

RESOLUTION NO. 5286-16

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH METRO TO PARTICIPATE IN THE REGIONAL ILLEGAL DUMPING PATROL

WHEREAS, the City of Tualatin is a public body engaged in providing municipal services, including public safety, to its citizens; and

WHEREAS, ORS 190.010 et. seq. authorizes the City of Tualatin to enter into an intergovernmental agreement with Metro; and

WHEREAS, the City of Tualatin wishes to enter into an intergovernmental agreement with Metro to participate in the Regional Illegal Dumping Patrol program;

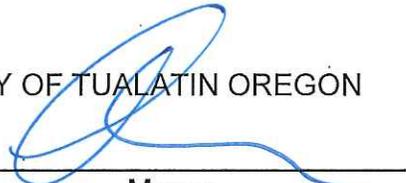
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The City Manager is authorized to execute the Intergovernmental Agreement with Metro, which is set forth in Exhibit A and is incorporated by reference, and further authorized to make administrative modifications thereto.

**Section 2.** This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 11<sup>th</sup> day of July, 2016.

CITY OF TUALATIN OREGON

BY  \_\_\_\_\_

Mayor

APPROVED AS TO LEGAL FORM

BY  \_\_\_\_\_

City Attorney

ATTEST

BY  \_\_\_\_\_

City Recorder

## INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made pursuant to the authority found in ORS 190.003-190.030 between City of Tualatin (hereinafter the AGENCY) and METRO.

### RECITALS

WHEREAS, the AGENCY is a political subdivision of the state of Oregon and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq; and

WHEREAS, METRO is a municipal corporation formed and operating under ORS Chapter 268 and the Metro Charter, and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.003-190.030; and

WHEREAS, the AGENCY desires to contract with METRO to remove (clean up) solid waste at camping sites established by homeless individuals on public property (campsite), to be performed by inmate work crews supervised and provided under contract to METRO by the Multnomah County Sheriff's Office (MCSO) and the Oregon Department of Corrections (ODOC); and

WHEREAS, METRO, through the MCSO and ODOC inmate work crews, is able and prepared to provide the services required by the AGENCY under the terms and conditions set forth in this Agreement; therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth below, and pursuant to the provisions of ORS 190.003-190.030, the parties agree to be bound as follows:

### CLEAN UP OF CAMPSITES

1. The representatives of the AGENCY, which are set forth in Attachment A, are authorized to submit written requests to METRO for METRO to clean up campsites. Attachment A may be amended from time to time by the parties without the need to amend this IGA. To amend Attachment A, AGENCY's City Manager, or designee, will send written or electronic notice of the updated names to METRO.
2. The AGENCY must post notice of the impending cleanup and follow all other procedures set forth in ORS 203.077, 203.079, and 377.653 before METRO arrives to clean up a campsite. If the quantity of solid waste at a site is substantial, METRO may, at its own discretion, require the AGENCY to provide one or more drop boxes at the site at the AGENCY'S expense in order for the cleanup to proceed. If a drop box is necessary, METRO will notify the AGENCY about the drop box requirement after the AGENCY submits the required form and schedules the cleanup date.

3. The AGENCY must submit all requests for METRO to clean up campsites in writing, using forms provided by METRO and substantially similar to Exhibit A to this Agreement. The AGENCY must submit the forms to METRO's Solid Waste Compliance and Cleanup Division no less than three days prior to the posting date to ensure METRO availability on the proposed cleanup date.
4. The AGENCY is responsible for assuring that campsites are vacated prior to the scheduled METRO cleanups. The AGENCY is responsible for determining and identifying what qualifies as "personal property" at the campsite as that term is defined in ORS 203.079.
5. METRO will clean up campsites as requested by the AGENCY provided that the AGENCY makes a written request under Paragraph 3 of this Agreement and provides all information METRO requires. A representative from the AGENCY must be present at the time of the cleanup unless other arrangements are agreed upon by both METRO and the AGENCY. If a representative is not present, METRO has no obligation to proceed with the clean up at the campsite. At the time of the cleanup, METRO will collect all items the AGENCY identifies as personal property and deliver them to the AGENCY for storage at the following location (see ORS 203.079(1)(d)).

Tualatin Police Department

8650 SW Tualatin Road

Tualatin, Oregon 97062

6. METRO may determine that the conditions at a campsite are too unsafe to complete the cleanup.
  - (a) The cleanup of campsites containing known or suspected hazardous materials is beyond the scope, skill, training, and experience of the MCSO supervised inmate work crews that are contracted by METRO to clean up campsites. METRO-contracted inmate work crews will not clean up any campsite where known or suspected hazardous materials are present. In the event a METRO-contracted inmate work crew discovers known or suspected hazardous materials at a campsite, the work crew supervisor must immediately cease cleaning up until the appropriate hazardous materials authority inspects the site and declares or makes it safe.
  - (b) METRO will not clean up campsites in which METRO determines, in its sole discretion, that conditions are unsafe. If a METRO-contracted inmate work crew discovers unsafe conditions at a campsite (including without limitation, difficult terrain, traffic safety issues, or the presence of homeless individuals), the work crew will immediately cease cleaning up until the site is inspected and the work crew supervisor determines that the site is safe to clean up.
  - (c) METRO will promptly notify the AGENCY of any campsite that METRO determines is too unsafe to clean up.

