

Clackamas County/City of Portland  
INTERGOVERNMENTAL AGREEMENT  
For the Use of U.S. Department of Homeland Security,  
Federal Emergency Management Agency, Oregon Military Department,  
Office of Emergency Management  
FY 2009 Buffer Zone Protection Grant Program Equipment

COP Contract Number: #3300075

Clackamas County Contract Number: #

This Agreement is made and entered into May 1, 2012, by and between Clackamas County (hereafter CC) on behalf of its Sheriff's Office and the City of Portland, Oregon, on behalf of its Police Bureau, Tactical Operations Division (hereafter PPB).

**I. RECITALS:**

- A. WHEREAS, the mission of the Federal Emergency Management Agency (FEMA) the Buffer Zone Protection Program (BZPP) is to assist responsible jurisdictions in building effective prevention and protection capabilities to make it more difficult for terrorists to conduct site surveillance or launch attacks, and
- B. WHEREAS, to enforce the mission of the BZPP, PPB was granted funds to acquire surveillance equipment, and
- C. WHEREAS, CC and PPB have authority to cooperate for any lawful purpose with each other by means of an intergovernmental agreement and to enter into an agreement to perform any lawful purpose, and
- D. WHEREAS, the purpose of this Agreement is to address PPB equipment that is being housed and used by CC in order to institute the goals of the BZPP, and
- E. WHEREAS, this equipment will give CC the ability to monitor multiple remote locations that are unable to have installed surveillance equipment, and
- F. WHEREAS, this reactive equipment will assist CC deputies in detecting people at night in sensitive areas that require enhanced night vision capabilities, and
- G. WHEREAS, CC and PPB desire to enter into this intergovernmental agreement,

NOW, THEREFORE, CC and PPB agree as follows:

**II. TERM**

This Agreement shall be effective as of May 1, 2012, and extend until the termination of this Agreement unless earlier terminated in accordance with Section VII of this Agreement or modified as provided in Section XV.

**III. RESPONSIBILITIES OF CC**

CC agrees to:

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- A. Maintain and house the assets according to the FEMA standards outlined in Section V of this Agreement.
  - B. Provide consistent communication with PPB regarding the necessity and use of the borrowed equipment.
  - C. Upon written request, return the equipment to PPB within 30 days.
  - D. Return items in original condition with very limited alteration beyond understandable wear and tear. Condition is to be assessed by the PPB representative accepting the returned equipment.

#### IV. RESPONSIBILITIES OF PPB

PPB agrees to:

- A. Provide consistent communication with CC.
- B. Keep a current inventory of all grant-funded equipment, including manufacturer, description, serial number, and responsible person or office.
- C. Periodically examine equipment to ensure that they meet requirements set out in the FEMA grant and issue requested equipment to each party by means of a hand receipt after documenting the information listed in Section IV.B. above.
- D. Provide FEMA or the Oregon Emergency Management Military Department the inventory upon request.
- E. Attain written permission from OEM and FEMA to allow CC to house and use the grant-funded assets.

#### V. AWARD CONDITIONS OF EQUIPMENT

CC agrees to adhere to the following requirements.

1. Retention of Records. All financial records, supporting documentation, and all other records pertinent to this Agreement shall be retained for a minimum of five years for purposes of PPB, State of Oregon or Federal examination and audit. It is the responsibility of the equipment holder to obtain a copy of 44 CFR Part 13 and all applicable OMB Circulars, and to appraise itself of all rules and regulations set forth.

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2. Access to Records. PPB, OEM, Oregon Secretary of State, the Office of the Comptroller, the General Accounting Office (GAO), or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of CC and any contractors or subcontractors of CC, which are pertinent to the IGA, in order to make audits, examinations, excerpts, and transcripts. The right of access is not limited to the required retention period but shall last as long as the records are retained.
3. Audits. CC shall cooperate with any federal or state audit of PPB related to this Agreement and make records available for review or audit by appropriate official.
4. Property/Equipment Management and Records Control. CC shall comply with all requirements set forth in 44 CFR Part 13 for the active tracking and monitoring of property/equipment. Procedures for managing property/equipment, until disposition takes place, will, at a minimum, meet the following requirements.
  - a. CC will record and maintain an inventory of all equipment covered by this Agreement
  - b. CC will maintain the property/equipment records listed as Exhibit A, which include: a description of the property/equipment; the manufacturer's serial number, model number, or other identification number; the source of the property/equipment, including the Catalog of Federal Domestic Assistance (CFDA) number, who holds title; the acquisition date; the cost of the property/equipment and the percentage of the Federal participation in the cost; the location, use and condition of the property/equipment; and any ultimate disposition data including the date of return or, if applicable, disposal and sale price of the property/equipment.
  - c. CC will physically inventory the property/equipment and reconcile the results with the property/equipment records, at least once every two years.
  - d. When practicable, any property/equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the U.S. Department of Homeland Security". CC will not remove any such marks from the equipment subject to this Agreement.

