



DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE DIVISION

June 1, 2011

Portland Police Bureau
1111 SW 2nd Ave Rm 1430
Portland, OR 97204

LETTER OF UNDERSTANDING

Re: 2011 Marijuana Eradication Project
LOA No. 2011-110

The following is an understanding between the Portland Police Bureau (hereinafter referred to as Recipient) and the Oregon Department of Justice (hereinafter referred to as Department) concerning funds provided the Recipient by the Department in their mutual effort to locate and eradicate illegal indoor and outdoor cannabis crops and to investigate and prosecute cases before the courts of the United States and the State of Oregon:

1. The Department shall pay to the Recipient an amount not to exceed **\$20,000** for the period January 1, 2011, to December 31, 2011, to defray costs of the Recipient relating to the investigation and eradication of illegal cannabis cultivation. These funds will be disbursed by the Department under this Letter of Understanding as reimbursement pursuant to the reimbursement packets and supporting documentation submitted to the Department by the Recipient. Depending upon monthly activity, Recipient will submit accounting reports once notified of available funding. These reports are to be **submitted no later than the 5th of the month following the expenditures**. Final reports due by November 30th. The Recipient shall, with its own and other law enforcement personnel and employees in the jurisdiction of the Recipient, perform the activities described below:

- a. Gather and report intelligence data relating to the illegal cultivation, possession and distribution of cannabis. All suspects shall be reported on appropriate forms to the Oregon Department of Justice/Criminal Justice Division.
- b. Provide staffing of law enforcement personnel for the eradication of illegal cannabis cultivation located within the jurisdiction of the Recipient.
- c. Arrest and bring to prosecution defendants charged with violation of the controlled substances laws.

- d. All seizures shall be reported to the Oregon Department of Justice/Criminal Justice Division to allow for accurate documentation.
- e. Designate a specific full-time member of Recipient's agency to coordinate the Cannabis Eradication Program for the Recipient and to serve as a liaison between the Recipient and the Department.
- f. Provide eradication flight plans for deconfliction and intelligence purposes to assure that over flights do not happen.

2. The Recipient is permitted and encouraged to reimburse the other law enforcement agencies within the Recipient's jurisdiction for work performed that is directly related to the investigation and eradication of marijuana, provided the expenditures are in compliance with program guidelines.

3. Funds provided from the Department shall only be used by the Recipient or other law enforcement agencies in the Recipient's jurisdiction to pay overtime for deputies/officers and salary and overtime of reserve officers during the period of time they are engaged in the eradication process, and per diem as appropriate. In addition, other direct costs may be reimbursed such as purchases of expendable equipment, rental of equipment and vehicles, fuel for vehicles and aircraft, and minor repairs and maintenance necessitated by their use. These funds shall not be used for the purchase of nonexpendable equipment (defined as property having a useful life of more than one year and an acquisition cost of \$300 or more per unit or an aggregate cost of \$1,000 or more) without the express approval of the Department.

4. Payment by the Department to the Recipient will be in accordance with a schedule determined by the Department and said payment will be made pursuant to the execution by the Recipient of certain forms provided by the Department.

5. Employees of the Recipient or other law enforcement agencies in the Recipient's jurisdiction shall at no time be considered employees of the State of Oregon (unless otherwise employed by the State of Oregon) for any purpose whatsoever, nor will this Letter of Understanding establish any agency relationship between the Recipient and the Department.

6. It is understood that the Recipient shall maintain complete and accurate reports, records and accounts of all obligations and expenditures of funds received from the Department under this Letter of Understanding in accordance with generally accepted accounting principles and instructions to facilitate onsite inspection and auditing of such records and accounts. The Recipient shall permit and have available for examination and auditing by the Department, or any of their duly authorized agents and representatives, or the State of Oregon, any and all expendable and non-expendable equipment, investigative reports, records, documents, accounts, invoices, receipts, or expenditures related to this Letter of Understanding. In addition, the Recipient will maintain all such foregoing non-expendable equipment, reports and records until all audits and examinations are completed and resolved, or for a period of three years, whichever is sooner.

7. The State of Oregon, by and through the Department is not obligated under this Letter of Understanding to pay any money from funds other than those funds received by the Department from the Drug Enforcement Administration under their marijuana eradication program. If the federal funding referred to in this Letter of Understanding is not obtained or continued at levels sufficient to allow for the amount indicated in paragraph one of this letter, this Letter of Understanding may be modified by the Department to accommodate a reduction in funds.

