

**RESOLUTION NO. 1489  
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION AUTHORIZING THE CITY OF PRINEVILLE TO ENTER INTO AN  
INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON, ACTING  
BY AND THROUGH ITS DEPARTMENT OF FORESTRY**

**Whereas**, City of Prineville (“City”) is the manager of the Prineville/Crook County Airport (“Airport”); and

**Whereas**, State of Oregon, acting by and through its Department of Forestry (ODF) desires to locate two single engine air tankers, service trailer with truck, and office trailer (“Equipment”) and conduct air tanker operations at the Airport for the 2021 fire season; and

**Whereas**, the Parties have agreed on terms of ODF locating its Equipment and conducting air tanking operations; and


**Whereas**, ODF has prepared an Intergovernmental Agreement (“Agreement”) for City’s consideration; and

**Whereas**, Agreement is authorized by ORS 190.100; and


**Whereas**, City staff believes it is in the best interest of the City to approve and execute the Agreement;

**Now, Therefore**, the City of Prineville resolves that the Intergovernmental Agreement attached to this Resolution between the City and ODF is hereby approved and that the Mayor is authorized and instructed to sign such Agreement on behalf of the City.

Approved by the City Council this 8<sup>th</sup> day of June, 2021.

  
\_\_\_\_\_  
Rodney J. Beebe, Mayor

ATTEST:

  
\_\_\_\_\_  
Lisa Morgan, City Recorder



## Oregon Department of Forestry INTERGOVERNMENTAL AGREEMENT

This agreement is between the **STATE of OREGON**, acting by and through its **DEPARTMENT OF FORESTRY**, hereafter called **Agency**, and the **City of Prineville**, hereafter called **City**.

**Administrators of this agreement are:**

City	Agency
Administrator: Kelly Coffelt Title: Airport Manager Organization: Prineville Airport Address: 4585 SW Airport Road Prineville, OR 97754  Phone: 541-416-0805 Fax: 541-416-0809 Email: kcoffelt@cityofprineville.com Federal ID #:	Administrator: Neal Laugle Title: State Aviation Manager State of Oregon, Oregon Department of Forestry Address: 2600 State Street Salem, OR 97310  Phone: 503-945-7508 Fax: 503-945-7430 Email: Neal.d.laugle@oregon.gov

**RECITALS**

By the authority granted in Oregon Revised Statutes (ORS) 190.110 and 526.046, Agency may enter into cooperative agreements with counties, cities, and units of local government.

**1. AUTHORITY**

This Agreement is authorized by ORS 190.110.

**2. PURPOSE**

*The Prineville/Crook County Airport ("Airport") is owned by Crook County and managed by the City. ODF desires to locate two single engine air tankers, service trailer with truck, and office trailer (the "Equipment") and conduct air tanker operations at the Airport for the 2021 fire season. "Air Tanker Operations" include mixing Firelce (water enhancing gel), loading Firelce into the air tankers, maintaining the air tankers, and conducting administrative duties.*

*City shall allow ODF to use an area of the Airport upon which to locate the Equipment and to conduct air tanker operations.*

*The parties have agreed on the terms of ODF locating its Equipment and conducting its Air Tanker Operations at the Airport and desire to memorialize such agreement.*

*ODF will locate equipment on a 10,890 square foot area at the Airport designated by City ("Ramp Area"). ODF will conduct all its Air Tanker Operations using the Ramp Area and will be authorized to*

IGA #ODF-1148-21 Prineville Airport

*use other appropriate areas of the Airport for fueling, taxiing, take offs, and landing the Air Tankers. City shall also provide to the Ramp Area the following:*

*Electricity for ODF's office trailer;*

*Two porta-potties and wash station to be serviced on a regular schedule;*

*Water for mixing Blaze Tamer, washing aircraft, and washing the Ramp Area;*

*Garbage service, including receptacle of a size needed and approved by ODF, together with regular removal of garbage; and*

*The electricity and water shall be metered. At the end of this Agreement, City shall provide to ODF the beginning and ending readings for the electricity and water.*

**3. EFFECTIVE DATE AND DURATION**

This Agreement is effective on May 15, 2021 or the date of the last signature, whichever occurs last ("Effective Date"), and terminates on September 30, 2021; or if the 2021 wildfire season extends past September 30, 2021, the date when ODF moves all the Equipment from the Airport, unless terminated earlier in accordance with Section 16.

**4. AUTHORIZED REPRESENTATIVES**

4.1 Agency's Authorized Representative is:

Neal Laugle  
2600 State Street, Salem, OR 97310  
503-945-7508  
503-945-7430  
Neal.d.laugle@oregon.gov

4.2 City's Authorized Representative is:

Kelly Coffelt  
4585 SW Airport Road, Prineville, OR 97754  
541-416-0805  
kcoffelt@cityofprineville.com

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.

