



RESOLUTION 2017-040

AUTHORIZING THE CITY MANAGER TO SIGN AN IGA WITH THE BROADBAND USERS GROUP FOR TELECOMMUNICATION SERVICES

WHEREAS, the City of Sherwood seeks to become a member of the Broadband Users Group for the purposes of sharing telecommunication services; and

WHEREAS, the City of Sherwood requires a telecommunication connection to connect to services provided by various Washington County agencies; and

WHEREAS, the Broadband Users Group has created a shared telecommunications network to facilitate the telecommunications needs of public agencies; and

WHEREAS, the Broadband Users Group can provide a telecommunication connection that would connect the City of Sherwood to needed services; and


WHEREAS, the membership has a one-time cost of \$30,750 and an annual recurring cost of \$8,085.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. That the City Manager is authorized to execute the Intergovernmental Agreement (IGA) with the Broadband Users Group for telecommunications services, attached as Exhibit A.

Section 2. This resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 6th of June, 2017.


Krisanna Clark, Mayor

Attest:


Sylvia Murphy, MMC, City Recorder

INTERGOVERNMENTAL AGREEMENT BROADBAND USER'S GROUP (BUG)

Shared Use of Public Communication Network, Internet Access, Communication Devices and Communication Equipment

FINDINGS

This Intergovernmental Agreement (Agreement) is between the units of local government listed in Exhibit A that is incorporated by reference. Each entity listed is a Participant.

A. ORS 190.010 authorizes the Participants to provide shared use of the public communication network, internet access, communication devices and communication equipment among the Participants referred to as the Broadband Users Group (BUG); and,

B. The Intergovernmental Agreement "Shared Use of Public Communications Network, Internet Access, Communication Devices and Computer Equipment." (Original Agreement) is terminated and replaced by this Agreement

AGREEMENT

1. Broadband Users Group Established

1.1. The Broadband Users Group (BUG) is established.

2. Purpose

- 2.1. The BUG is formed to foster collaboration between the Participants including the shared use of the Public Communications Network, internet access, communication devices and communication equipment. The BUG may exercise any of the powers, rights, duties necessary to carry out the purposes of this Agreement including the authority to expend funds necessary to perform the following:
- 2.1.1. Shared usage of advances in technology, internetworking resources and interoperability solutions;
 - 2.1.2. Shared equipment and services associated with agency interconnects and shared internet access;
 - 2.1.3. Shared cost of the acquired equipment, internet workings and interoperability solutions;
 - 2.1.4. Development of internal expertise, including personnel, to share among the Participants;
 - 2.1.5. Provision of a best practices frame-work for Participants to follow for secure internetwork configuration management and equipment and resources for centralized access to the internet;
 - 2.1.6. Becoming a model for units of local government in sharing the technology, expertise and cost to benefit the citizens and taxpayers of the Participants;
 - 2.1.7. Maintaining secure computer connections to the shared broadband infrastructure in accordance with this Agreement; and;

- 2.1.8. Use of the shared Wide Area Network in a manner that will not impair other Participants' use of the Wide Area Network and the internet connection.

3. Definitions

3.1. As used in this Agreement, the following terms mean:

- 3.1.1. Broadband Users Group (BUG): The collective group of Participants with the responsibilities stated in sections 4, 5 and 6 of this Agreement.
- 3.1.2. Governing Board (GB): The BUG GB members are Participant representatives with the responsibilities set forth in section 4 of this Agreement.
- 3.1.3. Executive Committee (EC): The BUG EC members are Participant representatives with the oversight responsibilities set forth in section 5 of this Agreement.
- 3.1.4. Fiscal Year: The BUG fiscal year shall be July 1 to June 30 of each calendar year.
- 3.1.5. BUG Operations Team (BOT): The BOT team members are Participant representatives with the operating responsibilities set forth in section 6 of this Agreement.
- 3.1.6. Participant of BUG: Participants shall make payments to the BUG as stated in the standard schedule attached as Exhibit B to this Agreement. Participants have representation on the GB and the BOT, vote on all BUG matters and may propose items for any GB or BOT meeting agenda.
- 3.1.7. Provisional Participant of BUG: Provisional participants shall make payments to the BUG as stated in the special schedule attached as Exhibit C to this Agreement. Provisional participants may not vote on BUG matters. They are normally small agencies with reasons to join BUG, but who lack the financial ability or internal support resources required to be a Participant.
- 3.1.8. Public Communications Network (PCN): The public fiber network owned/operated by Comcast Cable, as a requirement of their franchise with the Metropolitan Area Communications Commission (MACC), which was built to provide service within the MACC member jurisdictions.
- 3.1.9. Lead Administrative Agency: The agency that houses, maintains, and configures shared physical assets and handles administrative and financial functions for the BUG.
- 3.1.10. Written Notice: Includes paper (via USPS or hand delivery), facsimile, or successful email transmission. However, all notices of termination or withdrawal from BUG must be in writing on the Participant's official letterhead and must be delivered via USPS or by hand.

