

ACCESS AND INDEMNIFICATION AGREEMENT

**THIS ACCESS AND INDEMNIFICATION AGREEMENT** (this "Agreement") is made and entered into as of the 28<sup>th</sup> day of July, 2011 by and between \_\_\_\_\_, an Oregon limited liability company ("Owner"), and **City of Portland**, (referred to collectively as the "Parties").

A. Owner owns the \_\_\_\_\_ located at \_\_\_\_\_ (the "Property").

B. City of Portland wishes to enter onto the Property and on and into a building located on the Property identified on the attached Exhibit A (the "Building") for the sole purpose of installing video surveillance equipment at its sole cost and expense (the "Project").

C. Owner is willing to allow City of Portland and its authorized agents access to the Property and the Building, subject to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Access to Property. Subject to Paragraph 4, City of Portland may have access to the Property and designated portions of the Building for the sole purpose of installing, maintaining, and removing video surveillance equipment. Upon approval of a request for access pursuant to Paragraph 4 below, Owner shall give those persons identified by City of Portland working on the Project at City of Portland's request reasonable access to the Property and Building which access shall not interfere with any tenants of the Building. The right of access to the Property and Building granted by Owner shall in no way be construed as giving City of Portland possession of or any legal right to the Property or Building.

2. Expenses/Obligations. The cost of the Project, including all labor, materials and clean-up shall be borne solely by City of Portland. City of Portland shall keep the Property and the Building in good order, repair and condition throughout the Term (as defined below) and promptly and adequately repair all damage to the Property or Building caused by City of Portland. At the end of the Project or earlier termination of this Agreement, City of Portland shall remove all equipment and property for the Property and the Building and repair any damage to the Building. The equipment shall be installed by a licensed and bonded contractor with insurance in an amount not less than what City of Portland is required to carry under Paragraph 5 below. City of Portland shall repair any damage to the roof membrane caused by the installation, maintenance, replacement, operation, use or removal of the equipment. Owner shall have the right to require that a contractor designated by it conduct any roof work. The equipment shall remain the property of City of Portland, and City of Portland shall be solely responsible

for maintenance, repair, security and insuring the equipment. Owner shall have no responsibility to protect the equipment from vandalism, theft, Acts of God or other risks which shall be solely borne by City of Portland. If Owner undertakes any repair, maintenance, restoration or remodeling activity on the roof or in other areas affected by the equipment, Owner may require that the equipment be removed and reinstalled, or be relocated, as may be necessary in connection with such Owner activity, all at the expense of City of Portland.

3. Indemnification. Subject to Oregon law and the Oregon Tort Claims Act, City of Portland shall indemnify and hold Owner harmless from and against any and all claims, actions, damages, loss, costs and expenses, including reasonable attorneys' fees, for damages or injuries to persons or property due to the acts or omissions of the City, its officers, agents, employees, and contractors related to the actions performed by the City under the agreement. The indemnification contained in this Paragraph 3 shall survive the termination of this Agreement.

4. Notice and Consent. City of Portland will provide notice to Owner of its intent to enter or to have its agents or contractors enter onto the Property or into the Building (the "Notice"). Any entry on the Property or into the Building by City of Portland or its agents or contractors must be approved in advance by Owner. Notice with respect to any entry may be made either in writing or by telephone and must be received by Owner at least one (1) business day before such proposed entry. Unless otherwise provided to City of Portland by Owner in writing, the address for Notice is as follows:

Access to the Property and the Building may only occur during the following hours: 8:00 a.m. through 5:00 p.m. Prior to the time City of Portland or its contractors, agents or subcontractors may have access to the Property or the Building, Owner must first give written approval to the intended placement of the equipment for the Project.

5. Insurance. During the term of this Agreement, City of Portland shall continue to maintain self-insurance (as described in attachment A to this Agreement) covering the Police Bureau and any contractors, agents, or subcontractors entering the Property or the Building on City of Portland's behalf against claims, demands or actions for personal injuries or death resulting from the Project regardless of any defenses the insurer may have against City of Portland and regardless of whether the subject claim is also made against City of Portland.

6. Liens. City of Portland shall keep the Property free from any and all liens related to the work performed under the agreement. In the event a lien is recorded on the Property, City of Portland shall be responsible for the immediate satisfaction or payment

of any liens for any provider of work, labor, material or services claiming by, through or under City of Portland. City of Portland shall also indemnify, hold harmless and defend Owner against any such liens, including the reasonable fees of Owner's attorneys. Such liens shall be discharged by Licensee within thirty (30) days after notice by Owner of filing.

7. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the Parties, and supersedes all prior and contemporaneous agreements, understandings, negotiations, and purposes, whether written or unwritten. This Agreement may not be amended or modified except in writing signed by each of the Parties.

8. Attorney's Fees. Should any party employ an attorney to enforce any of the provisions of this Agreement, the prevailing party in any action shall be entitled to collect from the non-prevailing party all reasonable costs, charges, expenses, and attorneys' fees, whether incurred in trial, any appellate proceedings or other proceedings.

9. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon.

10. Counterparts. This Agreement may be executed in counterparts, which, when taken together, shall constitute one Agreement.

11. Term. The Term of this Agreement shall be June 21, 2011 through June 20, 2012. City of Portland has the right to extend the Term for an additional sixty (60) days upon written notice to Owner not less than ten (10) days prior to the expiration date.

IN WITNESS WHEREOF, the undersigned Parties have caused this Access and Indemnification Agreement to be executed as of the date first written above.

OWNER:

City of Portland:

By: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM

*James H. Van Dyle*

CITY ATTORNEY

**CERTIFICATE OF INSURANCE****ISSUED BY:**

City of Portland  
Office of Management and Finance  
Risk Management  
1120 SW Fifth, Room 709  
Portland, OR 97204-1912

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE CITY OF PORTLAND SELF- INSURANCE LIABILITY PROGRAM.

**COVERAGE AFFORDED BY  
CITY OF PORTLAND**

**INSURED:**

City of Portland  
1120 SW Fifth Avenue  
Portland, OR 97204-1912

THE CITY OF PORTLAND, INCLUDING ALL ITS BUREAUS, IS SELF- INSURED FOR TORT LIABILITY AND WORKERS COMPENSATION CLAIMS. ALL CLAIMS MUST BE FILED WITH THE CITY OF PORTLAND DIVISION OF RISK MANAGEMENT FOR PROCESSING IN ACCORD WITH STATUTORY REQUIREMENTS.

**COVERAGE**

THIS IS TO CERTIFY THAT THE CITY OF PORTLAND IS SELF- INSURED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE SELF-INSURANCE LIABILITY PROGRAM IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF THE PROGRAM AND OREGON LAW.

	<b>POLICY NUMBER</b>	<b>EFFECTIVE DATE</b>	<b>EXPIRATION DATE</b>	<b>LIMITS</b>
<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> General liability <input checked="" type="checkbox"/> Occurrence	Self-Insured	Continuous	Continuous	Maximum liability allowed by Oregon Tort Claims Act, currently: \$566,700 per person \$1,133,300 per occurrence
<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> Any Auto <input checked="" type="checkbox"/> All Owned Autos <input type="checkbox"/> Scheduled Autos <input type="checkbox"/> Hired Autos <input type="checkbox"/> Non-owned Autos	Self-Insured	Continuous	Continuous	Maximum liability allowed by Oregon Tort Claims Act, currently: \$566,700 per person \$1,133,300 per occurrence
<b>WORKERS COMPENSATION &amp; EMPLOYER LIABILITY</b>	Self-Insured	Continuous	Continuous	Statutory
<b>OTHER</b>				

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLE/SPECIAL ITEMS:** Self-Insurance coverage for tort liability claims against the City of Portland is governed by ORS §30.260 to §30.300, City Charter Article 1 §1-106, and City Code Chapter 3 §3.15.80. The Certificate Holder is protected only to the extent of the City of Portland.

**CERTIFICATE HOLDER:**

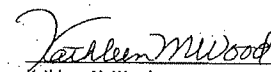
For Liability arising out of Portland Police Bureau activities in and on 3<sup>rd</sup> party property

**CERTIFICATE NUMBER: 10531**

**CANCELLATION**

Should the Self-Insurance Liability Program be cancelled, the City of Portland will endeavor to mail within 45 days written notice to the certificate holder named to the left, but failure to mail such notice shall not impose any obligation or liability upon the City of Portland, its officials, employees, agents or representatives.

**AUTHORIZED REPRESENTATIVE:**

  
Kathleen M. Wood  
Risk Manager

**April 3, 2012**  
Date Issued