

**Intergovernmental Agreement
The Portland Building
14th and 15th Floor**

This Intergovernmental Agreement (“IGA”) is dated and effective on the ____ day of _____, 2016 between THE CITY OF PORTLAND, an Oregon municipal corporation, (the “City”), and MULTNOMAH COUNTY, a home rule subdivision of the State of Oregon, (the “County”) (individually, a “Party,” together, the “Parties”).

Recitals

The City is the owner of the Portland Building (TPB), located at 1120 SW 5th Avenue, Portland, Oregon. TPB is a government office building with fifteen floors that was designed and built in 1982.

Pursuant to the Parties’ Sublease Agreement of January 22, 1981 and its subsequent amendments (collectively “Sublease Agreement”), the County has a perpetual leasehold interest in the 14th and 15th floors of TPB. Under the Sublease Agreement, the County pays the proportionate share of the overall building operating and maintenance expenses for the 14th and 15th floors. Currently, the County has offices for Support Enforcement, Dispute Resolution and Tax Supervisor on the 15th floor.

In 2004, the County determined that its interest in TPB was surplus.

Pursuant to the Parties’ Lease Agreement of January 5, 2005 and its subsequent amendments (collectively “Lease Agreement”), the County leased to the City the 14th floor for City use. As part of the Lease Agreement, the City pays the County rent. Under the Lease Agreement, the City pays the County’s share for building operating and maintenance expense for the 14th floor.

The City has assessed certain structural and building deficiencies with TPB that require extensive renovation, including building envelope water intrusion, vulnerability in a large seismic event, and building systems at or nearing the end of their useful lives. As a result, the City is undertaking extensive planning to renovate TPB, including envelope repair/replacement, seismic upgrades, system replacements, and a full interior remodel with the goal to significantly improve the efficiency and functionality of TPB as a workplace (the “Reconstruction Project”). All building tenants, including the County, would have fiscal responsibility in the overall costs of the Renovation Project. In addition, the Reconstruction Project may require all or some tenants to relocate to other office spaces for some or all of the renovation period. The County’s anticipated share of the renovation cost may exceed the value of its tenancy interest.

In meeting the Parties’ needs in light of the Reconstruction Project, the Parties determine that it would be in the best interests of the Parties to transfer the County’s tenancy interest

to the City as provided in this IGA.

NOW, THEREFORE, in consideration of the mutual promises, conditions and covenants contained herein, and 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:

- 1) On July 1, 2016, (“Relinquishment Date”), the County's interest in the 14th and 15th floor of the Portland Building shall be released and relinquished to the City. The Sublease Agreement for the 14th and 15th floor from the City to the County and the Lease Agreement for the 14th floor from the County to the City will be terminated as of the Relinquishment Date. The Parties may adjust the Relinquishment Date in writing. Starting on the Relinquishment Date, the County will continue use of the 15th floor for County offices until the City gives written notice that the City Council has approved the Design-Build-Relocate (“DBR”) contract and the requisite bond ordinance. The County shall be granted the same amount of lead time for move-out as the City Bureaus located in TPB to relocate the County’s programs from TPB and vacate the 15th floor for the Reconstruction Project (“Move-Out Date”).
- 2) The Move-Out Date is anticipated to be late 2017 or early 2018 but will not be beyond the scheduled Reconstruction Project completion date. The County, at its discretion and upon written notice to the City, may leave sooner than the Move-Out Date. If the County leaves by its election before the Move-Out Date, it understands that it may not return to TPB. The County is solely responsible for its move-out costs. At move-out, the County must take all its personal property from the 15th floor, leaving the space in clean condition, less ordinary wear and tear. The County will not be charged building operating costs for its use of the 15th floor between the Relinquishment Date and the Move-Out Date; however, the County will be responsible for expenses associated with any property damage (other than ordinary wear and tear) caused by the County's employees, agents or visitors. The County will otherwise comply with all building use rules that are in place for all tenants of TPB while it occupies the 15th floor. If the City Council does not approve the DBR contract and the requisite bond ordinance for funding the Reconstruction Project on or before December 1, 2020, the City and the County agree to enter into negotiations regarding appropriate settlement of the County’s interest in TPB.
- 3) Starting on the Relinquishment Date, the City will continue its use of the 14th floor for City purposes. No rent or other charges will be required to be paid to the County.
- 4) The City of Portland’s Reconstruction Project Manager will provide Multnomah County Facilities & Property Management with a monthly report on the progress of the Reconstruction Project including scope, schedule, budget, City Council briefing reports, City Council approval dates, ordinances and resolutions, and the same

memos, letters or notices as provided to City Bureaus located in TPB concerning the Move-Out Date. Parties will maintain open communication regarding the Reconstruction Project progress and schedules, including requests for move-out and other construction or project planning activities.

