

INTERGOVERNMENTAL AGREEMENT
between
OREGON BOARD OF PAROLE AND
POST-PRISON SUPERVISION
AND

Multnomah COUNTY

Agreement NO. 255-07-08

THIS AGREEMENT, is made and entered into by and between THE STATE OF OREGON, acting by and through its Board of Parole and Post-Prison Supervision, hereinafter referred to as "BOARD"; and Multnomah County, hereinafter referred to as "COUNTY".

RECITALS

1. By the authority granted in ORS 190.110, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, agents have the authority to perform.
2. Under such authority, BOARD wishes to retain the services of COUNTY to conduct parole and post-prison supervision violation hearings as cited below. Payment for said services shall not exceed a maximum amount of \$90,482 in state funds.

NOW THEREFORE, the premises being in general as stated in the forgoing recitals, it is agreed by and between the parties as follows:

STATEMENT OF WORK

1. COUNTY shall perform the work described in A.1 ("Description of Services") below. COUNTY agrees to begin the services upon execution of the agreement or July 1, 2007, whichever is later, and to provide the services up through June 30, 2009.

A.1 Description of Services

COUNTY agrees to provide at least one Hearings Officer, employed by said county, acceptable to, and trained and certified by, the BOARD; and COUNTY will be responsible for conducting all parole and post-prison supervision violation hearings arising within its jurisdiction in accordance with OAR 255-075 and OAR 291-058, and ORS 144.106-109, ORS 144.341, ORS 144.343-370.

COUNTY agrees to submit electronic reports and records of hearings and sanctions in accordance with the Parole Board Management Information System, and submit written reports and tape recordings of hearings upon request from the BOARD.

The COUNTY and its hearings officer(s) shall be subject to the right and authority of the BOARD to establish or revise procedures under which the hearings provided for in this Agreement must be conducted, or to take any action consistent with the terms of this Agreement that the BOARD, in its sole discretion, deems necessary or appropriate to comply

with the statutory and constitutional requirements applicable to such hearings or advance the purposes of this Agreement.

2. BOARD's designated representative for this Agreement is the Executive Director.

CONSIDERATION AND COMPENSATION

- 1 BOARD shall compensate the COUNTY for the services, as defined above, as follows:

- B.1 In consideration for the services performed, BOARD agrees to pay COUNTY a maximum amount of \$90,482. The maximum not-to-exceed amount of \$90,482 for the services includes all reimbursable expenses. Therefore, reimbursement for additional expenses is not allowed, unless incurred after the date on which a written amendment authorizing such reimbursement is executed by all parties and approved as required by applicable statutes and rules.
- B.2 Payments for Services, cited above, shall be made in two (2) equal payments of \$45,241 each during January, 2008 and January, 2009.

GENERAL PROVISIONS

1. COUNTY, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide worker's compensation coverage for all their subject workers.
COUNTY shall not enter into any subcontracts for any of the work described under this agreement without obtaining prior written consent from BOARD.
2. COUNTY agrees to comply with all federal, state, and local laws and ordinances applicable to the work under this agreement. COUNTY agrees that the contract provisions required under ORS 279B.220, 279B.230, and 279B.235 are incorporated into and shall govern the performance of this agreement.
3. **Governing Law & Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflict of laws, rules or doctrines. Any litigation between the BOARD and COUNTY arising out of or related to this agreement shall be brought and maintained only in the Circuit Court of Marion County in Salem, 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. COUNTY, BY SIGNATURE, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SUCH COURTS.
4. COUNTY agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. COUNTY also shall comply with the Americans with Disabilities Act of 1990 (Pub L. No. 101-336) including Title II of the Act, ORS 659A.142, and all applicable regulations and administrative rules established pursuant to those laws.
5. COUNTY shall be responsible for all cost and expenses related to its employment of individuals to perform the work under this agreement, including but not limited to PERS contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.

6. **Access to Records:** For not less than three (3) years after agreement expiration, the BOARD, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the COUNTY which are directly pertinent to this specific agreement for the purpose of making audit, examination, excerpts, and transcripts. COUNTY shall retain all pertinent records until the later of (i) the date that is not less than three years following the agreement expiration date or (ii) the date on which all litigation regarding this agreement is resolved. The COUNTY agrees to provide full access to BOARD in preparation for and during litigation. Copies of applicable records shall be made available upon request.
7. **Funds Available and Authorized:** BOARD reasonably believes at the time of entering into this agreement that sufficient funds are available and authorized for expenditure to finance costs of this agreement within the BOARD's appropriation or limitation.

