

City of Gresham/City of Portland
INTERGOVERNMENTAL AGREEMENT
For the Use of U.S. Department of Justice, Office of Justice Programs,
Bureau of Justice Assistance
FY 2011 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Funds

184738

COP Contract Number: #30002137

COG Contract Number:

This agreement is made by and between the City of Gresham, Oregon acting on behalf of its Police Department (GPD), and the City of Portland, Oregon on behalf of its Police Bureau (PPB).

RECITALS:

- A. WHEREAS, the City of Portland, Oregon, as applicant and fiscal agent, desires to submit a joint application for the aggregate eligible allocation to all disparate municipalities for the FY 2011 Justice Assistance Grant, and
- B. WHEREAS, the City of Gresham desires to receive FY 2011 Justice Assistance Grant funding in accordance with the terms and conditions of the grant application and award, and
- C. WHEREAS, the City of Gresham and the City of Portland have authority to cooperate for any lawful purpose with each other by means of an intergovernmental agreement according to ORS 190.110 et seq. to enter into an agreement to perform any lawful purpose, and
- D. WHEREAS, the purpose of this Agreement is to address payment to the Gresham Police Department as a sub-recipient of the 2011 Justice Assistance Grant, and
- E. WHEREAS, GPD and PPB desire to enter into this Intergovernmental Agreement.

NOW, THEREFORE, GPD and PPB agree as follows:

1. TERM

This agreement shall be effective as of July 1, 2011, and extend through September 30, 2014, or until grant funds are exhausted, whichever comes first, unless earlier terminated in accordance with Section 6 of this agreement or modified as provided in Section 14.

2. RESPONSIBILITIES OF GPD

GPD agrees to:

- a. Use JAG Program funds for authorized purpose areas.
- b. Provide consistent communication with PPB.
- c. Provide data that measures the results of their work. Quarterly performance metrics reports must be submitted through Bureau of Justice Assistance's Performance Measurement Tool (PMT) web site: www.bjaperformancetools.org.
- d. Provide to PPB annual programmatic reports.
- e. Submit monthly invoices for approved program expenses.

3. RESPONSIBILITIES OF PPB

PPB agrees to:

- a. Provide consistent communication with GPD.
- b. Submit quarterly financial status (SF-425) reports through the Bureau of Justice Assistance (BJA) portal Grant Monitoring System (GMS).

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- c. Collect, compile and submit annual programmatic reports through GMS.
- d. Administer and distribute the JAG Program funds.
- e. Monitor the award.
- f. Provide ongoing oversight and assistance to sub-recipients of JAG Program funds.

4. COMPENSATION

- 4.1 Not-to-Exceed. Total project costs to be realized by GPD will not exceed \$75,287.00.
- 4.2 PPB, through the USDOJ OJP BJA FY 2011 JAG grant, will reimburse GPD 100% of the total program costs when submitted with proper expense reimbursement documentation as required by the Office of Justice Programs Financial Guide and City of Portland policy.
- 4.3 Invoicing. Gresham Police Department will submit invoices for program costs to Portland Police Bureau Fiscal Division at the following address:

Grants Accounts Receivable
PPB Fiscal Division
1111 SW 2nd Ave., #1406
Portland, OR 97204

5. PAYMENT TERMS

- 5.1 Mail to Address. The PPB shall send payment to GPD within thirty (30) days after receipt of each billing to the following address:

City of Gresham
1333 NW Eastman Pkwy
Gresham, OR 97030

6. EARLY TERMINATION

This agreement may be terminated prior to the end of the grant upon sixty (60) days mutual written consent of the parties or upon ninety (90) days written notice by one party. Termination under any provision of this paragraph shall not affect any rights, obligation, or liability of the City of Gresham or the City of Portland, which accrued prior such termination.

