

**INTERGOVERNMENTAL AGREEMENT
FOR
THE LENDING OF FIRE AGENCY PERSONNEL WITHIN CLACKAMAS COUNTY
WHEN PERSONNEL ARE UNABLE TO GET TO THEIR NORMAL REPORTING
LOCATION**

This Intergovernmental Agreement (“Agreement”) is entered into, pursuant to Oregon Revised Statutes (ORS) 190.010 to 190.030, by and among county, cities, and fire districts within Clackamas County in Oregon who have signed this Agreement (herein collectively known as “Parties”).

RECITALS

WHEREAS, the Pacific Northwest is prone to natural hazards such as earthquakes, floods, wind, snow, and ice storms; and

WHEREAS, those hazards, when they occur, may cause a loss of power and communications, significantly damage or affect transportation routes, and leave Party agency Personnel stranded and unable to report to their normal work locations; and

WHEREAS, the Fire Agency Personnel of agencies comprising the Clackamas County Fire Defense Board, when stranded by hazard impacts, may be available to assist with emergency management activities in another agency EOC, Fire Station and/or coordination of non-immediately dangerous to life or health (IDLH) activities in the field for another agency; and

WHEREAS, ORS 190.010 to 190.030 authorize units of local government in the state of Oregon to enter into written agreements with any other unit or units of local government for the performance of any of all functions and activities that any of them has the authority to provide.

NOW, THEREFORE, the Parties agree as follows:

TERMS AND CONDITIONS

I. PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to authorize, facilitate and establish conditions and provisions for the sharing of qualified Fire Agency Personnel amongst the Parties during emergencies where transportation routes are disrupted and Fire Agency Personnel are unable to report to their normal work locations.

II. DEFINITIONS

- A. Borrower/Borrowing Agency means a Party agency who accepts Emergency Assistance in the form of personnel from another Party agency, pursuant to the terms of this Agreement.
- B. Emergency includes, but is not limited to, a human-caused or natural event or other circumstance, such as an earthquake, flood, wind, snow, or ice storm, which prevents Fire Agency Personnel from reporting to their normal work locations.
- C. Emergency Assistance means Fire Agency Personnel assistance offered during an Emergency and accepted by a Borrowing Agency to assist in the response, relief and/or recovery efforts.
- D. Emergency Operations Center (EOC) is the physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place. In the context of this Agreement, an EOC includes support and coordination facilities such as emergency coordination centers (ECCs), department operations centers (DOCs), and fire operations centers (FOCs).
- E. Emergency Program Manager means the person appointed by a Party agency who is responsible for the organization, administration and operation of the emergency management agency within its jurisdiction.
- F. Fire Agency Personnel are qualified Party agency employees and qualified emergency service volunteers responsible for various activities occurring within an EOC, within a Fire Station, and/or in the field. Such Fire Agency Personnel assistance may include, but is not limited to: coordination of non-IDLH activities, communications, resource allocation and tracking, and information collection, analysis and dissemination. Fire Agency Personnel may be full-time, part-time, other qualified employees from the Party agency, or qualified emergency service volunteers of a Party agency.
- G. Fire Defense Board (FDB) the collaborative organization which provides a forum for the chiefs of the 14 fire agencies serving the County to coordinate fire services and policies.
- H. Lender/Lending Agency means a Party agency that provides Emergency Assistance in the form of Fire Agency Personnel to another Party agency, pursuant to the terms of this Agreement.
- I. National Incident Management System (NIMS) is a systematic, proactive approach to guide departments and agencies at all levels of government, nongovernmental organizations, and the private sector to work together

seamlessly and manage incidents involving all threats and hazards – regardless of cause, size, location, or complexity – in order to reduce loss of life, property, and harm to the environment.

- J. Qualified Emergency Service Volunteer is an unpaid qualified individual registered to work with the emergency management program of one of the Parties of this Agreement to perform emergency service activities and who has passed a background-check or criminal records check by the Lending Agency and meets minimum EOC qualifications.

III. ADMINISTRATION

Clackamas County Disaster Management will serve as the administrator of this Agreement. The administrator will maintain copies of all signed Agreements and organize meetings of the Party Emergency Program Managers to implement tasks related to the administration and implementation of this Agreement, as outlined in Section V.B.i.

