involvement in community events, neighborhood meetings, dedications, and similar events; and (z) coordinating the scheduling of assigned deputies.

2.1.8 In addition to the Sergeant, Sheriff will provide three DPSST certified regular fully commissioned Sheriff deputies to perform the Services in accordance with Exhibit A. Sheriff will employ and assign the Sergeant and three regular deputies Sheriff is required to provide under this Agreement within six months after the Effective Date. Sheriff will make all efforts to fill the positions as soon as possible. Sheriff may assign volunteer reserve deputies to provide certain Services to support Sheriffs regular deputies on a limited basis, consistent with Sheriffs then-existing practices and procedures, and as Sheriff determines reasonably necessary; provided, however, that City will not pay Sheriff any compensation for the Services performed by reserve deputies under this Agreement. Sheriff will provide recommended applicants for any vacant positions for City's review and consideration. City will provide input as to the selection of deputies and Sergeant through its city manager. Assigned deputies and Sergeant will remain in the position, consistent with Sheriffs special assignment rotational positions, for a minimum of two years. Sheriff will provide replacement law enforcement personnel in a manner intended to ensure uninterrupted Services.

2.1.9 If City determines that additional deputies (regular deputies or volunteer

deputies) are necessary for limited duration special events and/or unusual or special circumstances, City will exercise reasonable efforts to provide Sheriff advance notice of such need (e.g., 30 (thirty) days prior to the special event). Subject to the terms and conditions contained in this Agreement, if City provides Sheriff such notice, Sheriff will provide additional deputies for the special event or unusual or special circumstances, and subject to the terms and conditions contained in this Agreement, City will pay Sheriff in accordance with Exhibit A of this Agreement (which may include overtime compensation, if applicable). City and Sergeant will determine scheduling of overtime.

2.1.10 Operational decisions and development and implementation of policing policies shall be at the discretion of Sheriff in consultation with City, in accordance with the Policing Plan. Such consultation efforts shall in no way limit the discretion of Sheriff in the implementation of this Agreement.

2.2 City grants full municipal law enforcement authority to Sheriff to the fullest extent

permitted under applicable law.

**3. Compensation**

 3.1 In consideration of Sheriffs performance of the Services in accordance with this

Agreement, City shall pay Sheriff the amounts set forth in Section 3.2. Such payments shall be paid monthly, no later than the 15th of the month.

3.2 Commencing on the Effective Date, City will pay Sheriff the amount(s) identified in the attached Exhibit A; provided, however, the rate will remain flat (at the prior

contract rate of $\_\_\_\_\_\_\_\_ /per month) until the Sergeant and three Deputy positions are filled. Sheriff intends to have Sergeant position filled on the Effective Date. Sheriff will make every effort to fill all positions in the first three months of FY 2022-23. Commencing on \_\_\_\_\_\_\_\_\_, and continuing on the same day each year thereafter until \_\_\_\_\_\_\_\_, the monthly compensation payable by City under this Agreement for deputy compensation (not "support" costs) will escalate (increase) by four percent (4%) over the monthly compensation payable during the immediately preceding twelve-month period. Excepting the additional compensation identified in **Exhibit A**, Supporting Numbers 6, 7 and 8, and assignment bonuses referenced in 2.1.8, total compensation payable by City for Sheriffs performance of Services will not exceed those amounts identified in Exhibit A each fiscal year (July I-June 30) (subject to the annual escalation adjustment provided under this Section 3.2) without the parties' prior written consent. Notwithstanding anything contained in this Agreement to the contrary, no later than March 1, 2023, the parties will review this Agreement to determine whether any changes or modifications to the compensation payable by City under Section 3 are necessary or appropriate, including, but not limited to, continuation of the annual escalation provided under this Section 3.2 for the remaining two years of the Term.

**4. Independent Contractors; No Partnership**

4.1 Sheriff is an independent contractor of City. Sheriff (and its personnel) is not an employee of City. Subject to the terms and conditions contained in this Agreement,

Sheriff will be free from direction and control over the means and manner of performing the Services. This Agreement does not establish a joint venture or partnership between City and Sheriff.

4.2 City will not withhold any taxes from any payments made to Sheriff. Sheriff will be solely responsible for paying all taxes arising out of or resulting from Sheriff’s performance of the Services, including, but not limited to, income, social security, workers' compensation, and employment insurance taxes for all deputies, Sergeant, and all other Sheriff personnel. Sheriff will be solely responsible for obtaining all licenses, approvals, and certificates necessary or appropriate to perform the Services. Each party will obtain and maintain workers' compensation insurance covering the party's employees in form and amount sufficient to satisfy the requirements of applicable Oregon law.

