

**STATE OF OREGON
PARKS AND RECREATION DEPARTMENT
INTERGOVERNMENTAL AGREEMENT NO. 8276**

Inmate Work Crews for Various Locations within Willamette Mission Management Unit

This Agreement ("Agreement") is between the State of Oregon ("State") acting by and through its Oregon Parks and Recreation Department ("OPRD") and Yamhill County ("County"). Throughout the Agreement, OPRD and County are referred to individually as "Party" and collectively as "Parties."

1. **AUTHORITY.** Pursuant to ORS Chapter 190.110, in performing a duty imposed upon it, in exercising a power conferred upon it or in administering a policy or program delegated to it, a unit of local government or a state agency of this state may cooperate for any lawful purpose, by agreement or otherwise, with a unit of local government or a state agency of this or another state.
2. **BACKGROUND AND PURPOSE.** County is responsible for supervision and treatment of inmates in its care and custody. County desires to place selected minimum-security inmates in appropriate work situations to perform work for public benefit while providing opportunities for participating inmates to learn work skills and develop appropriate work habits. These training activities will aid the inmates in successfully re-entering society with practical skills and a viable work ethic.

OPRD is responsible for maintaining multiple state park properties within the Willamette Mission Management Unit. The park properties are located in Yamhill, Benton, Polk and Marion counties. The Parties have a mutual interest in the maintenance of these park properties and desire to cooperate in a program of resource sharing by having County inmate work crews perform maintenance work for OPRD to the benefit of both agencies.

3. **TERM OF AGREEMENT.** This Agreement is effective on the date it is signed by all Parties and continues in full force and effect until **June 30, 2021**. The Parties may extend the term of this Agreement for additional periods by written amendment in accordance with section 4.
4. **AMENDMENTS.** The Parties may amend this Agreement at any time during the term of the Agreement. No amendment is effective unless it has been reduced to writing, signed by all Parties, and all approvals required by applicable law have been obtained.
5. **AUTHORIZED REPRESENTATIVES.** Unless stated elsewhere in the Agreement, the individuals named below are the designated contacts for all activities relating to this Agreement.

OPRD

Kevin Strandberg, Park Manager
Willamette Mission Management Unit
10991 Wheatland Road NE
Gervais, OR 97026
503-393-1172 ext. 23 (office)
503-393-8863 (fax)
Kevin.strandberg@oregon.gov

COUNTY

Jessica Beach
Yamhill County Parks Director
615 NE Sixth Street
McMinnville, OR 97128
503-474-4942 (office)
503-472-5216 (fax)
beachj@co.yamhill.or.us

6. **NOTICES.** All notices ("Notice(s)") required under this Agreement will be in writing and addressed to the Party's appropriate Authorized Representative, as identified in section 5. Mailed Notices are deemed received five (5) days after mailing when properly addressed and deposited prepaid into the U.S. postal service. Faxed Notices are deemed received upon electronic confirmation of successful transmission to the designated fax number. E-mail Notices are deemed received upon electronic confirmation of receipt. Notices delivered by personal delivery are deemed received when delivered to the Authorized Representative personally or to the Authorized Representative's physical address specified above.

7. **STATEMENT OF WORK**

- 7.1 **Scope.** County shall provide minimum-security work crews to perform maintenance and landscaping tasks as requested by OPRD. The work will be performed at State Park locations in Yamhill County. If the Parties agree, work may also be performed at State Park locations in Benton, Polk and Marion counties.

Types of work to be performed by County generally includes the following:

- Mowing and trimming grounds;
- Trimming trees and shrubs;
- Planting trees and shrubs;
- Removing brush, overgrown vegetation, and invasive plants;
- Gathering, splitting and stacking firewood;
- Conducting maintenance on trails;
- Setting up day use areas, including moving tables and benches;
- Blowing, clearing debris, picking up litter
- Cleaning sidewalks, buildings and signs;
- Installing signs;
- Staining, scraping, cleaning and repainting buildings;
- Assisting park rangers with various building maintenance and repair projects;

The Parties may agree upon additional types of work that are similar in nature to the work described above.

