

## **INTERGOVERNMENTAL AGREEMENT**

### **BETWEEN THE TRI-COUNTY COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON AND MULTNOMAH COUNTY CONTRACT NO. 04-0814**

This Agreement is entered into between the Tri-County Metropolitan Transportation District of Oregon ("TriMet") and Multnomah County ("County"), by and through the Multnomah County District Attorney's Office.

#### **RECITALS**

WHEREAS, the Multnomah County District Attorney is prepared to provide a neighborhood-based prosecution project ("Project") in the area served by TriMet; and

WHEREAS, the Multnomah County District Attorney is prepared to provide management and staff resources necessary for the Project; and

WHEREAS, TriMet is prepared to provide funding for the Project; and

WHEREAS, TriMet and County have authority under ORS Chapter 190 to enter into this cooperative intergovernmental agreement;

NOW THEREFORE, in recognition of the foregoing Recitals, TriMet and County agree as follows:

#### **AGREEMENTS**

##### **1. Purpose of Agreement**

This Agreement is entered into to define the rights and responsibilities of the parties in respect to the "Project."

##### **2. Term of Agreement**

The term of this Agreement is from July 1, 2004 to June 30, 2006.

##### **3. Responsibilities of County**

The Multnomah County District Attorney shall be completely responsible for performance and management of the Project. The Project shall be substantially as outlined in the attached and incorporated Exhibit A.

County shall provide TriMet's Project Manager at least (30) days prior notice of its intent to reassign Multnomah County District Attorney personnel under this Agreement.

Selection and assignment of substituted personnel shall be determined jointly by County and TriMet Project Managers.

#### **4. Responsibilities of TriMet**

TriMet shall provide the funding as set forth in Paragraph 5.

#### **5. Funding**

For the period of July 1, 2004 through June 30, 2005, TriMet shall provide funding in the amount of \$119,233. For the period of July 1, 2005 through June 30, 2006, TriMet shall provide funding in the amount of \$122,810. Total funding under this Agreement shall not exceed \$242,043, without written modification to this Agreement executed by the parties.

Funds provided are to pay for salary, benefits and other expenses incurred by County for performance of the Project. County shall submit four equal quarterly billings for each year of the Agreement to TriMet's Finance Department, Accounts Payable, 4012 S.E. 17<sup>th</sup> Avenue, Portland, Oregon 97202 on the following schedule: September 30, December 30, March 1, June 30. Each billing shall contain a reference to Agreement 02-0829, and shall be copied to TriMet's Project Manager. County shall be compensated within thirty days after TriMet's receipt of an approved invoice.

#### **7. Project Management**

The individuals identified below are the designated Project Managers for coordination of this Agreement, unless another individual is designated by written notice to the other party. Notices and communications provided for under this Agreement shall be addressed to the Project Managers as follows:

##### **TriMet**

Dan Caufield  
Dir., Operations Planning & Development  
TriMet  
4012 S.E. 17<sup>th</sup>  
Portland, Oregon 97202  
FAX: (503) 962-4997

##### **County**

Wayne Pearson  
Deputy District Attorney  
Multnomah County  
600 NE Grand Avenue  
Portland, Oregon 97232  
FAX: (503) 988-3652

#### **7. Indemnification**

In accordance with the provisions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, including the limits of liability for public bodies set forth therein, County and TriMet mutually agree to defend, hold harmless and indemnify each other for their own negligence and that of their respective directors, officers, employees and agents, against any liability, settlements, costs, losses or expenses arising out of the performance of this Agreement.

