



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 22, 2022

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an IGA with Metro for Regional Cleanup Activities. Total value is \$300,000. Funding through one-time State pass-through funding. No County General Funds.

Purpose/Outcome	Approval of an Intergovernmental Agreement (IGA) with Metro to fund regional cleanup funding projects, including removal of abandoned recreational vehicles (RVs), collection of bulky waste at affordable multifamily housing communities, and supplementary garbage pickup serving unhoused community members.
Dollar Amount and Fiscal Impact	\$300,000; One-time funding not previously budgeted.
Funding Source	House Bill 5202 (April 4, 2022) allocates \$10 million in state funds to Metro, for “trash and sanitation services”. Metro is allocating these funds to jurisdictions via Intergovernmental Agreements.
Duration	From signing until June 30, 2024.
Previous Board Action/Review	<ul style="list-style-type: none"> • May 17, 2022: Issues. The Board approved for the consent agenda a Financial Assistance Application Lifecycle Form to apply for one-time funds up to \$378,000. • May 19, 2022: Business Meeting. The Board approved the Lifecycle form • September 20, 2022 – Issues discussion for consent agenda
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. <i>How does this item align with your department’s Strategic Business Plan goals?</i> RV removal, plus bulky waste and houseless community trash collection services supports Sustainability and Solid Waste’s mission to reduce waste, recover resources and aid in honoring our natural resources. 2. <i>How does this item align with the County’s Performance Clackamas goals?</i> Providing large scale cleanup services in the community, furthers the Board’s goals of honoring our natural resources, ensuring safe and healthy communities, and maintaining a strong infrastructure (through the removing hazards in our roadways).
Counsel Review	Date of Counsel review: 8/29/2022 (A. Naylor)

Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Item is an IGA.
Contact Person	Cheryl Bell, DTD Assist. Director – 503.260.7124

BACKGROUND:

In April 2022, Clackamas County learned that Metro would fund one-time regional cleanup efforts using \$10 million in state funding authorized through HB 5202 (2022). Metro earmarked \$1.8 million of these funds for local government cleanup activities through Intergovernmental Agreements (IGAs). Metro staff advised local governments that they were targeting a \$300,000 limit per IGA.

Department of Transportation and Development (DTD) staff coordinated with several departments and in consultation with Sustainability and Solid Waste, Code Enforcement, County Counsel, Clackamas County Sheriff, and Health Housing and Human Services (H3S) developed proposals that would provide:

- Funding to lawfully tow, store, and dispose of approximately 32 abandoned recreational vehicles within the urban growth boundary (\$200K),
- Bulky waste pickups at affordable multifamily housing communities (\$90K), and
- Supplemental garbage pickup at up to five houseless encampment areas in partnership or consultation with agencies conducting street outreach (\$10K).

At the May 19th Business Meeting the Board of Commissioners authorized staff to complete an application for up to \$378,000 in funding for the above-outlined projects. On June 15th, Metro informed the County that we would be awarded \$300,000 for the proposed projects. This IGA establishes the terms and responsibilities of these funds, and the scope of services to be performed by the County.

RECOMMENDATION: Staff respectfully recommends the Board approve this Intergovernmental Agreement with Metro and authorize the Chair to sign on behalf of the County.

Respectfully submitted,

Cheryl Bell

Cheryl Bell,
Assistant Director-Development
Transportation & Development

Attachments:

Intergovernmental Agreement with Metro

Intergovernmental Agreement

Metro Contract No. 938032

This Intergovernmental Agreement (“IGA” or “Agreement”) is between Metro, an Oregon metropolitan service district organized under the laws of the State of Oregon and the Metro Charter (“Metro”) and Clackamas County, a municipal corporation of the State of Oregon (“County”), each a “Party” and collectively, “Parties.”

Recitals

Metro and County have authority under ORS Chapter 190 to enter into this Agreement.