7.2 **OPRD Responsibilities.** OPRD shall:

- Contact County's authorized representative when an appropriate work project is identified and work out a mutually agreeable schedule for the performance of County's services which allows time for the OPRD authorized representative to review the work.
- Submit to County's authorized representative a completed Work Order (Exhibit A) for each requested work project that includes the detailed specifications and requirements for the project.
- Authorize County to begin work after the Work Order is executed.
- Provide an authorized representative to inspect the work as needed.
- Submit to County's Authorized Representative written change orders for any additional work required beyond the original Work Order.

OPRD shall not provide supervision of the inmate work crew.

7.3 County Responsibilities. County shall:

- Perform the work described in each executed Work Order in accordance with the stated specifications, requirements, delivery schedule, and relevant industry standards.
- Provide all labor required to complete the requested work, including at minimum:
 - An inmate work crew of at least three (3) workers; and
 - An on-site work crew supervisor to directly supervise and direct the inmate work crew.
- Provide all equipment, tools, parts, materials and supplies required to complete the requested work.
- Keep a record of the work performed, including sufficient detail to substantiate invoices.

County shall **not** perform additional work for a project unless authorized by a written change order submitted by OPRD.

County shall **not** enter into any subcontracts for any of the work scheduled under this Agreement.

8. CONSIDERATION. OPRD shall pay County a rate of:

- \$300.00 per inmate work crew per eight-hour day for work performed by County in accordance with a Work Order.
- \$210.00 per inmate work crew of no less than two (2) workers for an eight-hour day for work performed by County in accordance with a Work Order.
- \$210.00 per inmate work crew per four-hour work day for work performed by County in accordance with a Work Order.

All payments are conditioned upon County's completion and OPRD's acceptance of the work. OPRD shall not reimburse County for any travel or other expenses under this Agreement.

8.1 Invoicing. County shall submit invoices to OPRD's Authorized Representative, not more than once per month, for work performed by County. Each invoice must contain sufficient detail of work performed, including at minimum: description of work, location of work, and date(s) work was performed, so that it can be reconciled with the appropriate Work Order and any change orders.

8.2 Payment. OPRD's Authorized Representative or designee shall review invoices received and contact County promptly to report any discrepancies. OPRD shall pay County within 30 days of receipt of invoice, unless OPRD has reported any discrepancy in which case payment will be made within 30 days of a corrected invoice. OPRD shall make payments in the form of a State of Oregon warrant payable to County. OPRD shall send payment to County at the address specified in the invoice. If OPRD fails to pay an invoice as set forth in this section, County may assess overdue account charges to OPRD in accordance with ORS 293.462.

8.3 Nonappropriation. OPRD's obligation to pay any amounts, perform any activities or provide any items under this Agreement with County is conditioned upon OPRD's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow

OPRD, in the exercise of its reasonable administrative discretion, to meet its obligations under the Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of OPRD.

- 9. EXCUSES FOR NON-PERFORMANCE.** Neither Party shall be held responsible for delay or failure to perform when such a delay or failure is due to lack of available work crew, 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 a Work Order, effective with the giving of written notice, after determining such delay or failure will reasonably prevent successful performance of the work described in the Work Order.

10. DEFAULT; REMEDIES

10.1 Event of Default. A Party will be in default under this Agreement if:

- (i) the Party commits any material breach or default of any covenant, warranty, obligation or other provision under this Agreement or fails to perform under this Agreement or a Work Order within the applicable time specified under this Agreement or a Work Order; and
- (ii) such breach, default or failure is not cured within 15 days after the other Party's notice.

10.2 Remedies. In the event a Party is in default under this Section, the other Party may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, without limitation, the remedies set forth below. These remedies are cumulative to the extent the remedies are not inconsistent, and the non-defaulting Party may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

- (i) termination of this Agreement or a Work Order;
- (ii) withholding all monies due under the Agreement;
- (iii) exercise any other remedy available in law or equity and is entitled to recover from the defaulting Party any and all damages arising from the defaulting Party's default, including any and all costs and expenses of performing the defaulting Party's unperformed obligations that gave rise to its default.