- 5) The Parties agree that, in light of the Reconstruction Project, the City may defer repairs and maintenance work for TPB that are not essential for life-safety or emergency reasons but shall continue to provide standard Operations & Maintenance services (including continued operation of HVAC systems, lighting, elevators, plumbing and power) to the 15th floor throughout the period of this IGA. If any portion of the 15th floor is damaged due to the County's use, the County will notify the City, and the County may choose to pay the expense for immediate repairs or defer repairs that are not essential for occupancy, life-safety or emergency reasons.
- 6) The Parties acknowledge that they are self-insured entities for liability and property damage and are responsible for providing workers' compensation insurance to their own employees as required by law. 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 Parties' potential liabilities and interests under this IGA. Each Party must immediately notify the other, not more than thirty (30) days after, if either Party's self-insurance lapses or in any way becomes ineffective. Any claims for injury or damage to person or property arising out of or alleged to arise out of this Agreement shall be subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act. Both Parties are responsible, regardless of the location of an accident, direction and control at the time of an accident, or where work is being performed, for any injury to their subject workers. Neither Party is required to provide or show proof of any other insurance coverage. The Parties understand that any claims related to premises liability by a third party occurring in the County's office spaces on the 15th floor shall be dealt with by the County as the responsible party, unless such claim arises from the City's failure to provide standard Operations & Maintenance services for the 15th floor in accordance with Paragraph 5 hereof.
- 7) Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, the County agrees to fully indemnify, hold harmless and defend the City and its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses and all expenses and costs incidental to the investigation and defense thereof including reasonable attorneys fees, resulting from or arising out of occupancy, use or activities of the County, its officers, employees or agents under this IGA. Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, the City agrees to fully indemnify, hold harmless and defend the County and its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses and all expenses and costs incidental to the investigation and defense thereof

including reasonable attorneys fees, resulting from or arising out of occupancy, use or activities of the City, its officers, employees or agents under this IGA.

- 8) Any notice or communication under this IGA will be in writing and effective: (a) upon delivery, if delivered personally to the identified Agreement representative below; (b) upon delivery to the manager or person in charge of the offices of the identified representatives during regular business hours; (c) two days after mailing, if deposited in the United States mail, postage prepaid; or (d) one day after deposit, if tendered to an overnight or commercial courier (such as Federal Express), and addressed to the person and address below, or to another designee or address as either party may specify in writing from time to time. Notice sent by facsimile transmission or electronic mail (email) is deemed sufficient when received during regular business hours, except for notice related to default or termination. The Parties may change the identified Agreement representative or contact information by giving written notice of the changes as provided in this Section.

Multnomah County
 Attn: Henry Alaman, Director
 Facilities & Property Management
 401 North Dixon
 Portland, Oregon 97227
 Telephone: 503-988-6294
 Facsimile: 503-988-
 e-mail: henry.alaman@multco.us

City of Portland
 Attn: David O'Longiagh
 Facilities Services Manager
 Office of Management & Finance
 1120 SW 5th Avenue, Room 1204
 Portland, Oregon 97204
 Telephone: 503-823-
 Facsimile: 503-823-
 email: david.olongaiagh@portlandoregon.gov

With copy to:
 _____, Property Manager
 Facilities & Property Management
 401 North Dixon
 Portland, Oregon 97227
 Telephone: 503-988-_____
 e-mail: _____@multco.us

With copy to:
 City Attorney's Office
 1221 SW 4th Avenue, Room 430
 Attn: Deputy City Attorney Linda Law
 Portland, Oregon 97204
 Telephone: 503-823-4047
 email: linda.law@portlandoregon.gov

- 9) If a dispute arises regarding this IGA, 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 Mayor for the City and the Chair for the County, for discussion and resolution. The Parties may submit a dispute to mediated negotiation prior to any party commencing litigation, and will participate in good faith in a non-binding mediation process with the mediator selected by mutual agreement of the Parties and all mediator expenses shared equally. If the Parties are unable to mutually agree to a mediator, each Party will select a temporary mediator and those mediators shall jointly select the permanent

mediator. In the event of dispute, each Party shall bear its own costs and attorney fees.

- 10) The Parties will comply with all applicable federal, state and local laws, rules and regulations applicable to the work as set forth in this IGA.
- 11) This IGA and its exhibits are the entire agreement between the Parties with regard to the disposition and development of the Property. There is no other oral or written agreement between the Parties with regard to this subject matter. There are no oral or written representations or warranties made by either Party, implied or express, other than those contained in this IGA.
- 12) Any modifications to this IGA must be made in writing and executed by all Parties. The City's Chief Administrative Officer ("CAO") may approve and execute amendments and modifications to this IGA as may be necessary upon City Attorney approval to form. The CAO may delegate some or all responsibilities for this Agreement to the Director of Bureau of Internal Business Services. The County's Chair or designee may approve and execute amendments and modifications to this IGA as may be necessary upon County Attorney approval to form.
- 13) This IGA 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. The Parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures and facsimiles.

This Intergovernmental Agreement is effective upon full execution by the Parties as shown below.

CITY OF PORTLAND

MULTNOMAH COUNTY

By: _____
Fred Miller, Chief Administrative Officer
Office of Management & Finance

By: _____
Print Name: Deborah Kafoury_____
Title: Chair

Date: _____

Date: _____

Approved as to Form:

Approved as to Form:
JENNY M. MADKOUR, COUNTY
ATTORNEY FOR MULTNOMAH

COUNTY, OREGON

City Attorney

By: _____

Asst. County Attorney