

W. Z. D. I.

**ABBREVIATED CONSENT CALENDAR MEMO**

Memorandum Date: 23 April 2008

Order Date: 7 May 2008

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TO: Board of County Commissioners

DEPARTMENT: Lane County Sheriff's Office

PRESENTED BY: Judy Simpson

**AGENDA ITEM TITLE: IN THE MATTER OF DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXECUTE MUTUAL AID AGREEMENT FOR PARTICIPATING COUNTIES TO PROVIDE COOPERATION AND ASSISTANCE IN RESPONDING TO EMERGENCIES AND PUBLIC HEALTH INCIDENTS**

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I. MOTION

MOVE TO APPROVE EXECUTION OF THE MUTUAL AID AGREEMENT

BETWEEN PARTICIPATING COUNTIES

II. DISCUSSION

A. Background/Analysis

The intent of the Agreement is for Participating Counties to work together toward cooperation and mutual assistance in the areas of public health incidents, crisis and emergency preparedness and response.

Participating counties include Deschutes, Crook, Douglas, Grant, Harney, Jefferson, Klamath, Lake, Lane and Wheeler.

Parties will, to the extent possible, develop joint programs for planning, training, conducting exercises and coordinating resources.

The Mutual Aid Agreement is a non-financial agreement and remains in effect until terminated by a party or parties.

Lane Manual 21.145 requires Board of Commissioner approval for execution of an agreement which is longer than three (3) years in length.

B. RECOMMENDATION

Staff recommends approving execution of the Intergovernmental Agreement to provide mutual aid, to the extent possible, to participating counties during emergencies and public health incidents.

The Mutual Aid Agreement benefits Lane County as well as all other participating counties by combining resources.

II. ATTACHMENTS

1. Proposed Board Order No. \_\_\_\_\_.
2. Mutual Aid Agreement.

**IN THE BOARD OF COUNTY COMMISSIONERS OF Lane County, OREGON**

**ORDER NO.**

**)IN THE MATTER OF DELEGATING AUTHORITY TO  
)THE COUNTY ADMINISTRATOR TO EXECUTE  
)MUTUAL AID AGREEMENT FOR PARTICIPATING  
)COUNTIES TO PROVIDE COOPERATION AND  
)ASSISTANCE IN RESPONDING TO EMERGENCIES  
)AND PUBLIC HEALTH INCIDENTS**

**THIS MATTER** having come before the Board of County Commissioners for delegating authority to the County Administrator to execute an Intergovernmental Agreement to provide Mutual Aid between various counties (Deschutes, Crook, Douglas, Grant, Harney, Jefferson, Klamath, Lake, Lane and Wheeler).

**WHEREAS**, Lane Manual 21.145 requires Board of Commissioner approval for execution of an Agreement which is longer than three (3) years in length.

**WHEREAS**, the Mutual Aid Agreement will remain in effect until terminated by a party or parties.

**IT IS HEREBY ORDERED** that the Board of County Commissioners delegate the authority to the County Administrator to execute the Mutual Aid Agreement to provide cooperation and assistance in emergencies and public health incidents, in substantial conformity to the attached Exhibit A.

Signed this            day of            , 2008

\_\_\_\_\_  
Chair, Lane County Board of Commissioners

APPROVED AS TO FORM  
Date: 4/23/08  
RL  
OFFICE OF LEGAL COUNSEL

<p style="text-align: center;"><b>Reviewed</b></p> <p style="text-align: center;"><i>[Signature]</i></p> <hr/> <p style="text-align: center;"><b>Legal Counsel</b></p>
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For Recording Stamp Only

**MUTUAL AID AGREEMENT**  
**Intergovernmental Agreement to Provide Mutual Aid Between**  
**Deschutes County, Crook County, Douglas County, Grant County, Harney County,**  
**Jefferson County, Klamath County, Lake County, Linn County, Lane County, and Wheeler**  
**County**

THIS AGREEMENT is made and entered into by and between Deschutes County, Crook County, Douglas County, Grant County, Harney County, Jefferson County, Klamath County, Lake County, Lane County, Linn County and Wheeler County and (individually and collectively referred to as "Parties").

**1.0 Effective Date**

The effective date of this Agreement is upon execution of all parties signatures. Once effective, this Agreement supersedes all prior Mutual Aid Agreements entered into by the parties in the areas of public health incidents, crises and emergency ("emergency") preparedness and response.

**2.0 Authority**

ORS 910.010 authorizes units of local government to enter into written agreements with other units of local government for the performance of any and all functions and activities that a party to the agreement, its officers or agencies, have authority to perform. ORS 401.015, *et seq.*, authorizes and directs local governments to prepare for and respond to emergencies. ORS 401.480, *et seq.*, further provides that units of local government may enter into cooperative assistance agreements for reciprocal emergency aid and resources. This Agreement is entered into under and pursuant to the authority of these statutes.

### **3.0 Purpose**

This Agreement sets out how the Parties will work together toward cooperation and mutual assistance in the areas of public health incidents, crises and emergency ("emergency") preparedness and response.