#### **8. Independent Contractors**

County shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for in Paragraph 5. County shall have sole control and supervision over the manner in which the Project is performed,

subject only to consistency with the terms of this Agreement. Neither County nor its officers, employees or agents, are officers, employees or agents of TriMet as those terms are used in ORS 30.260, and shall not either explicitly or implicitly hold themselves out as such. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

## **9. Termination**

In addition to other termination provisions set forth in this Agreement, the parties agree:

- A. County and TriMet may terminate this Agreement, in whole or part, at any time by written mutual agreement.
- B. TriMet may terminate this Agreement upon providing 30 days prior written notice to County. In the event that TriMet terminates under this subparagraph B, County shall be entitled to a pro-rated payment based on the quarterly billing amount calculated by days, for services provided up to the effective date of termination. Within 45 days after termination, County shall submit to TriMet its final billing. TriMet shall not be liable for any amounts billed after 45 days.
- C. Either TriMet or County may terminate this Agreement for default. Prior to terminating for default, the non-breaching party shall provide written notice of the default to the other party, specifying the manner in which the party is in default and allowing the party no less than 15 business days in which to remedy the default. If the default is not remedied within the time specified in the notice, the non-breaching party may terminate all or any part of this Agreement.

## **10. Documents**

The parties shall keep comprehensive records relating to this Agreement which shall be available for inspection by the other party upon request.

## **11. No Waiver**

Either party's failure to object to a breach of this Agreement shall not constitute a waiver of that party's right to object to any additional breach, or to require specific performance of this Agreement.

## **12. No Third Party Beneficiary**

County and TriMet are the only parties to this Agreement, and as such are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

## **13. Adherence to Law**

The parties shall adhere to all applicable federal, state and local laws, regulations, rules and policies, including those relating to their own employees including all applicable employment laws, rules and regulations.

#### **14. Workers Compensation**

County, its subcontractors, if any, and all employers working under this contract are subject employers under the Oregon Workers Compensation law and shall comply with ORS 656.017 which requires them to provide workers compensation coverage for all subject workers, unless County, its subcontractors, if any, and all employers working under this contract are exempt under ORS 656.126.

County warrants that all persons engaged in contract work and subject to the Oregon Workers Compensation law are covered by a workers compensation plan or insurance that fully complies with Oregon law. County shall indemnify TriMet for any liability incurred by TriMet as a result of County's breach of warranty under this paragraph.

#### **15. Law of Oregon**

This Agreement shall be governed by Oregon law, and shall be deemed to incorporate by reference all requirements for public contracts as may be required by law.

#### **16. Assignment**

County may not assign, delegate or subcontract its rights or obligations hereunder without the prior written consent of TriMet.

#### **17. Mediation**

Should any dispute arise between the parties concerning this Agreement which is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this Agreement agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the parties.

#### **18. Severability**

If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be determined by a court to be invalid or unenforceable, the remainder of this Agreement and the application of those terms and provisions shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

#### **19. Integration**

This Agreement includes the entire agreement of the parties and supersedes any prior discussions or agreements regarding the same subject. This Agreement may be modified only by a written agreement signed by authorized representatives of the parties.

## 20. Authority

The representatives signing on behalf of the parties certify that they are duly authorized by the party for which they sign to make this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates hereinafter indicated.

### MULTNOMAH COUNTY

By \_\_\_\_\_  
Diane Linn, County Chair  
Multnomah County Board of Commissioners

Date: \_\_\_\_\_

By Michael D. Schrunk  
Michael D. Schrunk  
District Attorney

Date: 6-8-04

### REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By SEA  
Assistant County Attorney

Date: 6-9-04

### TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET)

By Robert T. Nelson  
Robert T. Nelson  
Executive Director,  
Operations

Date: 6-3-04

## **EXHIBIT A PROJECT SCOPE**

### Duties of TriMet Deputy District Attorney

- 1      Must perform only transit-related work. Per procurement/accounting laws.
2.     Provide consulting and assistance in the other counties of TriMet system.
3.     Provide training to police, employees, as needed
4.     Participate in pro-active projects, community affairs, etc.
5.     Be on-call, prepared to advise in handling of crime investigations, arrests, etc., respond to a scene.
- 6      Participate in TriMet meetings, etc., as needed.
- 7      Visit, observe TriMet operations, processes to develop orientation and familiarity. Recommend needed improvements relating to prosecutions of crimes.
8.     Evaluate current legislation, develop improvements as pertain to transit security.