

RESOLUTION NO. 08/09-27
CITY OF DAYTON, OREGON

Title: *Adopting the Oregon Public Works Response Mutual Aid Agreement*

WHEREAS, The State of Oregon has initiated an agreement that enables signature agency to support each other in the event of an emergency; and

WHEREAS, City of Dayton Public Works Staff wishes to participate in the agreement for the benefit of Dayton Citizens in the event of an emergency; and

WHEREAS, The agreement has been reviewed by the Oregon Department of Justice;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Dayton, Oregon:

- 1) **THAT** City Council Direct the City Manager to sign the Oregon Public Works Emergency Response Mutual Aid Agreement.
- 2) **THAT** this resolution shall become effective Jan. 5th, 2009.

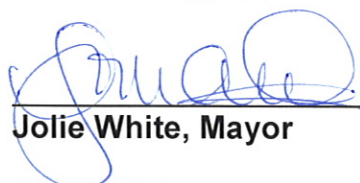
ADOPTED this 5th day of **January 2009**.

In Favor Blackburn, Evers, Henry, Hensley, White, Wytoski

Opposed None

Absent Dickson

Abstained None

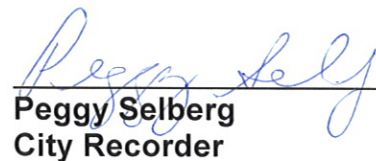


Jolie White, Mayor

1/15/2009

Date of Signing

ATTESTED BY:



Peggy Selberg
City Recorder

1/15/2009

Date of Enactment

Attachment - Exhibit A



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation
Office of Maintenance and
Operations
800 Airport Road SE
Salem, OR 97301-4798
(503) 986-3000

File Code:

RECEIVED
OCT 30 2008

City of Dayton

DATE: October 23, 2008

TO: City of Dayton

ATTN: Kurt Riemer

FROM: Luci Moore, P.E.
State Maintenance Engineer

SUBJECT: Oregon Public Works Emergency Response Mutual Aid Agreement

Enclosed for your agency's consideration and adoption is a copy of the Oregon Public Works Emergency Response Cooperative Assistance Agreement. More than 100 agencies signed the agreement since it was first offered to local public works agencies in July 1998.

The Oregon Department of Transportation (ODOT) initiated the agreement based on advice from the ODOT Local Officials Advisory Committee. The Oregon Department of Justice reviewed the agreement.

The mutual aid agreement:

- Enables public works agencies to support each other during an emergency.
- Provides the mechanism for immediate response to the Requesting Agency when the Responding Agency determines it can provide the needed resources and expertise.
- Sets up the documentation needed to seek maximum reimbursement possible from federal agencies.

Public works agencies in Oregon may sign the agreement or cancel their participation as they wish. ODOT maintains the list of all parties to the agreement and sends an updated list to all agencies whenever an agency is added to or removed from the list. Any agency may cancel its participation by giving written notice.

Small cities receive an advantage of having a large amount of resources at their finger tips, even if they have little to offer. Other members of the agreement may have available resources that are difficult to find.

Another benefit is that the agreement sets up the documentation needed to seek maximum reimbursement possible from federal agencies in the event of a major disaster. It is possible that in a disaster your city may have to request resources from another local

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jurisdiction regardless of whether you have signed the agreement. If the disaster is severe enough to warrant a Presidential disaster declaration, your city would qualify for Federal Emergency Management Agency (FEMA) reimbursement of qualified expenses through FEMA's Public Assistance program. A copy of the State of Oregon Emergency Declaration Guidelines for Local Elected and Appointed Officials which explains this process is enclosed.

Oregon's Public Works Cooperative Assistance Agreement is modeled on a similar agreement developed in Washington State. Using Washington as an example, here is how a comparatively small city would benefit by having become a party to the agreement prior to a Presidential declared disaster occurring:

- During the eruption of Mt. St. Helens, the City of Yakima requested resource assistance from King County.
- Because there was not an agreement in place prior to the disaster, FEMA could only reimburse the City of Yakima for King County resources at the city's rates.
- The City of Yakima's rates were about 42 percent lower than King County's. This meant the City of Yakima had to pay the difference.
- However, if both agencies had been parties to Washington's agreement, then FEMA would have reimbursed the City of Yakima for King County resources at King County's rates.

During the December 2007 storm, some local jurisdictions in Oregon were able to activate the agreement and use resources from other local jurisdictions which were not affected by the storm and were parties to the agreement. FEMA recognized the agreement as an existing contract and covered the costs based on having the agreement in place.

