

**INTERGOVERNMENTAL AGREEMENT #3219
AMENDMENT #1**

Strike through text indicates removals and *italicized text* indicates additions.

~~This Agreement is made and entered into by and between Tillamook County, acting by and through its Board of Commissioners, hereafter County, and the Barney Reservoir Joint Ownership Commission, acting by and through its General Manager, hereafter BRJOC.~~

This Amendment between the Barney Reservoir Joint Ownership Commission, ("BRJOC"), an ORS 190 intergovernmental entity consisting of the Cities of Hillsboro, Forest Grove, Beaverton, the Tualatin Valley Water District and Clean Water Services (individually and collectively "BRJOC" unless specific otherwise), and Tillamook County, acting by and through its Board of Commissions, hereafter "County", changes certain contract provision of the above named contract ("Agreement"), during the contract term. The parties agree as follows:

RECITALS

A. The parties desire to ~~construct and~~ maintain an Emergency Warning System for Tillamook County residents who would be affected by a ~~break or~~ *imminent and potential dam failure of in the Barney Dam E.S. Mills Dam*. The Emergency Warning System (the "System") consists of:

- ~~• An information computer at the County's Emergency Management Center, and data link to the Joint Water Commission Water Plant;~~
- ~~• A National Weather Service Weather Radio transmitter at Cape Meares and weather radios for affected County residents; and~~
- ~~• An Emergency alarm sirens along the Trask River Road, seven (7) sirens in total starting at the County's Trask River County Campground Park.~~

~~**B.** The total reasonable construction and maintenance costs will be provided by BRJOC.~~

~~**C.B.**~~ The purpose of this Agreement is to set forth the rights , duties and responsibilities of the parties in constructing and maintaining the Emergency Warning System.

AGREEMENT

The parties agree as follows:

1. Effective Date: This Agreement shall become effective upon execution by both parties. *This Amendment changes the contract termination date for the "initial period" to December 31, 2027. This Agreement shall thereafter automatically renew for up to two (2) additional five (5)-year periods unless either party receives written notice of the other's request to amend or notice to terminate the Agreement no later than ninety (90) days prior to the date of expiration of the period then current.*

2. County Rights and Responsibilities: The county agrees to assist BRJOC in the implementation of this Agreement , with the primary responsibility for carrying out this

Agreement lying with BRJOC. In particular, the County agrees to:

~~2.1~~ — Provide a preliminary list of residents who might be affected by dam-inundation, primarily along both banks of the Trask River from the Johnson bridge up to the state lands in Range 7 West.

~~2.2~~ — Facilitate a grant of easement to BRJOC from the Oregon Department of Forestry for installation and maintenance of the alarm siren at Trask Park. This easement shall include the area of the pole-mounted siren and the underground power conduit from the well house, as shown in Figure 1.

~~2.3~~ — Allow BRJOC to improve the existing Weather Radio transmitter now located at the Tillamook General Hospital, and relocate it to the Cape Meares commercial radio site.

~~2.4~~ — Allow BRJOC to locate a desktop computer, connected to existing telephone lines and the uninterruptable power source, and a satellite telephone transceiver in the Emergency Operations Center and locate a fixed satellite antenna on the roof of the Justice Center.

~~2.5~~ **2.1** Allow BRJOC to use the County Public Works radio from the 9-1-1 Center to activate the Trask Park siren Emergency Warning System. BRJOC has executed an agreement with the 9-1-1 Center owner, Tillamook County Emergency Communications District, authorizing this provision.

~~2.5~~ — Assist BRJOC in distributing weather radios to and educating the affected County residents along the Trask River by:

~~2.5.1~~ — providing surveying, notification, education, distribution and weather radios installation services; and

~~2.5.2~~ — storing and distributing radios and educating new residents who locate in the affected area before January 1, 2001.

~~2.6~~ — Provide written informational material to residents who locate in the affected area after January 1, 2001 concerning the potential hazards, the emergency warning systems and the NOHA weather radio system.

2.2 Provide a preliminary list of residents who would be affected by dam failure. Provide a GIS file of residents along the Trask River Road who are within the potential inundation zone.

3. BRJOC Rights and Responsibilities: BRJOC agrees to construct and maintain the Emergency Warning System described above, and, in particular, to:

3.1 BRJOC staff will obtain GIS records and County records to develop a list of Tillamook County residents along the Trask River Road. Retain CH2MHill to review the preliminary list of affected Trask River residents and determine a final list of residents who live within the inundation zone. The final list compiled by CH2MHill shall thereafter be submitted to County for review.

~~3.2~~ — Design and submit the Trask Park alarm siren construction plans to County for approval.

~~3.3.2~~ Construct, inspect, maintain and test the Trask Park alarm siren.

~~3.4~~ — Determine improvements and relocation plans for County's Weather Radio transmitter and submit plans to County for approval.

~~3.5~~ — Construct and maintain the Weather Radio transmitter at the Cape Meares radio site.

~~3.6.3~~ *Maintain a c*Contract with the Cape Meares site owner for a installation and lease for the weather radio transmitter operation; and pay the monthly lease fee.

~~3.7.3.4~~ *Provide and maintain satellite telephone and any corresponding equipment and train the Emergency Operations Center staff in use of the satellite telephone. Provide and maintain computer hardware and software, and train the Emergency Operations Center staff in use of the data system over the Internet, long distance lines and satellite telephone.*

~~3.8~~ — Contract with a local Internet service provider and a satellite service provider for service to the Emergency Operations Center and pay the monthly service charge.

~~3.9~~ Coordinate techniques and procedures for activation of the Trask Park siren by the 9-1-1 Center.

