INTERLOCAL COOPERATIVE PURCHASING AGREEMENT

THIS AGREEMENT is made and entered into this 3RD day of MAY, 2010, by and between the City of Prosser, a municipal corporation (hereinafter "the CITY") and Prosser Fire District Number 3, a partnership consisting of the City of Prosser, Washington, a municipal corporation, and Benton County Fire Protection District, Number 3, a municipal corporation, (hereinafter "the DISTRICT");

WHEREAS, the Interlocal Cooperation Act, as amended and codified in Chapter 39.34 of the Revised Code of Washington provides for interlocal cooperation between governmental agencies; and

WHEREAS, Chapter 39.34 RCW, RCW 35A.12.190, and RCW 35A.11.040 authorize the City of Prosser to enter into interlocal agreements; and

WHEREAS, Chapter 39.34 RCW, RCW 52.12.021, RCW 52.12.031(3) and (8), and RCW 52.14.100 authorize Benton County Fire Protection District Number 3 to enter into interlocal agreements; and

WHEREAS, Chapter 39.33 of the Revised Code of Washington also provides for the intergovernmental disposition of property; and

WHEREAS, both parties are required to make certain purchases by formal advertisement and bid process, which is a time consuming and expensive process; and it is in the public interest to cooperate in the combination of bidding requirements to obtain the most favorable bid for each party where it is in their mutual interest; and

WHEREAS, the parties also wish to utilize each other's contracts where it is in their mutual interest;

NOW, THEREFORE, the parties agree as follows:

1. **Purpose:** The purpose of this agreement is to acknowledge the parties' mutual interest to jointly bid the acquisition of goods and services and disposition of property where such mutual effort can be planned in advance and to authorize the acquisition of goods and services and the purchase or acquisition of goods and services under contracts where a price is extended by either party's bidder or to other governmental agencies.

2. **Administration:** No new or separate legal or administrative entity is created to administer the provisions of this agreement. A joint board consisting of CITY's City Administrator or his designee, and DISTRICT's Fire Chief or his designee, shall administer this agreement.

3. **Scope:** This agreement shall follow the following activities:

A. Purchase or acquisition of goods and services by each party acting as agent for either or both parties when agreed to in advance, in writing;

B. Purchase or acquisition of goods and services by each party where provision has been provided in contracts for other agencies to avail themselves of goods and services offered under the contract;

C. Disposal of goods by each party acting as agent for either or both parties when agreed to in advance, in writing.

4. **Duration of Agreement – Termination:** This agreement shall remain in force until cancelled by either party in writing. This written notice must be served on the other party within sixty days (60) of the date of termination.

5. **Right to Contract Independent Action Preserved:** Each party reserves the right to contract independently for the acquisition of goods or services and or disposal of any property without notice to the other party and shall not bind or otherwise obligate the other party to participate in the activity.

6. **Compliance with Legal Requirements:** Each party accepts responsibility for compliance with federal, state or local laws and regulations including, in particular, bidding requirements application to its acquisition of goods and services or disposal of property. Both parties agree to comply with the provisions of RCW 39.34.030(5) (b) for activities covered by Section 3(B) above.

7. **Financing/Property Acquisition:** The method of financing of payment shall be through budgeted funds or other available funds of the party for whose use the property is actually acquired or disposed. Each party accepts no responsibility for the payment of the acquisition price of any goods or services intended for use by the other party. It is anticipated that no joint property will be acquired under this agreement. In the event that joint property is acquired, then it shall be distributed to the parties in proportion to that party's contribution to purchase the property. There shall be no joint financing under this agreement.

8. **Filing:** Executed copies of this agreement shall be filed as required under Section 39.34.040 of the Revised Code of Washington prior to this agreement becoming effective.

9. **Interlocal Cooperation Disclosure:** Each party may insert in its solicitations for goods or services, a provision disclosing that other authorized governmental agencies may also wish to procure the goods or services being offered to the party.

