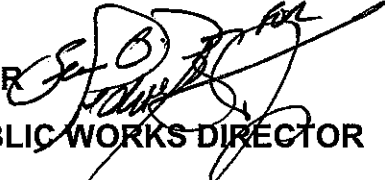


FOR COUNCIL MEETING OF:
AGENDA ITEM NO.:
PUBLIC WORKS FILE NO.:

November 23, 2009
4.3 (g)

TO: MAYOR AND CITY COUNCIL
THROUGH: LINDA NORRIS, CITY MANAGER 
FROM: PETER FERNANDEZ, P.E., PUBLIC WORKS DIRECTOR
SUBJECT: ANNUAL RENEWAL OF MARION COUNTY JUVENILE INMATE PROGRAM INTERGOVERNMENTAL AGREEMENT

ISSUE:

Shall City Council approve the annual renewal of the Intergovernmental Agreement (IGA) with Marion County for the Parks Operations Juvenile Work Crew Program?

RECOMMENDATION:

Staff recommends that the City Council approve the annual renewal of the IGA with Marion County for the Parks Operations Juvenile Work Crew Program.

BACKGROUND:

Parks Operations uses youths from the Marion County Juvenile Work Program for maintenance of landscape areas in city parks, and for removal and distribution of wood from the Parks Tree Program. This wood is cut up, removed from parks and rights-of-way, and distributed to low income families for firewood. The City has maintained this annual IGA since the program began eight years ago.

Council approved an earlier version of this IGA on August 24, 2009. The attached version contains minor modifications, but no substantive changes in policy or responsibilities between the parties.

FACTS AND FINDINGS:

The Marion County Juvenile Work Program is a low-cost labor resource for Parks Operations, and is critical for maintaining the City's parks and rights-of-way, and removing wood from tree trimming and removal operations, due to Parks Operations limited budget. Renewal of this IGA will continue this program for the future.

The approved budget for FY 2009-10 for this inmate work program is \$10,000.



Mark Becketl, AICP
Parks and Transportation Services Manager

KK:AB/JP:G:\GROUP\DIRECTOR\ANN\COUNCIL 09\REPORTS\2009NOV9\INMATEIGARENEWALMARIONCOUNTYFINAL.DOC

Attachment: Marion County–City of Salem Intergovernmental Agreement

Wards: All

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**MARION COUNTY - CITY OF SALEM
INTERGOVERNMENTAL AGREEMENT
FOR
JUVENILE WORK CREW SERVICES**

This Intergovernmental Agreement, hereinafter called the "Agreement," is made by and between the City of Salem, an Oregon municipal corporation, acting by and through its **Parks Operations Section, Parks and Transportation Division**, hereinafter called "**PWPO**," and **Marion County**, a political subdivision of the state of Oregon, by and through its Juvenile Department, hereinafter called "**Contractor**" pursuant to Oregon Revised Statute 190.010 et seq.

I. Statement of Work

A. Contractor agrees to accomplish the following work under this Agreement:

1. Provide juvenile work crews at designated City of Salem parks. A crew generally consists of five (5) youth workers directly supervised by a Contractor-employed-professional group worker throughout each day.
2. The crew will work eight (8) hours each day including a half hour lunch and travel time, and a rest period of at least 15 minutes during each work period of four hours or the major part of four hours.
3. The Contractor will be responsible for all transportation of the crew to PWPO's desired location(s) at City of Salem parks and for providing crew members with appropriate personal protective equipment
4. The crew will complete non-sophisticated manual labor tasks as outlined by PWPO. The specific duties and schedule of performance of duties will be by oral or written agreement between the PWPO's project manager and the Contractor and will be based on operational need.
5. The youth workers will be under the jurisdiction of the Contractor and all labor related obligations will be the responsibility of the Contractor.
6. Workers' Compensation. Contractor shall maintain in full force, at its own expense, workers' compensation insurance in compliance with ORS 656.017. Pursuant to ORS 279B.230, if contractor employs any person, whether or not such employee will be performing any work on or related to the Agreement, and whether or not such person resides in or will perform any work in the State of Oregon, Contractor is a "subject employer" and must comply with ORS 656.017, requiring maintenance of workers' compensation coverage as a self-insured or carrier-insured employer. Maintenance of workers' compensation through a state-operated fund or program of a state other than Oregon does not comply with this regulation.
7. Contractor will conform to the safety guidelines as provided by OSHA and program policy, including safety training.

