

INTERGOVERNMENTAL AGREEMENT NO.

This INTERGOVERNMENTAL AGREEMENT ("Agreement"), effective July 1, 2013 ("Effective Date") is between THE CITY OF PORTLAND, OREGON, OFFICE OF MANAGEMENT AND FINANCE ("OMF"), and the PORTLAND DEVELOPMENT COMMISSION ("PDC"). OMF and PDC may be referred to jointly in this Agreement as the "Parties" and individually as a "Party."

RECITALS:

- A. The Public Finance and Treasury Division of OMF administers the City's treasury and investment portfolio operations, providing cash management, investment management and banking and merchant services ("banking services") to City bureaus and offices.
- B. OMF's Public Finance and Treasury Division spends considerable staff time and expertise on PDC's banking services over and above other bureaus; and
- C. OMF's Public Finance and Treasury Division's ability to provide sound fiscal administrative services to PDC is beneficial to both parties; and
- D. PDC desires to obtain such services from OMF and OMF desires to provide such services to PDC on the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows.

AGREED:**I. SCOPE OF WORK**

During the term of this Agreement, OMF through its Public Finance and Treasury Division and PDC have agreed to work together so that banking services can be provided to PDC.

OMF will manage and support all banking, merchant card and investment management services requested by PDC ("the banking services").

PDC will provide all necessary documentation for requested financial services.

II. SPECIFIC CONDITIONS OF THE AGREEMENT

- A. **TERM:** The term of the Agreement will begin July 1, 2013 and continue until June 30, 2014 (the "Term"), unless terminated sooner under a provision of this Agreement. The term of this Agreement may be extended for successive fiscal years by amendment.

- B. INTERGOVERNMENTAL AGREEMENT MANAGER: OMF's Intergovernmental Agreement Manager for this Agreement shall be the City's Investment Officer. PDC's Intergovernmental Agreement Manager for this Agreement shall be [insert job title or position classification].
- C. AMENDMENT: All changes to this Agreement, including changes to the scope of work and Agreement amount, must be made by written amendment. The City of Portland's Chief Administrative Officer is authorized to execute amendments to this Agreement on behalf of OMF, provided such amendments are in writing, signed by both Parties, and approved as to form by the City Attorney. PDC's Intergovernmental Agreement Manager is authorized to execute amendments to this Agreement on behalf of PDC (other than amendments that increase the maximum payment amount), provided such amendments are in writing, signed by both Parties, and approved as to form by PDC's legal counsel. Amendments that increase the maximum payment amount shall be approved by the PDC Executive Director. Amendments that increase the maximum payment amount by \$500,000 or more shall be approved by the PDC Board of Commissioners
- D. BILLINGS/INVOICES/PAYMENT: OMF's Intergovernmental Agreement Manager is authorized to approve work, billings and invoices submitted to PDC pursuant to this Agreement and to carry out all other OMF actions referred to herein in accordance with this Agreement.

III. PAYMENTS

- A. PDC agrees to pay OMF a total of SEVENTEEN THOUSAND NINE HUNDRED NINETY-TWO DOLLARS (\$17,992) for the banking services described above. OMF shall invoice prior to the fiscal year end June 30, 2014. PDC shall reimburse OMF for services performed in one lump sum payable 30 days after the invoice is received.
- B. Payments under this Intergovernmental Agreement may be used only to provide the services or take the actions listed previously in this Intergovernmental Agreement and shall not be used for any other purpose.

IV. GENERAL AGREEMENT PROVISIONS

- A. TERMINATION. Either Party may terminate this Agreement by giving thirty (30) days written notice to the other Party. If this Agreement is terminated prior to the end of the Term, OMF shall be entitled to be paid for work performed prior to the termination date if such work was performed in accordance with the Agreement prorated based on when in the fiscal year the Agreement is terminated. In the event of a termination, OMF shall submit to PDC a final billing in a manner consistent with section III. A. of the Agreement. PDC shall not be liable for indirect or consequential damages.

- B. **CONFLICTS OF INTEREST.** No public official, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. No public official who participated in the award of this Agreement shall solicit employment from or be employed by the other Party during the period of the Agreement.
- C. **OREGON LAWS AND FORUM.** This Intergovernmental Agreement shall be construed according to the laws of the State of Oregon, without regard to its provisions regarding conflict of laws. Any litigation between the Parties arising under this Agreement or out of work performed under this Agreement shall occur in the Multnomah County court having jurisdiction thereof.
- D. **INDEMNIFICATION.** To the extent permitted by Oregon law, and in accordance with the provisions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, including the limits of liability for public bodies set forth therein, PDC shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions arising out of the negligent acts, errors, or omissions of PDC and its agents or employees in performance of their duties under this agreement and the City of Portland shall defend, save and hold harmless PDC, its officers, agents and employees, from all claims, suits or actions arising out of the negligent acts, errors or omissions of the City of Portland and its agents and employee in performance of its duties under this agreement. This section shall survive termination or expiration of this Agreement.
- E. **SEVERABILITY.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- F. **INTEGRATION.** This Agreement contains the entire agreement between the Parties and supersedes all prior written or oral discussions or agreements. There are no oral or written understandings that vary or supplement the conditions of this Agreement that are not contained herein.
- G. **THIRD PARTY BENEFICIARIES.** There are no third party beneficiaries to this Agreement. The Agreement may only be enforced by the Parties.
- H. **ELECTRONIC MEANS, COUNTERPARTS.** The Parties agree that they may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and such counterparts shall constitute one and the same instrument.
- I. **NOTICE:** Any notice or communication under this Agreement by either Party to the other shall be deemed given and delivered (a) forty-eight (48) hours after being dispatched by registered or certified U.S. mail, postage prepaid, return receipt requested, (b) when received if personally delivered, or (c) if sent by e-

mail or other form of electronic transmission, with receipt of confirmation that such transmission has been received, and:

A notice or communication to the City shall be addressed as follows:

City of Portland
OMF – Public Finance and Treasury
Attn: Michael Montgomery
1120 SW 5th Avenue, Rm 1250
Portland, Oregon 97204
503-823-3105
503-823-6924 (facsimile)
Michael.Montgomery@portlandoregon.gov

A notice or communication to PDC shall be addressed as follows:

Portland Development Commission
Attn: Tony Barnes
222 NW 5th Ave.
Portland, OR 97209
503-823-3287
503-865-3612 (facsimile)
PDC-barnest@portlandoregon.gov

DISPUTE RESOLUTION: If a dispute arises regarding this Agreement, the Parties agree to exercise good faith in expeditiously resolving any conflict. All conflicts should first be discussed and resolved if at all possible by the persons identified in the Notice Section. Any conflicts not resolved by the contact person shall be elevated to the designee of the governing board of the Parties, specifically the Chief Administrative Officer for the City and the Executive Director for PDC, for discussion and resolution.

Dated this _____ day of _____, 2013

CITY OF PORTLAND
Office of Management and Finance

PORTLAND DEVELOPMENT
COMMISSION

Jack D. Graham
Chief Administrative Officer

Patrick Quinton
Executive Director

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

General Counsel