Other advantages of the agreement:

- Enables agencies to assist other agencies on an as-needed basis during an emergency.
- Responding agencies assist only if they determine they have the resources available. (Please see enclosed Guidelines for Using the Agreement.)
- The Responding agency maintains direct control of the resources it provides.
- The Requesting agency coordinates the activities and resources of the Responding agency.

The agreement does not supplant pre-existing agreements or prevent any agency from negotiating other agreements.

To become a party to the agreement, send the completed signature page to:

Rose Gentry
ODOT Office of Maintenance
800 Airport Road SE
Salem, OR 97301-4798
Fax: (503) 986-3032

If you have any questions about the agreement, please call Rose Gentry, ODOT
Statewide Emergency Operations Manager, at (503) 986-3020.

OREGON PUBLIC WORKS EMERGENCY RESPONSE
COOPERATIVE ASSISTANCE AGREEMENT

THIS AGREEMENT is between the government agencies (local, county, or state) that have executed the Agreement, as indicated by the signatures at the end of this document.

WITNESSETH:

WHEREAS, parties to this agreement are responsible for the construction and maintenance of public facilities such as street, road, highway, sewer, water, and related systems during routine and emergency conditions; and

WHEREAS, each of the parties owns and maintains equipment, and employs personnel who are trained to provide service in the construction and maintenance of street, road, highway, sewer, water, and related systems and other support;

WHEREAS, in the event of a major emergency or disaster as defined in ORS 40 1.025 (4), the parties who have executed this Agreement may need assistance to provide supplemental personnel, equipment, or other support; and

WHEREAS, the parties have the necessary personnel and equipment to provide such services in the event of an emergency; and

WHEREAS, it is necessary and desirable that this Agreement be executed for the exchange of mutual assistance, with the intent to supplement not supplant agency personnel;

WHEREAS, an Agreement would help provide documentation needed to seek the maximum reimbursement possible from appropriate federal agencies during emergencies;

WHEREAS, ORS Chapter 401.480 provides for Cooperative Assistance Agreement among public and private agencies for reciprocal emergency aid and resources; and

WHEREAS, ORS Chapter 190 provides for intergovernmental agreements and the apportionment among the parties of the responsibility for providing funds to pay for expenses incurred in the performance of the agreed upon functions or activities;

NOW THEREFORE, the parties agree as follows:

1. Request

If confronted with an emergency situation requiring personnel, equipment or material not available to it, the requesting party (Requestor) may request assistance from any of the other parties who have executed this Agreement.

2. Response

Upon receipt of such request, the party receiving the request (Responder) shall immediately take the following action:

- A. Determine whether it has the personnel, equipment, or material available to respond to the request.
- B. Determine what available personnel and equipment should be dispatched and/or what material should be supplied.
- C. Dispatch available and appropriate personnel and equipment to the location designated by the Requestor.
- D. Provide appropriate access to the available material.
- E. Advise the Requestor immediately in the event all or some of the requested personnel, equipment, or material is not available.

NOTE: It is understood that the integrity of dedicated funds needs to be protected. Therefore, agencies funded with road funds are limited to providing services for road activities, sewer funds are limited to providing services for sewer activities and so on.

3. Incident Commander

The Incident Commander of the emergency shall be designated by the Requestor, and shall be in overall command of the operations under whom the personnel and equipment of the Responder shall serve. The personnel and equipment of the Responder shall be under the immediate control of a supervisor of the Responder. If the Incident Commander specifically requests a supervisor of the Responder to assume command, the Incident Commander shall not, by relinquishing command, relieve the Requestor of responsibility for the incident.

4. Documentation

Documentation of hours worked, and equipment or materials used or provided will be maintained on a shift by shift basis by the Responder, and provided to the Requestor as needed.

5. Release of Personnel and Equipment

All personnel, equipment, and unused material provided under this Agreement shall be returned to the Responder upon release by the Requestor, or on demand by the Responder.

6. Compensation

It is hereby understood that the Responder will be reimbursed (e.g. labor, equipment, materials and other related expenses as applicable, including loss or damage to equipment) at its adopted usual and customary rates. Compensation may include:

- A. Compensation for workers at the Responder's current pay structure, including call back, overtime, and benefits.
- B. Compensation for equipment at Responder's established rental rate.
- C. Compensation for materials, at Responder's cost. Materials may be replaced at Requestor's discretion in lieu of cash payment upon approval by the Responder for such replacement.
- D. Without prejudice to a Responder's right to indemnification under Section 7.A. herein, compensation for damages to equipment occurring during the emergency incident shall be paid by the Requestor, subject to the following limitations:
 - 1) Maximum liability shall not **exceed** the cost of repair or cost of replacement, whichever is less.
 - 2) No compensation will be paid for equipment damage or loss attributable to natural disasters or acts of God not related to the emergency incident.
 - 3) To the extent of any payment under this section, Requestor will have the right of subrogation for all claims against parties other than parties to this agreement who may be responsible in whole or in part for damage to the equipment.

