

Exhibit A
INTERGOVERNMENTAL AGREEMENT
NEIGHBORHOOD PROSPERITY INITIATIVE
FOR TRANSFER OF TAX INCREMENT REVENUES

This Intergovernmental Agreement (this "Agreement") is entered into this _____ day of _____, 2012 (the "Effective Date") between the City of Portland, by and through the Office of Management and Finance, (the "City" or "OMF"), and the Portland Development Commission, in its capacity as an urban renewal agency acting under ORS Chapter 457 ("PDC"). The City and PDC may be collectively referred to herein as the "Parties" and individually as a "Party".

RECITALS

- A. The Neighborhood Economic Development Strategy (the "NED Strategy") is a citywide initiative to foster economic opportunity and neighborhood vitality throughout Portland neighborhoods.
- B. On or about October 18, 2011, Mayor Sam Adams announced the Neighborhood Prosperity Initiative ("NPI"), one of the NED Strategy's key elements that will result in the creation of up to six small innovative urban renewal areas focused on neighborhood commercial areas. The goal of the NPI is to strengthen neighborhood business districts' economic competitiveness through community-planned and community implemented actions and projects.
- C. The following six communities plan to become NPI districts: NE 42nd Avenue; Cully Boulevard; Parkrose; Rosewood; SE Division Street (117th - 148th Avenues); and, SE Division Street and 32nd Avenue (individually, a "NPI District"). Each NPI District will focus on increasing the visibility of the business district, growing more jobs, strengthening existing businesses and filling vacant spaces.
- D. Upon approval of an urban renewal plan and conformance with all provisions of ORS Chapter 457, each NPI District will become a small urban renewal area ("URA") administered by a local community-based non-profit organization (each a "District Manager") and monitored by PDC.
- E. The tax revenues generated on the Incremental Assessed Value from each URA will provide tax increment revenues ("TIR") for a portion of each NPI District's funding for capital improvement projects.
- F. The City of Portland receives the TIR from each URA created by the City. Article IX, Section 1c of the Oregon Constitution and ORS Chapter 457 require that the TIR be spent to pay indebtedness incurred for urban renewal projects. This Agreement is entered into by the City to create an indebtedness to PDC that allows the City to pay

TIR to PDC for expenditures on urban renewal projects described in the urban renewal plan of each NPI District URA. The City does not intend to issue bonds secured by the tax increment revenues for NPI District URAs, but will be obligated to repay indebtedness created by this Agreement to PDC under the terms and conditions of this Agreement.

- G. Each NPI District anticipates a maximum funding amount, including TIR, of \$1,250,000.00 ("Total Funding"), which includes PDC administrative costs. The City will transfer the TIR of each NPI District URA to PDC on the terms and conditions set forth herein.
- H. As part of the Total Funding, it is anticipated that PDC will receive funding from revenue sharing under ORS 457.470(4) for each NPI District. Through an intergovernmental agreement between the City and PDC, NPI Districts will receive the tax revenues derived from the increment assessed value of the URAs (the "City Granted Revenues") due to the City as the taxing jurisdiction. Separately, PDC and Multnomah County ("County") will have a separate intergovernmental agreement where the NPI District will receive the County's tax revenues derived from the increment assessed value of the URAs as a taxing jurisdiction (the "County Granted Revenues"). The City Granted Revenues, together with the County Granted Revenues shall be referred to herein collectively as the "Granted Revenues". "-."

AGREEMENT

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

I. Term of Agreement

1.01 Term. This Agreement shall commence upon the Effective Date and terminate when all of the NPI Districts have reached their respective Total Funding amount (the "Termination Date"). It is anticipated that it will take approximately ten (10) years for each NPI District to reach its Termination Date. This Agreement may be terminated at an earlier time by the Parties mutually and in writing.

II. Transfer of Tax Increment Revenues Funds

2.01 TIR Transfer. Subject to the terms and conditions of this Agreement and the final approval of each NPI District URA plan, the City shall transfer to PDC the TIR collected under ORS Chapter 457 allocable to each NPI District URA in an amount equal to the lesser of the amount requested by PDC pursuant to Section II, or the amount of TIR then available to the City. However, in no event shall the City be obligated to transfer an amount of

TIR from a NPI District that exceeds the lesser of: (a) the Maximum Indebtedness (as such term is defined in ORS Chapter 457) for that NPI District, as set forth in the urban renewal plan for the NPI District; or (b) the difference between the Total Funding and the Granted Revenues for each NPI District. In no event shall the City be liable to PDC for any sum in excess of the TIR that the City actually receives from a NPI District.