**5. RESPONSIBILITIES OF EACH PARTY**

5.1 City shall perform the work set forth on Exhibit A, attached hereto and incorporated herein by this reference.

5.2 Agency shall pay City as described in Section 6.

**6. COMPENSATION AND PAYMENT TERMS**

*Agency shall pay the rate of \$1,400/month for usage and the final billing will include actual costs incurred by the City for water and electricity used by the Agency over the term of the Agreement used by ODF and their Vendors in this operation. City will also provide two porta-potties and a handwash station, to be serviced on a regular schedule. Also included is garbage service to include a receptacle of a size approved by ODF and regular removal of garbage.*

*This Agreement is effective on May 15, 2021 or the date of the last signature, whichever occurs last ("Effective Date"), and terminates on September 30, 2021; or if the 2021 wildfire season extends past September 30, 2021, the date when ODF moves all the Equipment from the Airport, unless terminated earlier in accordance with Section 16. If ODF is still present on site beyond September 30, 2021, the Agency will pay \$40 per day for each additional day ODF uses the Ramp Area After September 30, 2021.*

## **7. REPRESENTATIONS AND WARRANTIES**

City represents and warrants to Agency that:

- 7.1 City is an Airport duly organized and validly existing. City has the power and authority to enter into and perform this Agreement.
- 7.2 The making and performance by City of this Agreement (a) have been duly authorized by City, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of City's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which City is party or by which City may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by City of this Agreement, other than those that have already been obtained.
- 7.3 This Agreement has been duly executed and delivered by City and constitutes a legal, valid and binding obligation of City enforceable in accordance with its terms.
- 7.4 City has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and City will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 7.5 City shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.  
The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by City.

## **8. GOVERNING LAW, CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. CITY, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

**9. OWNERSHIP OF WORK PRODUCT**

9.1 As used in this Section 9 and elsewhere in this Agreement, the following terms have the meanings set forth below:

9.1.1 "City Intellectual Property" means any intellectual property owned by City and developed independently from the work under this Agreement.

9.1.2 "Third Party Intellectual Property" means any intellectual property owned by parties other than City or Agency.

9.1.3 "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that City is required to deliver to Agency under this Agreement, and all intellectual property rights therein.

9.2 All Work Product created by City under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of Agency. Agency and City agree that all Work Product created by City under this Agreement is "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the Work Product created by City under this Agreement is not "work made for hire," City hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all Work Product created by City under this Agreement, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, City shall execute such further documents and instruments necessary to fully vest such rights in Agency. City forever waives any and all rights relating to Work Product created by City under this Agreement, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

9.3 If Work Product is City Intellectual Property, a derivative work based on City Intellectual Property or a compilation that includes City Intellectual Property, City hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the City Intellectual Property and the pre-existing elements of the City Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

9.4 If Work Product is Third Party Intellectual Property, a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, City shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

9.5 If state or federal law requires that Agency or City grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires that Agency or the United States own the intellectual property in the Work Product, then City shall execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

**10. CONTRIBUTION**

10.1 If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 10 with respect to the Third Party Claim.

10.2 With respect to a Third Party Claim for which Agency is jointly liable with City (or would be if joined in the Third Party Claim ), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by City in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of City on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of City on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

10.3 With respect to a Third Party Claim for which City is jointly liable with Agency (or would be if joined in the Third Party Claim), City shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of City on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of City on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. City's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

## **11. CITY DEFAULT**

City will be in default under this Agreement upon the occurrence of any of the following events:

11.1 City fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement.

11.2 Any representation, warranty or statement made by City in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by City is untrue in any material respect when made.

- 11.3 City (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or
- 11.4 A proceeding or case is commenced, without the application or consent of City, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of City, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of City or of all or any substantial part of its assets, or (c) similar relief in respect to City under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against City is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

## **12. AGENCY DEFAULT**

Agency will be in default under this Agreement if Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

## **13. REMEDIES**

- 13.1 In the event City is in default under Section 11, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that City has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring City to perform, at City's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 13.2 In the event Agency is in default under Section 12 and whether or not City elects to exercise its right to terminate this Agreement under Section 16.3.3, or in the event Agency terminates this Agreement under Sections 16.2.1, 16.2.2, 16.2.3, or 16.2.5, City's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims Agency has against City, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that Agency has against City. In no event will Agency be liable to City for any expenses related to

termination of this Agreement or for anticipated profits. If previous amounts paid to City exceed the amount due to City under this Section 13.2, City shall promptly pay any excess to Agency.