11. TERMINATION. Any termination shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

11.1 Termination by Mutual Consent. This Agreement and any Work Order may be terminated by mutual consent of the Parties at any time.

11.2 Termination by Either Party. Either Party may, in its sole discretion, terminate this Agreement upon ten days' written notice to the other Party's Authorized Representative.

11.3 Termination by OPRD. OPRD may, in its sole discretion, terminate this Agreement and any Work Order immediately upon written notice to County's Authorized Representative, or at a

later date as OPRD may establish in the notice, upon the occurrence of any of the following events:

- (i) OPRD fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow OPRD, in the exercise of its reasonable administrative discretion, to continue the operation of the Park or any other OPRD facilities or properties, or to meet its payment obligations under this Agreement; or
- (ii) Federal or state laws, regulations or guidelines are modified or interpreted in a way that the purchase of services by OPRD under this Agreement is prohibited; or
- (iii) County fails to provide services requested by OPRD under this Agreement within the timeframe specified in a Work Order or fails to comply with any other provisions of this Agreement, and fails to correct such failures within the required timeframe specified in a written notice from OPRD.

12. CONTRIBUTION

12.1 Liability of One Party. 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 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall 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. Each 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 Section 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.

12.2 Joint Liability. With respect to a Third Party Claim for which the Parties are jointly liable, each Party 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 Party in such proportion as is appropriate to reflect the Parties' relative fault. The Parties' relative fault 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 Party's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if that Party had sole liability in the proceeding.

13. DISPUTE RESOLUTION. The Parties should attempt in good faith to resolve any dispute arising out of or relating to this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

14. CONSENT TO JURISDICTION. Any claim, suit or action between the Parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the

jurisdiction of the Circuit Court of Marion County in the State of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each Party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue and waives any claim that such forum is an inconvenient forum.

15. **RECORDS RETENTION.** Each Party agrees to maintain records of costs and activities related to this Agreement and any Work Order and retain such records for (i) six years after expiration of the Agreement in accordance with OAR 166-300-0015; or (ii) until such date as may be required to complete any audit or to resolve any pending audit findings or other concerns.
16. **ACCESS TO RECORDS.** Each Party shall provide to the other Party, the Secretary of State's Office of the State of Oregon, and their duly authorized representatives, access to the books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts.
17. **INTEGRATION AND MERGER.** This Agreement, together with the Exhibit(s) attached hereto, 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.

Each Party, by the signature below of its authorized representative, hereby acknowledges that s/he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

In witness whereof, the Parties hereto have made, executed and delivered the Agreement as of the last date each signatory below has signed the Agreement.

Yamhill County (County)

By: [Signature] Chair, Yamhill County Commissioners 9/25/18 93-6002318
 Name/Title Date Federal ID #

State of Oregon acting by and through its Oregon Parks and Recreation Department (OPRD)

By: [Signature] District Manager 10/3/18 93-1018525
 Name/Title Date Federal ID #

Accepted by Yamhill County
 Board of Commissioners on
9/25/18 by Board Order
 # 18-349

**EXHIBIT A
WORK ORDER**

This Work Order is between the State of Oregon ("State") acting by and through its Oregon Parks and Recreation Department ("OPRD") and Yamhill County ("County") and hereby incorporates by this reference all of the terms and conditions contained in Agreement 8276 between OPRD and County.

TERM OF WORK ORDER. This Work Order is effective on the date it is signed by each Party's Authorized Representative below. No work shall be performed until this Work Order is effective and OPRD authorizes County to begin the Work. Unless amended or terminated earlier, this Work Order expires on the Work End Date below.

WORK TO BE PERFORMED

Work Start Date _____ Work End Date _____

Work Schedule OPRD's and County's Authorized Representatives will assign designees who will be responsible for scheduling, coordinating, monitoring, and documenting the work throughout the term of the Work Order.

Project Name _____

Project Location _____

Description of Work _____

Materials Provided by OPRD _____

Materials Provided by County _____

AUTHORIZATION OF WORK ORDER

By OPRD's Authorized Representative Date 10/3/18

By County's Authorized Representative Date 9/27/18