In allocating revenues to the NPI Districts, the TIR shall be applied first towards reaching the Total Funding before any Granted Revenues are applied.

2.02 Conditions for Transfer. Transfer of the TIR for any NPI District shall be contingent upon the City having collected the TIR from that NPI District. In the event that PDC will be delegating TIR funding administration to a non-profit entity, the following additional conditions shall apply:

- a) There must be valid agreements with the non-profit entity that will administer the TIR revenues to be expended for eligible projects in the NPI District (the "Grant Agreements"), and such Grant Agreements must cover the entire term of the TIR eligible project(s) for which funds may be sought.
- b) PDC has provided training, technical assistance and support to the NPI Districts, including advice and assistance on organizational development, business development, revitalization, project development and administration, TIR eligibility of expenditures.
- c) PDC has reviewed and approved annual work plans and annual budgets for NPI Districts.
- d) PDC has developed a template for the Grant Agreements that includes legal and equitable remedies for inappropriate use of funds, including but not limited to recoupment of funds misspent and has identified adequate measures and personnel to monitor for appropriate use of such funds.
- e) PDC has reviewed quarterly financial reports, supporting expenditure documents and outcome reports for the NPI Districts.

If the City has collected the TIR but there are no TIR-eligible projects, the City will keep the TIR in City account(s) until PDC requests such TIR. To fund a TIR-eligible project, PDC shall submit to the City a written request(s) for transfer of funds for the TIR-eligible expenditures, consistent with Section 2.04 of this Agreement. Once the TIR are transferred to PDC, the TIR shall be counted towards Maximum Indebtedness (as such term is defined in ORS Chapter 457 and as set forth in the plan for each NPI District URA) and the Total Funding.

2.03 Denial of Transfer. The City may deny a payment of the TIR to PDC if there is any non-cured event under which the TIR are determined by either Party to have been spent in violation of Section 2.04 of this Agreement.

2.04 Use of TIR. The Parties agree that the TIR can be used only for "TIR eligible expenditures." For each NPI District, "TIR eligible expenditures" means expenditures for urban renewal projects that are permitted under Article XI, Section 1c of the Oregon Constitution, ORS Chapter 457 and the urban renewal plan for that NPI District. Urban renewal projects generally consist of capital expenditures for tangible physical assets that located inside

an urban renewal area and that are described in the urban renewal plan, and generally do not include any expenses that are not eligible to be capitalized and treated as part of capital assets that are located in the urban renewal area. To the extent permitted under generally accepted accounting principles, PDC staff costs allocable to urban renewal projects may be paid from the TIR. TIR from one NPI District may not be spent on TIR-eligible expenditures of another NPI District. The Grant Agreements shall include, consistent with Section 2.02d hereof, legal and equitable remedies for the inappropriate use of TIR as well as a requirement of the grantee to obtain insurance consistent with Section 5.01 hereof. To the extent that TIR is misspent under the Grant Agreement, PDC shall use commercially reasonable efforts to recoup such misspent funds from the NPI District grantee and shall forward all recovered funds, if any, to the City.

III. Records and Inspection

3.01 Reporting. Commencing on September 1, 2014, and concluding on the September 1 following the Termination Date, PDC shall deliver to the City a report that includes the following information for the preceding 12 months ending June 30:

- the amount of TIR received by PDC for each NPI District;
- the amount of TIR distributed by PDC to each NPI District;
- the amount of Granted Revenues received by PDC for each NPI District, net of PDC overhead; and,
- the approved budget, approved budget amendments, fourth quarter financial statement and year-end report of accomplishments for each NPI District.

