

RECORD COPY

Intergovernmental Agreement for Provisions of
Building Inspection/Plan Review (BI/PR) Services Mechanical Inspection/ Plan Review, Plumbing Inspection/Plan Review, Electrical
Inspection/Plan Review and
Clarification of Inspection Roles during Times of Emergencies

This Agreement is entered into by and between the City of Oregon City, an Oregon municipal corporation (the “City”), and Clackamas County, a political subdivision of the State of Oregon (the “County”), (each a “Party” or collectively the “Parties”).

RECITALS

- A. ORS 190.010 authorizes and allows the parties to this Agreement to perform the functions and activities that another party to this Agreement has authority to perform.
- B. Each of the parties has staff that provides BI/PR services, as defined below, for their respective jurisdictions.
- C. With the fluctuations in development and construction activity in Oregon the Parties have experienced variations in demand for BI/PR services over the course of the last few fiscal years; and the Parties believe it may be more cost effective and better serve the public to share experienced staff of another jurisdiction rather than independently hiring additional staff.
- D. During times of emergency including but not limited to earthquake, flood, and high-wind events, demands for timely BI/PR services can increase significantly.
- E. Post-disaster, each Party must respond to their respective communities as quickly and efficiently as possible.
- F. Each of the Parties has a desire to serve their respective communities in the swiftest and most efficient way possible during an emergency.
- G. Many of the County’s buildings and facilities are located within the City’s jurisdiction.

AGREEMENT

Now, therefore, based on the foregoing, the Parties agree as follows:

- 1. Definitions. As used herein, the following words and phrases mean:
 - 1.1. "Borrowing Party" is the governmental entity requesting and obtaining staff assistance from another signatory to this Agreement.
 - 1.2. "Building Inspection/Plan Review Services" (BI/PR) are services related to the issuance of permits under the provisions of ORS Chapters 197.215, 227 or 455.
 - 1.3. "Originating Party" is the entity loaning one or more of its employees to the Borrowing Party for staff assistance related to BI/PR.
 - 1.4. "Reimbursement Costs" are those charges related to a Shared Employee as set forth in a fee schedule

adopted by an Originating Party. The charges shall be set out as an hourly rate for inspection services, and a percentage of the plan review fee for plan review services.

1.5. "Shared Employee" is the Originating Party's employee loaned to a Borrowing Party under this Agreement.

2. Requested Use of Shared Employees. Each Party to this Agreement shall make available its employees providing BI/PR, to the extent these employees are (in the opinion of the Originating Party) available for loan. The Borrowing Party shall inform the Originating Party that it desires staff assistance related to BI/PR from the Originating Party and stating the number of positions and the minimum qualifications of the staff requested. The request shall also set out when the Shared Employee would be needed and an estimate of the duration for the need.
 3. Response to Request for Use. The Originating Party shall promptly provide Borrowing Party with the name(s) of employee(s) that are available and a brief description of the employees' qualifications. It shall be in the sole discretion of the Originating Party to select the employees subject to this Agreement. This process is to be quick and responsive such that a Borrowing Party may make a request in the morning and be lent a Shared Employee that same day.
 4. Payment for Use of Shared Employee and Revenue Sharing.
 - 4.1 Inspections services shall be calculated hourly, using the active charge out rate of labor, plus overhead, for the employee providing the service and shall include travel time between jurisdictions. Charge out rates are updated each fiscal year, and invoices will reflect the current rate for services performed.
 - 4.2 Plan review services shall be paid at 70% of the plan check fee charged by the Borrowing Party. The Originating party shall provide copies of all permit receipts for projects which received plan review services.
 5. Accounting for Shared Employee. The Originating Party shall provide to the Borrowing Party an accounting of hours spent performing inspection services and accounting for plan review services for the Borrowing Party. This information shall be provided within 30-days of the end of each calendar month and may be provided via US mail, e-mail or fax. The Borrowing Party shall pay all Reimbursement Costs within 30-days of receipt of the accounting described in this paragraph.
 6. Status of Shared Employee. A Shared Employee shall:
 - 6.1. Account for the number of hours in service to a Borrowing Party;
 - 6.2. Remain an employee of the Originating Party continuing to be paid and receiving employee benefits therefrom without entitlement or claim to any salary, compensation or other benefits from the Borrowing Party;
 - 6.3. Continue working the number of hours specified in his or her contract of employment with the Originating Party while loaned to a Borrowing Party, unless the Originating Party, Borrowing Party and the Shared Employee agree otherwise;
 - 6.4. In the event of any dispute between the Shared Employee and Borrowing Party about the performance of services under this Agreement, Shared Employee shall be subject to the exclusive direction and control (including personnel actions and discipline) of the Originating Party.
 - 6.5. Administer the building code and the adopted policies of the Borrowing Party, and shall defer to the direction of the building official of the Borrowing Party on matters relating to the BI/PR services and the issuance of permits. It is agreed by and between the parties that the Shared Employee is carrying out a function on behalf of the Borrowing Party, and the Borrowing Party has the right of direction or control of the manner in which the Borrowing Party delivers services under this Agreement and exercises control over the activities of the Shared Employee when providing agreed upon services
 7. Obligations of Borrowing Party. If the Shared Employee does not meet the needs or is otherwise not satisfactory to Borrowing Party, Borrowing Party's sole recourse shall be the return of Shared Employee to Originating Party. The Borrowing Party shall provide a written explanation to the Originating Party for the return of the Shared Employee(s). Borrowing Party shall provide a Shared Employee with all material(s) and work space necessary to perform the requested BP/PR.
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8. Obligations of Originating Party. In addition to its other obligations set out elsewhere in this Agreement, the Originating Party shall be responsible for provision of any official motor vehicle necessary for performance of services by a Shared Employee.
9. Authorization to perform inspections on County Buildings and Facilities.