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B. PWPO agrees to:

1. Outline in writing and provide general direction of all work to be completed.
2. Provide all materials, supplies and specialty equipment necessary for completion of work, except as Contractor is required to provide as stated in Section I.A.3 above.
3. Provide financial reimbursement to the Contractor in the amount of \$225.00 per day, per crew.
4. Not assign Contractor work within 100 yards of adult correction work crews.

II. Payment

- A. Payments will be made to Contractor on the basis of written requests for payment submitted by Contractor to the PWPO not more than once per month. PWPO will make payments not later than 30 days after each request for payment is submitted.
- B. Contractor shall submit a final invoice for work completed under this Agreement, not later than forty-five (45) days after the expiration date of this Agreement. PWPO shall pay the final invoice not later than thirty (30) days after it is received.
- C. All requests for payment will be submitted to: **City of Salem
Parks Operations
1460 20th St SE
Salem, OR 97302**
- D. All requests for payment must include documentation of all days and times worked for PWPO to determine conformance with the terms of this Agreement.
- E. In no event shall Contractor 's total of all compensation under this Agreement exceed the sum of **\$24,000.00** (twenty-four thousand dollars) without the express, written approval from the PWPO official whose signature appears below, or such official's successor in office. Contractor expressly acknowledges that no other person has authority to order or authorize work exceeding this maximum sum. Contractor further acknowledges that any work done or expenses incurred without this express, written authorization as provided herein is done at Contractor 's own risk and as a volunteer without expectation of compensation or reimbursement.

III. Travel

The Contractor shall be responsible for all transportation of the juvenile work crews to the PWPO's desired locations at City of Salem parks.

IV. Project Manager

PWPO Parks Superintendent is the Project Manager and the contact person for any notice required by this Agreement. Contractor shall designate and provide to PWPO in writing the name and address of a contact person for any notice to Contractor required by this Agreement.

V. Assignment and Subcontracts

Contractor shall not assign this Agreement nor enter into any subcontracts for any of the work scheduled under this Agreement without obtaining the prior written approval from PWPO.

VI. Publicity

Any publicity or advertising regarding the work performed under this Agreement must be approved by the PWPO Project Manager and Marion County Juvenile Department Alternative Programs supervisor or designee. It must acknowledge the support of City of Salem and Marion County Juvenile Department.

VII. Indemnity

To the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, as amended by SB311, (2009), each party agrees to waive, forgive, and acquit any and all claims it may otherwise have against the other and the officers, employees, and agents of the other, for or resulting from damage or loss, provided that this discharge and waiver shall not apply to claims by one party against any officer, employee, or agent of the other arising from such person's malfeasance in office, willful or wanton neglect of duty, or actions outside the course and scope of his or her official duties.

VIII. Excuses for Non-Performance

A. Neither party shall be held responsible for delay or failure to perform when such a delay or failure is due to fire, flood, epidemic, strikes, acts of God or the public enemy, unusually severe weather, legal acts of public authorities, or delays or defaults caused by public carriers, which cannot reasonably be foreseen or provided against. Either party may terminate the agreement, effective with the giving of written notice, after determining such delay or failure will reasonably prevent successful performance in accordance with the terms of the agreement.

B. Contractor shall not be held responsible for delay or failure to perform when such a delay or failure is due to an emergency medical situation, unsafe environmental condition, emergency program shutdown or lockdown.

C. Contractor will contact PWPO's Project Manager or designee of any conditions that may cause delay or failure to perform and will make a reasonable effort to perform any delayed service at the earliest time available or as agreed upon by Contractor and PWPO's Project Manager.

IX. Integration

The Agreement constitutes the entire agreement between the parties. All prior agreements, representations, and negotiations, written and oral, relating to the subject matter of the Agreement are hereby repudiated.