8. To the full extent permitted by the Oregon Constitution, by applicable charter and/or ordinance provisions, and by the Oregon Tort Claims Act, the Recipient shall indemnify, defend and hold harmless, within the limits of the Tort Claims Act, the State of Oregon acting by and through its Department of Justice, their officers, employees and agents against liability for damage to life or property arising from the Recipient's activity under this Letter of Understanding, provided the Recipient shall not be required to indemnify the foregoing parties for any such liability arising out of the wrongful acts of officers, employees or agents of the Department or the State of Oregon.

9. This Letter of Understanding may be terminated by the Department effective upon written notice to the Recipient.

If the Letter of Understanding is acceptable to you, please sign the original in the space provided and return it to the Oregon Department of Justice. A duplicate original is enclosed for your records. With your help, we look forward to a successful cannabis eradication program this year.

Oregon Department of Justice

City of Portland, Oregon

By: _____

By: _____ Date

Title: Chief Counsel
Criminal Justice Division
Department of Justice

Title: Chief of Police

By: _____ Date

Title: Mayor

By: _____ Date

Title: Auditor
APPROVED AS TO FORM

Approved as to form
By the Office of the City Attorney:

By: *Paula Nguyen* Date 6/27/11
CITY ATTORNEY
Title: City Attorney

AMENDMENT #1

To Letter of Understanding

The City of Portland and the State of Oregon Department of Justice amend Marijuana Eradication Project Letter of Understanding No. 2011-110 by adding the following to clause 1a of the Letter:

Portland Police Bureau Operations/Intelligence/Information Gathering Policy

Members may not take action or exercise authority if the action or exercise of authority is prohibited by Oregon statute, the Oregon constitution, or Oregon decisional law. Specifically, members will not assist in the investigation or prosecution of any drug use, manufacturing, possession, delivery, prescription, administration or sale that is authorized by Oregon's Death With Dignity Act (ORS 127.800 et seq.) or Oregon's Medical Marijuana Act (ORS 475.300 et seq.).

Portland Police Bureau personnel working with the State of Oregon Department of Justice shall not be assigned work, or be engaged in, any law enforcement activity that would cause them, as Oregon peace officers, to violate the following Oregon statutes:

a. ORS 181.575 defined as: **181.575 Specific information not to be collected or maintained.** No law enforcement agency, as defined in ORS 181.010, may collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct. [1981 c.905

b. ORS 181.850 defined as: **181.850 Enforcement of federal immigration laws.** (1) No law enforcement agency of the State of Oregon or of any political subdivision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship present in the United States in violation of federal immigration laws.

(2) Notwithstanding subsection (1) of this section, a law enforcement agency may exchange information with the United States Bureau of Immigration and Customs Enforcement, the United States Bureau of Citizenship and Immigration Services and the United States Bureau of Customs and Border Protection in order to:

(a) Verify the immigration status of a person if the person is arrested for any criminal offense; or

(b) Request criminal investigation information with reference to persons named in records of the United States Bureau of Immigration and Customs Enforcement, the United States Bureau of Citizenship and Immigration Services or the United States Bureau of Customs and Border Protection.

(3) Notwithstanding subsection (1) of this section, a law enforcement agency may arrest any person who:

(a) Is charged by the United States with a criminal violation of federal immigration laws under Title II of the Immigration and Nationality Act or 18 U.S.C. 1015, 1422 to 1429 or 1505; and

(b) Is subject to arrest for the crime pursuant to a warrant of arrest issued by a federal magistrate.

(4) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a law enforcement agency.

(5) As used in this section, of arrest has the meaning given that term in ORS 131.005. [1987 c.467 2003 c.571

Portland Police Bureau personnel working with the State of Oregon Department of Justice will not engage in investigation or prosecution of any drug use, manufacturing, distribution or sale activity that is authorized by Oregon's Death With Dignity Act (ORS 127.800 et seq.) or Oregon's Medical Marijuana Act (ORS 475.300 et seq.).

All other terms and conditions of the Letter of Understanding remain in effect.

Approved by Oregon Department of Justice:

Signature

Date

Title: Chief Counsel
Criminal Justice Division
Department of Justice

CITY OF PORTLAND

By: _____

Date

Title: Chief of Police

By: _____

Date

Title: Mayor

By: _____

Date

Title: Auditor

APPROVED AS TO FORM

Approved as to form

By the Office of the City Attorney:

By: _____

Date

Title: City Attorney

CITY ATTORNEY

6/27/11