3.02 Maintenance of Records. PDC shall maintain all fiscal and other records pertinent to this Agreement or to the NPI Districts for at least three (3) years following the Termination Date. PDC shall maintain all fiscal records relating to this Agreement and the NPI Districts in accordance with generally accepted accounting principles and in a manner that clearly documents when and how the TIR were used. PDC shall make any or all of the foregoing records available to the City and its representatives, as the City may reasonably request from time to time, to enable the City to perform examinations and audits and make excerpts and transcripts, provided that any such examinations and audits shall be at the City's sole expense.

3.03 Reconciliation. The Parties agree to undertake account reconciliation to ensure that the Maximum Indebtedness has not been exceeded in each URA, and distribution of TIR to an NPI District does not exceed the Total Funding. As required by ORS 457.450(2), the City will hold for and return to the taxing jurisdictions any amount of collected revenues which exceeds Maximum Indebtedness.

IV. Oversight; Compliance with Laws

4.01 PDC shall enter into the Grant Agreement with each of the proposed NPI Districts. Each Grant Agreement shall set forth the terms and conditions for each NPI District's

use of TIR, consistent with all provisions of this Agreement. PDC shall ensure that each NPI District: develop and maintain overall community vision for the district; employ one or more full time district managers; develop annual work plan including TIR eligible projects; develop annual budget; develop project implementation plan to see projects to completion; prepare and monitor quarterly financial reports and outcome reports in accordance with generally accepted accounting principles; and, undertake private fundraising to match grants received from PDC to sustain organization operations. PDC shall provide technical assistance and oversight for each NPI District. PDC shall provide the City with a copy of validly executed Grant Agreements or other records associated with a Grant Agreement upon request of the City.

4.02 The Grant Agreement shall require that each NPI District Manager shall maintain all fiscal and other records pertinent to the TIR for at least three (3) years following the Termination Date. The Grant Agreement also shall require that all fiscal records relating to the TIR be maintained in accordance with generally accepted accounting principles and in a manner that clearly documents when and how the TIR were used. Without limiting the generality of the foregoing, the Grant Agreement shall require that each NPI District Manager retain substantiating documents (e.g., detailed receipts, invoices, contracts, etc.) for all expenditures of TIR and that TIR may only be disbursed in accordance with Section 2.04 hereof and upon the review and approval of PDC. The Grant Agreement shall require that the NPI District Manager make any or all of the foregoing records available to the City and its representatives, as the City may reasonably request from time to time, to enable the City to perform examinations and audits and make excerpts and transcripts, provided that any such examinations and audits shall be at the City's sole expense.

4.03 In connection with its activities under this Agreement, the Parties shall comply with all applicable federal, state and local laws and regulations including the appropriations and budget limitation laws of each party.

V. Insurance, Indemnification.

5.01 Insurance. The Parties acknowledge that they are self-insured entities and responsible for providing workers compensation insurance to their own employees as required by law. Each Party shall immediately notify the other, not more than thirty (30) days after, if either Party's self-insurance should lapse or in any way become ineffective. Each Party's self-insurance shall be maintained at levels to exceed the Oregon Tort Claims Act liability limits applicable to the Party and in sums that would be commercially reasonable to protect the Project and the Parties' interests. The Grant Agreement will require that each NPI District obtain and maintain liability insurance coverage (i.e., general liability, professional liability, automobile, workers compensation, excess, fidelity) and security for performance (i.e., guaranty, surety bond for performance and payment) in amounts that would adequately cover liabilities for property damage, personal injury and other errors and omissions including misappropriation or misuse of TIR or the Granted Revenues.

5.02 Indemnification. PDC shall hold harmless, defend (at City's request) and indemnify the City against all claims, demands, suits, actions, losses, damages, liability, costs, expenses, including attorney fees of whatsoever nature, resulting from or arising out of or related to the activities, errors or omissions in this Agreement to the extent caused by PDC, including the use or misuse of TIR or the Granted Revenues to the extent used or misused by PDC. Notwithstanding any defense obligation, no person or entity engaged by PDC shall purport to act as the City's legal representative or in the name of the City, without first receiving from City's attorney (City Attorney) the authority to act as legal counsel for the City, and shall not settle any claim on behalf of the City without the approval of the City Attorney. Notwithstanding the obligation to indemnify, defend and hold harmless the City, the City may at its election assume its own defense and settlement if the City determines that PDC or any other person is prohibited from defending the City or is not adequately defending City's interest, or determines that an important governmental principle is at issue and the City desires to assume its own defense.

