

CITY OF COOS BAY
Agenda Staff Report

MEETING DATE December 18, 2012	AGENDA ITEM NUMBER
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TO: Mayor Shoji and City Councilors

FROM: Jim Hossley, Public Works and Development Department Director

Through: Rodger Craddock, City Manager

ISSUE: Consideration for Approval – Oregon Public Works Emergency Response Cooperative Assistance Agreement

BACKGROUND:

The Oregon Public Works Emergency Response Cooperative Assistance Agreement is up for renewal. The Agreement shall remain in effect for five years after the date it is executed. The mutual aid agreement:

- Enables public works agencies to support each other during an emergency.
- Provides the mechanism for immediate response to the Requesting Agency when the Responding Agency determines it can provide the needed resources and expertise.
- Sets up the documentation needed to seek maximum reimbursement possible from federal agencies.

Public works agencies in Oregon may sign the agreement or cancel their participation as they wish. ODOT maintains the list of all parties to the agreement and sends an updated list to all agencies whenever an agency is added to or removed from the list. Any agency may cancel its participation by giving written notice.

ADVANTAGES:

The City may request and receive public works assistance from other communities and agencies in response to emergency events. The City may also provide emergency assistance to other communities and agencies should we have adequate resources and expertise.

DISADVANTAGES:

None

BUDGET:

No impact at this time.

RECOMMENDATION:

If it pleases the Council, authorize the Mayor to sign the Oregon Public Works Emergency Response Cooperative Assistance Agreement.

ATTACHMENT:

Oregon Public Works Emergency Response Cooperative Assistance Agreement

OREGON PUBLIC WORKS EMERGENCY RESPONSE
COOPERATIVE ASSISTANCE AGREEMENT

THIS AGREEMENT is between the government agencies (local, county, or state) that have executed the Agreement, as indicated by the signatures at the end of this document.

WITNESSETH:

WHEREAS, parties to this agreement are responsible for the construction and maintenance of public facilities such as street, road, highway, sewer, water, and related systems during routine and emergency conditions; and

WHEREAS, each of the parties owns and maintains equipment, and employs personnel who are trained to provide service in the construction and maintenance of street, road, highway, sewer, water, and related systems and other support;

WHEREAS, in the event of a major emergency or disaster as defined in ORS 40 1.025 (5), the parties who have executed this Agreement may need assistance to provide supplemental personnel, equipment, or other support; and

WHEREAS, the parties have the necessary personnel and equipment to provide such services in the event of an emergency; and

WHEREAS, it is necessary and desirable that this Agreement be executed for the exchange of mutual assistance, with the intent to supplement not supplant agency personnel;

WHEREAS, an Agreement would help provide documentation needed to seek the maximum reimbursement possible from appropriate federal agencies during emergencies;

WHEREAS, ORS Chapter 402.010 provides for Cooperative Assistance Agreement among public and private agencies for reciprocal emergency aid and resources; and

WHEREAS, ORS Chapter 190 provides for intergovernmental agreements and the apportionment among the parties of the responsibility for providing funds to pay for expenses incurred in the performance of the agreed upon functions or activities;

NOW THEREFORE, the parties agree as follows:

1. Request

If confronted with an emergency situation requiring personnel, equipment or material not available to it, the requesting party (Requestor) may request assistance from any of the other parties who have executed this Agreement.

2. Response

Upon receipt of such request, the party receiving the request (Responder) shall immediately take the following action:

- A. Determine whether it has the personnel, equipment, or material available to respond to the request.
- B. Determine what available personnel and equipment should be dispatched and/or what material should be supplied.
- C. Dispatch available and appropriate personnel and equipment to the location designated by the Requestor.
- D. Provide appropriate access to the available material.
- E. Advise the Requestor immediately in the event all or some of the requested personnel, equipment, or material is not available.

NOTE: It is understood that the integrity of dedicated funds needs to be protected. Therefore, agencies funded with road funds are limited to providing services for road activities, sewer funds are limited to providing services for sewer activities and so on.

3. Incident Commander

The Incident Commander of the emergency shall be designated by the Requestor, and shall be in overall command of the operations under whom the personnel and equipment of the Responder shall serve. The personnel and equipment of the Responder shall be under the immediate control of a supervisor of the Responder. If the Incident Commander specifically requests a supervisor of the Responder to assume command, the Incident Commander shall not, by relinquishing command, relieve the Requestor of responsibility for the incident.

4. Documentation

Documentation of hours worked, and equipment or materials used or provided will be maintained on a shift by shift basis by the Responder, and provided to the Requestor as needed.

5. Release of Personnel and Equipment

All personnel, equipment, and unused material provided under this Agreement shall be returned to the Responder upon release by the Requestor, or on demand by the Responder.

