

**Resolution No. 1394
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION AUTHORIZING THE CITY OF PRINEVILLE TO ENTER INTO AN
INTERGOVERNMENTAL AGREEMENT WITH CENTRAL OREGON
INTERGOVERNMENTAL COUNCIL FOR LABOR STANDARDS MONITORING FOR
PRINEVILLE SENIOR CENTER**

Whereas, City of Prineville (“City”) is a municipal corporation and unit of local government as defined in ORS 190.003 and Central Oregon Intergovernmental Council (“COIC”) is an intergovernmental entity organized pursuant to ORS 190.003-190.150; and

Whereas, City is the recipient of an Oregon Community Development Block Grant (OCDBG) #C17006 to fund the rehabilitation of the Prineville Senior Center, which is located at 180 NE Belknap Street, Prineville; and

Whereas, OCDBG rules and statutes require formal monitoring of construction activities and contractors for compliance with federal Davis Bacon labor standards and state of Oregon BOLI labor standard requirements; and

Whereas, COIC is qualified, experienced, and able to provide labor standards monitoring and compliance activities in support of public construction projects; and

Whereas, COIC has prepared an Intergovernmental Agreement (hereinafter “Agreement”), which provides that COIC provides labor standards monitoring for the Prineville Senior Center construction project for total compensation not to exceed \$16,000.00; and

Whereas, City staff believes it is in the best interest of the City to approve and execute the Agreement;

Now, Therefore, the City of Prineville resolves that the Intergovernmental Agreement attached to this Resolution between the City and COIC is hereby approved and that the City Manager is authorized and instructed to sign such Agreement on behalf of the City.

Approved by the City Council this ____ day of May, 2019.

Stephen P. Uffelman, Mayor

ATTEST:

Lisa Morgan, City Recorder

**INTERGOVERNMENTAL AGREEMENT
PRINEVILLE SENIOR CENTER
LABOR STANDARDS MONITORING**

PARTIES:

Central Oregon Intergovernmental Council
334 NE Hawthorne Ave.
Bend, Oregon, 97701

(“COIC”)

City of Prineville
387 NE 3rd Street
Prineville, OR, 97754

(“City”)

RECITALS:

- A. COIC is an intergovernmental entity organized pursuant to ORS 190.003 – 190.150.
- B. City is a municipal corporation and unit of local government as defined in ORS 190.003.
- C. City is the recipient of an Oregon Community Development Block Grant (OCDBG) #C17006 to fund the rehabilitation of the Prineville Senior Center, which is located at 180 NE Belknap Street, Prineville.
- D. OCDBG rules and statutes require formal monitoring of construction activities and contractors for compliance with federal Davis Bacon labor standards and state of Oregon BOLI labor standards requirements.
- E. COIC is qualified, experienced, and able to provide labor standards monitoring and compliance activities in support of public construction projects.
- F. City wishes to enter into an agreement with COIC to provide labor standards monitoring for the Prineville Senior Center construction project. The role of COIC is further defined as “Services” under the terms of this Agreement.

IT IS, THEREFORE AGREED:

1. Term

This agreement will be effective as of May 15, 2019. This is known as the Effective Agreement Date. No services shall be performed prior to the Effective Agreement

date. This agreement will continue until December 31, 2019, or earlier as specified in section 9 of this agreement.

2. Source of Funds

Work under this agreement will be funded in part with federal grant funds from the Oregon Community Development Block Grant program.

3. Incorporation of Grant

This Agreement shall be subject to all provisions, requirements, and conditions of Grant Contract Number C17006, attached as Exhibit D and incorporated herein. In the event that any term or provisions of this Agreement conflicts with Grant Contract Number C17006, the terms of the Grant Contract shall control.

4. Services.

Subject to the terms and conditions contained in this Agreement, COIC shall provide labor standards monitoring services for and on behalf of City as described in Exhibit A, Scope of Work, attached hereto and incorporated herein by reference.

5. Compensation

City shall compensate COIC for the performance of the Scope of Work as specified in Exhibit A. Specific compensation amounts and payment terms are detailed in Exhibit B, Payment for Work, attached hereto and incorporated herein by reference. Total compensation shall not exceed \$16,000.