VI. Notice; Signatory; Administration of Agreement; Dispute Resolution.

6.01 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:

In the case of a notice or communication to City, addressed as follows:

City of Portland
 OMF - Bureau of Financial Services
 Public Finance & Treasury
 1120 SW 5th Avenue, Rm 1250
 Portland, Oregon 97204
 Attn: B. Jonas Biery, Debt Manager
 Phone: 503-823-4222
 Fax: 503-823-4209
 Jonas.biery@portlandoregon.gov

In the case of a notice or communication to PDC, addressed as follows:

Portland Development Commission
 222 NW 5th Avenue
 Portland, OR 97209
 Attn: Patrick Quinton
 Phone: 503-823-3355
 Fax: 503-865-3730
 Email: PDC-Quintonp@portlandoregon.gov

6.02 Agreement Signatories. PDC Agreement Signatory shall be PDC's Executive Director, Patrick Quinton, or such other person as designated in writing by the

executive director ("PDC IGA Signatory"). The City Agreement Signatory shall be the Chief Administrative Officer (CAO) of the Office of Management and Finance (OMF), Jack Graham, or such other person as designated in writing by the CAO ("City IGA Signatory").

6.03 Agreement Administration. Unless another person is designated in writing by PDC IGA Signatory, _____ is the PDC IGA administrator responsible for performance and coordination of PDC obligations under this Agreement, including without limitation inter-bureau and internal coordination of funding requests. Unless another person is designated in writing by City IGA Signatory, the City Debt Manager (B. Jonas Biery) is the City IGA administrator responsible for performance and coordination of City obligations under this Agreement, including without limitation inter-bureau and internal coordination of funding requests.

6.04 Dispute Resolution. If a dispute arises regarding performance or other terms and conditions of this Agreement, the Parties agree to exercise good faith and due diligence in expeditiously resolving the dispute. All disputes should first be discussed and resolved if at all possible by and between the Parties' IGA Administrators. Any dispute not resolved by the IGA Administrators shall be elevated to the Agreement Signatories for discussion and resolution.

VII. General

7.01 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon. Any suit for enforcement shall occur, if in the state courts, in the Multnomah County Circuit Court, or if the action must be brought in federal courts, in the United States District Court for the District of Oregon.

7.02 Assignment. Neither Party shall assign or transfer any interest in this Agreement, nor assign any claims for money due or to become due under this Agreement, without the prior written approval of the other Party. This Agreement shall bind and inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and permitted assigns.

7.03 No Third Party Beneficiaries. This Agreement is between the Parties and creates no third-party beneficiaries. No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.

7.04 Relationship of Parties. The Parties intend that the relationship created by this Agreement is that of independent contracting parties. Neither Party hereto shall be deemed an agent, partner, joint venturer, or related entity of the other by reason of this Agreement.

7.05 Time is of the Essence. Time is of the essence of this Agreement.

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7.06 Counterparts; Electronic Signatures. This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on both Parties, notwithstanding that both Parties are not signatories to the same counterpart. The parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures.

7.07 Material Breach. If the City or PDC breaches any material term or provision of this Agreement and such breach remains uncared for sixty (60) days after written notice thereof to the breaching party, then the non-breaching party may pursue any right or remedy that it may have, under this Agreement, at law or in equity, for the breach of this Agreement, including but not limited to, monetary damages.

7.08 Integration, Amendment and Waiver. This Agreement constitutes the entire agreement between the Parties. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement. No consent or waiver of terms of this Agreement shall bind either Party unless in writing and signed by all Parties. Any such consent, or waiver shall be effective only in the specific instance and for the specific purpose given. Any modifications to this Agreement must be made in writing and executed by all Parties, with the approval of the PDC Board of Commissioners, if required. Notwithstanding this general requirement, the PDC Executive Director may approve minor modifications to this Agreement without Board of Commissioners approval. Any modifications to this Agreement made without the approval of the PDC Board of Commissioners must include an acknowledgement by PDC's General Counsel that such approval is not necessary. The City's Chief Administrative Officer ("CAO") may approve and execute amendments and modifications to this Agreement as may be necessary upon City Attorney approval to form. The CAO may delegate some or all responsibilities for this Agreement to the City's Debt Manager. The Parties, by the signatures below of their authorized representatives, acknowledge having read and understood this Agreement and agree to be bound by its terms and conditions.