COUNTY understands and agrees that BOARD's payment of amounts under this Agreement attributable to work performed after the last day of the current biennium is contingent on BOARD receiving from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority sufficient to allow BOARD, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement. In the event the Oregon Legislative Assembly fails to approve sufficient appropriations, limitations, or other expenditure authority, BOARD may terminate this Agreement without penalty or liability to BOARD, effective upon the delivery of written notice to COUNTY.

8. **Indemnity and Insurance:** Except for claims covered under the professional liability coverage referred to below, subject to legal limitations, COUNTY shall defend, save, and hold harmless the State of Oregon and the BOARD, their divisions, officers, agents and employees, from all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of COUNTY or its subcontractors, agents, or employees under this agreement.

During and within the scope of County's performance of services under this agreement, the State will provide COUNTY-employed hearings officers, to the extent that they are acting as agents of the State of Oregon, tort liability coverage as provided in the Oregon Tort Claims Act, ORS 30.260 to 30.302, and the Department of Administrative Services, Risk Management Division Liability Self-Insurance Policy Manual #125-7-201, as amended. COUNTY shall promptly report, in writing, any claim and any occurrence that reasonably may give rise to a claim, to the Risk Management Division, 1225 Ferry Street SE, Salem, OR 97301-4287, (503) 373-7475.

9. **Termination:** a. This agreement may be terminated by written mutual consent of the parties. In addition, this agreement may be terminated by the BOARD by written notice to the COUNTY specifying the termination date of the agreement. The right to terminate shall be exercised in good faith, for any reasonable cause, including but not limited to: (i) BOARD fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for COUNTY's Work; (ii) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Agreement is prohibited or BOARD is prohibited from paying for such Work from the planned funding source; (iii) COUNTY no longer holds any license or certificate that is required to perform the Work as set forth above.
- b. COUNTY's timely and accurate performance is of the essence of this agreement. BOARD, by delivering written notice of default, may terminate this agreement, in whole or in part:
- (1) immediately, if the COUNTY fails to provide the services called for in the Statement of Work within the times specified or allowed under this agreement; or
- (2) at any time following a 30-day notice if the COUNTY fails to perform any of the other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after delivery of written notice from BOARD, does not correct such failures within 30 calendar days, or such longer period as BOARD may authorize.
- c. Upon receiving a notice of termination, and except as otherwise directed in writing by the BOARD, COUNTY shall immediately cease all activities related to the work.
- d. As directed by the BOARD, COUNTY shall upon termination, deliver to the BOARD all project documents, information, and other property that, if the Agreement had been completed, would be required to be furnished to the BOARD. By COUNTY's signature on this Agreement, COUNTY allows BOARD to use said documents for their intended use.
- e. The rights and remedies of the BOARD provided in the above clauses related to defaults by the COUNTY shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.
- f. BOARD or COUNTY may, at their discretion, terminate this contract in whole or in part, with 30 days notice to the other party.
10. **Ownership of Work Product:** Work Products of COUNTY that result from this Agreement (as described in "Statement of Work") is exclusive property of the BOARD. BOARD and COUNTY intend that such Work Product be deemed "work made for hire", COUNTY hereby irrevocably assigns to BOARD all of its rights, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. COUNTY shall execute such further documents and instruments as BOARD may reasonably request in order to fully vest such rights in BOARD. COUNTY forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of indemnification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

11. **Survival:** All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections 3, 4, 7, 9, 10 and 11 of these General Provisions.
12. **Amendment:** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written agreement signed by the parties.
13. This agreement constitutes the entire agreement between the parties. There are no understandings, agreements, representations, oral or written, not specified herein regarding this agreement. No amendment, consent or waiver of terms of the agreement shall bind either party unless in writing and signed by both parties. Any such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose. The parties, by their signature below, acknowledge having read and understood the agreement and agree to be bound by its terms and conditions.

Approved as to Legal Sufficiency by the Attorney General's Office:

(All contracts & amendments to contracts
over \$75,000)
Attorney General

Date: _____

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

By: _____

Date: _____

Agency Address:

State of Oregon, by and through its
Board of Parole and Post-Prison
Supervision

By: 
Steven R. Powers, Chairperson

Date: 29 May 2007

Reviewed:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By: Jacquie A. Weber ^{DB} 6/15/07
Assistant County Attorney Date

Approved:

Department Director or Designee Date