

INTERGOVERNMENTAL COOPERATIVE AGREEMENT

This Intergovernmental Cooperative Agreement (Agreement) is entered into by and between the following parties: Clean Water Services, a county service district formed pursuant to ORS Chapter 451 (District); the City of Portland, an Oregon municipal corporation, acting by and through its Bureau of Environmental Services (BES); Water Environment Services, a county service district formed pursuant to ORS Chapter 451 (Clackamas County); Multnomah County, a home rule county, acting by and through its Department of Community Services (Multnomah County); the City of Vancouver (Vancouver), a Washington municipal corporation; Clark County (Clark County), a Washington county government; and Metro (Metro), a metropolitan service district.

RECITALS

- A. Whereas, the parties hereto have the authority to enter into this Agreement pursuant to their respective principal acts, RCW 39.34 and ORS 190.003 et seq.; and
- B. Whereas, some of the parties hereto have been issued National Pollutant Discharge Elimination System (NPDES) stormwater permits from the Oregon Department of Environmental Quality (ODEQ) and the Washington Department of Ecology (WDOE); and
- C. Whereas, the National Marine Fisheries Services listed some species of salmon and steelhead as threatened in the Portland/Vancouver metropolitan region in 1998 and 1999 under the Endangered Species Act (ESA) and this action is the federal agency's first listing for a fish species that spawns and rears in a major metropolitan area; and
- D. Whereas, many jurisdictions and organizations are working to find solutions to respond to the listing that will address the needs of the region's watersheds as a whole; and
- E. Whereas, the parties hereto agree to be known as the Regional Coalition for Clean Rivers and Streams (Coalition) for the purposes of this Agreement; and
- F. Whereas, the parties hereto agree that a collaborative and constructive process to coordinate, develop and implement a regional stormwater

pollution prevention and fish protection public awareness and media campaign consistent with certain NPDES stormwater permit conditions relating to public education is necessary; and

- G. Whereas, the parties believe it is in the best interests of all to coordinate, develop and implement a regional stormwater pollution prevention and fish restoration and habitat protection public awareness and media campaign to promote ways to protect and improve water quality, respond to ESA listings and address stormwater runoff pollution problems; and
- H. Whereas, the parties are entering into a five year Agreement with an understanding that the estimated budget for each fiscal year is approximately seventy-two thousand dollars (\$72,000) with such costs to be shared by the parties as provided in this Agreement unless otherwise unanimously agreed.

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1. PURPOSE

1.01 The purpose of this Agreement is to coordinate, develop and implement a regional public awareness and media campaign consistent with certain NPDES stormwater permit conditions and ESA goals for fish restoration.

SECTION 2. REGIONAL PUBLIC AWARENESS AND CAMPAIGN.

- 2.01 Goals. The parties agree that the goals of the media and public awareness campaign are to:
- (a) raise public awareness about the connection between stormwater pollution and prevention and the recovery of fish in our region;
 - (b) promote individual responsibility for prevention of polluted waterways/land and fish restoration;
 - (c) foster public understanding of stormwater/pollution prevention and fish recovery and create public awareness messages that can be applied by each jurisdiction throughout the region;
 - (d) serve as a communications sources to any jurisdiction/group working on stormwater/fish restoration efforts;
 - (e) project to the public a regional partnership and unified approach to stormwater and ESA public education and communications issues to maximize public resources and avoid duplication of efforts; and
 - (f) meet NPDES stormwater permit conditions.

2.02 Duration. Subject to Section 4 of this Agreement dealing with termination or withdrawal, the duration of this Agreement shall be five (5) years from the date of the last signature, unless the majority of parties elect to terminate. A majority of the parties is defined as fifty percent (50%) of the participating entities plus one (1).

2.03 Meetings; Manner of Acting. The parties shall meet on a periodic basis at a mutually convenient time and place. The presence of five (5) parties, in person or by phone, to this Agreement shall constitute a quorum for the transaction of business and if only a quorum is present, a majority of those present shall be necessary to decide any issue except financial matters or financial obligations. Each of the parties shall be represented by one voting member. Notice of meetings shall be given to all parties at least fifteen (15) days prior to the date of the meeting. Any decision seeking financing or other financial obligation, or other forms of indebtedness, shall require an affirmative vote of the governing body of each party to this Agreement, except that any representative may bind his/her entity without governing body approval if the amount in question is within his/her delegated contracting authority.

2.04 Task Leaders. Task leaders may be appointed by the parties. If appointed, the task leaders shall, subject to control and direction of the parties, conduct the following tasks: (1) budget and fiscal activities; (2) purchasing and business activities; (3) financial reporting not less than once monthly and preparing such other reports and the information as the parties may require; and (4) conducting the day-to-day affairs under this Agreement.

2.05 Budgeting and Accounting. It is anticipated that each party shall budget its staff and funds for costs or provision of in-kind services to develop and implement the regional media and public awareness campaign. To the extent required, the parties or a Task Leader shall annually prepare and adopt an anticipated estimate of costs for its separate operations for the next fiscal year and distribute the same to each party prior to the expenditure of any funds in the next fiscal year. The annual budget shall not exceed seventy-two thousand dollars (\$72,000) without the approval of all parties to this Agreement.