~~3.10~~ — Survey residential locations to determine who might be affected and who might need supplemental antennas to receive the weather radio signal.

~~3.11~~ — Educate residents on the use and installation of weather radios and provide, program and assist residents with installation of weather radios. Provide supplemental antennas and installation, where needed.

~~3.12~~ — Prepare the written informational material described in paragraph 2.7 and submit the material to County for its approval and use.

4. Indemnification. Subject to the limitations of the Oregon Constitution, BRJOC shall indemnify and hold County harmless from and against any and all claims, actions, losses, liabilities and costs arising out of, or related to, the parties' respective responsibilities under this Agreement, including any such claim, loss or liability that may be caused or contributed to, in whole or in part, by the County's negligence.

5. Term and Termination. This Agreement shall remain in full force and effect unless terminated as set forth herein.

5.1 Without Notice. This Agreement shall terminate without any requirements of notice to either party when the parties mutually consent to termination in writing.

5.2 With Notice. This Agreement may also be terminated in the event of a default upon 30 days prior written notice by either party, and prior written notice shall be served, as required below, in the event the other party is in default.

5.3 Default. "Default" accrues when either party fails to comply with any term or condition or to fulfill any obligation of the agreement within 30 days after written notice is received from the other party specifying the nature of the default with reasonable particularity. If the default is of a nature that cannot be cured completely within the 30-day period, the party receiving the notice shall be deemed to have complied with this paragraph if correction begins within the 30-day period and proceeds with reasonable diligence and in good faith to fully comply.

6. General Provisions.

6.1 Waiver, Modification, Assignment. Failure by either party to strictly enforce any provision of this Agreement does not constitute a waiver or continuing waiver of that provision, any other provision, or the entire agreement. The rights and duties under this Agreement shall not be modified, delegated, transferred or assigned, except upon the written, signed consent of both parties.

6.2 Parties. This Agreement is solely between County and BRJOC and the obligations of this Agreement may only be enforced by the parties. This Agreement shall not be interpreted to confer any benefit or right upon any other individual or entity nor to create any right in third parties to bring a claim based on or arising in any way out of this Agreement.

6.3 Legal Representation. In entering into this Agreement, each party has relied solely upon the advice of their own attorney. Each party has had the opportunity to consult with counsel or now waives that right. Both parties represent and warrant that they are fully satisfied with the representation received from their respective attorneys.

6.4 Notices. Any notice required or permitted under this Agreement shall be in writing and deemed given when:

6.4.1 actually delivered, or

6.4.2 three days after deposit in United States certified mail, postage prepared, addressed to the other party at their last known address.

BRJOC:

Contract Administrator: Heather Knapp, Management Analyst

Address: 390 W Main Street, Hillsboro, OR 97123

Telephone: 503-615-1042

Email: heather.knapp@hillsboro-oregon.gov

County:

Contract Administrator: Randy Thorpe, Emergency Management Director

Address: 201 Laurel Ave., Tillamook, OR 97141

Telephone: 503-842-3412

Email: rthorpe@co.tillamook.or.us

6.5 Succession. Subject to the stated limitation on the transfer of either party's interest, this Agreement shall be binding upon, and inure to the benefit of, the parties, their successors and/or assigns.

6.6 Integration, Time of Essence. This Agreement supersedes all prior oral or written agreements between the parties regarding this project. It represents the entire agreement between the parties . Time is of the essence in this Agreement.

6.7 Savings. Should any clause or section of this Agreement be declared by a court to be void or voidable, the remainder of this Agreement shall remain in full force and effect.

6.8 Jurisdiction; Law. This Agreement is executed in the State of Oregon, and is subject to Oregon law and jurisdiction Venue shall be in Tillamook County, unless otherwise agreed by the parties.

6.9 Language. The headings of the Agreement paragraphs are intended for information only and shall not be used to interpret paragraph contents . All masculine, feminine and neuter genders are interchangeable. All singular and plural nouns are interchangeable unless the context required otherwise.

6.10 Fees. Neither party shall owe the other any fees or charges for performing each parties' respective responsibilities under this Agreement.

7. Dispute Resolution. In the event a dispute relating to this Agreement arises, the parties may submit such dispute first to mediation. Should both parties agree to resolve a dispute through mediation, the proceedings shall be held in Tillamook County, Oregon, unless otherwise agreed by the parties. If either party does not agree to mediation, then such dispute shall be tried before a court of competent jurisdiction.

EACH PARTY REPRESENTS TO THE OTHER BY THEIR SIGNATURES BELOW THAT EACH HAS READ, UNDERSTANDS AND AGREES TO ALL THE COVENANTS, TERMS AND CONDITIONS OF THIS AGREEMENT. EACH PARTY REPRESENTS TO THE OTHER TO HAVE ACTUAL AND/OR APPARENT AUTHORITY TO BIND THEIR RESPECTIVE LEGAL PERSONS, CORPORATE OR OTHERWISE, IN CONTRACT.

Dated this ____ day of _____, 2023.

BARNEY RESERVOIR JOINT OWNERSHIP COMMISSION

Niki Iverson, General Manager

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Dated this ____ day of _____, 2023.

THE BOARD OF COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

	Aye	Nay	Abstain/Absent
_____ Erin D. Skaar, Chair	___	___	___/___
_____ Mary Faith Bell, Vice-Chair	___	___	___/___
_____ David Yamamoto, Commissioner	___	___	___/___

ATTEST: Tassi O'Neil,
County Clerk

APPROVED AS TO FORM:

By: _____
Special Deputy

William K. Sargent,
County Counsel