4. Governing Board

- 4.1. The GB shall be composed of the chief executive officer or designee of each Participant entity.
- 4.2. The GB is responsible for:
 - 4.2.1. Review and approve BUG strategic plans, goals and objectives and annual work plans recommended by the EC and prepared by the BOT,
 - 4.2.2. Review and approve the annual budget, related fee schedules, and other fiscal documents recommended by the EC and prepared by the BOT,
 - 4.2.3. Approve the addition or expulsion of Participants,

- 4.2.4. Approve selection of the Lead Administrative Agency,
 - 4.2.5. Review and approve the standard and special schedules once a year (see Exhibits B & C), and,
 - 4.2.6. Approve the Service Level Agreement (SLA) with the Lead Administrative Agency.
- 4.3.A majority of the GB members constitutes a quorum at any special or regular meeting.
- 4.4.The GB will adopt rules governing its procedures including the time and place of its regular quarterly meetings, and a procedure for calling special meetings.
- 4.5.The GB will elect a Chair and Vice Chair by a simple majority vote of the members; however, neither the Chair nor the Vice Chair may be the chief executive officer or designee of the Lead Administrative Agency. The terms will be for two years, with elections held at the first meeting in even numbered fiscal years. The Vice-Chair will preside and act in the absence of the Chair. The Lead Administrative Agency will be the Clerk of the GB and is responsible for providing notices of meetings and keeping of minutes. Any permanent vacancy in the positions of Chair or Vice-Chair shall be filled by a special election of the GB held at a regular or special meeting of the GB.
- 5. Executive Committee**
- 5.1.The EC shall consist of 5 members of the GB. These members shall include: the Chair of the GB; the GB representative from Washington County; the GB representative from Washington County Cooperative Library Services; one (1) GB representative selected by the special district representatives; and one (1) GB representative selected by the municipal government Participants. If the GB Chair is the representative from Washington County, Washington County Cooperative Library Services, or a special district then the membership on the EC normally designated for that group or entity shall be a GB representative from a second municipal government Participant. At no time shall any Participant have more than 1 representative on the EC. Except for the EC Chair, all other members shall be appointed to serve for one fiscal year and may serve more then one term.
- 5.2.The EC is responsible for:
- 5.2.1. Review and recommend to GB strategic plans, goals and objectives and annual work plans prepared by the BOT,
 - 5.2.2. Review and recommend to GB the annual budget, related fee schedules and other fiscal documents prepared by the BOT,
 - 5.2.3. Recommend to GB the addition of new Participants, or the expulsion of current Participants,
 - 5.2.4. Recommend to GB the approval of the selection of the Lead Administrative Agency,
 - 5.2.5. Review regular BOT updates regarding status and issues related to BUG operations and recommend to GB required action if appropriate, and
 - 5.2.6. Review and recommend SLA with Lead Administrative Agency.
- 5.3.A majority of the EC members constitutes a quorum at any special or regular meeting.
- 5.4.The EC will adopt rules governing its procedures including the time and place of its regular meetings, and a procedure for calling special meetings.
- 6. BUG Operations Team**

- 6.1. The BOT shall have one representative appointed by each Participant, and each representative has one vote.
 - 6.2. The BOT will nominate and elect a Chair, Vice Chair, and Secretary for two year terms. The Vice Chair will preside and act in the absence of the Chair.
 - 6.3. A majority of the BOT members constitutes a quorum.
 - 6.4. The BOT will meet at least quarterly at a time and place designated by the Chair. All meetings require at least seven days written notice to all BOT members. Special meetings of the BOT may be called by the Chair or any two members upon at least seven days prior written notice to all BOT members.
 - 6.5. The BOT is responsible for BUG operational decisions and for making recommendations to the EC regarding:
 - 6.5.1. Strategic plans, goals and objectives,
 - 6.5.2. Policy and Procedures Manual,
 - 6.5.3. Performance standards for service levels,
 - 6.5.4. Annual budgets, related fee schedules and fiscal documents,
 - 6.5.5. Approval of all BUG contracts within budget authority,
 - 6.5.6. Coordination of BUG technical operations, and
 - 6.5.7. Participants and provisional participants.
 - 6.6. The BOT may appoint committees for research and review of technical and other issues. These committees may provide recommendations to the BOT and EC.
- 7. Lead Administrative Agency**
- 7.1. The GB will select and appoint a Lead Administrative Agency based upon administrative and technical competence related to BUG operations. The Lead Administrative Agency until changed is the City of Hillsboro (Hillsboro).
 - 7.2. The Lead Administrative Agency provides technical support for all BUG assets. All assets are installed, maintained, and configured by the Lead Administrative Agency Personnel. The Lead Administrative Agency's responsibilities in this role will be defined by an annual SLA between the Lead Administrative Agency and the GB.
- 8. Funding BUG Expenses**
- 8.1. The services of the Lead Administrative Agency and other BUG expenses will be funded with dues set by the Fee Schedules contained in Exhibits B and C paid by Participants and Provisional Participants.
- 9. Procedures Manual**
- 9.1. The BOT will consider and adopt procedures for the BUG and will incorporate them into a Procedures manual. The GB has oversight authority and final editorial control over this manual.
- 10. Additional Participants**
- 10.1. The GB will develop methods for extending participation to additional local governments and agencies. New Participants will be accepted into the BUG only upon recommendation of BOT and approval of two thirds of the GB.
- 11. Duration, Withdrawal, Expulsion, Termination, and Ownership**
- 11.1. Each Participant owns an undivided common interest in BUG assets including equipment and software purchased and installed for common use after January 1st, 2008, and in all unexpended and unencumbered funds held by the Lead Administrative Agency for BUG, in the same proportion as the Participant pays current annual fees.

