

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into pursuant to the authority found in ORS 190.010, et seq. and ORS 206.345 between MULTNOMAH COUNTY by and through the Multnomah County Sheriffs Office (COUNTY) and METRO.

RECITALS

WHEREAS, Multnomah County (hereinafter "COUNTY") is a political subdivision of the State of Oregon and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq; and

WHEREAS, the Multnomah County Sheriff is authorized to enter into intergovernmental agreements jointly with and on behalf of the COUNTY, pursuant to ORS 206.345; and

WHEREAS, METRO is a municipal corporation formed and operating under state law and the Metro Charter, and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq. and

WHEREAS, METRO desires to contract with the COUNTY for the performance of certain law enforcement functions, related to METRO's purpose and authority, to be performed by the COUNTY through the Multnomah County Sheriffs Office (hereinafter "MCSO"); and

WHEREAS, the COUNTY through the MCSO is able and prepared to provide the services required by METRO under the terms and conditions set forth in this Agreement; therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, and pursuant to the provisions of ORS chapter 190, the parties agree to be bound as follows:

INVESTIGATION

1. The COUNTY shall provide general investigative police service to METRO at Metro's direction. Such police service shall include:
 - (a) Enforcement of all duly enacted ordinances of METRO, including those related to flow control investigation and solid waste management;
 - (b) Random and directed surveillance of persons collecting, transporting, storing, treating and disposing of solid and liquid waste to ensure such persons are complying with applicable laws relating to waste management;
 - (c) At METRO's request, investigation, case preparation, and prosecution assistance in cases involving offenses (including, but not limited to fraud, racketeering, and material breach of contract) allegedly committed by vendors, contractors, or subcontractors doing business with METRO or by facilities, firms or individuals subject to METRO ordinances and regulations, or by law or agreement;
 - (d) Investigations of suspected violations of environmental laws, rules, and ordinances; and
 - (e) Other general investigative work as requested by Metro.

2. In accordance with ORS 206.345(2), during the existence of this Agreement, the sheriff and the deputies of the sheriff shall exercise such authority as may be vested in them by law or by terms of this Agreement, including full power and authority to cite violators, arrest for violations of applicable criminal laws, and take other enforcement action for violations of all duly enacted ordinances of METRO relating to flow control and waste management.

PERSONNEL MATTERS

3. The COUNTY shall provide for the performance of the duties hereunder two (2) FTE deputy sheriffs. These persons are hereinafter referred to as "ASSIGNED PERSONNEL." For the purpose of this Agreement, one (1.0) FTE position means an employee who is regularly scheduled to work at least 40 hours per week performing the services required under this Agreement.
4. One or more of the deputy sheriffs provided hereunder may be provided by a law enforcement agency other than MCSO. In such event, the other law enforcement agency hereinafter shall be referred to as a "PARTICIPATING AGENCY."
5. The deputy sheriffs provided as ASSIGNED PERSONNEL shall be certified in their respective disciplines by the State's Department of Public Safety Standards and Training.
6. For ASSIGNED PERSONNEL that have been assigned to METRO for one year or longer, METRO shall pay one-half of personnel costs for absences due to general law enforcement training. Metro shall not pay personnel costs for absences due to specialized law enforcement training that does not relate directly to the services provided under the terms of this Agreement.
7. The ASSIGNED PERSONNEL provided hereunder by MCSO or a PARTICIPATING AGENCY shall be and remain employees of the COUNTY or PARTICIPATING AGENCY. The ASSIGNED PERSONNEL shall be supervised by MCSO and shall perform their duties in accordance with the administrative and operational procedures of MCSO. Metro shall nevertheless retain the right, upon request and for cause stated, to have ASSIGNED PERSONNEL removed from assignment under this Agreement and replaced by other ASSIGNED PERSONNEL meeting the requirements of this Agreement.
8. METRO does not assume any liability for the direct payment of any wages, salaries, or other compensation to ASSIGNED PERSONNEL performing services pursuant to the terms of this Agreement or for any other liability not provided for in this Agreement.
9. The COUNTY shall maintain Workers' Compensation insurance coverage for ASSIGNED PERSONNEL, either as a carrier insured employer or a self-insured employer as provided in ORS Chapter 656.
10. Matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment regarding ASSIGNED PERSONNEL under this Agreement shall be governed by the provisions of existing collective bargaining agreements between the ASSIGNED PERSONNEL's bargaining unit and their public employer.

