

THE STATE OF OREGON
COUNTY OF MARION

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF SALEM AND THE COUNTY OF MARION
FOR THE
2018 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This Agreement is made and entered into by the COUNTY OF MARION, acting by and through its governing body, hereinafter referred to as "COUNTY," and the CITY OF SALEM, acting by and through its governing body, hereinafter referred to as "SALEM," and referred to collectively herein as the "Parties," witnesseth:

WHEREAS, this Agreement is made under the authority of ORS 190.010 *et seq.*; and

WHEREAS, each party to this Agreement, in performing the governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

WHEREAS, each party to this Agreement finds that the performance of this Agreement is in the best interest of both parties and that the undertaking will benefit the public.

NOW THEREFORE, the Parties agree as follows:

Section 1.

Disbursal Of Funds. In anticipation of receiving the JAG allocation for SALEM and the COUNTY as listed on Exhibit "A" which is attached hereto and incorporated herein by this reference, SALEM, as the grant applicant and fiscal agent, agrees to disburse \$0 received from this JAG allocation to the COUNTY from a total award of \$75,866.00.

Section 2.

Indemnification. Subject to the limits imposed under the Oregon Tort Claims Act, each Party hereto agrees to indemnify, save, and hold harmless the other Party to this Agreement and their officers, agents, employees and volunteers from and against any and all claims, suits, demands, actions, losses, damages, liabilities, and costs and expenses of any nature whatsoever (including reasonable attorneys' fees and disbursements) resulting from or arising out of or relating to the activities of the indemnifying Party or any of its officers, employees, contractors, or agents acting under this Agreement. Each Party hereto shall give to the other Party notice in writing of any such claims, suits, demands, actions, losses, damages, or liabilities within twenty (20) days of the date that Party receives notice of any such claims. No Party hereto shall settle, compromise or take any action prejudicial to the other Party's defense of or interest in such claims without the express written consent of the potentially prejudiced Party. Notwithstanding any other provision of this section, if COUNTY fails to comply with the terms of this agreement or of any program requirements and grant provisions applicable to the JAG funds, and SALEM is required to repay a portion of the grant funds as a result of COUNTY's actions, COUNTY shall repay to SALEM, upon demand, the amounts paid by SALEM.

Section 3.

Trust Fund/Fiscal Agent. The Parties hereby agree that SALEM will administer the financial and programmatic functions assigned to the "fiscal agent" under the terms of the grant. To the extent required by JAG legislation: a) SALEM will establish a non-interest bearing trust account for JAG funds and make all decisions regarding administration of and distributions out of the fund; and b) SALEM will complete and submit quarterly financial reports and the annual performance report to the Bureau of Justice Assistance (BJA) as required. COUNTY hereby agrees to cooperate with and timely provide SALEM with the data necessary to complete any section of the quarterly financial and performance reports or the annual performance reports regarding COUNTY's activity. In addition, COUNTY shall submit to SALEM, the fiscal agent under the program, all information necessary to complete the preparation of the quarterly financial and program reports within five (5) calendar days after the end of each calendar quarter. These submissions shall begin once the award is accepted.

Section 4.

Each Party to this Agreement shall be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other Party.

Section 5.

By entering into this Agreement, the Parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

Section 6.

Effective Date, Term. This Agreement shall become effective upon the date of the last signature hereon, and shall continue until completion of the requirements of the Grant Award, unless sooner terminated as provided herein. The Agreement shall terminate immediately without notice being given by either Party if the Bureau of Justice Assistance fails to make a 2018 Edward Byrne Memorial Justice Assistance Grant award to the Parties for 2018.

Section 7.

Warranty of Parties. The COUNTY warrants that nothing in any of the COUNTY'S activities related to this Agreement are, or would result in, the breach of any state statutes, rules, program requirements and grant provisions applicable to the funds, and that if any of the COUNTY's activities related to this Agreement result in such a breach, the COUNTY shall be solely responsible for such breach, and shall hold SALEM harmless and indemnify SALEM for an amount equal to the maximum amount of liability for such breach. Nothing herein shall cause the COUNTY to be liable to (or require the COUNTY to indemnify and hold harmless) SALEM in the event that the breach, loss, damage or obligation is caused or contributed to by SALEM.