X. Modification and Waiver

138 No waiver, consent, modification or change of terms of this Agreement shall bind either party
139 unless made in writing and signed by the party to be bound. Such waiver, consent,
140 modification or change, if made, shall be effective only in the specific instance and for the
141 specific purpose, unless the parties expressly agree in writing otherwise.
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143 XI. Insurance

144 The COUNTY, pursuant to applicable provisions of ORS 30.260 to 30.300, maintains a self-insurance
145 program that provides property damage and personal injury coverage.
146

147 XII. Venue

148 This Agreement shall be governed by the laws of the State of Oregon without regard to conflict of
149 laws principles. Exclusive venue for litigation of any action arising under this Agreement shall be
150 in the Circuit Court of the State of Oregon for Marion County unless exclusive jurisdiction is in
151 federal court, in which case exclusive venue shall be in the federal district court for the district of
152 Oregon. Each party expressly waives any and all rights to maintain an action under this
153 Agreement in any other venue, and expressly consents that, upon motion of the other party, any
154 case may be dismissed or its venue transferred, as appropriate, so as to effectuate this choice of
155 venue.
156

157 XIII. Other Laws

158 The following laws of the State of Oregon are hereby incorporated by reference into this
159 Agreement: ORS 279B.220, 279B.225, 279B.230 and 279B.235.
160
161

162 XIV. Retention of Records and Reports

163 Contractor agrees to maintain records of costs and services provided to document the Project
164 and fully support billings. All books, records and other documents relevant to this agreement
165 shall be retained for:

- 166
- 167 A. Three years after the end of the fiscal year during which they were created; or
 - 168
 - 169 B. Any longer period that may be required to complete any audit or to resolve any pending
 - 170 Audit findings.
 - 171

172 XV. Access to Records

173 PWPO, the Secretary of State's Office of the State of Oregon, the Federal Government and their
174 duly authorized representatives shall have access to the books, documents, papers, and records of
175 Contractor and any subcontractors which are directly pertinent to this Agreement for any purpose
176 reasonably related to this Agreement.
177

178 XVI. Term and Termination

- 179 A. This Agreement shall be effective on the dated last signed by both parties and shall
180 expire on June 30, 2010.
- 181 B. This Agreement shall renew automatically for successive one year periods, up to five
182 years, beginning July 1, 2010, unless terminated as set forth in this section.
- 183 C. This Agreement may be updated annually on July 1st by mutual consent or may
184 otherwise be revised by mutual consent of both parties.

- 185 D. This Agreement may be terminated by mutual consent of both parties, or by either party
186 for any reason whatsoever, upon providing the other party not less than thirty (30) days
187 written notice.
188 E. Any termination pursuant to paragraph D above shall be without prejudice to any
189 obligations or liabilities of either party already accrued prior to such termination.
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191 **XVII. Non-Discrimination**

192 Contractor agrees to comply with all applicable requirements of federal and state and city civil
193 rights and rehabilitation statutes, rules and regulations. Contractor agrees that no person shall, on
194 the grounds of race, color, creed, national origin, sex, marital status, or age, suffer discrimination in
195 the performance of this Agreement when employed by Contractor. Further, Contractor agrees not
196 to discriminate against minority-owned, women-owned or emerging small businesses in awarding
197 subcontracts as required by ORS 279A.110.
198

199 **XVIII. Funds Available and Authorized**

200 PWPO certifies at the time the agreement is written that sufficient funds are available and
201 authorized for expenditure to finance costs of this agreement within PWPO current
202 appropriation or limitation. Continuation of this agreement after the current budget period is
203 contingent on approval of funding for this purpose. PWPO shall, at least 30 days prior to
204 automatic renewal of this Agreement on July 1st of each year, provide written notice of
205 termination to Contractor if funds are not available and authorized for expenditure for the next
206 year's term.
207

208 **XIX. Notification**

209
210 All notices and communications regarding this Agreement shall be made through the following
211 persons:

PWPO:
Keith Keever, Parks Superintendent
Parks and Transportation Division
1460 20th St. SE, Bldg. 14
Salem, OR 97302

CONTRACTOR:
Chuck Sybrandt, Deputy Director
Marion County Juvenile Department
3030 Center St NE
Salem OR 97301

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214 MARION COUNTY

CITY OF SALEM

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217 _____
218 Faye Fagel, Director

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220 Linda Norris, City Manager

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222 Chuck Sybrandt, Deputy Director

223 _____
224 Date

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APPROVED AS TO FORM:

Marion County Legal Counsel Date

Marion County Contracts Date