6. Invoicing and Payment Schedule

Invoices and progress reports shall be submitted to City on or before the fifteenth of the month for expenses incurred during the previous month(s). City shall be allowed thirty (30) days from the date the invoice is received to compensate COIC, provided that the work performed and the invoice documentation provided by COIC is acceptable to City. Upon receipt of the invoice, City shall review the documentation submitted and may request additional information. If City does not request additional information within fifteen (15) days after receipt of the invoice, the invoice shall be deemed approved and payment shall be made. In the event that City requests additional information from COIC, City shall have fifteen (15) days from the date of receipt of the additional information to review the information. If COIC has provided the information requested, the invoice shall be deemed approved and payment shall be made. In the event COIC does not provide the information requested within thirty (30) days, City may deny the invoice or approve only the portion of the invoice which has been documented satisfactorily. Failure to pay an invoice when due shall constitute default. In the event of default, COIC may elect to suspend all professional services under this agreement until such invoice is paid in full and may elect to terminate this Agreement as of the 30th day of default.

7. Execution of Work.

COIC shall at all times carry on the work diligently, without delay, and punctually fulfill all requirements herein. The passage of the Agreement expiration date shall not extinguish, prejudice, or limit any party's right to enforce this agreement with respect to any default or defect in performance that has not been cured.

This Agreement outlines the entire relationship between COIC and City for purposes stated in Exhibit A, Scope of Work. This Agreement constitutes the entire Agreement between the parties concerning the subject matter hereof, and supersedes any and all prior or contemporaneous agreements or understandings between the parties, if any, whether written or oral, concerning the subject matter of this Agreement which are not fully expressed herein. This Agreement may not be modified or amended except by a writing signed by all parties.

8. Books and Records.

COIC shall keep proper and complete books of record and account and maintain all fiscal records related to this Agreement and the project in accordance with generally accepted accounting principles, generally accepted governmental accounting standards and state minimum standards for audits of municipal corporations. COIC acknowledges and agrees that City and its duly authorized representatives shall have access to the books, documents, papers, and records of COIC which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after the Agreement expiration date. Copies of applicable records shall be made available upon request. Payment for reasonable costs of copies is reimbursable by City. If for any reason any part of this Agreement is involved in litigation, COIC shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. Full access will be provided to City and to its duly authorized representatives in preparation for and during litigation.

9. Termination.

This Agreement may be terminated prior to the expiration date only by written mutual consent of all parties. If this Agreement is terminated prior to the end of the agreement period, COIC shall be compensated for work completed through the termination date as outlined in the Payment for Work, Exhibit B. If one party believes the other party to be in violation of this Agreement, that party shall notify the second party in writing of the circumstances leading to this conclusion. The party alleged to be in violation shall have 30 days to remedy the violation after which, if the violation continues to exist, the agreement will automatically terminate.

10. Litigation.

All claims, counterclaims, disputes and other matters in question between COIC and City arising out of, or relating to, this Agreement or the breach of it will be decided, if the parties mutually agree, by arbitration, mediation, or other alternative dispute resolution mechanism, or, if not so agreed, in a court of competent jurisdiction within the State of Oregon and Crook County. In the event of any dispute arising from this Agreement each party shall be required to pay its own separately incurred attorney's fees, expenses, and court costs, including arbitration, trial and appeal.

11. Indemnity and Insurance.

10.1 COIC agrees to indemnify, defend, and hold harmless City from all claims, lawsuits and actions of whatever nature brought against it which arise from COIC's performance or omissions under this Agreement. COIC shall not be required to indemnify City for any such liability arising out of negligent acts or omissions of City, its employees or representatives. Failure to supervise on the part of City shall not constitute a defense to the indemnity obligation imposed by this provision. This provision is subject to the limitations, if applicable, set forth in Article XI, Section 10 of the Oregon Constitution and in the Oregon Tort Claims Act, ORS 30.260 to 30.300.