- 11.2. This Agreement and the BUG will continue for 5 years. A Participant may withdraw from the BUG by giving at least 180 days written notice of its intent to withdraw to the GB Chair. The written notification (not email) must include a transition plan developed by the withdrawing Participant to allow the orderly and coordinated ending of all BUG related services. The withdrawing Participant is responsible for the transition plan that must include: 1) an inventory listing each BUG related interconnectivity requirement with certification that each is addressed prior to disconnection, 2) a written summary of a meeting with the Lead Administrative Agency to review termination requirements, and 3) a timeline for withdrawing based on that meeting with the Lead Administrative Agency.
- 11.3. The 180 day notice begins upon receipt of the complete written notification by the Lead Administration Agency. After the notice period, the withdrawal will not be effective until the withdrawing Participant has paid the full fee for the entire fiscal year in which its request becomes final. Upon withdrawal, the former Participant is not entitled to a refund of any amounts for start-up, maintenance, or continuing costs, whether or not any amount is unencumbered or unexpended. Upon withdrawal, the former Participant has no financial obligations to BUG for future dues, but forfeits any claims for goods or services purchased (or held for future purchases) under this Agreement.
- 11.4. A Participant may withdraw from the BUG without written notice as provided in section 11.2 only with the consent of all remaining Participants.
- 11.5. If any Participant fails to pay dues or acts in any manner inconsistent with the good faith duties and obligations of a Participant in the BUG by violating the rules and procedures outlined in the Procedures Manual and not acting to correct any violations in a timely manner, the EC may, at a meeting called solely for that purpose, consider and recommend to the GB that a Participant's membership be terminated for default. The recommendation shall specify the reasons for the termination. A vote to terminate a membership requires unanimous approval of the EC; provided however, that the Participant, if a member of the EC, shall be excluded from the calculation. Upon the GB receiving a recommendation for termination, the GB, upon not less than 10 days notice to the Participant, which notice includes a copy of the EC recommendation, shall hold a meeting, special or general, to consider whether or not termination will best serve the interests of the BUG. At such meeting, the EC representative shall present the issues to the GB, and the Participant shall be provided an opportunity of not less than 30 minutes, but otherwise at the discretion of the GB Chair, to address the GB and respond to the allegations. A vote to terminate requires 75% of the GB. The Participant will be excluded from the 75% calculation. Any termination shall be effective immediately, and the Participant shall be treated as a withdrawing Participant for all other purposes.
- 11.6. The BUG and this Agreement may be terminated upon mutual agreement of all Participants. At the time of termination, all Participants are entitled to a share of the proceeds of sale of BUG assets including equipment and software and any unexpended and unencumbered funds held for use by BUG in the same proportion as their ownership interests.

12. Remedies

12.1. If a Participant attempts to withdraw from the BUG but fails to follow the notice process required by section 11.2 or to obtain the consent authorized by section 11.4, the Participants agree that the liquidated damages for such action will be not less than the withdrawing Participant's share of the BUG annual operation costs for the next fiscal year, as determined by the current BUG Fee Schedule.

12.2. If any Participant files a legal action to enforce this Agreement, the prevailing party is entitled to reasonable attorney fees and costs, including any fees and costs incurred in an appeal, and as determined by the appropriate court.

13. Liability and Indemnification

13.1. To the extent allowed by Oregon law each Participant agrees to be responsible for the consequences of any wrongful acts of their employees or agents that affect any other Participant or a person not a party to this Agreement and each Participant agrees to hold harmless, defend and indemnify each other Participant, including its officers, employees and agents against all claims, demands, actions or suits (including all attorney fees and costs) arising from this Agreement where the loss or claim is attributable to the acts or omissions that Participant.