### **4.0 Definitions**

- 4.1 "Party" means each of the governmental entities that are a party to this Agreement.
- 4.2 "Requesting party" means a party in need of or requesting assistance under this Agreement.
- 4.3 "Responding party" means a party responding outside its geographic boundaries in response to a need or request for assistance by another party under this Agreement.

### **5.0 Scope of Agreement**

- 5.1 The parties agree to provide to any and all other parties to this Agreement, personnel, equipment, supplies and other forms of assistance on the terms and conditions set forth in this Agreement. The parties recognize and agree that such personnel, equipment, supplies and other assistance may not be available at a given time or under various circumstances. Each party agrees to attempt, in good faith, to provide a requesting party with such personnel, equipment, supplies and other assistance that may be reasonably necessary to assist the requesting party in responding to an emergency.

In making a good faith determination of whether assistance may reasonably be provided to a requesting party, the responding party may consider the logistics of cost of responsive travel, the availability and cost of any responsive equipment, vehicles and/or staff, and whether or not local duties and obligations would be compromised by said response.

- 5.2 Each party hereby consents that the authority of the public health administrator and employees of each party is extended into the jurisdiction or territory of a requesting party when requested by the requesting party. This provision notwithstanding, nothing in this Agreement shall be construed as either limiting or extending the lawful jurisdiction of any party except as expressly set forth in this Agreement.

### **6.0 Request Procedure**

- 6.1 Requests for mutual aid under this agreement shall be made either orally or in writing by the presiding officer of the governing body or chief executive officer or designee to the presiding officer of governing body for designee or designee of the responding party. If a request is oral, the responding local government must document its response in writing within 30 days from request date to the requesting local government.

### **7.0 Response Procedure**

- 7.1 Upon receipt of a request for mutual aid under this Agreement, the party receiving the request (responding party) shall, as soon as reasonably possible, take the following actions:
  - a. Determine whether the responding party has the personnel, equipment, material or other form of assistance available to respond to the request;

- b. Determine what available personnel, equipment, material and/or other forms of assistance shall be supplied;
- c. Dispatch or otherwise make available appropriate and available personnel, equipment, material and/or other assistance to the location or locations designated by the requesting party;
- d. Advise the requesting party immediately in the event all or some of the requested personnel, equipment, material or other type of assistance is not available or will not be available within a reasonable amount of time;

7.2 The responding party has the right, in the party's sole discretion, to determine the availability and priority of providing personnel, equipment, material and/or other forms of assistance under this Agreement.

7.3 No action can be maintained by any party in the event that the party receiving the request determines that needed equipment/personnel/supplies are not available.

7.4 Response and the extent of the response are voluntary and may be terminated at any time.

## **8.0 Control and Supervision**

8.1 For purposes of the operational and tactical objectives required by the requesting local government, the resources of a responding local government are under the direct command and control of the requesting local government.

8.2 Unless otherwise directed by the requesting local government:

a. The employees of the responding local government shall use the standard operating procedures, medical and other protocols and rating procedures used by the responding local government to accomplish the strategic and tactical goals.

b. The services, equipment and supplies of the responding local government shall be used under the standard operating procedures, medical and other protocols and rating procedures used by the responding local government to accomplish the strategic and tactical goals.

8.3 Notwithstanding subsection 8.1 of this section, employees of the responding local government remain at all times employees of the responding local government and under the ultimate command and control of the responding local government.

## **9.0 Allocation of Costs for Personnel, Equipment, Materials and Supplies**

9.1 The responding party pays all their personnel and routine equipment costs used in the response for the first 72 hours. After 72 hours, all costs incurred by the responding party are paid as agreed between the parties involved.

9.2 A requesting agency that receives state or federal funds to cover emergency response expenses during the responding agencies response time will accept a responding parties expenses for billing against those funds.

- 9.3 All equipment and unused materials and supplies provided in accordance with this Agreement shall be returned to the responding party upon release by the requesting party or upon demand by the responding party.
- 9.4 All equipment and unused materials or supplies provided by a responding party shall, upon return to the responding party, be returned in the same condition as originally provided, reasonable wear and tear accepted.
- 9.5 After 72 hours, compensation for loss or damage to equipment other than reasonable wear and tear or unused materials or supplies provided by a responding party occurring during the emergency incident shall be paid by the requesting party, subject to the following limitations:
- a. Maximum liability for loss or damage shall not exceed the cost of repair or cost of replacement, whichever is less, of the item involved;
  - b. No compensation will be paid for loss or damage to equipment or unused materials or supplies attributable to natural disasters or acts of God; and
  - c. The requesting party shall not be liable for loss or damage to equipment, unused materials or supplies provided by the responding party which is caused by a willful act, recklessness or negligence of any officer, employee or authorized agent of the responding party.
- 9.6 After 72 hours, the requesting party shall reimburse, at cost, each responding party for all materials and supplies provided by the responding party which are used during the emergency incident.
- 9.7 After 72 hours, compensation with the limitations set out under 9.3 and 9.4 will be paid as agreed between the parties by the requesting party to the responding party within thirty (30) days after presentation to the requesting party by the responding party of a written invoice or invoices detailing the claimed loss or damage.
- 9.8 If the local governments cannot resolve the dispute within 90 days after receipt of the notice of alleged noncompliance, either local government in the dispute may submit the dispute to arbitration under the commercial arbitration rules of the American Arbitration Association.
- 10.0 Personnel**
- 10.1 Each county will continue to pay costs for their own personnel during the first 72 hours. Each party shall remain fully responsible as employer for cost of all personnel provided through this agreement. This includes the cost of all personnel provided at each employee's current wages, including overtime, and travel expenses if any.
- 10.2 Each party shall insure its own employees as required by Oregon law.
- 10.3 If a person is an employee of a responding local government and the person sustains injury in the course of providing requested assistance, the person is entitled to all applicable benefits, including workers' compensation, normally available to the employee while performing regular duties for the responding local government.