House Bill 5202 (April 4, 2022) allocates to Metro \$10 million in state funds, for “trash and sanitation services” (“HB 5202 Funds”):

“SECTION 451. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium ending June 30, 2023, out of the General Fund, the amount of \$10,000,000, for distribution to the metropolitan service district established under ORS chapter 268, for trash and sanitation services.”

County has proposed projects as outlined in Exhibit A below (“County Projects”) that support and meet the intent and criteria of the Oregon Legislature, Metro, and DAS for expenditure of the HB 5202 Funds.

Terms

In consideration of the foregoing recitals and the mutual promises herein, the parties agree as follows:

1. Term

This Agreement is effective on the last date signed below and terminates on June 30, 2024, unless terminated or extended as provided by this Agreement.

2. Scope of Work

This Agreement establishes responsibilities of the Parties concerning this project. The Parties will perform Work pursuant to the Scope of Work, Exhibit A, which is incorporated into this Agreement. Except for the storage and disposal of abandoned recreational vehicles (“RV”s), County will perform the work described in Exhibit A on or before June 30, 2023. County will dispose of all towed abandoned recreational vehicles on or before June 30, 2024.

3. Changes to Scope of Work

The parties may, upon mutual written consent, modify the Scope of Work by execution of an amendment to this Agreement.

4. Grant Amount

The total grant amount is \$300,000. County may use funds only for County projects as described in Exhibit A.

5. Funds Contingent

Metro’s ability to meet its obligations under this Agreement is contingent on receipt of HB 5202 Funds. Metro’s funding commitment will be fulfilled solely through HB 5202 Funds. If, in the opinion of Metro or DAS, a County Project does not comply with the use restrictions for HB 5202 Funds the Parties will amend the Scope of Work to reflect only County Projects that meet the requirements.

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6. Forfeiture of Unspent Funds

If County is unable to expend funds on County Projects within the term of this Agreement, or as mutually agreed through an amendment, any unspent funds will be returned to Metro. Metro reserves the right to reallocate unspent funds.

7. Payment

Metro will disburse funds to County as set forth in the Scope of Work, Exhibit A.

8. Records Maintenance and Access

The Parties must maintain all fiscal records related to this Agreement in accordance with generally accepted accounting principles. The Parties must maintain books, documents, and other records related to the subject Agreement. The Parties must retain and keep accessible all such records for a period of six (6) years from the date of final completion of this Agreement. Each Party must make records available to the other Party and its authorized representatives, including but not limited to the staff of any department, at reasonable times and places regardless of whether litigation has been filed on any claims.

9. Ownership of Work Product

The Parties have unrestricted access to all work products relating to this Agreement. To the extent either Party uses any of its own property created or developed, whether arising from copyright, patent, trademark, trade secret or other similar right, in the performance of this Agreement, such property remains the property of the Party.

10. No Third-Party Beneficiary

Except as set forth herein, this Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or will be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.

11. Indemnification

Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, County must indemnify, defend, and hold harmless Metro, 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 negligent acts, errors, or omissions of County, its agents or assigned personnel in performing under this Agreement.

12. Termination

This Agreement may be terminated as follows:

- A. By mutual written consent of the Parties.
- B. By any Party if another Party commits any breach or default of any covenant or obligation under this Agreement. To be effective, the party intending to terminate must give the other Party written notice of default and its intent to terminate. If the breaching Party does not entirely cure such breach, default, or failure within thirty (30) days after receipt of notice, or such longer period of cure as may be specified in the notice, then this Agreement may be terminated at any time thereafter by giving a written notice of termination.
- C. By either Party in the event the terminating Party fails to receive expenditure authority sufficient to allow it, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or

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state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Agreement is prohibited.

Any termination of this Agreement does not prejudice any rights or obligations accrued to the parties before termination.