11. All labor disputes arising out of this Agreement shall be governed by the provisions of applicable collective bargaining agreements in effect during this Agreement, and the personnel rules of the COUNTY or PARTICIPATING AGENCY.
12. The COUNTY and METRO acknowledge that the ASSIGNED PERSONNEL will be absent from duty for various reasons, including but not limited to vacation, holiday, illness, injury, training, leave of absence, and administrative leave. The COUNTY and METRO also acknowledge that some employee absences are the result of paid leave that the ASSIGNED PERSONNEL earn and are entitled to take. The COUNTY and METRO also acknowledge that some employee absences are the result of actions taken by the employer, with or without the employee's consent. In accordance with the foregoing acknowledgments:
 - (a) Except as provided in subsection (b) below, The COUNTY will not be responsible or otherwise obligated to replace any ASSIGNED PERSONNEL who is absent due to paid accrued leave, including but not limited to: vacation, holiday, sick leave or who is absent while participating in training directly related to the services-required by METRO. However, the COUNTY will make a good faith effort to schedule known, projected absences so as to minimize the impact on the COUNTY's ability to perform under this Agreement.
 - (b) This subsection provides when the COUNTY may invoice METRO, and when METRO shall pay, the personnel costs of an ASSIGNED PERSON in the event the COUNTY or PARTICIPATING AGENCY does not replace such ASSIGNED PERSON when the ASSIGNED PERSON is absent from work. For ASSIGNED PERSONNEL that have been assigned to METRO for six months or longer, METRO shall pay personnel costs for absences due to vacation leave and sick leave, up to a total combined annual maximum of 120 hours. For ASSIGNED PERSONNEL that have been assigned to METRO for less than six months, the COUNTY will not invoice METRO for such personnel costs and METRO shall not pay for such personnel costs. In no event shall the COUNTY invoice METRO, and METRO shall not pay, for such personnel costs due to any kind of absence other than for vacation and sick leave, as provided in this subsection and training as provided in subsection 6 of the agreement.
13. The COUNTY shall rotate the deputy sheriffs assigned to METRO at staggered intervals such that the METRO program does not have both of its deputy sheriffs rotated out of the program within less than one year of each other.

OFFICE SPACE

14. METRO shall provide the ASSIGNED PERSONNEL with sufficient office space, to include payment of costs for utilities, including telephone service, at METRO's premises or at a site mutually agreed upon by the COUNTY and METRO.

EQUIPMENT PURCHASE, USE AND DISPOSITION

15. Materials and supplies will be purchased for the use of ASSIGNED PERSONNEL as provided hereunder. For the purpose of this Agreement, "materials" includes capital equipment with a unit cost of \$1,000 or more. "Supplies" includes any item with a unit cost of less than \$1,000.
16. METRO shall purchase all materials and supplies necessary for the performance of this Agreement.
17. All vehicles and equipment purchased by METRO for use in fulfilling this Agreement, including capital equipment, shall be owned by METRO but under the control of the COUNTY for the COUNTY's use in performing its duties under this Agreement. Such vehicles and equipment shall not be used for any other purpose unless specifically authorized by Metro or unless exigent circumstances necessitate the use of such vehicles and equipment for non-Metro related law enforcement activity by ASSIGNED PERSONNEL. The COUNTY shall assume liability for damage to any Metro vehicles or equipment while being used for non-Metro law enforcement-related purposes. Upon termination of this Agreement, control of all remaining materials and supplies purchased hereunder, including capital equipment, shall revert to METRO.
18. Notwithstanding the provisions of section 17, above, METRO may grant to the COUNTY an option to purchase from METRO any or all remaining materials and supplies at a price mutually agreed upon by the parties, not to exceed the fair market value of the items at the times of purchase. The COUNTY shall give METRO notice of the COUNTY's intent to exercise any option that may be granted under this section within 60 days following termination of this Agreement.

