

**INTERGOVERNMENTAL AGREEMENT  
FOR  
THE SHARING OF EMERGENCY OPERATIONS CENTER PERSONNEL WITHIN  
THE GREATER PORTLAND METROPOLITAN REGION 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 and Revised Code of Washington (RCW) Chapter 39.34, by and among counties and cities, inter-local agencies, regional governments, and special districts within Clackamas, Columbia, Multnomah, and Washington counties in Oregon and Clark County in Washington (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 Emergency Operations Center (EOC) Personnel stranded and unable to report to their normal work locations; and

WHEREAS, the Intergovernmental Agreement (IGA) for Regional Disaster Preparedness within the Greater Portland Metropolitan Region established the Regional Disaster Preparedness Organization (RDPO) for the purpose of strengthening and coordinating the five-county Portland metropolitan region’s disaster preparedness, response, and recovery capabilities and enhance its disaster resilience; and

WHEREAS, the agencies that are members of the RDPO as well as other agencies in the Portland metropolitan region have EOC Personnel that are trained in emergency/incident management functions that align with and conform to National Incident Management System (NIMS) training standards; and

WHEREAS, the EOC Personnel of agencies in the Portland metropolitan region, when stranded by hazard impacts, may be available to assist with emergency management activities in another agency EOC; and

WHEREAS, ORS 190.010 to 190.030 and RCW Chapter 39.34 authorize units of local government in the states of Oregon and Washington respectively 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 EOC Personnel amongst the Parties during emergencies where transportation routes are disrupted and EOC 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 EOC Personnel from reporting to their normal work locations.
- C. Emergency Assistance means EOC 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 Operations Center (EOC) Personnel are Party agency employees and qualified emergency service volunteers responsible for various activities occurring within an EOC such as coordination, communications, resource allocation and tracking, and information collection, analysis and dissemination. They may be full-time emergency management personnel or other personnel from the Party agency, or qualified emergency service volunteers who augment the EOC during emergencies and are trained to regional standards.
- F. 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.

- G. Lender/Lending Agency means a Party agency that provides Emergency Assistance in the form of EOC Personnel to another Party agency, pursuant to the terms of this Agreement.
- H. 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.
- I. Qualified Emergency Service Volunteer: An unpaid 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 home agency and meets minimum EOC qualifications.
- J. Regional Disaster Preparedness Organization (RDPO) is a partnership of government agencies, non-governmental organizations, and private sector stakeholders in the Portland metropolitan region collaborating to increase the region’s resiliency to disasters. The mission of the RDPO is to build and maintain regional disaster preparedness capabilities in the Portland metropolitan region through strategic and coordinated planning, training and exercising, and investment in technology and specialized equipment

### III. ADMINISTRATION

The RDPO Manager 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. No Party shall be liable to another Party, or be considered to be in breach or default under this Agreement, on account of any delay in or failure to perform any obligation, except to make payment as specified in this Agreement.
- B. All counties, cities, inter-local agencies, regional governments, and special districts within Clackamas, Columbia, Multnomah, and Washington counties in Oregon and Clark County in Washington, are eligible to be a Party to this 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 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.
  - iii. Develop and maintain qualification standards for EOC Personnel.
  - iv. Develop and implement a means to maintain and disseminate accurate rosters of approved EOC personnel (paid and volunteer)
- 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. Develop, maintain, and publish a current roster of approved EOC personnel, paid and volunteer. Personnel listed on the roster must meet the definition in Part II.E of this Agreement; volunteer personnel must additionally meet the definition in part II of this agreement. The list must be available to Party Emergency Program Managers, through an agreed-upon process.
  - iv. Maintain a current master copy of this Agreement, and a copy of all implementing policies, procedures, and other documentation.
  - v. Notify all Parties if their agency terminates its participation in this Agreement.

## VI. EMERGENCY OPERATIONS CENTER (EOC) PERSONNEL

- A. EOC 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. EOC Personnel are authorized to offer Emergency Assistance to other Party agencies (i.e., Borrowers) when an Emergency prevents them from reporting to their normal work locations. EOC Personnel will make every effort to report to their normal work locations before offering assistance to another Party agency.
- C. When reporting to another agency's EOC, EOC Personnel must request an assignment from a person authorized to assign and supervise personnel in that EOC.
- D. The Borrowing Agency is not required to accept and assign reporting EOC Personnel.
- E. EOC Personnel will make appropriate efforts to advise their employers of their situation either directly or through the Borrowing Agency.