IV. PARTICIPATION IN THIS AGREEMENT

- A. Participation in this Agreement is voluntary and no Party is obligated under this Agreement to act either as a Borrowing or Lending Agency. Each Party shall decide on a case-by-case basis, in its sole discretion, whether it can, under the circumstances, lend or borrow Fire Agency Personnel. No Party shall be liable to another Party, or be considered to be in breach or default under this Agreement, on account of any refusal to lend or borrow Fire Agency Personnel, or any delay in or failure to perform any discretionary duties in this Agreement, except to make payment as specified in this Agreement.
- B. All counties, cities, inter-local agencies, regional governments, and special districts within Clackamas County in Oregon, are eligible to be a Party to this Agreement. Parties to this Agreement must sign the Agreement.

V. ROLES OF PARTY EMERGENCY PROGRAM MANAGERS

- A. Each Party agrees that its Emergency Program Manager or designee will serve as its representative in any meeting to address administration and implementation of this Agreement.
- B. The Fire Defense Board and Party agency Emergency Program Managers, or designees, together, shall:
 - i. Meet annually or as necessary to review and update this Agreement, develop and maintain procedures for Agreement implementation, and evaluate lessons learned from actual use of this Agreement.

- ii. Develop planning details associated with being a Borrower or Lender under the terms of this Agreement.

C. Each Party agency Emergency Program Manager, or designee, shall:

- i. Participate in any meetings convened to address administration and implementation of this Agreement.
- ii. Develop and maintain procedures necessary to implement this Agreement.
- iii. Maintain a current master copy of this Agreement, and a copy of all implementing policies, procedures, and other documentation.
- iv. Notify all Parties if their agency terminates its participation in this Agreement.

VI. FIRE AGENCY PERSONNEL

- A. Fire Agency Personnel must meet at least the minimum qualification standards established by the Party agency Emergency Program Managers and be willing to offer Emergency Assistance to another Party agency in order to participate in this program.
- B. Fire Agency Personnel are authorized to offer Emergency Assistance to other Party agencies (i.e., Borrowers) when requested to do so by a Borrowing Agency party when an Emergency prevents the Borrowing Agency's Fire Agency Personnel reporting to their normal work locations. Fire Agency Personnel will make every effort to report to their normal work locations before offering assistance to another Party agency.
- C. When reporting to a Borrowing Agency's EOC or other designated site, Fire Agency Personnel must request an assignment from a person authorized to assign and supervise personnel in that EOC or ask to be directed a person authorized to assign and supervise personnel in the Borrowing Agency's service area for field operations.
- D. The Borrowing Agency is not required to accept and assign reporting Fire Agency Personnel.
- E. Fire Agency Personnel acting under this Agreement shall remain subject to their respective employers' personnel, volunteer, and operations policies and will make appropriate efforts to advise their employers of their situation either directly or through the Borrowing Agency.

VII. NO EMPLOYMENT RELATIONSHIP

- A. Fire Agency Personnel of the Lender shall, at all times while performing Emergency Assistance or acting under the authority of this Agreement, continue to be employees or volunteers of the Lender and shall not be deemed to enter into any employment relationship with the Borrower for any purpose. Wages, hours, and other terms and conditions of employment of the Lender shall remain applicable to its Fire Agency Personnel who perform Emergency Assistance under this Agreement. Each Lender shall be solely responsible for payment of its employees' wages, any required payroll taxes and any benefits or other compensation. A Borrower shall not be responsible for paying any wages, benefits, taxes, or other compensation for any Borrowed Fire Agency Personnel under this Agreement. The costs associated with borrowed Fire Agency Personnel are subject to the reimbursement to the Lending Agency pursuant to the process outlined in Paragraph IX, Payment for Emergency Assistance. No business partnership or joint venture is established or contemplated between the Lender and Borrower Agencies in this Agreement. Borrower and Lender Agencies are merely Parties sharing authority and responsibilities pursuant to ORS 190.
- B. In no event shall a Lender or Borrower, or their officers, employees, agents, or representatives, be authorized (or represent that they are authorized) to make any representation, enter into any agreement, waive any right, or incur any obligation in the name of, on behalf of or as agent for their respective employing agencies solely by virtue of this Agreement.
- C. Fire Agency Personnel responding under this Agreement shall remain under the administrative control of their respective employers (the Lender), but will be under the temporary supervision and operational control of the Borrower. Pursuant to Section XII of this Agreement, the Lender shall not be liable for any damages, liabilities, or costs. Fire Agency Personnel may decline to perform any assigned task if they judge such task to be unsafe. If the Borrower requests Lender's Fire Agency Personnel to supervise or direct activities while offering Emergency Assistance, such request shall not relieve the Borrower of any liability or responsibility under this Agreement and shall not create any Lender liability. .