7.09 Survival. Sections III, IV, V, VI, and VII shall survive the termination of this Agreement.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date, by their duly authorized representatives.

PORTLAND DEVELOPMENT
COMMISSION

CITY OF PORTLAND

Patrick Quinton, Executive Director

Jack D. Graham, Chief Administrative Officer
Office of Management & Finance

Approved as to Form:

Approved as to Form:

Lisa Gramp, PDC Assistant General Counsel

City Attorney

DRAFT

Exhibit B
INTERGOVERNMENTAL AGREEMENT
NEIGHBORHOOD PROSPERITY INITIATIVE
FOR GRANTED REVENUES

This Intergovernmental Agreement (this "Agreement") is entered into this ___ day of ___, 2012 (the "Effective Date") between the City of Portland, Oregon (the "City"), and the City of Portland, acting by and through the Portland Development Commission, its duly designated urban renewal agency ("PDC"). PDC and the City may be collectively referred to herein as the "Parties" and, individually, as a "Party".

RECITALS

- A. The Neighborhood Economic Development Strategy (the "NED Strategy") is a citywide initiative to foster economic opportunity and neighborhood vitality throughout Portland neighborhoods.
- B. On or about October, 18, 2011, Mayor Adams and Multnomah County Chair Cogen jointly announced the Neighborhood Prosperity Initiative (the "NPI"), one of the NED Strategy's key elements that will result in the creation of up to six small, innovative urban renewal areas, focused on neighborhood commercial areas.
- C. The goal of the NPI is to strengthen neighborhood business districts' economic competitiveness through community-planned and community-implemented actions and projects.
- D. The following six communities plan to become NPI districts: NE 42nd Avenue; Cully Boulevard; Parkrose; Rosewood; SE Division Street (117th - 148th Avenues); and SE Division Street and 82nd Avenue (each, a "NPI District").
- E. Each NPI District will focus on: increasing the visibility of the business district, growing more jobs, strengthening existing businesses and filling vacant spaces.
- F. Upon approval of an urban renewal plan and conformance with all provisions of in accordance with ORS Chapter 457, each NPI District will become a small urban renewal area ("URA") administered by a local community-based non-profit organization (each, a "District Manager") and monitored by PDC.
- G. The tax revenues generated on the incremental assessed value from each URA will provide tax increment revenues ("TIR") for a portion of each NPI District's funding for capital improvements. The City will enter into a separate intergovernmental agreement with PDC to create an indebtedness to PDC that allows the City to pay TIR to PDC for expenditures on urban renewal projects described in the urban renewal plan of each NPI District URA.
- H. PDC and the City acknowledge and agree that in order to be fully successful, each NPI District will require additional funding revenues beyond the TIR available to each NPI District.

- I. ORS 457.470(4) provides that taxing jurisdictions overlapping a URA formed on or after January 1, 2010 receive a portion of the revenues generated on the incremental assessed value of the URA when the URA reaches certain revenue thresholds (the "Shared Revenues"). and
- J. Accordingly, the City agrees to grant PDC an annual amount equal to its share of the Shared Revenues realized as a result of the sharing provisions set forth in ORS Chapter 457 on the terms and conditions set forth herein.

AGREEMENT

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

Article I. Grant of Shared Revenues

Section 1.01 City Grant. Subject to the terms and conditions of this Agreement, the City shall provide PDC with an annual grant equal to the amount of its annual share of Shared Revenues due to the City as a taxing jurisdiction for each NPI District ("Granted Revenues") for the Term (as hereinafter defined) of each NPI District.