## **11.0 Duration**

11.1 This Agreement shall remain in full force and effect among the parties unless terminated, in whole or in part, by a party or parties in accordance with Paragraph 12 of this Agreement.

## **12.0 Termination**

12.1 Any party may terminate this Agreement as to that party at any time by giving thirty (30) days written notice to all other parties. Any such termination notice shall be hand-delivered or sent via the United States Postal Service, certified mail, return receipt requested, to the public health administrator of each of the remaining parties, with a copy provided to the governing body of each of the remaining parties to this Agreement.

12.2 Upon termination of this Agreement by a party as to that party, all property not owned by the terminating party which is in the custody or possession of the terminating party, shall be returned as soon as reasonably possible to the party that owns the property.

12.3 Upon termination of this Agreement by a party or parties as to that party or parties, so long as there remain at least two parties to this Agreement, this Agreement shall remain in full force and effect as to all remaining parties.

## **13.0 Addition of Other Units of Local Government**

Other units of local government which are otherwise eligible to become parties to this Agreement pursuant to the statutory authorizations for this Agreement, may become parties to this Agreement by (a) obtaining consent to become a party to this Agreement by all entities who, at the time of the request, are parties to this Agreement; and (b) executing a copy of this Agreement and distributing a copy to parties.

## **14.0 Agency/Governmental Function**

14.1 Employees of a responding local government are agents of the requesting local government.

14.2 Assistance rendered by an employee of a responding local government is a governmental function.

## **15.0 Indemnification and Hold Harmless, Notice of Applicable Laws and Regulations**

15.1 To the extent permitted by the Oregon Constitution and subject to the provisions of the Oregon Tort Claims Act, the Requesting Party agrees to defend, indemnify and hold harmless each and every other party, and each other party's officers, employees and agents, from and against any and all claims, suits, actions, damages, fees, costs, losses and expenses resulting from, arising out of or in any way connected with activities conducted in the performance of this Agreement at the request of the Requesting Party.

15.2 The requesting party shall inform the responding party of any local laws, codes, regulations and ordinances applicable to the responding party's functions.

## **16.0 Non-Exclusive Agreement**

This Agreement is not intended to be exclusive among the Parties. Any Participating County may enter into a separate emergency assistance or mutual aid agreement, and any other form of agreement, with any other Participating County or any other entity. However, no such separate agreement shall terminate any responsibility under this Agreement. To the extent other emergency assistance or mutual aid agreements between or among any of the Parties are inconsistent with this Agreement, the terms of this Agreement shall control.

## **17.0 No Association, Joint Venture or Partnership**

This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between or among any of the Parties or to impose any partnership obligations or liabilities upon any Participating County. Furthermore, no Participating County shall be deemed by reason of this Agreement or participation in any emergency incidents pursuant to this Agreement to be an agent or representative of or to otherwise bind any other Participating County.

## **18.0 No Third-Party Beneficiary**

Nothing in this Agreement shall be construed to create any rights in or duties to any third party or any liability or standard of care in reference to any third party. This Agreement shall not confer any right or remedy upon any person or entity other than the Parties. Furthermore, this Agreement is not intended to and shall not be construed to release or discharge any obligation or liability of any third party to any Participating County.

## **19.0 Severability**

Should any provision or provisions of this Agreement be construed by a court of competent jurisdiction to be void, invalid or unenforceable, such construction shall affect only the provision or provisions so construed and shall not affect, impair or invalidate any of the other provisions of this Agreement, which shall remain in full force and effect as if this Agreement did not contain the particular provision or provisions held to be void, invalid or unenforceable.

## **20.0 Counterparts**

This Agreement may be executed in separate counterparts, each of which, when executed and delivered, shall be an original, but all of which shall constitute one and the same Agreement.

## **21.0 Entire Agreement**

This Agreement constitutes the entire agreement among the parties concerning the subject matter hereof, and supersedes any and all prior or contemporaneous negotiations and/or agreements among the parties, whether written or oral, concerning the subject matter of this Agreement which are not fully expressed herein. The terms and conditions of this Agreement may not be waived, altered, modified or amended without the prior written approval of all affected parties.