Unless otherwise unanimously agreed, each party's share of the expenses incurred pursuant to this Agreement shall be proportionate to the individual party's population in relation to the combined population of all parties as set forth in Exhibit A to this Agreement.

Each party's apportioned share of the expenses shall be estimated by the parties and set forth in the annual estimate of costs, and the amounts so estimated shall be budgeted and appropriated by each party. The parties or a Task Leader shall provide financial reports at least quarterly to each of the parties not later than fifteen (15) days after the end of each quarter. This report shall show expenditures and receipts by category item for each transaction through the last working day of the preceding calendar month.

Each party shall be responsible only for its proportionate share of expenses incurred pursuant to this Agreement. If a party fails to budget the amount required or to pay the amounts required of it for activities pursuant to this Agreement, any other party shall have the right, but not the obligation, to pursue all remedies available at law or in equity to collect the amount due.

2.06 Fiscal Year. For purposes of this Agreement, the fiscal year shall begin on July 1 and end on June 30 of each year.

SECTION 3. INDIVIDUAL ENTITY OBLIGATION.

3.01 Scope of Participation. It is intended that this Agreement will allow the individual entities to participate in the development and implementation of the regional media and public awareness campaign as they desire as set forth in Exhibit B to this Agreement.

3.02 Authorization of BES. By execution hereof, all parties hereto authorize BES to enter into a contract(s) and incur costs necessary and consistent with the purposes of developing and implementing the regional media campaign. The parties acknowledge and agree that BES will incur costs and execute the contract(s), but that all are benefited thereby and that this authorization is limited to the cost share amount for each entity shown in Exhibit A to this Agreement.

3.03 Reimbursement of BES. BES shall make all payments required under the contract(s). Each party hereto agrees to reimburse BES for its proportionate share (unless otherwise unanimously agreed) of expenses incurred by BES under this Agreement as set forth on Exhibit A, as progress billings are received. BES shall invoice each party as progress payments are made and the reimbursement payment to BES shall be due within 30 days following invoice. Payments shall be made to "City of Portland" at its offices "Attention Megan Callahan, Bureau of Environmental Services, 1120 SW 5th Avenue, Room 1000, Portland, Oregon 97204-1972." Any amount unpaid after 30 days shall accrue interest at nine percent (9%) per annum until paid.

3.04 Approval of Campaign. The representative of each party to this Agreement shall be given a reasonable opportunity to review and approve all aspects of the final media campaign. The final media and public awareness campaign, including but not limited to campaign message contents, media methods chosen, frequency of distribution and area of distribution shall require the approval of the representative of each party to this Agreement prior to implementation.

3.05 Funding by Parties. As permitted by law, each party to this Agreement may seek and obtain funding from other public or private entities for previously approved or additional proposed activities pursuant to this Agreement.

SECTION 4. TERMINATION.

4.01 Withdrawal. Any party may elect to terminate its obligations and withdraw from further participation under this Agreement by giving written notice of its desire to the other member parties no later than March 15 of any fiscal year. Withdrawal shall only be effective at the end of the fiscal year in which notice is given. The withdrawing entity shall be responsible for the entity's share, as set forth in Exhibit A, of any joint debt incurred under the Agreement during the fiscal year in which the notice is given.

4.02 Termination of Agreement. If the parties elect to terminate this Agreement, any assets shall be distributed to the original contributing party and any cash or other proceeds shall be distributed proportionately according to the formula established for the then current fiscal year under Section 1.05. Debt or other obligations shall be distributed based upon the formula established for the then current fiscal year under Section 1.05, unless there is a written agreement otherwise. The written agreement regarding debt distribution may be by separate agreement or addendum signed by all parties.

4.03 Jurisdiction of Circuit Court. With the agreement of all parties involved in a dispute, the dispute may be settled by arbitration under the jurisdiction of the Circuit Court of the State of Oregon for Multnomah County pursuant to ORS Chapter 36.

SECTION 5. AMENDMENT.

This Agreement may be amended by mutual written agreement of the representatives of each party. Any subsequent amendments to this Agreement which increase the cost to any party shall not be effective until approved and signed by the General Manager, Director or designee, when required by the applicable party's rules, the governing body of the party.

SECTION 6. GENERAL PROVISIONS.