VIII. DUTIES OF BORROWING AGENCY

- A. The Borrower is responsible for making arrangements, as necessary, to provide for the safety, housing, meals, and transportation to and from job/housing sites for loaned Fire Agency Personnel. The reasonable actual costs associated with such arrangements shall be borne by the Borrowing Agency.

- B. The Borrower is responsible for ensuring Fire Agency Personnel understand the scope of their assigned duties and for training them on the procedures of the Borrowing Agency.
- C. Unless otherwise agreed to with the Lender, the Borrower shall release Fire Agency Personnel providing Emergency Assistance as soon as conditions allow the Fire Agency Personnel to return to their normal work locations. The Borrower shall notify the Lender when the Lender's Fire Agency Personnel are released.

IX. PAYMENT FOR EMERGENCY ASSISTANCE

The Parties agree to the following terms:

- A. The Lender shall invoice the Borrower for the total reasonable and actual costs of providing loaned Fire Agency Personnel, including salary or hourly wages, overtime, and benefits. In addition, the Lender may invoice the Borrower for overhead for all time beyond the first 12 hours. All costs shall be consistent with the Lender's personnel policies and/or union contracts as applicable, or other conditions of employment. The Borrower and Lender may make other arrangements for payment if mutually agreed to.
- B. A Borrower shall pay a Lender for all reasonable and actual invoiced and itemized costs associated with Emergency Assistance provided by the Lender within sixty (60) days of receipt of the Lender's invoice. The Lender, in its sole discretion, may elect to extend the repayment deadline upon written request of the Borrower.
- C. Qualified emergency service volunteers, under this Agreement, are not paid and therefore the Lending Agencies hereby agree that they shall not charge the Borrowing Agencies for any volunteer wages or compensation.

X. TERMINATION

Any Party opting to terminate its participation in this Agreement shall provide written notice to the administrator of this agreement and to the Emergency Program Managers of the other Parties. Notice of termination becomes effective upon receipt by the other Parties. Any Party terminating its participation remains liable for all obligations incurred during its period of participation, until the obligation is satisfied.

XI. RECORD KEEPING

Time sheets and/or daily logs showing hours worked by Fire Agency Personnel responding under this Agreement will be recorded on a shift-by-shift basis and shall be provided to the Borrower upon request. Under all circumstances, the Borrower remains

responsible for ensuring that the amount and quality of all documentation is adequate to enable disaster reimbursement from third parties.

XII. INDEMNIFICATION AND LIMITATION OF LIABILITY

A. INDEMNIFICATION. Except as provided in Paragraph B below and at all times subject to the applicable tort claims limitations in the Oregon Constitution and the Oregon Tort Claims Act to the fullest extent permitted by applicable law, the Borrower releases and shall indemnify, hold harmless and defend each Lender responding to the indemnifying Borrower's request and its officers, employees, volunteers, and agents from and against any and all claim, loss, harm, liability, damage, cost, or expense, including costs of defense, claims, judgments, or awards of damages asserted or arising directly or indirectly from, on account of, or in connection with providing requested Emergency Assistance to the Borrower, whether arising before, during or after Lending Agency's performance of the Emergency Assistance and whether suffered by any of the Parties or any other person or entity.

Subject at all times to the applicable tort claims limitations in the Oregon Constitution and the Oregon Tort Claims Act and to Section B below, the Borrower shall defend, save harmless and indemnify the Lender's Fire Agency Personnel for any claim, loss, harm, liability, damage, cost, or expense arising out of the Fire Agency Personnel's act or omission while performing emergency service activities for the Borrower. This protection is subject to additional provisions in Oregon state law, including but not limited to ORS 401.364.