7. INDEMNIFICATION CONTRIBUTION

7.1 IF ANY THIRD PARTY MAKES ANY CLAIM OR BRINGS ANY ACTION, SUIT OR PROCEEDING ALLEGING A TORT AS NOW OR HEREAFTER DEFINED IN ORS 30.260 ("THIRD PARTY CLAIM") AGAINST A PARTY (THE "NOTIFIED PARTY") WITH RESPECT TO WHICH THE OTHER PARTY ("OTHER PARTY") MAY HAVE LIABILITY, THE NOTIFIED PARTY MUST PROMPTLY NOTIFY THE OTHER PARTY IN WRITING OF THE THIRD PARTY CLAIM AND DELIVER TO THE OTHER PARTY A COPY OF THE CLAIM, PROCESS, AND ALL LEGAL PLEADINGS WITH RESPECT TO THE THIRD PARTY CLAIM. EITHER PARTY IS ENTITLED TO PARTICIPATE IN THE DEFENSE OF A THIRD PARTY CLAIM, AND TO DEFEND A THIRD PARTY CLAIM WITH COUNSEL OF ITS OWN CHOOSING. RECEIPT BY THE OTHER PARTY OF THE NOTICE AND COPIES REQUIRED IN THIS PARAGRAPH AND MEANINGFUL OPPORTUNITY FOR THE

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OTHER PARTY TO PARTICIPATE IN THE INVESTIGATION, DEFENSE AND SETTLEMENT OF THE THIRD PARTY CLAIM WITH COUNSEL OF ITS OWN CHOOSING ARE CONDITIONS PRECEDENT TO THE OTHER PARTY'S LIABILITY WITH RESPECT TO THE THIRD PARTY CLAIM.

7.2 WITH RESPECT TO A THIRD PARTY CLAIM FOR WHICH THE CITY OF GRESHAM IS JOINTLY LIABLE WITH THE CITY OF PORTLAND (OR WOULD BE IF JOINED IN THE THIRD PARTY CLAIM), THE CITY OF GRESHAM SHALL CONTRIBUTE TO THE AMOUNT OF EXPENSES (INCLUDING ATTORNEYS' FEES), JUDGMENTS, FINES AND AMOUNTS PAID IN SETTLEMENT ACTUALLY AND REASONABLY INCURRED AND PAID OR PAYABLE BY THE CITY OF PORTLAND IN SUCH PROPORTION AS IS APPROPRIATE TO REFLECT THE RELATIVE FAULT OF THE CITY OF GRESHAM ON THE ONE HAND AND OF THE CITY OF PORTLAND ON THE OTHER HAND IN CONNECTION WITH THE EVENTS WHICH RESULTED IN SUCH EXPENSES, JUDGMENTS, FINES OR SETTLEMENT AMOUNTS, AS WELL AS ANY OTHER RELEVANT EQUITABLE CONSIDERATIONS. THE RELATIVE FAULT OF THE CITY OF GRESHAM ON THE ONE HAND AND OF THE CITY OF PORTLAND ON THE OTHER HAND SHALL BE DETERMINED BY REFERENCE TO, AMONG OTHER THINGS, THE PARTIES' RELATIVE INTENT, KNOWLEDGE, ACCESS TO INFORMATION AND OPPORTUNITY TO CORRECT OR PREVENT THE CIRCUMSTANCES RESULTING IN SUCH EXPENSES, JUDGMENTS, FINES OR SETTLEMENT AMOUNTS. THE CITY OF GRESHAM'S CONTRIBUTION AMOUNT IN ANY INSTANCE IS CAPPED TO THE SAME EXTENT IT WOULD HAVE BEEN CAPPED UNDER OREGON LAW IF THE CITY OF GRESHAM HAD SOLE LIABILITY IN THE PROCEEDING.