Section 1.02 Disbursement of the Granted Revenues. The Granted Revenues shall be disbursed to PDC on May 1 of each fiscal year. The amount of Granted Revenues for a NPI District in any fiscal year shall be calculated in accordance with the following formula:

$$\text{Granted Revenues} = (\text{IV Not to Use}) \times (\text{CoPPR}) \times (\text{Compression Rate}) \times (\text{Collection Rate}),$$

where:

- "IV Not to Use" means the amount shown under the heading "Excess Assessed Value Amount Not Used" as set forth in Table 4c of Multnomah County's Summary of Assessment and Levies report for a NPI District for such fiscal year;
- "CoPPR" means the operating tax rate certified by the City for a fiscal year that is equal to or less than its permanent operating tax rate limit;
- "Compression Rate" means one minus the quotient of the County's Compression Loss attributed to its permanent rate (line 27, expressed as a positive number) divided by the Total Extended for the NPI District (line 24), both as shown on Table 4a for Multnomah County in its most recently filed Summary of Assessment and Levies report; and

- “Collection Rate” means the lesser of (i) 0.939 or (ii) the Percentage Collected (expressed as a decimal) as shown in the most recently filed Summary of Property Tax Collections for the most recent fiscal year.

Section 1.03 Obligation to Fund. The Parties acknowledge and agree that in order to be fully successful each NPI District, in addition to the TIR, will require a reliable and consistent funding source. To that end, the City hereby commits the Granted Revenues annually for the Term (as defined in Section 1.04) of each NPI District. Likewise, Multnomah County (the “County”) has agreed to provide PDC with an annual grant equal to the amount of its annual share of tax revenues for each NPI District realized as a result of ORS 457.470(4) (the “County Granted Revenues”) for the Term of each NPI District. In the event that the County fails to grant PDC any of the County Granted Revenues, such amount otherwise due as part of the County Granted Revenues shall be included in calculating the duration of the Term for each NPI District. Such failure on the part of the County shall not relieve the City from its obligation to fund its share of the Granted Revenues to PDC.

Section 1.04 Term. The City shall provide the Granted Revenues to PDC for each NPI District annually on May 1 of the fiscal year in which those revenues are received until the “Termination Date”, which is the earlier of: (i) the date that PDC has received the Total Funding (as hereinafter defined) on behalf of a NPI District in an amount equal to ONE MILLION TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$1,250,000.00); or (ii) the first fiscal year in which the sum of (1) total transfers of TIR, Granted Revenues and County Granted Revenues, plus (2) estimated TIR for the following fiscal year, equals or exceeds the Total Funding Amount. The “Total Funding” for each NPI District is comprised of the TIR for the NPI District provided to PDC under a separate agreement between the City and PDC, the Granted Revenues, and the County Granted Revenues.

In allocating revenues to the NPI Districts, the TIR shall be applied first towards reaching the Total Funding. If the TIR in the final year is insufficient to reach the Total Funding, the Granted Revenues and County Granted Revenues shall be applied pro rata toward reaching the Total Funding

Section 1.05 Use of Granted Revenues. The Parties agree that the Granted Revenue can be used by PDC for the following activities that support the goals of the NPI:

- TIF-eligible activities.
- Business technical assistance.
- Working capital assistance.
- Place making improvements and maintenance.
- Building capacity for community organizations.
- District marketing and branding.
- Direct and indirect business expenses of the District Manager that are necessary and reasonable for management of the NPI District.
- PDC’s costs of administering the NPI Districts (“PDC Overhead”) Other uses consistent with the goals of the NPI as PDC may reasonably determine.

Article II. Records and Inspection

Section 2.01 Reporting. Commencing on September 1, 2014, and concluding on the September 1 following termination of this Agreement, PDC shall deliver to the City a report that includes the following information for the preceding 12 months ending June 30:

- the amount of TIR received by PDC for each NPI District;
- the amount of TIR distributed by PDC to each NPI District;
- the amount of Granted Revenues received by PDC for each NPI District;
- the amount of County Granted Revenues received by PDC for each NPI District;
- the amount of combined Granted Revenues and County Granted Revenues distributed by PDC to each NPI District, net of PDC Overhead; and
- the approved budget, approved budget amendments, fourth quarter financial statement and yearend report of accomplishments for each NPI District.

Section 2.02 PDC shall maintain all fiscal and other records pertinent to this Agreement or to the NPI Districts for at least three (3) years following the Termination Date (as hereinafter defined). PDC shall maintain all fiscal records relating to this Agreement and the NPI Districts in accordance with generally accepted accounting principles and in a manner that clearly documents when and how the Granted Revenues were used. PDC shall make any or all of the foregoing records available to the City and its representatives, as the City may reasonably request from time to time, to enable the City to perform examinations and audits and make excerpts and transcripts, provided that any such examinations and audits shall be at the City's sole expense.