Section 8.

Compliance with Applicable Laws. The Parties agree that they will comply with any federal, state, and local laws, regulations, executive orders and ordinances that may be applicable to the work under this Agreement, including, but not limited to, program requirements and grant provisions applicable to the JAG funds, which by this reference are made a part hereof.

Section 9.

Records Maintenance; Access. The Parties hereby acknowledge and agree that they and their duly authorized representatives and the federal government shall have access to such fiscal records and other books, documents, papers, and writings of the other Party that are pertinent to this Agreement to perform

examinations and audits and make excerpts and transcripts. The Parties shall retain and keep accessible all such fiscal records, books, documents, papers, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later. Copies of applicable records shall be made available upon request.

Section 10.

The Parties agree that no person shall, on the grounds of race, color, creed, national origin, sex, marital status, age or physical or mental disability suffer discrimination in the performance of this Agreement when employed by Party. Parties agree to comply with all applicable requirements of state and federal civil rights and rehabilitation statutes, rules and regulations. Further Parties agree not to discriminate against minority-owned, women-owned, or emerging small businesses in awarding subcontracts as required by ORS 279A.110.

Section 11.

Agency. No Party to this Agreement, nor the officers, employees or agents of that Party are agents of the other Party. Each Party shall be separately and exclusively responsible for acts, errors, and omissions of its own officers, employees, and agents except to the extent provided under the indemnity provisions of this Agreement.

Section 12.

Entire Agreement. This Agreement sets forth the entire understanding between the Parties with respect to the subject matter of this Agreement.

Section 13.

Termination. This Agreement may be terminated by mutual agreement of all Parties at any time. Any Party hereto may terminate this Agreement for any reason deemed appropriate in its sole discretion by giving not less than thirty (30) days written notice to the other Parties.

Section 14.

Modification. This Agreement may not be altered, modified, supplemented, or amended in any manner whatsoever except by mutual agreement of the Parties set forth in writing and executed with the same formalities as this Agreement. Any such alteration, modification, supplementation, or amendment, if made, shall be effective only in the specific instance and for the specific purpose given, and shall be valid and binding only if signed by the Parties.

Section 15.

Notice. Any notice provided for under this Agreement shall be sufficient if in writing and (1) delivered personally to the other Party hereto; (2) sent by U.S. Mail to the other Party, postage prepaid, certified mail, return receipt requested; (3) sent overnight by commercial courier to the other Party; or (4) sent by facsimile transmission to the other Party, provided receipt of such facsimile is confirmed, in writing, on the first business day following the date of transmission. Notice shall be sent to the following addresses, or such other addresses as each party may specify in writing:

CITY OF SALEM
Steven D. Powers, City Manager
City of Salem
555 Liberty Street SE
Salem, OR 97301
Fax 503-588-6354

COUNTY OF MARION
John Lattimer, Chief Administrative Officer
County of Marion
555 Court Street NE
Salem, OR 97301
Fax 503-588-5237

Section 16.

Funds Available and Authorized. The Parties understand and agree that SALEM's payment of amounts under this Agreement is contingent on SALEM receiving from the Bureau of Justice Assistance funds and expenditure authority sufficient to allow SALEM, in the exercise of its reasonable administrative discretion, to make the payment under this Agreement.

Section 17.

Choice of Laws/Venue. This Agreement shall be governed and interpreted according to the laws of the State of Oregon, without regard to conflict of laws principles. Venue for litigation of any action regarding this Agreement shall be in the Circuit Court for Marion County, State of Oregon, unless the action is brought in federal court, in which case venue shall be in the federal district court for the District of Oregon. Each Party to this Agreement expressly waives any and all rights to maintain an action under this Agreement in any other venue.

Section 18.

Severability. The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

Section 19.

Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed in their respective names by their duly authorized representatives as of the dates set for below.

CITY OF SALEM, OREGON

COUNTY OF MARION, OREGON

City Manager

Chief Administrative Officer

Dated: _____

Dated: _____

RECOMMENDED BY:

Marion County Sheriff Date

APPROVED AS TO FORM:

County Legal Counsel Date

Marion County Contracts Date