B. ACTIVITIES IN BAD FAITH OR BEYOND SCOPE. Notwithstanding anything to the contrary in this Agreement, no Party shall be required under this Agreement to indemnify, hold harmless and defend any other Party or Fire Agency Personnel from any claim, loss, harm, liability, damage, cost, or expense caused by, related to, or resulting from the activities of any Party's officers, employees, or agents acting in bad faith or performing activities beyond the scope of the duties assigned by the Borrower or a person granted supervisory authority by the Borrower or this Agreement.

C. LIABILITY FOR PARTICIPATION. In the event of any liability, claim, demand, action or proceeding, or whatever kind or nature, arising from the rendering of Emergency Assistance through this Agreement, the Borrower agrees to indemnify, hold harmless, and defend, to the fullest extent of the law, each signatory to this Agreement whose only involvement in the transaction or occurrence, which is the subject of such claim, action, demand or proceeding, is the execution and approval of this Agreement.

XIII. WORKERS' COMPENSATION AND EMPLOYEE CLAIMS

- A. All Lender Fire Agency Personnel made available to a Borrower shall remain the general employees of the Lender while engaging in and carrying out duties, functions, or activities pursuant to this Agreement, and each Party shall remain fully responsible as the employer for all taxes, assessments, fees, premiums, wages, withholdings, worker's compensation, and other direct and indirect compensation, benefits, and related obligations with respect to its employees. Likewise, each Party shall provide worker's compensation in compliance with statutory requirements of the state of Oregon.

XIV. NON-EXCLUSIVENESS AND OTHER AGREEMENTS

- A. This Agreement is not intended to be exclusive among the Parties. Any Party may enter into separate Emergency Assistance agreements with any other entity. No such separate agreement shall terminate any responsibility under this Agreement.
- B. Other agreements for Emergency Assistance between any Parties are unaffected by this Agreement and remain in effect until separately terminated. When another agreement exists at the time a request for Emergency Assistance is made, the Borrower and Lender should be clear about the agreement under which the request is being made and by which the assistance costs will be paid.

XV. NO PARTNERSHIP

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership among the Parties or to impose any partnership obligation or liability upon any Party. Further, no Party shall be considered an agent of any other Party or otherwise have authority to bind any other Party.

XVI. NO THIRD PARTY BENEFICIARY

Nothing in this Agreement shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care in reference to any third party. This Agreement shall not confer any right or remedy upon any person other than the Parties. This Agreement shall not release or discharge any obligation or liability of any third party to any Party.

XVII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement, though other existing agreements of the Parties may take precedence over certain concepts outlined in this Agreement.

XVIII. SUCCESSORS AND ASSIGNS

This Agreement is not transferable or assignable, in whole or in part, and any Party may terminate its participation in this Agreement subject to Article X.

XIX. TORT CLAIMS

Notwithstanding anything to the contrary herein, this Agreement does not waive any tort claim protections or limitations provided under the Oregon Tort Claims Act or the Oregon Constitution or remove from any of the Parties any protection provided by applicable tort claims laws..

XX. WAIVER OF RIGHTS

Any waiver at any time by any Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay in asserting or enforcing any right, except those related to the statutes of limitations, shall not constitute or be deemed a waiver.

XXI. ADHERENCE TO LAW

Each Party shall comply with all federal, state, and local laws and ordinances applicable to this Agreement.

XXII. EXECUTION IN COUNTERPARTS

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

**IGA FOR THE SHARING OF FIRE AGENCY PERSONNEL WITHIN CLACKAMAS
COUNTY WHEN PERSONNEL ARE UNABLE TO GET TO THEIR NORMAL
REPORTING LOCATION**
SIGNATURE PAGE

In Witness Whereof, the Public Entity _____ (Party) has caused this Agreement to be executed by its duly authorized representatives as of the date of their signatures below:

_____ Signature of Officer	_____ Date	_____ Officer's Title
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_____ Signature of Counsel	_____ Date	_____ Counsel's Title
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Name and title of primary Contact Representative: _____
Address: _____

Phone: _____ Email: _____

Name and title of alternate Contact Representative: _____
Phone: _____ Email: _____

1. Mail the original signed **IGA Signature Page** (this page - actual hard copy page) to:
Outreach and Technology Coordinator – Jamie Poole
Clackamas County Disaster Management
2200 Kaen Road, Oregon City, OR 97045
E-mail: jpoole@clackamas.us
Telephone: (503) 655-8838
2. Retain a second original signed **IGA Signature Page** for your records.