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- e. Adequate maintenance procedures must be developed to keep the property/equipment in good condition.
  - f. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property/equipment. Any loss, damage, or theft shall be investigated.
  - g. Adequately safeguard all such property/equipment and must assure that it is used solely for authorized purposes.
  - h. If CC is authorized to sell the property/equipment by PPB, proper sales procedures must be established to ensure the highest possible return.
  - i. CC shall pass on property/equipment management requirements that meet or exceed the requirements outlined above for all subcontractors, consultants, and the subgrantee who receive pass-through funding from this Agreement.
2. Retention of Property/Equipment Records. Title to all property/equipment and supplies purchased with funds made available under the Buffer Zone Protection Grant Program shall vest in PPB, if it provides written certification to OEM that it will use the property/equipment for purposes consistent with the Buffer Zone Protection Grant Program.

**VI. NOTICES**

All notices required or allowed of one party to the other shall be in writing and sent to the party as indicated below:

Clackamas County:  
 Barbara Hass  
 9101 SE Sunnybrook Blvd.  
 Clackamas, OR 97015  
 Phone number: 503-785-5012  
 Email Address:  
 bhass@co.clackamas.or.us

City of Portland:  
 Bob Del Gizzi  
 Business Operations Manager  
 1111 SW 2<sup>nd</sup> Ave., Room 1406  
 Portland, OR 97204  
 Phone number: 503-823-0495  
 Email address:  
 bob.delgizzi@portlandoregon.gov

**VII. EARLY TERMINATION**

This Agreement may be terminated at any time by mutual written consent of the parties or upon ninety (90) days written notice by one party. Termination under any provision of

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this paragraph shall not affect any rights, obligation, or liability of State of Oregon or the City of Portland, which accrued prior such termination.

**VIII. INDEMNIFICATION CONTRIBUTION**

Subject to the conditions and limitations of the Oregon Tort Claims Act (ORS 30.260 through 30.300) and the Oregon Constitution Article XI, Section 9, Clackamas County shall hold harmless, defend, and indemnify the City, and its officers, agents and employees (collectively "the City") against all claims, demands, actions, and suits (including all attorney fees and costs) brought against the City arising from actions or omissions of Clackamas County and/or its contractors in the performance of this Agreement. This duty shall survive the expiration or termination of this Agreement.

Subject to the conditions and limitations of the Oregon Tort Claims Act (ORS 30.260 through 30.300), the Oregon Constitution Article XI, Section 9, and the terms of the Oregon Military Department, Office of Emergency Management Grant #09-092, Clackamas County shall hold harmless, defend, and indemnify the State of Oregon, Oregon Military Department, Office of Emergency Management, and its officers, agents and employees (collectively "the State") against all claims, demands, actions, and suits (including all attorney fees and costs) brought against the State from actions or omissions of Clackamas County and/or its contractors in the performance of this Agreement. This duty shall survive the expiration or termination of this Agreement.

**XI. NON-DISCRIMINATION**

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

**XII. ACCESS TO RECORDS**

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

**XIII. SUBCONTRACTS AND ASSIGNMENT**

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

**XIV. FORCE MAJEURE**

Neither CC nor PPB shall be held responsible for any breach of this Agreement 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

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reasonable control of CC 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.

**XV. MODIFICATION**

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

**XVI. 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.

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

**XVIII. SEVERABILITY**

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.

**XIX. COUNTERPARTS**

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.

**XX. ADDITIONAL TERMS AND CONDITIONS: NONE**

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IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first set forth above.

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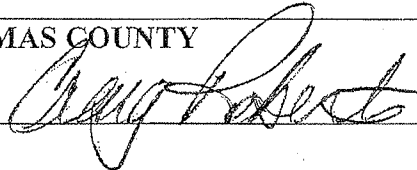
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CLACKAMAS COUNTY

CITY OF PORTLAND, OREGON:

Approved: 

Approved: \_\_\_\_\_

Name, Title

Sam Adams, Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved: \_\_\_\_\_

Approved: \_\_\_\_\_

Name, Title

LaVonne Griffin-Valade, City Auditor

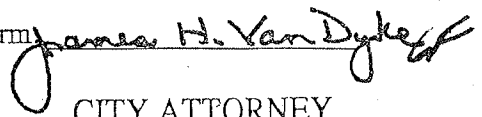
Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form: \_\_\_\_\_

Approved as to form: \_\_\_\_\_

APPROVED AS TO FORM

  
CITY ATTORNEY

Name, Title

Portland City Attorney

Date: \_\_\_\_\_

Date: 7/19/12

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**EXHIBIT A**

**LIST OF GRANT FUNDED ASSETS BEING HOUSED BY CLACKAMAS COUNTY**

**I. DESCRIPTION**

1. Two FLIR Recon M18 Thermal Handheld Imaging Devices - full-featured, high performance pocket tactical scope with a standard 640x480 imager, remote video output and available laser pointer, hardened and submersible, with low power consumption for long battery life.
2. Asset Tracking
  - a. Portland Police Bureau Asset: #407744, Class: 480000
    - i. Serial Number: CM0204
    - ii. Inventory Tracking Code: A23794
  - b. Portland Police Bureau Asset: #407755, Class: 490000
    - i. Serial Number: CM0213
    - ii. Inventory Tracking Code: A23810

**II. USE**

1. The assets assist Deputies in detecting people in sensitive areas, day or night. The devices aid in situations that require enhanced vision capabilities and an image enhancer to detect people or items.
2. The equipment is very useful in canine, article searches, and other searches that may require thermal imaging.