

**INTERGOVERNMENTAL AGREEMENT
ECOROOF PROGRAM - GREY TO GREEN INITIATIVE**

This Intergovernmental Agreement (IGA) is entered into by and between the City of Portland (City) acting by and through its Bureau of Environmental Services, hereafter called "BES", and <insert name of agency>, hereafter called "Agency".

This IGA is authorized pursuant to ORS 190.110 and becomes effective upon full execution of this document.

PURPOSE

BES has launched the Grey to Green (G2G) initiative to accelerate the existing Ecoroof program. The initiative includes an incentive program that will help facilitate an additional 43 acres of ecoroof by 2013.

BES and Agency desire to work together to construct an ecoroof at <insert address>.

By this IGA, Agency agrees to provide the necessary personnel, equipment and expertise to perform the services identified in the STATEMENT OF WORK and BES agrees to reimburse Agency for costs associated with the provision of these services as described in this document. Agency agrees to perform the Work in accordance with the terms and conditions of this IGA.

GENERAL PROVISIONS

1. Effective Date and Duration. This IGA is effective on <insert date>. Unless earlier terminated or extended, this IGA shall expire when Agency's completed performance has been accepted by BES or <insert date>, whichever date occurs first.
2. Consideration. BES agrees to pay Agency a sum not to exceed \$<insert number> as allocated in the STATEMENT OF WORK..
3. Amendments. The terms of this IGA shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.
4. Reimbursement.
 - A. BES shall reimburse Agency upon project completion and receipt of an approved invoice.
 - B. Agency shall submit itemized invoices to BES for reimbursement of services performed; noting the project and City contract number and the allocation of costs in accordance with line items identified in the STATEMENT OF WORK.
 - C. Non-itemized or incomplete billings shall be detained for payment processing until Agency has supplied correct information to BES.
 - D. Agency shall submit an invoice to BES no later than 45 days following project completion. BES shall not be liable for reimbursement of costs after that date.
 - E. Invoices shall be submitted to BES's designated project manager for this agreement (see STATEMENT OF WORK). BES shall pay all approved invoices within 30 days.
 - F. All non-expendable property, including computer hardware and related software, acquired in the provision of these services are the sole property of BES and shall be surrendered upon completion of services or termination of this IGA.
 - G. The parties recognize and agree that some of the activities and obligations for reimbursement addressed in this IGA have or will commence or arise prior to the effective date of this IGA.

5. Termination.
 - A. The parties may agree to an immediate termination of this IGA or at a time certain upon mutual written consent.
 - B. Either party may terminate this IGA effective not less than 30 days from delivery of written notice.
 - C. Either party may terminate this IGA effective not less than 10 days from written notice or at such other date as may be established by both parties under any of the following conditions:
 - 1) If funding is not obtained and continued at levels sufficient to allow for purchase of the specified services. When possible, and when agreed upon, the IGA may be modified to accommodate a reduction in funds.
 - 2) If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this IGA, or are no longer eligible for the funding proposed for payments authorized by this IGA.
 - D. Either party may terminate this IGA in the event of a breach by the other party. Prior to such termination, however, the party seeking termination shall give the other party written notice of the party's intent to terminate. If the party has not cured the breach within 10 days or a longer period as granted in the cure notice, the party seeking compliance may terminate this IGA.
6. Funds Available and Authorized. Both parties certify that at the time the IGA is written that funds are identified in corresponding fiscal year budgets and are authorized or will be authorized through the annual budget approval process, for expenditure to finance costs of this IGA within either party's current appropriation or limitation. Both parties understand and agree that payment of amounts under this IGA attributable to work performed after the last date of the current budget period is contingent on either party receiving appropriations, limitations, or other expenditure authority.
7. Captions. The captions or headings in this IGA are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this IGA.
8. Choice of Venue. Oregon law shall govern this IGA and all rights, obligations and disputes arising out of the IGA. Venue for all disputes and litigation shall be in Multnomah County, Oregon.
9. Severability/Survival. If any of the provisions contained in this IGA are held unconstitutional or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination of this IGA for any cause.
10. Publicity. BES reserves the right to publicize the project. Agency will allow access to the project site for the purposes of educational tours or inspections.
11. Access to Records. Both parties and their duly authorized representatives shall have access to the books, documents, papers, and records which are directly pertinent to the specific IGA for the purpose of making audit, examination, excerpts, and transcript.
12. Compliance with Applicable Law. Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Work under this IGA. Without limiting the generality of the foregoing, parties expressly agrees to comply with: (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Both party's performance under this IGA is conditioned upon either parties compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference herein.
13. No Third Party Beneficiary. BES and Agency are the only parties to this IGA and as such, are the only parties entitled to enforce its terms. Nothing contained in this IGA gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.

