

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
PORTLAND AND PENINSULA DRAINAGE DISTRICT #1 FOR THE  
TRANSFER OF MATERIALS AND SERVICES FUNDS**

This Intergovernmental Agreement ("Agreement") is made and entered into as of January \_\_\_\_, 2020 (the "Effective Date") by and between the City of Portland (the "City") a municipal corporation, by and through its Bureau of Parks and Recreation ("PP&R"), and the Peninsula Drainage District #1 ("PEN1"), a special purpose local government organized under ORS Chapter 547 (collectively, the "Parties," and each individually a "Party").

**RECITALS**

- A. PEN 1 provides flood risk reduction and drainage services for lands within its jurisdiction by operating and maintaining levees and drainage works as authorized under ORS 547. PEN 1 is one of four drainage districts responsible for operating and maintaining the 27-miles of levees, 45-miles of sloughs, canals, ditches, and culverts, and 12 pump stations that reduce the risk of flooding along the Columbia River and Columbia Slough in urban Multnomah County.
- B. PEN 1 is the smallest of the four local drainage districts. Approximately 94% of PEN 1's 995 acres are public lands including the Portland International Raceway, Heron Lakes Golf Course, the Portland Expo Center, and the Port of Portland's Vanport Wetland, with small businesses making up the remaining 6%. The City owns 77% of the land in the district.
- C. PEN 1's primary source of revenue is through property assessments levied on property owners based on property size. Between the land zoned as open space, and the number of properties that are already under Measure 5 tax compression, PEN 1 is unable to assess enough revenue to support the basic operations of the district.
- D. PEN1 has made several financial requests of the City of Portland in recent years, and in December 2019 made a specific \$60,000 request for Materials and Services expenses. (See Exhibit A, PEN1 Financial Request Memo.)
- E. In response, the City of Portland City Council, through its 2019 Fall Budget Monitoring Process, has approved an amount up to \$60,000.00 to be provided as its contribution for Materials and Services expenses. This contribution represents the City's commitment to maintain its infrastructure and will allow

PEN 1 to continue work on inspection, maintenance and repair of the infrastructure for certification and accreditation purposes that benefit the City.

- F. The purpose of this Agreement is to memorialize City Council's decision to transfer the Materials and Services funds and authorize PP&R to transfer the \$60,000 to PEN 1.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein and, in the Agreement, the Parties agree as follows:

## **TERMS**

### **1. RESPONSIBILITIES**

#### **1.1. PP&R Responsibilities**

Upon execution of this Agreement by both parties, PP&R shall make a one-time payment of \$60,000.00 (Sixty Thousand Dollars) to PEN 1, which is designed to cover Materials and Services expenses for PEN 1 during Fiscal Year 2019-20, as described in Exhibit A, PEN 1 Financial Request Memo.

#### **1.2. PEN 1 Responsibilities**

- A. Subject to the terms of this IGA PEN 1 will accept and use the \$60,000 transferred from PP&R for Materials and Services expenses referenced in Exhibit A.
- B. PEN 1 will provide PP&R with all necessary information regarding the PEN 1 account or fund into which any payment due shall be deposited, as any payments made shall be based on information provided by PEN 1 to PP&R.

### **2. DISPUTE RESOLUTION**

In the case of a dispute under this Agreement, the Parties shall attempt to resolve the dispute informally. If the dispute cannot be resolved through this process, the Parties shall submit their dispute to intergovernmental arbitration pursuant to ORS 190.710 through 190.800. Each of the Parties shall bear its own expense of attorney fees and arbitration.

### **3. AMENDMENT**

This Agreement may be amended by written agreement of the Parties. Amendments shall be valid only when reduced to writing, approved as required and signed.

**4. TERM**

This Agreement shall be effective upon the date that it has been executed by all Parties and shall remain in effect until the end of Fiscal Year 2019-20.

**5. INDEMNIFICATION**

Subject to the conditions and limitation of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, each Party shall indemnify, defend and hold harmless each other from and against all liability, loss, and costs arising out of or resulting from acts of that Party, its officers, employees, and agents in the performance of this Agreement.

**6. ADHERENCE TO LAW**

Each Party shall comply with all federal, state, and local laws and ordinances applicable to this Agreement.

**7. NO THIRD-PARTY BENEFICIARIES**

Except as expressly provided herein, this Agreement is not intended to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, obligation or undertaking established herein.

**8. ENTIRETY OF AGREEMENT**

This Agreement constitutes the entire Agreement between the Parties on this subject. No waiver, consent, modification, or changes of the terms of the Agreement shall bind either party unless made in writing and signed by all Parties.

**9. SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be constructed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**10. WAIVER**

A waiver by either party of any provision, condition, or covenant of this Agreement may not be construed by the other party as a waiver or subsequent breach of the same by the other party.

**11.EXECUTION; COUNTERPARTS**

This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original, and such counterparts will constitute one and the same instrument. This Agreement will not be effective until all Parties have executed this agreement or a counterpart of this agreement. Execution of this agreement may be accomplished by electronic means.

**12.NOTICE**

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by certified mail, return receipt requested, postage prepaid, to the address set forth below. Any party may change the address to which its notices are to be sent by duly giving notice pursuant to this Section.

To Grantors: Peninsula Drainage District 1  
Janet Olson, Finance Manager  
1880 NE Elrod Dr.  
Portland, OR 97211  
[jolson@mcdd.org](mailto:jolson@mcdd.org)  
(503) 281-5675, ext. 303

To Holder: Portland Parks & Recreation  
1120 SW 5th Ave., #1302  
Portland, OR 97204  
Attn: Property Manager

With a copy to: Office of the City Attorney  
1221 SW 4th Ave.  
Portland, OR 97204  
Attn: Linda Law or Molly Washington

**13.PAYMENT/BILLING**

The transfer of funds shall be done by ACH transfer. PEN 1 shall ensure that the City receives current and updated information with which to accomplish that transfer. Any invoices must be billed to and include the following information:

- a. Invoice number and invoice date,
- b. Vendor name and address,
- c. Peninsula Drainage District #1 contract number,
- d. Description of goods and/or services delivered or to be delivered,
- e. Detail units of measure, price per unit, extended amount per line items; and

f. Total invoice amount.

#### **14. CONSIDERATION**

The consideration for this agreement shall consist of the mutual covenants and agreements of the Parties contained herein.

<b>PORTLAND PARKS AND RECREATION</b>	<b>PENINSULA DRAINAGE DISTRICT #1</b>
By: _____ Adena Long Director, Portland Parks and Recreation	By: _____ Peggidy Coffman Yates Executive Director, PEN 1

#### **EXHIBIT**

**Exhibit A – PEN1 Financial Request Memo, dated December 6, 2019**