9.1. During times of emergency, as defined in ORS 401.025 and as duly declared by either the governing body of the City or the County or as mutually agreed by the Parties, the City authorizes the County to perform inspections on County-owned or operated facilities for the purpose of determining whether they are structurally sound and/or otherwise suitable for safe occupancy.

9.2. The County shall use only certified personnel to evaluate buildings and facilities.

9.3. The County shall utilize the ATC-20 and ATC-45 or other equivalent methodologies and standard, rational engineering practices in the determination of suitability for occupancy.

9.4. The County shall provide copies to the City of all reports and findings as soon as is practical after the inspections are performed.

9.5. If during an emergency it is the desire of the City to utilize County inspection personnel in the evaluation of its own facilities, terms shall be as outlined in this agreement.

10. General Provisions.

- 10.1 Compliance with Laws. Every party shall comply with all applicable federal, state and local laws, including those related to discrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability and all applicable laws and regulations regarding the handling and expenditure of public funds.
- 10.2 Oregon Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon without giving effect to the conflicts of laws provisions thereof.
- 10.3 Time is of the Essence. Time is of the essence in the performance of this Agreement.
- 10.4 System Access. The Borrowing Party agrees to provide the Originating Party access to the Borrowing Party's permitting system.
- 10.5 Default. A Party shall be deemed in default if it fails to comply with any provision of this Agreement. The non-defaulting party shall provide the defaulting party written notice of the default and an explanation thereof and allow the defaulting party thirty (30) days within which to cure.
- 10.6 Indemnification. Each Party in its capacity as an Originating Party hereby agrees to indemnify, defend and hold harmless the Borrowing Party (including their elected officials, officers, employees and agents) from and against all claims, demands and causes of actions and suits of any kind or nature made by a third party for personal injury, death or damage to property arising out of the service(s) performed by the Originating Party its elected officials, officers, employees (including Shared Employees) and agents pursuant to the terms of this Agreement. Each Party shall give the other Party to this Agreement notice of any claim made or case filed that relates to this Agreement or services performed hereunder.
- Each Party in its capacity as a Borrowing Party hereby agrees to indemnify, defend and hold harmless the Originating Party (including their elected officials, officers, employees and agents) from and against all claims, demands and causes of actions and suits of any kind or nature made by a third party for personal injury, death or damage to property arising out of the service(s) performed by the Borrowing Party its elected officials, officers, employees and agents pursuant to the terms of this Agreement. Each Party shall give the other Party to this Agreement notice of any claim made or case filed that relates to this Agreement or services performed hereunder.
- 10.7 Insurance. Each Party agrees to maintain liability and workers compensation insurance in accordance with statutory requirements at levels necessary to protect against liabilities allowed by law. Each Originating Party shall maintain workers compensation coverage for any Shared Employee loaned under this Agreement.
- 10.8 Modification. This agreement may be amended in writing as may be mutually agreed to between the Parties.
- 10.9 Dispute Resolution. The Parties shall first attempt to informally resolve any dispute concerning this Agreement. A neutral party may be used to facilitate those negotiation in the event of an impasse, the issue shall be submitted to the governing bodies for a recommendation or resolution.
- 10.10 Enforcement. Subject to the provisions in section 10.7, any Party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement.
- 10.11 Excused Performance. In addition to the specific provisions of this Agreement, performance by any Party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the Parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control of the Party to be excused.
- 10.12 Termination. A Party may terminate its participation in this Agreement, with or without cause and at any time, by providing thirty (30) days written notice to the other Party to this Agreement.
- 10.13 Severability. If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the

Agreement will not be affected or impaired in any way.

10.14 Entire Agreement. This Agreement is the entire agreement of the Parties on its subject and supersedes any prior discussions or agreements regarding the same subject.

11. Term of Agreement. This Agreement shall take effect on the date that both Parties have signed the agreement and continue thereafter from year to year in perpetuity unless terminated by the Parties consistent with section 10 above.

12. Contact Persons. Communications about this Agreement and any notice sent under its terms shall be sent by and to the following contact persons for the respective parties:

<u>Jurisdiction</u>	<u>Contact Person</u>	<u>Address</u>
City of Oregon City	Mike Roberts	698 Warner Parrott
Clackamas County	Matt Rozzell	150 Beavercreek Rd

12. Appropriations Clause. The obligations of the parties are subject to appropriations by their governing bodies. This Agreement is subject to the debt limitations in Oregon Constitution, Article XI, section 10 and any debt limitations contained in a city charter.

IN WITNESS WHEREOF, the respective parties have caused to be signed in their behalf to make and enter into this Agreement this _____ day of _____, 2019.

CLACKAMAS COUNTY

By _____
Chair, Board of County Commissioners

Date _____

Approved as to Form:

By _____
Mary Raethke, Recording Secretary

Date _____

CITY OF OREGON CITY

By _____
Anthony Konkol, III, City Manager

Date _____

Approved as to Form:

By _____
City Attorney

Date _____