6.01 Merger Clause This Agreement embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof.

6.02 Assignment. No party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of all other parties.

6.03 Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

6.04 Notices. Any notice herein or permitted to be given shall be given in writing, shall be effective when actually received, and may be given by hand delivery or by United States mail, first class postage prepaid, addressed to the parties as follows:

Clean Water Services
Attn: Karen DeBaker
2550 SW Hillsboro Highway
Hillsboro, Or 97123
(503) 681-4450
debakerk@cleanwaterservices.org

City of Portland, BES
Attn: Megan D. Callahan
1120 SW 5th Avenue, Room 1000
Portland, OR 97204-1972
(503) 823-4759
megan.callahan@portlandoregon.gov

Water Environment Services
Attn: Amy Kyle
150 Beaver Creek Road
Oregon City, OR 97045
(503) 742-4561
AKyle@co.clackamas.or.us

Multnomah County, Department of Community Services
Attn: Roy Iwai
1620 SE 190th Ave
Portland, OR 97233-5910
(503) 988-5050 ext 28031
roy.iwai@co.multnomah.or.us

Clark County
Attn: Cindy Stienbarger
P.O. Box 9810
Vancouver, WA 98666-9810
(360) 397-2121 x 4584
cindy.stienbarger@clark.wa.gov

City of Vancouver
Attn: Loretta Callahan
P.O. Box 1995
Vancouver, WA 98668
(360) 759-4479
Loretta.Callahan@ci.vancouver.wa.us

Metro
Attn: Lisa Heigh
600 NE Grand
Portland, OR 97232
(503) 797-1611
lisa.heigh@oregonmetro.gov

6.05 Attorney Fees. If a dispute should arise between the parties regarding any term or portion of this Agreement, the prevailing party shall be entitled to such reasonable attorney fees as a trial court or arbitrator may award and on any appeal therefrom.

6.06 Counterparts. This Agreement may be executed in any number of counterparts and by the parties on separate counterparts, any one of which shall constitute an agreement between and among the parties.

IN WITNESS WHEREOF, the parties have executed this Intergovernmental Cooperative Agreement on the date set forth opposite their names below:

Clean Water Services

Date _____

By: _____

Title: _____

Approved as to form

District Counsel

CITY OF PORTLAND, OREGON

Date _____

By: _____

Dean Marriott
Director
Environmental Services

Approved by City Attorney:

Date: _____

Date: _____

Auditor, City of Portland

WATER ENVIRONMENT SERVICES,
CLACKAMAS COUNTY

Date: _____

By: _____

Title:

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY

By: _____
Jeff Cogen

Title: Multnomah County Chair

Date: _____

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY

By: /s/ Sandra N. Duffy
Sandra N. Duffy
Assistant County Attorney

Date: 06/04/2010

CITY OF VANCOUVER, WASHINGTON

Date: _____

By: _____

Title: _____

Attest:

Approved as to form:

By: _____

Title: City Clerk

By: _____

Title: City Attorney

CLARK COUNTY, WASHINGTON

Date: _____

By: _____

Steve Stuart, Chair

Board of Clark County Commissioners

Title: _____

Approved as to form only

ARTHUR D. CURTIS, Prosecuting Attorney

By: Bronson Potter

Deputy Prosecuting Attorney

METRO

Date: _____

By: _____

Title: _____

EXHIBIT A

COALITION FOR CLEAN RIVERS AND STREAMS

Cost Sharing Formula

The cost sharing formula developed by the Coalition is based on the combination of the population of each city, county or service district and an average of the participants. There are seven partners. Metro’s financial participation will be an average of the other six participants. The population figures come from Portland State University Urban Affairs Program and were confirmed and agreed upon by each service district.

The proposed budget for development of this media and public awareness campaign is \$72,000. The cost for each Coalition member will be:

<i>Agency Name</i>	<i>Population</i>	<i>% of total</i>
City of Portland (Bureau of Environmental Services) <i>Not to exceed \$19,498</i>	582,130	32%
Clean Water Services <i>Not to exceed \$17,082</i>	510,000	28%
Water Environment Services <i>Not to exceed \$11,186</i>	333,960	18%
City of Vancouver <i>Not to exceed \$5,510</i>	164,500	9%
Multnomah County <i>Not to exceed \$1,391</i>	41,535	2%
Clark County <i>Not to exceed \$7,048</i>	210,415	11%
Metro <i>Not to exceed \$10,286</i>		

EXHIBIT B

COALITION FOR CLEAN RIVERS AND STREAMS

Scope of Work

The Coalition will maintain an annual media and public awareness campaign that will utilize a variety of media outreach tools that will maximize each agency's investment. The campaign will be broad based with the residential community as the target audience.

The Coalition will make every effort to use internal services to develop and produce the outreach materials and prioritize spending on actual media purchases.

Messages may include but not be limited to:

- a tag line and logo: Don't Be A Water Hazard
- stormwater pollution prevention messages;
- water quality messages;
- litter prevention;
- recycling; and
- the dump no waste, drains to stream message.

Messages each year will include a visual message that can be effectively conveyed.

The Coalition will:

- Develop a schedule for the campaign;
- Develop the campaign and decide on media outlets;
- Secure the media outlets and purchase time;
- Develop the mechanical artwork or broadcast tapes;
- Seek additional sponsorship from potential corporate partners;
- If needed, the group will develop a scope of work, Request for Proposal document and conduct selection of a creative consultant; and
- Conduct evaluation of the campaign following implementation.