6. Compensation

It is hereby understood that the Responder will be reimbursed (e.g. labor, equipment, materials and other related expenses as applicable, including loss or damage to equipment) at its adopted usual and customary rates. Compensation may include:

- A. Compensation for workers at the Responder's current pay structure, including call back, overtime, and benefits.
- B. Compensation for equipment at Responder's established rental rate.
- C. Compensation for materials, at Responder's cost. Materials may be replaced at Requestor's discretion in lieu of cash payment upon approval by the Responder for such replacement.
- D. Without prejudice to a Responder's right to indemnification under Section 7.A. herein, compensation for damages to equipment occurring during the emergency incident shall be paid by the Requestor, subject to the following limitations:
 - 1) Maximum liability shall not exceed the cost of repair or cost of replacement, whichever is less.
 - 2) No compensation will be paid for equipment damage or loss attributable to natural disasters or acts of God not related to the emergency incident.
 - 3) To the extent of any payment under this section, Requestor will have the right of subrogation for all claims against parties other than parties to this agreement who may be responsible in whole or in part for damage to the equipment.

- 4) Requestor shall not be liable for damage caused by the neglect of the Responder's operators.

Within 30 days after presentation of bills by Responder entitled to compensation under this section, Requestor will either pay or make mutually acceptable arrangements for payment.

7. Indemnification

This provision applies to all parties only when a Requestor requests and a Responder provides personnel, equipment, or material under the terms of this Agreement. A Responder's act of withdrawing personnel, equipment, or material provided is not considered a party's activity under this Agreement for purposes of this provision.

To the extent permitted by Article XI of the Oregon Constitution and by the Oregon Tort Claims Act, each party shall indemnify, within the limits of the Tort Claims Act, the other parties against liability for damage to life or property arising from the indemnifying party's own activities under this Agreement, provided that a party will not be required to indemnify another party for any such liability arising out of the wrongful acts of employees or agents of that other party.

8. Workers Compensation Withholdings and Employer Liability

Each party shall remain fully responsible as employer for all taxes, assessments, fees, premiums, wages, withholdings, workers compensation and other direct and indirect compensation, benefits, and related obligations with respect to its own employees. Likewise, each party shall insure, self-insure, or both, its own employees as required by Oregon Revised Statutes.

9. Pre-Incident Plans

The parties may develop pre-incident plans for the type and locations of problem areas where emergency assistance may be needed, the types of personnel and equipment to be dispatched, and the training to be conducted to ensure efficient operations. Such plans shall take into consideration the proper protection by the Responder of its own geographical area.

10. The Agreement

- A. It is understood that all parties may not execute this Agreement at the same time. It is the intention of the parties that any governmental entity in the State of Oregon may enter into this Agreement and that all parties who execute this Agreement will be

considered to be equal parties to the Agreement. The individual parties to this Agreement may be "Requestor" or "Responder's" as referred to in Section 1. and 2. above, to all others who have entered this Agreement.

- B. The Oregon Department of Transportation (ODOT) Office of Maintenance shall maintain the master copy of this Agreement, including a list of all those governmental entities that have executed this Cooperative Assistance Agreement. ODOT will make the list of participants available to any entity that has signed the Agreement. Whenever an entity executes the agreement, ODOT shall notify all others who have executed the Agreement of the new participant. Except as specifically provided in this paragraph, ODOT has no obligations to give notice nor does it have any other or additional obligations than any other party.
- C. This Agreement shall be effective upon approval by two or more parties and shall remain in effect as to a specific party for five years after the date that party executes this Agreement unless sooner terminated as provided in this paragraph. Any party may terminate its participation in this Agreement prior to expiration as follows:
 - 1) Written notice of intent to terminate this Agreement must be given to all other parties on the master list of parties at least 30 days prior to termination date. This notice shall automatically terminate the Agreement as to the terminating party on the date set out in the notice unless rescinded by that party in writing prior to that date.
 - 2) Termination will not affect a party's obligations for payment arising prior to the termination of this Agreement.

11. Non-exclusive

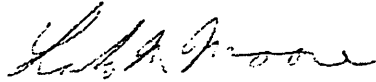
This Agreement is not intended to be exclusive among the parties. Any party may enter into separate cooperative assistance or mutual aid agreements with any other entity. No such separate Agreement shall terminate any responsibility under this Agreement.

12. Parties to This Agreement

Participants in this Agreement are indicated on the following pages, one party per page.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Public Works Cooperative Assistance to be executed by duly authorized representatives as of the date of their signatures.

STATE OF OREGON
DEPARTMENT OF TRANSPORTATION



November 27, 2012

Luci Moore
Statewide Maintenance Engineer

Date

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Public Works Cooperative Assistance to be executed by duly authorized representatives as of the date of their signatures.

Agency

County, Oregon

Authorized Representative

Date

Designated Primary Contact:		
<u>Office:</u>	<u>Contact:</u>	<u>Phone Number:</u>
_____	_____	_____
Emergency 24 Hour Phone Number:	Fax Number:	
_____	_____	
E-mail address (if available):		