10.2 COIC will obtain and maintain insurance policies that provide for adequate coverage for all risks normally insured against by a person carrying on a similar business in a similar location, and for any other risks to which COIC is normally exposed. COIC will have workers' compensation insurance in form and amount sufficient to satisfy the requirements of applicable Oregon law.

12. Successors & Assigns.

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns. After this Agreement is executed, COIC shall not enter into any new subagreements for any work scheduled under this Agreement or assign or transfer any of its interest in this agreement without the prior written consent of the City.

13. No Partnership.

COIC will act as an independent contractor for this project. This agreement is not intended to create a partnership or joint venture.

14. Compliance with Applicable Laws.

12.1 COIC agrees to comply with all federal, state, and local laws, ordinances, and regulations applicable to this agreement. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. COIC hereby consents to the personal jurisdiction of all courts within the State of Oregon.

12.2 COIC shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

15. Tax Compliance.

By signature on this agreement, COIC hereby certifies that it is not, to the best of its knowledge, in violation of any Oregon Tax Laws. For the purpose of this certification, "Oregon Tax Laws" are ORS Chapter 118, 119, 314, 316, 317, 318, 320, 321, and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); the Homeowner's and Renters Property Tax Relief Program under ORS 310.630 to 310.690; and any local tax laws administered by the Oregon Owner of Revenue under ORS 305.620.

16. 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 the agreement did not contain the particular term or provision held to be invalid.

17. Force Majeure.

No party shall be held responsible for delay or default caused by fire, riot, acts of God, and war which is beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligation under the agreement.

18. Waiver.

The failure of the City to enforce any provision of this agreement shall not constitute a waiver by City of that or any other provision.

19. Ownership.

City will have full access to, and rights to use, all documents prepared under this agreement.

20. Other Provisions.

COIC shall protect and indemnify City against any payroll taxes or contributions imposed with respect to any employees of COIC by any applicable law dealing with pensions, unemployment compensation, accident compensation, health insurance, and related subjects. COIC shall at COIC's own cost and expense insure each person employed by COIC the compensation provided for by law with respect to worker's compensation and employer's liability insurance.

21. Signatures

This Agreement may be signed in counterparts. A fax or email transmission of a signature page will be considered an original signature page. At the request of a party, the other party will confirm a fax or email transmitted signature page by delivering an original signature page to the requesting party.

22. Attachments

The following attachments are part of and applicable to this Agreement:

- Exhibit A – Scope of Work
- Exhibit B – Payment for Work
- Exhibit C – OCDBG Federal Clauses
- Exhibit D – OCDBG Grant Contract (C17006)
- Exhibit E – COIC Proposal

THIS AGREEMENT, WHICH INCLUDES ALL ATTACHED EXHIBITS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THE TERMS OF THIS AGREEMENT SHALL NOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED, OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT. SUCH WAIVER, 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 IT IS SIGNED BY ALL PARTIES TO THIS AGREEMENT. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS AGREEMENT EXCEPT AS SPECIFIED OR REFERENCED HEREIN. COIC AND CITY, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CENTRAL OREGON INTERGOVERNMENTAL COUNCIL

By _____ Date _____
Tammy Baney, Executive Director

CITY OF PRINEVILLE

By _____ Date _____
Steve Forrester, City Manager

EXHIBIT A SCOPE OF WORK

Background: The City of Prineville has received an Oregon Community Development Block Grant (CDBG) from the state of Oregon to fund the rehabilitation of the Prineville Senior Center facility, which is located at 180 NE Belknap Street, Prineville.

The Prineville Senior Center facility was constructed in 1964 as a bowling alley. It was remodeled into a senior center in 1979, with a second major remodel taking place in 2004 to expand the kitchen and dining room, among other improvements. The 13,125 square foot single story metal framed building is currently in need of repairs and upgrades to ensure that seniors have a safe, accessible and adequate senior center facility and that senior meal programs can be delivered safely and efficiently.

The City of Prineville will be rehabilitating the existing senior center facility through constructing a new roof, replacing the HVAC system, replacing leaking windows, constructing ADA compliant safe covered entries, replacing interior flooring, installation of new kitchen appliances, and reconstruction of the parking lot. The overall rehabilitation project cost is approximately \$970,000.

