



Exhibit A

Nick Fish, Commissioner
David G. Shaff, Administrator

1120 SW 5th Avenue, Room 600
Portland, Oregon 97204-1926
Information: 503-823-7404
www.portlandoregon.gov/water



INTERGOVERNMENTAL AGREEMENT
CITY OF PORTLAND AGREEMENT NO.: _____
Multnomah County Agreement No. 201509

This Intergovernmental Agreement (IGA or Agreement) is entered into by and between the City of Portland, Oregon, acting by and through its Water Bureau, hereafter called "*City*" and the Department of County Human Services, Community Services Division, hereafter called "*County*". This IGA is authorized pursuant to ORS 190.110 and becomes effective upon full execution of this document.

RECITALS

1. The City has established a Water/Sewer Fixture Repair Program to provide financial assistance to low income residence-occupied home owners to repair malfunctioning plumbing fixtures.
2. The City desires to continue a fixture repair program that includes repairs for behind the wall or underground plumbing repairs which shall support the City's conservation efforts and potentially reduce these home owners' water and sewer costs.
3. The City desires to employ an organization with the specific needed information and expertise to verify participant eligibility and provide participants licensed plumbing contractor referrals.
4. The City has determined that the County is best qualified to administer this Enhanced Water/Sewer Fixture Program.
5. The City has authorized a total not to exceed amount of \$300,000 to fund the program and enter into a formal agreement for a period of five (5) years with the County. Funding of \$60,000 is available in the Fiscal Year 2014-15. Funding of \$60,000 shall be requested in each additional fiscal year through Fiscal Year 2018-19. The City's Fiscal Year is defined as July 1 through June 30 of each year.

NOW, THEREFORE, THE PARTICIPANTS AGREE AS FOLLOWS:

1. STATEMENT OF WORK

The City shall provide funding for this program, public notification, and general support in accordance with the terms and conditions of this agreement. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

The County shall provide the City with the services set out below:

- A. Provide income eligibility and home owner verification for the Fixture Repair Program with customers meeting 60% of State of Oregon median income guidelines;
- B. Provide qualified low-income home owners referrals to a licensed plumbing contractor;
- C. Limit the materials and services cost per client to \$2,800 annually unless approved by the City Project Manager prior to beginning work;

- D. Limit assistance under this program to one (1) time each year and only to owner occupied homes where the owner is responsible to paying the water/sewer bill;
- E. Replace rather than repair leaking or broken toilet fixtures. If there is repair work on the floor or walls of the structure as a result of the toilet replacement, the City shall pay up to \$500 of the repair costs once repair has been completed and inspected;
- F. Verify that all repairs made conform with City and County codes;
- G. Verify the County's contractors secure required permits from the City, when applicable;
- H. Pay invoices for material, permits and labor in a timely manner submitted by the County's contractors;
- I. Evaluate client satisfaction after work is completed and include evaluation in final Report to City;
- J. The County shall perform a water audit for the qualified customers. Each audit shall include the following:
 - i. Complete Water Audit form as provided by the City for each customer.
 - ii. Identify and catalogue the location and severity of leaks in the water systems and fixtures including but not limited to faucets, toilets, and pipes.
 - iii. Place dye tablets in toilets to determine water leaks from the tank to the bowl due to a faulty toilet flapper.
 - iv. Identify and catalogue inefficient fixtures such as toilets, showerheads, and faucet fixtures.
 - v. Measure flow at all showerheads and faucets.
 - vi. Catalogue front loading or standard washing machines and dishwasher information present or not.
 - vii. Demonstrate to customers how to read water meter and check for leaks by utilizing the meter leak detection dial. This shall be completed either at the meter or through a diagram provided in the education material in the packet provided by the utility.
- K. Install or leave behind the following devices as needed:
 - 1.5 gpm high performance showerheads;
 - GPM bubble spray high performance bathroom faucet aerators;
 - 1.5 gpm with temporary shut off high performance kitchen swivel faucet aerators;
 - Toilet displacement bags; and,
 - Toilet fill-cycle diverters.
- L. Distribute water conservation information packet as prepared by the water providers to each participant;
- M. Provide field data in Excel worksheet to the City's Project Manager as directed; and,
- N. Provide hard copies of assessment forms to the City's Project Manager as directed.

2. TERM

Work shall commence on the effective date of this Agreement. The effective date of this Agreement shall be the earlier date of (1) July 1, 2014 or (2) the date of the last signature by the parties. The expiration date of this agreement shall be June 30, 2019. This Agreement is subject to renewal only by mutual written agreement of the parties that follow the City's Procurement guidelines for renewal.