14. Indemnification. Within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each party agrees to indemnify and defend the other and its officers, employees, agents and representatives from and against all claims, demands, penalties and causes of action of any kind or character relating to or arising from this IGA, including the cost of defense, attorney fees arising in favor of any person on account of personal injury, death or damage to property and arising out of or resulting from the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, subcontractors or representatives.
15. Merger Clause. This IGA constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this IGA shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this IGA.

STATEMENT OF WORK

Project Representatives

Each party has designated a project manager to be the formal representative for this project. All reports, notices, and other communications required under or relating to this IGA shall be directed to the appropriate individual.

BES

<insert name of agency>

Name:	Alice Meyers	Name:	
Address:	1120 SW Fifth Ave., Suite 1000 Portland, OR 97204	Address:	
Phone:	(503) 503-823-7914	Phone:	
Email:	alicem@bes.ci.portland.or.us	Email:	

Project Terms

Agency will contract for the project design, obtain permits for, and construct the project as described in this IGA. Agency will notify BES of any changes to the design or function of the facility that result from circumstances that arise during construction, and will not implement any changes that decrease the utility of the project for stormwater management purposes without first obtaining the City's approval.

Agency agrees to obtain all necessary city permits for construction, to provide an Operation and Maintenance Plan, and to refrain from making any significant changes to the ecoroof without first obtaining agreement from BES for the changes.

Agency will be responsible for the design, installation and maintenance of the roof and the determination of its structural and architectural suitability.

Project must be in construction within two years.

Within sixty (60) days of termination of this agreement, Agency agrees to return to BES the full amount of any funds paid by BES to Agency under this agreement if BES determines that Agency has not fully and successfully completed the project pursuant to the terms of this agreement.

Agency acknowledges and agrees that BES has final and sole discretion to determine whether Agency has fully and successfully completed the scope of work for the ecoroof project.

Scope of Work

Project address: <insert project address>

<describe project>

Schedule

All work to be completed by <insert date>.

Ecoroof Budget

The City is offering five dollars per square foot (sf) of ecoroof for this project. The total ecoroof square footage for this project is <insert number> sf. The maximum funding provided by the Ecoroof Incentive Program is \$<insert number>.

Reimbursement from BES to Agency for work under this agreement will not exceed \$<insert number>. Agency will provide a final project budget to BES as part of the final project report. Incentive funds are to be used for the ecoroof components of this project.

Any changes in the scope of work that is being paid for by grant funds, e.g. will require BES approval.

Project Management and Design

Agency's Project Manager (PM) oversees all aspects of the project including but not limited to: scheduling, deliverables, and invoicing. The PM will manage consultants who are responsible for designing the facilities and developing plans and specs. The PM will oversee the design and development of engineering plans and specifications of the innovative stormwater management system including O & M plan. The PM will provide materials, such as copies of plans and specifications to the BES Sustainable Stormwater Management Team upon completion.

Deliverables

Agency will submit the following deliverables to BES within 60 days of project end and no later than **February 28, 2011**:

- Final project report
- O & M Plan
- Final planting plan
- Soil specifications
- Irrigation plan
- Waterproofing and drainage material
- Photos; before, after and during construction
- Proof of buildings structural capacity

Final Project Report: Final project report will follow the provided Sustainable Stormwater Group's template as well as detail the following.

- A breakdown of costs at various project phases including bidding, design, permitting, actual cost vs. budget, and construction; and
- Description of any unexpected or unavoidable issues that were raised during project implementation – including how the issue was resolved.
- Description of results to date and lesson learned.
- Total volunteer events and volunteer hours (if applicable).

- Include news articles about the project or other media produced.
- Include the Ecoroof Technical Detail Sheet, which details the technical components of the ecoroof.

Agency will submit the following deliverable to BES one year from the final project completion date:

- Project update

Project Update: The update should be submitted in a written format (email or otherwise). The update should contain information on the status of the project, significant happenings and new project photos.

This Agreement may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same Agreement.

The parties agree that BES and Agency may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures.

AGENCY SIGNATURES:

<INSERT NAME OF AGENCY>

BY: _____

Date: _____

Name: _____

Title: _____

IGA No. _____

IGATitle: _____

CITY OF PORTLAND SIGNATURES:

By: _____ Date: _____
Bureau Director

By: n/a _____ Date: _____
Purchasing Agent

By: n/a _____ Date: _____
Elected Official

Approved:

By: _____ Date: _____
Office of City Auditor

Approved as to Form:

By:  _____ Date: 11/20/09
Office of City Attorney