Construction is anticipated to begin on or around June 15, 2019, with a construction period of approximately five months. It is expected that contractor trades performing work on this project will include: general contractor, electrician, plumber, carpenters, HVAC, excavation, paving, roofer, painter, flooring installer, concrete work (ramps and sidewalks), metal fabricators/installers, asbestos abatement contractor and appliance installer and refrigeration for cooler/freezer.

Labor Standards Monitoring Requirements and Scope: COIC will manage the City's labor standards monitoring and compliance functions on the senior center rehabilitation project. COIC will work under the direct supervision of NeighborImpact (CDBG grant administrator).

COIC responsibilities:

- Participate in a project set-up meeting with CDBG grant administrator to clarify roles, responsibilities, processes and outcomes.
- Participate in pre-construction meeting with project owner, architect, prime contractor and subcontractors (grant administrator will lead the labor standards portion of the pre-construction meeting).
- General point of contact for contractor and subcontractor questions regarding Davis Bacon and/or Oregon Prevailing Wage Rate requirements, compliance and monitoring.
- Ensure required postings (wage decisions, Davis Bacon posters, etc.) on the project site.
- Participate in regular project meetings with the prime contractor and grant team (presuming twice monthly meetings).

- Conduct regular (weekly) on-site monitoring and worker interviews during the construction period. The CDBG program requires that interview forms be completed for a representative sample of all work classifications on the job and must be sufficient to establish the degree of compliance and to indicate the nature and extent of violations, if any. The minimum monthly requirement of worker interviews is at least one worker interview from every contractor represented on the job.
- Review of all weekly certified payroll reports (CPRs) to determine accuracy and completeness. Specific areas of CPR compliance monitoring shall include:
 - Worker classification
 - Wage rate by trade
 - Fringe benefit payment
 - Zone pay, if applicable
 - Overtime pay
 - Underpayment calculations
 - Collection of “no work” forms as needed
- Identify required remedies for worker underpayments and/or other compliance issues; communicate required remedies to contractors and document corrections/restitution.
- Produce monthly written status reports to grant administrator that include outcomes of CPR monitoring, dates and outcomes of onsite worker interviews, and any pending issues or corrections.
- Obtain and maintain project records to document CDBG compliance. Documents include:
 - Record of interviews (forms)
 - Contractor-Subcontractor agreement forms for all subcontractors
 - Documentation of bona fide fringe benefit plans, as applicable
 - Documentation of underpayment correction, including revised CPRs
 - Related correspondences and other documentation

EXHIBIT B
PAYMENT FOR WORK

B.1 Basis for Compensation

City agrees to compensate COIC up to a total not to exceed \$16,000 for work performed under this agreement. COIC shall invoice based on hourly rates for work performed as specified within COIC's RFQ memo dated March 28 (attached as Exhibit E):

Scott Aycock, CED Manager - \$102/hr
Susan Crowsigt, Fiscal Administrator - \$65/hr
Dana Greenwald, Program Assistant - \$63/hr

COIC shall invoice for mileage traveled to and from the construction site at the federal mileage rate of \$.58 per mile, which equates to \$41.76 for each round trip.

B.2 Payment for Services.

COIC may submit invoices on a monthly basis for work performed and payment will be made within 30 days of acceptance of work. Each invoice will be accompanied by a brief progress report reviewing progress on project tasks and expenses to date.

COIC's work shall be completed on or before December 31, 2019, unless an agreement extension modification is approved by City and COIC.

B.3 Changes in the Scope of Project.

City and COIC agree in accordance with the terms and conditions of this agreement that if the scope of the project is changed materially, COIC shall request in writing, before services are provided, an appropriate change in the amount of compensation.

B.4 Suspension or Abandonment of Project.

If the Project is suspended or abandoned in whole or in part for more than 45 days, COIC shall be compensated for all services performed prior to receipt of written notice from City of such suspension or abandonment. If the Project is resumed after being suspended for more than 45 days, COIC's compensation shall be reviewed with City and an adjustment made for the cost of restarting the project before work continues.