3. PROGRESS REPORTING REQUIREMENTS

A. The County shall prepare and submit to the City's Project Manager the following reports, which shall be in addition to the reports submitted with each monthly billing:

- i. A quarterly report summarizing the information on completed jobs. Quarterly reports are due within thirty (3) days after the end of each quarter: October 30, January 30, and April 30. The County shall submit one (1) hard copy and one (1) copy of the report in an electronic format accessible to the City's Project Manager.
- ii. A final report is due to the City's Project Manager by July 30, 2015. The report shall summarize the year's program and includes the following:
 1. A narrative of program progress and results.
 2. Client Evaluations of the program.

The County shall submit one (1) hard copy and one (1) copy of the report in an electronic version of Microsoft Word or a format accessible to the City's Project Manager.

4. BILLING PROCEDURES AND COMPENSATION

- A. The City's policy is to pay its invoices via electronic funds transfers through the automated clearing house (ACH) network. To initiate payment of invoices, County shall execute the City's standard ACH Vendor Payment Authorization Agreement which is available on the City's website at <http://www.portlandoregon.gov/bfs/article/409834?>.
- B. Upon verification of the data provided, the Payment Authorization Agreement shall authorize the City to deposit payment for services rendered directly into County accounts with financial institutions. All payments shall be in United States currency. Payment of any invoice, however, does not preclude the City from later determining that an error in payment was made and from withholding the disputed sum from the next monthly payment until the dispute is resolved.
- C. By the 15th of the month following the end of the previous month after the effective date, the County shall submit to the City an invoice for work performed during the previous month. Each invoice shall identify the work completed by the County the terms of this Agreement and as identified under 4.D. below.
- D. The County shall complete a Program audit and be required to document and provide their findings to the City's Project Manager. Completion and due date of this audit shall be agreed upon by both parties. The County's compensation for all services performed in carrying out the work requirements of identified in this Agreement for this Program shall be identified in each invoice submitted by the County. Work requirements include service work; supplies; equipment and material; County's administration fee of 9.96%, and the County's audit service fee amount of \$35 per audit. All service costs and audit fees shall be included and identified by line item on invoices submitted to the City by the County for reimbursement. All service and audits fees have been calculated into the not to exceed \$60,000 per fiscal year funding allotment to the County.

- E. Invoices submitted by the County to the City shall only be submitted to the Portland Water Bureau Finance Office electronically. Email address is as follows:
wbaps@portlandoregon.gov
- F. The City has the authority to audit the County's records associated with the Water/Sewer Fixture Repair Program upon notice. The County shall fully cooperate with a City Audit of the records at any time. The County shall also fully cooperate with an audit to account for all expenses if necessary.
- G. In the event this Agreement is terminated pursuant to all unexpended funds shall be returned to the City within 60 days of said termination.

5. NOTICES

Any notice required to be given or which shall be given under this Agreement shall be in writing and delivered by first class mail or by email as agreed to by the parties as follows:

Agency Project Manager:

Name: Christina L. Kenney
Address: 421 SW Oak St. Ave, Suite 200
Portland, OR 97204
Phone: (503) 988-6139
Email: christina.l.kenney@multco.us

City Project Manager:

Name: Brad Blake
Address: 1120 SW 5th Avenue
Portland, OR 97204
Phone: 503-865-2651
Email: Brad.blake@portlandoregon.gov

6. TERMINATION

This Agreement may be terminated by either party. The City on thirty (30) days written notice may terminate this Agreement. The County on ninety (90) days written notice may terminate this Agreement. Notices of termination shall be sent as described in Article 5: Notices listed above.

7. NON-DISCRIMINATION

In carrying out activities under this agreement, neither party shall discriminate against any employee or applicant for employment because of race, color, religion, sex, age handicap, familial status or national origin. Either party shall take affirmative actions to insure that applicants for employment are employed and that employees are treated during employment, without regard to their race, color religion, sex, age, handicap, familial status or national origin. Such action shall include but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

8. ACCESS TO RECORDS

Both parties and their duly authorized representatives shall have access to the books, documents, and records which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts and transcript.

9. INDEMNIFICATION

Subject to the conditions and limitations of the Oregon Constitution and Oregon Tort Claims Act, ORS 30.260 through 30.300, the County shall indemnify, defend and hold harmless the City from and against all liability, loss and costs arising out of or resulting from the acts of the County, its officers, employees and agents in the performance of this agreement. In addition, the City shall indemnify, defend and hold harmless the County from and against all liability, loss and costs arising out of or resulting from the acts of the City, its officers, employees and agents in the performance of this agreement.