10. **Non-Delegation/Non-Assignment:** Neither party may delegate the performance of any contractual obligation to a third party unless mutually agreed in writing. Neither party may assign this agreement without the written consent of the other party, which consent shall not be unreasonably withheld.

11. **No Third Party Rights:** Except as expressly provided herein, nothing in this agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein not to give any such third party a cause of action (as a third party beneficiary or otherwise) on account of nonperformance hereunder.

12. **Hold Harmless:** Each party shall be liable and responsible for the consequences of any negligent or wrongful act or failure to act or failure to act on the part of itself and its employees. Neither party assumes responsibility to the other party for the consequences of any act or admission of any person, firm or corporation not a party to this agreement.

13. **Partial Invalidity:** Whenever possible, each provision of this agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provision of this agreement, which shall prove to be invalid, void, or illegal, shall in no way affect, impair, or invalidate any other provisions herein, and such other provisions shall remain in full force and effect.

14. **Entire Agreement:** This agreement and any amendments thereto mutually agreed to by the parties, constitutes the entire agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or bind any of the parties. Either party may request changes to the agreement. Proposed changes that are mutually agreed upon shall be incorporated by written amendment hereto.

15. **Dispute Resolution:** It is the parties' intent to resolve any disputes relating to the interpretation or application of this agreement informally through discussions at the staff level. In the event disputes cannot be resolved informally at the staff level, then the parties agree to first submit the dispute to nonbinding mediation/dispute resolution before resorting to litigation.

16. **Litigation:** In the event that nay suit or action is instituted by either party to enforce compliance with or interpret any of the terms, covenants, or conditions of this agreement, the prevailing party shall be entitled to collect, in addition to necessary court costs, such sums as the court may adjudge as reasonable attorney fees. The venue for any action to enforce or interpret this agreement shall lie in the Superior Court for Benton County, Washington.

17. **Notices:** All notices and demands shall be in writing and sent to the parties hereto at their address as follows:

To City of Prosser:	City of Prosser 601 7th Street Prosser, WA 99350
To Prosser Fire District No. 3:	Prosser Fire District No. 3 1200 Grant Street Prosser, WA 99350

18. **Evidence of Authority:** This agreement shall be executed in duplicate originals. Upon execution of this agreement, the CITY shall provide the DISTRICT and the DISTRICT shall provide the CITY with a certified copy of the resolution, ordinance, or other authority given to execute this agreement pursuant to RCW 39.34.030(2), and said document will be attached hereto and incorporated herein as **Exhibit "A"** (CITY) and **Exhibit "B"** (DISTRICT)

IN WITNESS WHEREOF said parties have caused this agreement to be signed by the duly authorized officials on the day and year first written above.

CITY OF PROSSER

By: _____
Mayor Paul Warden

Attest:

_____
Sherry Biggs, City Clerk

Date: 4/14/2010

Approved as to form:

_____
Howard M. Saxton III, City Attorney

Date: 4/15/2010

PROSSER FIRE DISTRICT NO. 3

By: _____
Chairman Randy Fox

Attest:

_____
Douglas N. Merritt, Secretary

Date: 5-3-10

Approved as to form:

_____
Attorney

Date: _____

EXHIBIT "A"
City Authorization

CITY OF PROSSER, WASHINGTON
RESOLUTION NO. 10-1317

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PROSSER APPROVING AN INTERLOCAL COOPERATIVE PURCHASING AGREEMENT WITH PROSSER FIRE DISTRICT NO. 3 TO JOINTLY BID THE ACQUISITION OF GOODS AND SERVICES AND DISPOSITION OF PROPERTY.

BE IT RESOLVED, by the City Council of the City of Prosser that it is the desire of the City Council that:

1. The Interlocal Cooperative Purchasing Agreement to jointly bid the acquisition of goods and services and disposition of property, City of Prosser – Prosser Fire District No. 3, a copy of which is attached hereto and incorporated herein as if fully set forth is hereby approved and the Mayor or his designee is authorized to execute the agreement in multiple originals.