13. Dispute Resolution and Forum

This Agreement is to be construed according to the laws of the State of Oregon. The Parties must negotiate in good faith to resolve any dispute arising out of this Agreement. If the Parties are unable to resolve any dispute within fourteen (14) calendar days, the Parties shall attempt to settle any dispute through mediation. The Parties shall attempt to agree on a single mediator. The cost of mediation will be shared equally. If the Parties agree on a mediator, the mediation must be held within 60 days of selection of the mediator unless the Parties otherwise agree. If the Parties cannot agree on a mediator, or the matter is not settled during mediation, the Parties will have all other remedies available at law or in equity. Any litigation between Metro and County arising under this Agreement or out of work performed under this Agreement will occur, if in the state courts, in the Multnomah County Circuit Court, and if in the Federal courts, in the United States District Court for the District of Oregon located in Portland, Oregon.

14. State and Local Law Compliance

The Parties will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement.

15. Discrimination Prohibited

No recipient or proposed recipient of any services or other assistance under the provisions of this Agreement or any program related to this Agreement may be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this Agreement on the grounds of race, color, or national origin, 42 U.S.C. §2000d (Title VI), or on the grounds of religion, sex, ancestry, age, or disability as that term is defined in the Americans with Disabilities Act. For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit receiving funds pursuant to this Agreement

16. Notices; Project Managers

All notices and other written communication between the Parties under this Agreement must be given in writing to the address or email set forth below and is deemed received (a) upon personal service, (b) upon electronic delivery, (c) three (3) days after deposit in the United States Mail, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier service. The Parties appoint the following representatives for receiving notice and as project managers for this Agreement.

Metro: Jennifer Payne
600 NE Grand Ave.
Portland, OR 97232
503.797.1700
Jennifer.payne@oregonmetro.gov

County: Diedre Landon
150 Beaver Creek Rd
Oregon City, OR 97045
503-742-44400
DTDFinancial@clackamas.us

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The foregoing addresses may be changed by giving written notice. Notice given in any manner other than the manners set forth above will be effective when received by the Party for whom it is intended.

17. Assignment

A party may not subcontract, assign, or transfer any rights or obligations under this Agreement without the prior written consent of the other Party.

18. Survival

All obligations relating to indemnification, default or defect in performance, limitation of liability, publicity, proprietary rights, sections of the Scope of Work relating to reporting obligations and use of equipment requirements, and obligations to make payments that become due under this Agreement prior to termination survive termination or expiration of this Agreement and, to the extent applicable, remain binding and in full force and effect.

19. Entire Agreement; Modification; Waiver

This Agreement constitutes the entire agreement among the Parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations, or communications of every kind. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification, or change of terms of this Agreement will bind either Party unless in writing and signed by all Parties. Such waiver, consent, modification, or change, if made, will be effective only in the specific instance and for the specific purpose given. The failure of a Party to enforce any provision of this Agreement will not constitute a waiver by a Party of that or any other provision.

20. Choice of Law

The situs of this Agreement is Portland, Oregon. Any litigation over this Agreement will be governed by the laws of the State of Oregon and will be conducted in the Circuit Court of the State of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

21. Counterparts

This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which will constitute one and the same instrument.

22. Authority

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

23. Debt Limitation.

This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

24. No Attorney Fees.

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party will be responsible for its own attorneys' fees and expenses



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

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METRO

COUNTY

Authorized Signature

Authorized Signature

Printed Name

Printed Name

Title

Title

Date

Date

Exhibit A – Scope of Work

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HB 5202 Funds will be used for trash pick-up, debris cleanup, abandoned vehicle removal, provision of dumpsters and trash bins and related employee/contractor costs associated with voluntary trash collection and mitigation. Funds cannot be used for activities associated with camp site removal or to backfill County funding. Funds may, however, be used after a camp site has been removed or abandoned, and trash, debris, or abandoned vehicles remain at the location. County must use the HB 5202 Funds it receives under this Agreement only for the purposes specified in the Scope of Work and to achieve the deliverables and/or milestones as set forth in this Agreement.