#### **14. RECOVERY OF OVERPAYMENTS**

If payments to City under this Agreement, or any other agreement between Agency and City, exceed the amount to which City is entitled, Agency may, after notifying City in writing, withhold from payments due City under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

#### **15. LIMITATION OF LIABILITY**

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

#### **16. TERMINATION**

16.1 This Agreement may be terminated at any time by mutual written consent of the Parties.

16.2 Agency may terminate this Agreement as follows:

16.2.1 Upon 30 days advance written notice to City;

16.2.2 Immediately upon written notice to City, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;

16.2.3 Immediately upon written notice to City, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;

16.2.4 Immediately upon written notice to City, if City is in default under this Agreement and such default remains uncured 15 days after written notice thereof to City; or

16.2.5 As otherwise expressly provided in this Agreement.

16.3 City may terminate this Agreement as follows:

16.3.1 Immediately upon written notice to Agency, if City fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in City's reasonable administrative discretion, to perform its obligations under this Agreement;

16.3.2 Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that City's performance



under this Agreement is prohibited or City is prohibited from paying for such performance from the planned funding source;

16.3.3 Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or

16.3.4 As otherwise expressly provided in this Agreement.

16.4 Upon receiving a notice of termination of this Agreement, City will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, City will deliver to Agency all documents, information, works-in-progress, Work Product and other property that are or would be deliverables under the Agreement. And upon Agency's reasonable request, City will surrender all documents, research or objects or other tangible things needed to complete the work that was to have been performed by City under this Agreement.

## **17. INSURANCE**

City shall maintain insurance as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

## **18. NONAPPROPRIATION**

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

## **19. AMENDMENTS**

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

## **20. NOTICE**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 20. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

## **21. SURVIVAL**

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 9, 10, 14, 15 and 21 hereof and those rights and obligations that by their express terms survive termination of this Agreement;

provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

## **22. SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

## **23. COUNTERPARTS**

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

## **24. COMPLIANCE WITH LAW**

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

## **25. INDEPENDENT CONTRACTORS**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that City is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

## **26. INTENDED BENEFICIARIES**

Agency and City are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

## **27. FORCE MAJEURE**

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice to City after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

## **28. ASSIGNMENT AND SUCCESSORS IN INTEREST**

City may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by City to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to City's assignment or transfer of its interest in this Agreement will not relieve City of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

### **29. SUBCONTRACTS**

City shall not, without Agency's prior written consent, enter into any subcontracts for any of the work required of City under this Agreement. Agency's consent to any subcontract will not relieve City of any of its duties or obligations under this Agreement.

### **30. TIME IS OF THE ESSENCE**

Time is of the essence in City's performance of its obligations under this Agreement.

### **31. MERGER, WAIVER**

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

### **32. RECORDS MAINTENANCE AND ACCESS**

City shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of City, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document City's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of City, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." City acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. City shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, City shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

### **33. HEADINGS**

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

### **34. ADDITIONAL REQUIREMENTS**

There are no additional requirements that the City shall be required to comply with.

### **35. AGREEMENT DOCUMENTS**

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (the Statement of Work), Exhibit B (Insurance), and Exhibit C (Additional Requirements).

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON acting by and through its  
Oregon Department of Forestry

City of Prineville

By: \_\_\_\_\_

By:  \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

Steve Forrester

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

June 9, 2021

**EXHIBIT A  
STATEMENT OF WORK**

**Overview:** *This is a land-use agreement with City of Prineville for Ramp Space for two Single-Engine Air Tankers to conduct Air Tanker Operations for fire season 2021. This area includes space for a service trailer with truck and office trailer, as well as access for take-offs, landings, and taxiing.*

*Prineville Airport is owned by Crook County, Oregon and managed by the City of Prineville. The Airport is located at 4585 SW Airport Road, Prineville, Oregon. The agreed upon area is 14,000 square feet of ramp space.*

*This agreement is necessary to provide the above listed amenities and access for an aviation contract for Two Single-Engine Air Tankers to be located at or near Prineville, Oregon for wildfire response. Prineville, Oregon provides a central location for operations of these assets.*

*Included in the Land Use Agreement is access to metered electricity and water. ODF will pay the Airport for these amenities at the end of the agreement for the metered amount consumed. City will also provide two porta-potties and a handwash station, to be serviced on a regular schedule. Also included is garbage service to include a receptacle of a size approved by ODF and regular removal of garbage.*

**Scope of Work:** *This agreement is for the forementioned Ramp Space and access to Airport facilities, such as taxiways and runways for aerial firefighting equipment. The Airport will also provide access to metered water to support all aspects of the operation, as well as metered electricity for support of operations.*