**5. Constraints**

5.1 This Agreement is subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated. Any provisions herein which would conflict with law are inoperative.

**6. Insurance; Indemnification**

6.1 City will obtain and maintain insurance policies that provide adequate coverage for all risks normally insured against by the party. Sheriff is insured through City County Insurance Services (CIS) and will maintain insurance coverage with limits no less than those limits identified in the attached **Exhibit B**.

6.2 To the fullest extent permitted by law, each party (the "Indemnifying Party") will

defend, indemnify, and hold the other party (the "Indemnified Party") and the

Indemnified Party's officers, employees, agents, and representatives harmless for, from, and against all claims, demands, actions, suits, damages, liabilities, costs, and expenses, including, but not limited to, attorney fees and costs, arising out of or related to the following: (a) the Indemnifying Party's (and/or its officers, deputies, employees, agents, and/or representatives) performance of its obligations under this Agreement (including, but not limited to, performance of the Services in the case of Sheriff); and/or (b) the Indemnifying Party's breach and/or failure to perform such Indemnifying Party's representations, warranties, obligations, and/or covenants under this Agreement; and (c) the Indemnifying Party's negligent or otherwise wrongful conduct. The Indemnified Party will promptly notify the Indemnifying Party of a claim. The Indemnifying Party will have the right to retain counsel of its choosing and will control the defense and settlement of the claim; provided, however, the Indemnifying Party will not have the right to make any settlement or take any other action which may be deemed to confess wrongdoing by the Indemnified Party, could reasonably be expected to have a negative effect on the Indemnified Party, and/or provide for injunctive or other non-monetary relief adverse to the continuing interest of the Indemnified Party without the Indemnified Party's prior written consent.

**7. Non-Discrimination**

7.1 Both parties agree that no person shall, on the grounds of race, color, national origin, gender, religion, marital status, family relationship, sexual orientation, or age, suffer discrimination in the performance of this Agreement. Each party will comply with Title VI of the Civil Rights Act of 1964, with Section V of the Rehabilitation Act of 1973, and with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Additionally, each party shall comply with the American with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

**8. Arbitration Required and Attorney Fees; Applicable Laws**

8.1 Any dispute or claim that arises out of or that relates to this Agreement, or the

interpretation, breach, or default thereof, or to the existence, scope or validity of this Agreement, shall be resolved by arbitration by filing a claim with Arbitration Service of Portland, Inc. Judgment upon the award rendered pursuant to such arbitration may be entered in Grant County Circuit Court. If suit or action is brought, or an arbitration proceeding is initiated, to enforce or interpret any of the provisions of this Agreement, or that arise out of or relate to this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs. The determination of the prevailing party and the amount of the reasonable attorney fees and costs to be paid to the prevailing party shall be decided by the arbitrator.

8.2 This Agreement will be construed, applied, and enforced in accordance with the laws of the State of Oregon. Any action or proceeding arising out of this Agreement will be litigated in courts located in Grant County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Grant County, Oregon. This Agreement may be signed in counterparts.

**9. Assignment; Notices**

9.1 This Agreement is binding on each party, its successors, assigns, and legal

representatives, and may not, under any circumstance, be assigned or transferred by either party.

9.2 Any notice required under this Agreement must be in writing. Any notice will be

deemed given when personally delivered or delivered by 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 of the other party first shown above (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. No Waiver; Severability; Remedies**

10.1 The failure to enforce any provision of this Agreement shall not constitute a waiver by either party to that or any other provision of this Agreement. Any changes or modifications to this Agreement require the parties' mutual written agreement.

10.2 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.

10.3 This Agreement contains the entire agreement and understanding between the 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. Neither 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 inure to their benefit. All exhibits, schedules, instruments, and other documents referenced in this Agreement are part of this Agreement.

**IN WITNESS WHEREOF,** the parties have caused this Agreement to be binding and effective for all purposes as of the Effective Date.

**GRANT COUNTY SHERIFF’S OFFICE**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Todd McKinley, Sheriff

Dated this \_\_\_\_ day of January, 2022

**GRANT COUNTY COURT**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Scott Myers, County Judge

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 Jim Hamsher, County Commissioner

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Sam Palmer, County Commissioner

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated this \_\_\_\_\_\_\_ day of January, 2022

Recording Secretary

**CITY OF JOHN DAY**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Nick Green, City Manager

Dated this \_\_\_\_\_\_\_ day of January, 2022