County will engage in cleanup initiatives within the Metro district boundary. The Parties anticipate that during the term of this Agreement the County will be able to provide the following services within the funding provided:

- Lawfully tow, store, and dispose of approximately 32 abandoned recreational vehicles within the urban growth boundary
 - Removal of vehicles will follow appropriate and lawful state and local procedures to ensure vehicles are abandoned and no occupied vehicles are removed.
- Provide additional bulky waste pickups at multifamily affordable housing communities, which County estimates will serve approximately 2,800 units in the County through franchised collectors. As used herein, “affordable housing” means those properties identified as affordable housing on the statewide Affordable Housing Inventory database maintained by the Oregon Health Authority.
- Provide supplemental garbage pickup at up to five houseless encampment areas in partnership or consultation with agencies conducting street outreach

Funding will be used by County for expenses as set forth in Table 1 below.

Table 1

Activity	Date (Approx.)	Estimated Amount
Towing, storage and disposal of abandoned and derelict RVs	July 2022-June 2023	\$190,000
Storage and disposal of previously towed abandoned and derelict RVs	June 2023 – June 2024	\$10,000 (Estimated 5 RV’s remain in storage on 6/30/2023.)
Collection of bulky waste at affordable multifamily communities through franchised collectors*	July 2022-June 2023	\$90,000
Container service and containers for sharps and/or HHW for supplemental garbage pickups serving unhoused community members	July 2022-June 2023	\$5,000
Stipends for community members supporting supplemental garbage pickups (275 hours at \$18/hour)	July 2022-June 2023	\$5,000
	<i>Total</i>	<i>\$300,000</i>

*Funds will be used for bulky waste collection at multifamily communities identified in the State of Oregon’s Affordable Housing Inventory database maintained by the Oregon Health Authority (<https://data.oregon.gov/Health-Human-Services/Affordable-Housing-Inventory/bq26-qyg4>)

Exhibit A – Scope of Work

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Reporting Requirements

Data and information collected through this project will include the following reporting beginning with an initial report on September 15, 2022, and thereafter will be reported to Metro on a quarterly basis through December 2023, or until work is completed and all reports have been submitted to account for the funding received:

Abandoned RV removal

1. Grant funds spent to date;
2. Metrics for cleanup activities:
 - a. GPS locations, addresses or cross streets where activities are performed (validation that RV was located in the METRO boundary)
 - b. Number of RVs removed

Bulky waste for affordable housing multifamily communities

1. Project milestones met to date;
2. Grant funds spent to date;
3. Updated timeline for major Project deliverables; and
4. Metrics for cleanup activities:
 - a. Addresses where activities are performed
 - b. Before and after photos (if applicable)
 - c. Success stories
 - d. Tonnage, volume or weight of debris, litter or bulky waste removed
 - e. Number of new partnerships formed (if applicable)

Solid waste services for houseless communities

1. Project milestones met to date;
2. Grant funds spent to date;
3. Updated timeline for major Project deliverables; and
4. Metrics for cleanup activities:
 - a. GPS locations or addresses where activities are performed
 - b. Before and after photos
 - c. Success stories
 - d. Tonnage, volume or weight of debris, litter or bulky waste removed
 - e. Number of new partnerships formed (if applicable)

Review and Approval of Grant Deliverables

Within 30 days after receiving the County's submittal of each report, Metro's Project Manager will review the report and either approve the submittal, or reply with comments and/or requests for further documentation or revisions that may be necessary. Metro's Project Manager has sole discretion in determining whether the deliverables submitted are satisfactory in meeting the grant requirements.

Payment Procedures

Upon Metro's and County's approval of this Agreement, County will provide an invoice for the full grant amount and Metro will disburse full grant funds to County within 30 days of Metro's receipt of the invoice or of Metro's receipt of the HB 5202 Funds, whichever is later.

COVER SHEET

- New Agreement/Contract
- Amendment/Change/Extension to _____
- Other _____

Originating County Department: _____

Other party to contract/agreement: _____

Description:

After recording please return to: X _____

- County Admin
- Procurement

If applicable, complete the following: _____

Board Agenda Date/Item Number: _____