10. INSURANCE

The County as an agency of the State of Oregon is self insured through the State Insurance Fund, administered by Risk Management Division, Department of Administrative Services. All County personnel, officers and employees, acting within the scope of their employment are covered by ORS 30.270. The County is a subject employer under the Oregon Workers Compensation law in compliance with ORS 656.017, and shall maintain Workers Compensation insurance through the duration of this Agreement.

11. SUBCONTRACTING AND ASSIGNMENT

The County shall not subcontract its work under this Agreement, with the exception of work identified in this Agreement, without the written consent of the other party. The County shall assure that all subcontractors used to perform the services under this Agreement, meet the City's Codes pertaining to permits, workmen's compensation, licensing, and all other requirements.

12. DISPUTES

The signatories to this Agreement shall expend their best efforts to amicably resolve any dispute that may arise under this Agreement. Any dispute that the signatories are unable to resolve shall be submitted to the Director of the County or his/her designee and the City of Portland Water Bureau Administrator or his/her designee for resolution.

13. OREGON LAWS AND FORUM

This Agreement shall be construed according to the laws of the State of Oregon. Any litigation between the City and the County arising under this contract or out of work performed under this contract shall occur, in the state courts, in the Multnomah County Court having jurisdiction thereof and if in the federal Courts, in the United States District Court for the State of Oregon.

14. FUNDS AVAILABLE AND AUTHORIZED

The City certifies that at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within current appropriation and limitation. In the event of any extension or non-appropriation, the City shall notify the County of its intent to terminate this Agreement. The City's contribution for the five (5) year term of the Agreement is contingent upon receipt of approval by City Council and upon continuation of funding.

15. SEVERABILITY

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 or provision held to be invalid.

16. 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 Agreement. 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; (v) Any applicable sections of ORS Chapter 279, and (vi) all other applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations.

17. FORCE MAJURE

Neither party shall be held responsible for delay or default caused by fire, riot, acts of God and war which are beyond its reasonable control. The affected party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

18. NO THIRD PARTY BENEFICIARY

The City and the County are the only parties to this Agreement and such are the only parties entitled to enforce its terms. Nothing contained in this Agreement 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.

19. MERGER CLAUSE

This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this Agreement 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 Agreement.

20. AMENDMENTS

The City and the County may amend this Agreement at any time only by written amendment executed by the City and the County. The City's Water Bureau Administrator, upon approval by City Council, is authorized to approve amendments for the City to this Agreement that do not increase the total contract amount above 25% of the original Agreement amount. The County shall submit a written request to the City's Project Manager prior to any amendments to the Agreement. Any amendment to the Agreement shall require the signature of both parties approving authorities. Amendments increasing the total contract amount above 25% of the original Agreement amount shall require approval of City Council for every increase.

21. OWNERSHIP OF DOCUMENTS

- A. The City and County shall jointly own any and all data, documents, plans copyrights, specifications, working papers, and any other materials produced in connection with this Agreement.
- B. The County upon request by the City shall provide the City copies of the materials referred to above, including any electronic files containing the materials.

22. SEVERABILITY/SURVIVAL

If any of the provisions contained in this Agreement 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 Agreement for any cause.

23. CONFLICTS OF INTEREST

No City Officer or employee, during his or her tenure or for one year thereafter, shall have any interest, direct, or indirect, in this Agreement or the proceeds thereof.

No board of director member or employee of the County, during his or her tenure or for one year thereafter, shall have any direct financial interest in the Agreement or the proceeds thereof.

No City Officer or employees who participated in the award of this agreement shall be employed by the County during this Agreement.

24. CONTRIBUTION

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 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.

With respect to a Third Party Claim for which either the County or the City (Parties), is jointly liable with each of the Parties (or would be if joined in the Third Party Claim), the Parties 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 Parties in such proportion as is appropriate to reflect the relative fault of on the one hand and of the Parties 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 on the one hand and of the Parties 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. Each of the Parties' contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

25. EFFECTIVE DATE AND DURATION

This Agreement shall be effective upon final date of execution and terminate on June 30, 2019, unless otherwise agreed to by both parties under the provisions of this Agreement.

Dated this _____ day of _____, 2014.

CITY OF PORTLAND

APPROVED AS TO FORM:

David G. Shaff
Portland Water Bureau Administrator

City of Portland
City Attorney

Date

4-16-14

Date

MULTNOMAH COUNTY
DEPARTMENT OF COUNTY HUMAN SERVICES
COMMUNITY SERVICES DIVISION

Signature

4/9/14

Date