Article III. Oversight and District Manager Records

Section 3.01 PDC shall enter into grant agreements with the District Manager for each of the proposed NPI Districts (each, a "Grant Agreement"). The Grant Agreement shall set forth the terms and conditions of each NPI District's revenues, including the Granted Revenues and shall stipulate the uses for such funds consistent with Section 1.05 hereof. PDC shall provide technical assistance and oversight for each NPI District pursuant to the Grant Agreement. PDC shall provide the City with a copy of the Grant Agreement or other records associated with the Grant Agreement upon request of the City.

Section 3.02 The Grant Agreement shall require that each District Manager shall maintain all fiscal and other records pertinent to the Granted Revenues for at least three (3) years following the Termination Date. The Grant Agreement also shall require that all fiscal records relating to the Granted Revenues be maintained in accordance with generally accepted accounting principles and in a manner that clearly documents when and how the Granted Revenues were used. Without limiting the generality of the foregoing, the Grant Agreement shall require that each District Manager retain substantiating documents (e.g., detailed receipts, invoices, contracts, etc.) for all expenditures of Granted Revenues and that Granted Revenues may only be disbursed in accordance with Section 1.05 hereof and upon the review and approval of PDC. The Grant Agreement shall require that the District Manager make any or all of the foregoing records available to the City and its representatives, as the City may reasonably request from time to time, to enable the City to perform examinations and audits and make excerpts and transcripts, provided that any such examinations and audits shall be at the City's sole expense.

Section 3.03 In connection with its activities under this Agreement, the Parties shall comply with all applicable federal, state and local laws and regulations including the appropriations and budget limitation laws of each Party.

Article IV. Insurance; Indemnification.

Section 4.01 Insurance. The Parties acknowledge that they are self-insured entities and responsible for providing workers compensation insurance to their own employees as required by law. Each Party shall immediately notify the other, not more than thirty (30) days after, if either Party's self-insurance should lapse or in any way become ineffective. Each Party's self-insurance shall be maintained at levels to exceed the Oregon Tort Claims Act liability limits applicable to the Party and in sums that would be commercially reasonable to protect the Project and the Parties' interests. The Grant Agreement will require that each NPI District obtain and maintain liability insurance coverage (i.e., general liability, professional liability, automobile, workers compensation, excess, fidelity) and security for performance (i.e., guaranty, surety bond for performance and payment) in amounts that would adequately cover liabilities for property damage, personal injury and other errors and omissions including misappropriation or misuse of TIR or the Granted Revenues.

Section 4.02 Indemnification. PDC shall hold harmless, defend (at City's request) and indemnify the City against all claims, demands, suits, actions, losses, damages, liability, costs, expenses, including attorney fees of whatsoever nature, resulting from or arising out of or related to the activities, errors or omissions in this Agreement to the extent caused solely by PDC, including the use or misuse of TIR or the Granted Revenues to the extent used or misused by PDC. Notwithstanding any defense obligation, no person or entity engaged by PDC shall purport to act as the City's legal representative or in the name of the City, without first receiving from City's attorney (City Attorney) the authority to act as legal counsel for the City, and shall not settle any claim on behalf of the City without the approval of the City Attorney. Notwithstanding the obligation to indemnify, defend and hold harmless the City, the City may at its election assume its own defense and settlement if the City determines that PDC or any other person is prohibited from defending the City or is not adequately defending City's interest, or determines that an important governmental principle is at issue and the City desires to assume its own defense.

Article V. General

Section 5.01 Recitals. The Recitals stated above are incorporated into this Agreement.