### CONTRACT COSTS

7. METRO is responsible for the costs it incurs in the performance of its responsibilities described in Paragraph 5 of this Agreement and for all other costs related to this Agreement that METRO directly incurs. The AGENCY is responsible for all costs it incurs in the performance of its responsibilities of this Agreement and for all other costs related to this Agreement that the AGENCY directly incurs.

### INDEMNIFICATION AND LIABILITY

8. Up to the limits of the Oregon Tort Claims Act and subject to limitations in the Oregon Constitution, the AGENCY agrees to indemnify, defend, and hold harmless METRO and METRO's officers, employees, contractors, and agents from all claims, suits, actions, and expenses of any nature resulting from, arising out of, or regarding:
  - (a) the acts, errors, or omissions of the AGENCY and its officers, employees, inmate work crews and agents, and METRO and its officers, employees, contractors and agents, acting pursuant to the terms of this Agreement; and
  - (b) any actual, alleged, or implied failure of the AGENCY, METRO, and the AGENCY's and METRO's officers, employees, or agents, to comply with the provisions of ORS 203.077 and 203.079, specifically including, but not limited to, a failure to properly post a removal notice or to accurately identify personal property at a campsite.

### DISPUTE RESOLUTION

9. If a claim, controversy, or dispute arises out of this Agreement, the complaining party must give written notification to the other party of the nature of the claim and the remedy requested within 10 days of the incident that forms the basis of the dispute.
10. The laws of the state of Oregon govern this Agreement. The parties agree to resolve all claims, controversies or disputes that arise out of this Agreement by arbitration in accordance with the arbitration rules of the Arbitration Service of Portland. The arbitration must take place in Portland, Oregon, unless the Parties mutually agree to another location. Any judgment upon the award rendered pursuant to the arbitration may be entered in any court having jurisdiction thereof.

### CONTRACT ADMINISTRATION

11. METRO designates its Property and Environmental Services Department Director or designee to represent METRO in all matters pertaining to this Agreement.
12. Except as provided in paragraphs 3 and 6(c), any notice or notices provided for by this Agreement or by law to be given or served upon either party must be given or served by certified letter, deposited in the U.S. mail, postage prepaid, and addressed to:

COPY

For the AGENCY

For METRO

Sherilyn Lombos  
City Manager  
City of Tualatin  
18880 SW Martinazzi Ave  
Tualatin, OR 97062

Roy W. Brower  
Solid Waste Compliance and Cleanup Director  
METRO  
600 NE Grand Avenue  
Portland, OR 97232

**CONTRACT TERM, MODIFICATION, TERMINATION AND OTHER STANDARD PROVISIONS**

- 13. This Agreement is effective beginning on the day it is fully executed by both parties and continues in effect through June 30, 2021, unless extended by written amendments signed by authorized representatives of both parties.
- 14. Either party to this Agreement may terminate the Agreement for any reason or no reason at all by giving the other party not less than 30 days written notice.
- 15. This Agreement constitutes the entire agreement between the parties. This Agreement may only be amended by written agreement of the parties. Any amendment to this Agreement becomes effective after it is signed by authorized representatives of both METRO and the AGENCY.
- 16. All terms and conditions necessary to be inserted into public contracts in the state of Oregon are hereby incorporated as if such provisions were a part of this Agreement. Specifically, it is a condition of this Agreement that the AGENCY and all employers working under this Agreement are subject employers that will comply with ORS 656.017.
- 17. The AGENCY may not assign, delegate, or subcontract any of its responsibilities under this Agreement without prior written consent from METRO.
- 18. If a court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable, the remainder of the Agreement is valid and enforceable to the full extent of the law.
- 19. This Agreement does not vest in any third party any rights, nor is it enforceable by any third party in any legal, equitable, or administrative proceeding whatsoever.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on the date written below.

AGENCY: City of Tualatin

METRO

By: 

By: \_\_\_\_\_  
Paul Slyman, Director  
Property and Environmental Services

Date: 7-11-16

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

By: Sherilyn Lombos

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

APPROVED AS TO FORM:  
AGENCY Attorney

APPROVED AS TO FORM:  
Metro Attorney

By: S-B  
Sean Brady  
City Attorney

By: \_\_\_\_\_  
Shane Abma  
Senior Metro Attorney

Date: 7-11-2016

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

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**ATTACHMENT A**  
**CITY OF TUALATIN IGA WITH METRO FOR CAMPSITE CLEANUP**

Name: Tom Steiger Signature: \_\_\_\_\_  
Title: Park Manager  
Phone: 503.691.3085 Email: tSteiger@ci.tualatin.or.us

Name: Bert Olheiser Signature: \_\_\_\_\_  
Title: Street/Sewer/Storm Manager  
Phone: 503.691.3096 Email: bolheiser@ci.tualatin.or.us

Name: Greg Pickering Signature: \_\_\_\_\_  
Title: Police Captain  
Phone: 503.691.4858 Email: gpickering@ci.tualatin.or.us

Name: Mark Gardner Signature: \_\_\_\_\_  
Title: Police Captain  
Phone: 503.691.4841 Email: mgardner@ci.tualatin.or.us