13.2. Each Participant agrees to hold harmless the BUG, GB, EC, BOT and the Managing Agency for any system outage whether planned or accidental.

14. Amendments

14.1. This Agreement may only be changed, modified, or amended in writing by agreement by at least three-quarters of the Participants.

15. Effective Date

15.1. This Agreement becomes effective for all Participants who have authorized it when it has been authorized by resolution of three-quarters of the governing bodies of the Participants identified in Exhibit A. Any local government desiring to join the BUG may do so in accordance with section 10.

16. Prior Agreements

16.1. Upon its effective date, this Agreement supersedes previous BUG Intergovernmental Agreements, specifically, the Original Agreement.

17. Severability

17.1. The terms of this Agreement are severable and a determination by an appropriate body having jurisdiction over the subject matter of this Agreement that results on the invalidity of any part does not affect the remainder of the Agreement unless the surviving agreement materially changes the consideration for any other Participant's entry into the agreement.

18. Interpretation

18.1. The terms and conditions of this Agreement will be liberally construed under Oregon law in accordance with the general purposes of this Agreement.

APPROVED AND SIGNED by the appropriate officers who are authorized to execute this Agreement on behalf of the governing body of each Participant.

Dated this _____ day of _____, 2008

City of Beaverton

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Cornelius

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Forest Grove

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Hillsboro

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of King City

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Lake Oswego

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Tigard

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Tualatin

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

Clean Water Services

CWS Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

Tualatin Valley Fire & Rescue

TVF&R Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

Washington County/WCCLS

WC Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

WCCCA

WCCCA Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

MACC

MACC Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Banks

City of Banks Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of North Plains

City of North Plains Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

THPRD

THPRD Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 201_

Banks Fire District 13

Banks Fire District 13 Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 201_

City of Sherwood

City of Sherwood Attorney
APPROVED AS TO FORM

EXHIBIT A
PARTICIPANTS

City of Beaverton

City of Cornelius

City of Forest Grove

City of Hillsboro

City of King City

City of Lake Oswego

City of Tigard

City of Tualatin

Clean Water Services

Metropolitan Area Communications Commission

Tualatin Valley Fire & Rescue

Washington County

Washington County Consolidated Communications Agency

Washington County Cooperative Library Services

City of Banks (Provisional)

City of North Plains (Provisional)

Tualatin Hills Parks and Recreation District

EXHIBIT B
Standard Schedule for Participants

The GB will approve the annual BUG budget in accordance with section 4 no later than December 15th of each year.

Participant payments will be due and payable on August 15th of each year of the Agreement.

The Lead Administrative Agency will invoice Participants no later than July 15th for the fee for the upcoming year.

Usage fees will be determined by the GB in accordance with section 4 no later then December 15th of each year.

Example of Annual Payment matrix based on annual internet usage follows:

Partner Payments (Usage)				
Agency	Percentage	Partnership	Usage	Total
Washington County	27.33%	\$ 6,000.00	\$ 22,276.67	\$ 28,276.67
WCCLS	33.33%	\$ 6,000.00	\$ 27,166.67	\$ 33,166.67
Hillsboro	9.33%	\$ 6,000.00	\$ 7,606.67	\$ 13,606.67
Beaverton	4.67%	\$ 6,000.00	\$ 3,803.33	\$ 9,803.33
Clean Water Services	6.67%	\$ 6,000.00	\$ 5,433.33	\$ 11,433.33
TVF&R	5.33%	\$ 6,000.00	\$ 4,346.67	\$ 10,346.67
Lake Oswego	4.67%	\$ 6,000.00	\$ 3,803.33	\$ 9,803.33
Tigard	2.67%	\$ 6,000.00	\$ 2,173.33	\$ 8,173.33
Forest Grove	1.33%	\$ 6,000.00	\$ 1,086.67	\$ 7,086.67
Tualatin	1.33%	\$ 6,000.00	\$ 1,086.67	\$ 7,086.67
WCCCA	2.00%	\$ 6,000.00	\$ 1,630.00	\$ 7,630.00
MACC	0.67%	\$ 6,000.00	\$ 543.33	\$ 6,543.33
Cornelius	0.67%	\$ 6,000.00	\$ 543.33	\$ 6,543.33
King City	0.00%	\$ 6,000.00	\$ -	\$ 6,000.00
Total	100.00%	\$ 84,000.00	\$ 81,500.00	\$ 165,500.00

EXHIBIT C
Special Schedule for Provisional Participants

The Special Schedule for Provisional Participants will follow the Standard Schedule in Exhibit B unless modified by the GB in accordance with this Agreement.