Section 5.02 Notices. 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:

In the case of a notice or communication to PDC, addressed as follows:

Portland Development Commission
222 NW 5th Avenue
Portland, Oregon 97209
Attn: Patrick Quinton
Phone: 503-823-3355
Fax: 503-865-3730

Email: PDC-Quintonp@portlandoregon.gov

In the case of a notice or communication to City, addressed as follows:

City of Portland
OMF - Bureau of Financial Services
Public Finance & Treasury
1120 SW 5th Avenue, Rm 1250
Portland, Oregon 97204
Attn: B. Jonas Biery, Debt Manager
Phone: 503-823-4222
Fax: 503-823-6924
Jonas.biery@portlandoregon.gov

Section 5.03 Agreement Signatories. PDC Agreement Signatory shall be PDC's Executive Director, Patrick Quinton, or such other person as designated in writing by the executive director ("PDC IGA Signatory"). The City Agreement Signatory shall be the Chief Administrative Officer (CAO) of the Office of Management and Finance ("OMF"), Jack Graham, or such other person as designated in writing by the CAO ("City IGA Signatory").

Section 5.04 Agreement Administration. Unless another person is designated in writing by PDC IGA Signatory, _____ is the PDC IGA administrator responsible for performance and coordination of PDC obligations under this Agreement, including without limitation inter-bureau and internal coordination of funding requests. Unless another person is designated in writing by City IGA Signatory, the City Debt Manager (B. Jonas Biery) is the City IGA administrator responsible for performance and coordination of City obligations under this Agreement, including without limitation inter-bureau and internal coordination of funding requests.

Section 5.05 Dispute Resolution. If a dispute arises regarding performance or other terms and conditions of this Agreement, the Parties agree to exercise good faith and due diligence in expeditiously resolving the dispute. All disputes should first be discussed and resolved if at all possible by and between the Parties' IGA Administrators. Any dispute not resolved by the IGA Administrators shall be elevated to the Agreement Signatories for discussion and resolution.

Section 5.06 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon. Any suit for enforcement shall occur, if in the state courts, in the Multnomah County Circuit Court, or if the action must be brought in federal courts, in the United States District Court for the District of Oregon.

Section 5.07 Assignment. Neither Party shall assign or transfer any interest in this Agreement, nor assign any claims for money due or to become due under this Agreement, without the prior written approval of the other Party. This Agreement shall bind and inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and permitted assigns.

Section 5.08 No Third Party Beneficiaries. This Agreement is between the Parties and creates no third-party beneficiaries. No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.

Section 5.09 Relationship of Parties. The Parties intend that the relationship created by this Agreement is that of independent contracting parties. Neither Party hereto shall be deemed an agent, partner, joint venturer, or related entity of the other by reason of this Agreement.

Section 5.10 Time is of the Essence. Time is of the essence of this Agreement.

Section 5.11 Counterparts; Electronic Signatures. This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on both Parties, notwithstanding that both Parties are not signatories to the same counterpart. The parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures

Section 5.12 Material Breach. If the City or PDC breaches any material term or provision of this Agreement and such breach remains uncured sixty (60) days after written notice thereof to the breaching party, then the non-breaching party may pursue any right or remedy that it may have, under this Agreement, at law or in equity, for the breach of this Agreement, including but not limited to, monetary damages.

Section 5.13 Integration, Amendment and Waiver. This Agreement constitutes the entire agreement between the Parties. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement. No consent or waiver of terms of this Agreement shall bind either Party unless in writing and signed by all Parties. Any such consent, or waiver shall be effective only in the specific instance and for the specific purpose given. Any modifications to this Agreement must be made in writing and executed by all Parties, with the approval of the PDC Board of Commissioners, if required. Notwithstanding this general requirement, the PDC Executive Director may approve minor modifications to this Agreement without Board of Commissioners approval. Any modifications to this Agreement made without the approval of the PDC Board of Commissioners must include an acknowledgement by PDC's General Counsel that such approval is not necessary. The City's Chief Administrative Officer ("CAO") may approve and execute amendments and modifications to this Agreement as may be necessary upon City Attorney approval to form. The CAO may delegate some or all responsibilities for this Agreement to the City's Debt Manager. The Parties, by the signatures below of their authorized representatives, acknowledge having read and understood this Agreement and agree to be bound by its terms and conditions.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date, by their duly authorized representatives.

PDC:

By: _____
Patrick Quinton, Executive Director

Approved as to Form:

By: _____
Lisa Gramp, PDC Assistant General Counsel

CITY:

By: _____
Jack D. Graham, Chief Administrative Officer
Office of Management and Finance

Approved as to Form:

By: _____