## VII. EMPLOYEES AS INDEPENDENT CONTRACTORS

- A. Each Lender shall be and operate as an independent contractor of the Borrower in the provision of any Emergency Assistance. Employees of the Lender shall, at all times while performing Emergency Assistance, continue to be employees of the Lender and shall not be deemed employees of the Borrower for any purpose. Wages, hours, and other terms and conditions of employment of the Lender shall remain applicable to its employees who perform Emergency Assistance. 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 directly to a Lender's employees. The costs associated with borrowed employees are subject to the reimbursement process outlined in Paragraph IX, Payment for Emergency Assistance.
- B. In no event shall a Lender or its 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 a Borrower under or by virtue of this Agreement.
- C. Loaned employees shall remain under the administrative control of the Lender, but will be under the operational control of the emergency management authorities of the Borrower. The Lender shall not be liable for cessation or slowdown of work if the Lender's employees decline or are reluctant to perform any assigned task if said employees judge such task to be unsafe. A request for loaned employees to direct activities of others during a particular operation does not relieve the Borrower of any responsibility or create any liability on the part of the Lender for decisions and/or consequences of the operation.

## 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 EOC Personnel. Costs associated with such arrangements shall be borne by the Borrowing Agency.
- B. The Borrower is responsible for ensuring EOC Personnel understand the scope of their assigned duties and for training them on the policies of the Borrowing Agency, or agreeing that EOC Personnel will perform duties in accordance with the Lending Agency's policies.
- C. Unless otherwise agreed to with the Lender, the Borrower shall release EOC Personnel providing Emergency Assistance as soon as conditions allow the personnel to return to their normal work locations. The Borrower shall notify the Lender when the Lender's EOC Personnel are released.

## IX. PAYMENT FOR EMERGENCY ASSISTANCE

The Parties agree to the following terms:

- A. The Lender is authorized to invoice the Borrower for the total costs of loaned employees including salary or hourly wages, overtime, benefits, and overhead for all time beyond the first 12 hours. All costs shall be consistent with the Lender's personnel union contracts, if any, 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 valid and invoiced 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 not subject to wage reimbursement.

## X. TERMINATION

Any Party opting to terminate its participation in this Agreement shall provide written notice to the administrator of this agreement and 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 EOC Personnel will be recorded on a shift-by-shift basis and provided to the Borrower as needed. Under all circumstances, the Borrower remains responsible for ensuring that the amount and quality of all documentation is adequate to enable disaster reimbursement.

## XII. INDEMNIFICATION AND LIMITATION OF LIABILITY

- A. **INDEMNIFICATION.** Except as provided in Paragraph B below, to the fullest extent permitted by applicable law, the Borrower releases and shall indemnify, hold harmless and defend each Lender and its officers, employees and agents from and against any and all costs, 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 Emergency Assistance to the Borrower, whether arising before, during or after performance of the Emergency Assistance and whether suffered by any of the Parties or any person or entity.

The Borrower agrees that its obligation under this section extends to any claim, demand and/or cause of action brought by or on behalf of any of its employees or agents. For this purpose, the Borrower, hereby waives, as respects any indemnity only, any immunity that would otherwise be available against such claims under the workers' compensation coverage requirements of ORS Chapter 656 and RCW Title 51.

A qualified emergency service volunteer is an agent of the Borrower for the purpose of acts and omissions of the volunteer that are within the course and scope of the volunteers duties. The Borrower shall defend, save harmless and indemnify the volunteer for any tort claim arising out of an act or omission while the volunteer is performing emergency service activities for the Borrower. This protection is subject to additional provisions in Oregon and Washington state law (see ORS 401.364 and RCW 38.52.180).

- B. **ACTIVITIES IN BAD FAITH OR BEYOND SCOPE.** No Party shall be required under this Agreement to indemnify, hold harmless and defend any other Party from any claim, loss, harm, liability, damage, cost, or expense caused by 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.
- 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 employees 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 states of Oregon and Washington.
- B. All EOC Personnel that are qualified emergency service volunteers made available to a Borrower shall follow the Borrowing Agency policies for volunteers. Volunteers are not paid employees and are not subject to worker's compensation or other direct and indirect compensation, benefits, or related obligations, except as provided in ORS 401.368 and WAC 118-04.

### 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

It is not the intention of this Agreement to remove from any of the Parties any protection provided by applicable tort claims laws. However, between a Borrower and a Lender, the Borrower retains full liability to the Lender for any claims brought against the Lender as described in other provisions of this Agreement.

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.