7.3 WITH RESPECT TO A THIRD PARTY CLAIM FOR WHICH THE CITY OF PORTLAND IS JOINTLY LIABLE WITH THE CITY OF GRESHAM (OR WOULD BE IF JOINED IN THE THIRD PARTY CLAIM), THE CITY OF PORTLAND SHALL CONTRIBUTE TO THE AMOUNT OF EXPENSES (INCLUDING ATTORNEYS' FEES), JUDGMENTS, FINES AND AMOUNTS PAID IN SETTLEMENT ACTUALLY AND REASONABLY INCURRED AND PAID OR PAYABLE BY THE CITY OF GRESHAM IN SUCH PROPORTION AS IS APPROPRIATE TO REFLECT THE RELATIVE FAULT OF THE CITY OF PORTLAND ON THE ONE HAND AND OF THE CITY OF GRESHAM ON THE OTHER HAND IN CONNECTION WITH THE EVENTS WHICH RESULTED IN SUCH EXPENSES, JUDGMENTS, FINES OR SETTLEMENT AMOUNTS, AS WELL AS ANY OTHER RELEVANT EQUITABLE CONSIDERATIONS. THE RELATIVE FAULT OF THE CITY OF PORTLAND ON THE ONE HAND AND OF THE CITY OF GRESHAM ON THE OTHER HAND SHALL BE DETERMINED BY REFERENCE TO, AMONG OTHER THINGS, THE PARTIES' RELATIVE INTENT, KNOWLEDGE, ACCESS TO INFORMATION AND OPPORTUNITY TO CORRECT OR PREVENT THE CIRCUMSTANCES RESULTING IN SUCH EXPENSES, JUDGMENTS, FINES OR SETTLEMENT AMOUNTS. THE CITY OF PORTLAND'S CONTRIBUTION AMOUNT IN ANY INSTANCE IS CAPPED TO THE SAME EXTENT IT WOULD HAVE BEEN CAPPED UNDER OREGON LAW IF IT HAD SOLE LIABILITY IN THE PROCEEDING.

8. INSURANCE

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Each party shall each be responsible for providing worker's compensation insurance as required by law. Neither party shall be required to provide or show proof of any other insurance coverage.

9. OREGON LAW AND FORUM

This agreement shall be construed according to the laws of the State of Oregon. Any action regarding this agreement or work performed under this agreement shall be filed in Multnomah County or in the United States District Court for the district of Oregon.

10. NON-DISCRIMINATION

Parties will comply with all federal, state, and local statutes regarding civil rights and non-discrimination practices.

11. ACCESS TO RECORDS

Each party shall have access to the books, documents and other records of the other that are related to this agreement and the FY 2011 Justice Assistance Grant for the purpose of examination, copying, site visit and audit, unless otherwise limited by law. The books, documents and other records related to this agreement and the FY 2011 Justice Assistance Grant for shall be maintained as long as stipulated in the Grant or by federal law, whichever is the longer.

12. SUBCONTRACTS AND ASSIGNMENT

Neither party shall subcontract or assign any part of this agreement without the written consent of the other party.

13. FORCE MAJEURE

Neither GPD nor PPB shall be held responsible for delay or default caused by fire, riot, acts of nature, power outage, government fiat, terrorist acts or other acts of political sabotage, civil unrest, labor unrest, or war, where such cause is beyond the reasonable control of GPD or PPB. However, both parties shall make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

14. MODIFICATION

This agreement may be modified by mutual consent of the parties. Any modification to provisions of this agreement shall be reduced to writing and signed by all parties.

15. ENTIRE AGREEMENT

This agreement constitutes the entire Agreement between the parties. This Agreement may be modified or amended only by the written agreement of the parties.

16. ALTERNATIVE DISPUTE RESOLUTION.

The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a

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jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

17. SEVERABILITY

17.1. The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term held to be invalid.

18. COUNTERPARTS

18.1. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

19. ADDITIONAL TERMS AND CONDITIONS: NONE

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EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS, AND HAS THE AUTHORITY TO SIGN AND BIND ITS AGENCY.

CITY OF GRESHAM, OREGON



Erik Kvarsten, City Manager

Date: _____

CITY OF PORTLAND, OREGON:

Sam Adams, Mayor

Date: _____

Approved: _____
LaVonne Griffin-Valade,
City Auditor

Date: _____

Approved as to form:

By: 
City of Gresham Legal Counsel

Date: 6/23/2011

APPROVED AS TO FORM
Approved as to form:

By: 
City of Portland Attorney
CITY ATTORNEY

Date: 6/22/2011