CONTRACT COSTS

19. METRO shall pay COUNTY for all costs, services performed, and materials delivered for the term of this Agreement. By February 1 of each year, the MCSO shall provide METRO with a good faith projection of the cost of this Agreement for the following fiscal year. The actual amount to be paid by METRO will be determined through mutual agreement of the parties prior to each anniversary date of the execution of this Agreement. The amount to be paid by METRO for the term of the Agreement will not exceed ONE HUNDRED NINETY-THREE THOUSAND EIGHT HUNDRED AND NO/100THS DOLLARS (193,800.00). This maximum sum includes all fees, costs, and expenses of whatever nature to which COUNTY may become entitled for the term of this Agreement. All costs listed on Exhibit A, which is The Budget for the Agreement prepared by COUNTY, are on a "not to exceed" basis, and shall be billed quarterly for costs incurred, services performed, and materials delivered during the previous quarter. COUNTY shall submit itemized billings to METRO within 15 days of the end of each quarter of the contract year, and METRO shall make payment to COUNTY within 30 days of receipt of approved billings.

INDEMNIFICATION AND LIABILITY

20. The COUNTY shall indemnify, defend, and hold harmless METRO, its officers, employees, and agents from all claims, suits, actions, or expenses of any nature resulting from or arising out of the acts, errors, or omissions of the ASSIGNED PERSONNEL acting pursuant to the terms of this Agreement, within the limits of the Oregon Tort Claims Act and the Oregon Constitution.
21. METRO shall indemnify, defend, and hold harmless the COUNTY, its officers, employees, and agents, including ASSIGNED PERSONNEL from all claims, suits, actions, or expenses of any nature resulting from or arising out of the acts, errors, or omissions of METRO or its assignees, within the limits of the Oregon Tort Claims Act and the Oregon Constitution.

DISPUTE RESOLUTION

22. While the parties have attempted to make an Agreement anticipating and addressing their concerns, METRO and the COUNTY acknowledge the possibility that a claim, controversy, or dispute may arise out of this Agreement. METRO and the COUNTY agree that each party has an obligation and affirmative duty to make a good faith effort to resolve any claim, controversy, or dispute, including the giving of timely, written notification thereof to the other party.
23. All claims, controversies or disputes which arise out of this Agreement, and which have not been resolved through good faith efforts of the parties, shall be resolved by arbitration in accordance with the then effective arbitration rules of the Arbitration Service of Portland or the American Arbitration Association, whichever organization is selected by the party who first initiates arbitration by filing a claim in accordance with the rules of the organization selected, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

CONTRACT ADMINISTRATION

24. The Multnomah County Sheriff or his designated representative will represent the COUNTY in all matters pertaining to administration of this Agreement.
25. METRO designates its Solid Waste & Recycling Department Director or his designee to represent METRO in all matters pertaining to administration of this Agreement.
26. Any notice or notices provided for by this Agreement or by law to be given or served upon either party shall be given or served by certified letter, deposited in the U.S. mail, postage prepaid, and addressed to:

Multnomah County Sheriff
501 SE Hawthorne Blvd., Ste 350
Portland, Oregon 97214

Solid Waste & Recycling Department Director
METRO
600 NE Grand Avenue
Portland, Oregon 97232

CONTRACT TERM, MODIFICATION, AND TERMINATION

27. This Agreement shall be effective from the 1st day of July, 2006, and shall run through the 30th day of June 2007, unless extended.
28. Either party to this Agreement may terminate said Agreement by giving the other party not less than 90 days written notice.
29. This Agreement may be modified or amended by agreement of the parties. Any modification to this Agreement shall be effective only when incorporated herein by written amendments and signed by both METRO and the COUNTY.
30. This Agreement is not intended to benefit any individual, employee, group of employees, corporation, or other legal entity other than the parties to this Agreement. This Agreement shall not be deemed to vest in any third party any rights, nor shall it be deemed to be enforceable by any third party in any legal, equitable, or administrative proceeding whatsoever.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on the date written below.

MULTNOMAH COUNTY

By: _____
Bernie Giusto, Sheriff

Date: _____

By: _____
County Chair or Designee

Date: _____

APPROVED AS TO FORM:
Multnomah County Attorney

By: _____
Assistant County Attorney

Date: _____

METRO

By: Michael Jordan
Michael Jordan,
Chief Operating Officer

Date: 6/20/06

APPROVED AS TO FORM:
Metro Attorney

By: Paul Garahan
Paul Garahan,
Assistant Metro Attorney

Date: 6/15/06

SK:mb
S:\REM\kraten\Contracts\MCSO\FY06-07_enf.DOC
Queue