- 4) Requestor shall not be liable for damage caused by the neglect of the Responder's operators.

Within 30 days after presentation of bills by Responder entitled to compensation under this section, Requestor will either pay or make mutually acceptable arrangements for payment.

7. Indemnification

This provision applies to all parties only when a Requestor requests and a Responder provides personnel, equipment, or material under the terms of this Agreement. A Responder's act of withdrawing personnel, equipment, or material provided is not considered a party's activity under this Agreement for purposes of this provision.

To the extent permitted by Article XI of the Oregon Constitution and by the Oregon Tort Claims Act, each party shall indemnify, within the limits of the Tort Claims Act, the other parties against liability for damage to life or property arising from the indemnifying party's own activities under this Agreement, provided that a party will not be required to indemnify another party for any such liability arising out of the wrongful acts of employees or agents of that other party.

8. Workers Compensation Withholdings and Employer Liability

Each party shall remain fully responsible as employer for all taxes, assessments, fees, premiums, wages, withholdings, workers compensation and other direct and indirect compensation, benefits, and related obligations with respect to its own employees. Likewise, each party shall insure, self-insure, or both, its own employees as required by Oregon Revised Statutes.

9. Pre-Incident Plans

The parties may develop pre-incident plans for the type and locations of problem areas where emergency assistance may be needed, the types of personnel and equipment to be dispatched, and the training to be conducted to ensure efficient operations. Such plans shall take into consideration the proper protection by the Responder of its own geographical area.

10. The Agreement

- A. It is understood that all parties may not execute this Agreement at the same time. It is the intention of the parties that any governmental entity in the State of Oregon may enter into this Agreement and that all parties who execute this Agreement will be

considered to be equal parties to the Agreement. The individual parties to this Agreement may be "Requestor" or "Responder's" as referred to in Section 1. and 2. above, to all others who have entered this Agreement.

- B. The Oregon Department of Transportation (ODOT) Office of Maintenance shall maintain the master copy of this Agreement, including a list of all those governmental entities that have executed this Cooperative Assistance Agreement. ODOT will make the list of participants available to any entity that has signed the Agreement. Whenever an entity executes the agreement, ODOT shall notify all others who have executed the Agreement of the new participant. Except as specifically provided in this paragraph, ODOT has no obligations to give notice nor does it have any other or additional obligations than any other party.
- C. This Agreement shall be effective upon approval by two or more parties and shall remain in effect as to a specific party for five years after the date that party executes this Agreement unless sooner terminated as provided in this paragraph. Any party may terminate its participation in this Agreement prior to expiration as follows:
 - 1) Written notice of intent to terminate this Agreement must be given to all other parties on the master list of parties at least 30 days prior to termination date. This notice shall automatically terminate the Agreement as to the terminating party on the date set out in the notice unless rescinded by that party in writing prior to that date.
 - 2) Termination will not affect a party's obligations for payment arising prior to the termination of this Agreement.

11. Non-exclusive

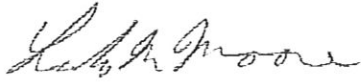
This Agreement is not intended to be exclusive among the parties. Any party may enter into separate cooperative assistance or mutual aid agreements with any other entity. No such separate Agreement shall terminate any responsibility under this Agreement.

12. Parties to This Agreement

Participants in this Agreement are indicated on the following pages, one party per page.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Public Works Cooperative Assistance to be executed by duly authorized representatives as of the date of their signatures.

STATE OF OREGON
DEPARTMENT OF TRANSPORTATION



October 23, 2008

Luci Moore
Maintenance Engineer

Date

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Public Works Cooperative Assistance to be executed by duly authorized representatives as of the date of their signatures.

Agency

County, Oregon

Authorized Representative

Date

Designated Primary Contact:		
<u>Office:</u>	<u>Contact:</u>	<u>Phone Number:</u>
_____	_____	_____
Emergency 24 Hour Phone Number:		Fax Number:
_____		_____
E-mail address (if available):		