2. Once fully executed the City Clerk shall list the agreement on the City's website as outlined in RCW 39.34.040.

ADOPTED by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this 13th day of April, 2010.

MAYOR PAUL WARDEN

ATTEST:

CITY OF PROSSER SEAL STATE OF WASHINGTON

CITY CLERK

Approved as to form:

CITY ATTORNEY

EXHIBIT "B"
District Authorization

PROSSER FIRE DISTRICT 3
1200 GRANT AVE
MEETING ROOM
BOARD MEETING
MONDAY, MAY 3, 2010

ORIGINAL

CALL TO ORDER
Chairman Randy Fox called the Prosser Fire District 3 Board Meeting to order at 5:31 p.m.

ROLL CALL
Board Members Rick Baker, Terry Chambers, Larry Mercer, Jason Rainer, and Douglas Merritt were present.

Board Member Morgan Everett was excused due to a work related absence.

PUBLIC COMMENT
No public comments were received.

BOARD COMMENT
Board Member Mercer stated he had completed the volunteer payroll audit years 2007-2009. He said that over the three year period there was approximately $4,200 in under payments and approximately $21,800 in overpayments.

Board Member Chambers said he would like to see a list of all the incidents of over and under payments.

Board Member Mercer said he would make copies and distribute to the Board.

APPROVAL OF APRIL 19, 2010 MEETING MINUTES
A motion was made by Board Member Rainer, seconded by Board Member Baker to approve the April 19, 2010 Meeting Minutes. Motion carried unanimously.

APPROVAL OF GENERAL ACCOUNT VOUCHERS #2010-244 THRU #2010-260 IN THE AMOUNT OF $4,735.31
A motion was made by Board Member Chambers, seconded by Board Member Rainer to approve the General Account Vouchers #2010-244 thru #2010-260 in the amount of $4,735.31. Motion carried unanimously.

NEW BUSINESS
Resolution #2010-02 Recovery of Debt – Review/Approve
Chief Merritt presented a draft policy to the Board with approval from Brian Snure.

Board Member Mercer said it looked like he was missing a few pages.

Chief Merritt said missing pages were replies from Mr. Snure; he didn't include the pages with dialog.

ORIGINAL

Board Member Chambers stated if there were discrepancies the district needed to make every effort to rectify and asked if there was going to be a three year limit like discussed at the last meeting.

Chief Merritt said Mr. Snure recommended not limiting the district with the three year limit.

A motion was made by Board Member Rainer, seconded by Board Member Baker to approve Resolution #2010-02 Recovery of Debt. Motion carried by majority vote with Board Member Mercer abstaining stating he was one of the volunteers who had been overpaid.

Interlocal Cooperative purchasing Agreement with the City of Prosser – Review/Approve
Chief Merritt explained the agreement would allow the department to go in on bids with the City of Prosser.

A motion was made by Board Member Rainer, seconded by Board Member Chambers to approve the Interlocal Cooperative Purchasing Agreement with the City of Prosser. Motion carried unanimously.

April 2010 Monthly Financial Report – Review/Approve
Chairman Fox asked if each month was carryover or cumulative.

Gary Heslop said it was cumulative.

Mr. Heslop told the Board about some upcoming changes in the monthly reports with the Chief's pay. He said the totals would be the same but individual amounts within the total would be slightly different.

Board Member Rainer suggested doing the same with the Captain's pay.

A motion was made by Board Member Baker, seconded by Board Member Rainer to approve the April 2010 Monthly Financial Report. Motion carried unanimously.

ADJOURNMENT
There being no further business before the Prosser Fire District 3 Board at this time, the Board Meeting of Prosser Fire District 3 was adjourned at 6:12 p.m.

Randy Fox

RANDY FOX, CHAIRMAN

Douglas N. Merritt

DOUGLAS N. MERRITT, SECRETARY