

**PORTLAND DEVELOPMENT COMMISSION**  
Portland, Oregon

**RESOLUTION NO. 6931**

**AUTHORIZING INTERGOVERNMENTAL AGREEMENTS  
BETWEEN THE PORTLAND DEVELOPMENT COMMISSION  
AND THE CITY OF PORTLAND AND BETWEEN THE  
PORTLAND DEVELOPMENT COMMISSION AND  
MULTNOMAH COUNTY RELATED TO THE SHARING OF TAX  
INCREMENT REVENUES TO IMPLEMENT THE  
NEIGHBORHOOD PROSPERITY INITIATIVE DISTRICTS**

**WHEREAS**, six neighborhood commercial corridors in Northeast and East Portland have been identified to become Neighborhood Prosperity Initiative (“NPI”) Districts, new urban renewal areas that would provide funding for community revitalization and other small scale projects in order to boost neighborhood business growth, to provide economic development opportunities and to improve community-wide prosperity;

**WHEREAS**, the proposed NPI Districts would implement the Neighborhood Economic Development Strategy (the “NED Strategy”), adopted by Portland City Council (“Council”) on May 25, 2011, via Resolution Number 36864; the NED Strategy articulates how community partners, business leadership and public partners can use focused neighborhood-level actions to collectively foster economic opportunity and neighborhood vitality throughout Portland;

**WHEREAS**, the NED Strategy builds out Goal 3, Neighborhood and Small Business Vitality, in the City’s Economic Development Strategy, which was adopted by Council in July 2009, via Resolution Number 36714;

**WHEREAS**, on March 12, 2012, the Portland Development Commission (“PDC”) Board of Commissioners (the “Board”) accepted each NPI Districts’ proposed Urban Renewal Plan (“Plan”) along with its accompanying Technical Report (“Report”), and directed that the same be forwarded to the City Planning and Sustainability Commission for recommendation, and thereafter be forwarded to Council for approval;

**WHEREAS**, state legislation requires a portion of tax increment revenues to be shared with taxing jurisdictions affected by an urban renewal area when tax increment revenues reach certain thresholds;

**WHEREAS**, PDC and the City of Portland (the “City”) have negotiated an intergovernmental agreement substantially in the form attached hereto as Exhibit A (the “City IGA”) whereby the City’s shared revenues will be granted to PDC to support and enable the NPI District’s Plans; and

**WHEREAS**, PDC and Multnomah County (the “County”) have negotiated an intergovernmental agreement substantially in the form attached hereto as Exhibit B (the “County IGA”) whereby the County’s shared revenues will be granted to PDC to support and enable the NPI District’s Plans, and the County IGA is scheduled for consideration by the Multnomah County Commission in April 2012.

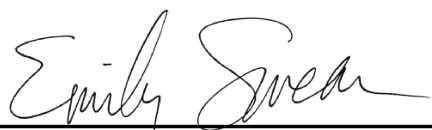
**NOW, THEREFORE, BE IT RESOLVED** that the Executive Director is hereby authorized to enter into the City IGA;

**BE IT FURTHER RESOLVED** that the Executive Director is hereby authorized to enter into the County IGA;

**BE IT FURTHER RESOLVED** that the Executive Director is authorized to modify the City IGA and the County IGA, as the Executive Director determines is necessary or desirable to implement the NPI Districts, so long as such changes do not materially increase PDC's risks or obligations, as determined by the Executive Director in consultation with the General Counsel; and

**BE IT FURTHER RESOLVED** that this resolution shall become effective 30 days after its adoption.

**Adopted by Portland Development Commission on March 12, 2012**

A handwritten signature in cursive script, appearing to read "Emily Swensen", written in black ink. The signature is positioned above a horizontal line.

Emily Swensen, Recording Secretary

**Exhibit A**

**IGAs Related to the Sharing of TIF Revenues**

**Portland Development Commission**

**Board of Commissioners**

**March 12, 2012**

**Resolution No. 6931**

**Exhibit A includes this cover page and contains 9 pages:**

- Intergovernmental Agreement, Neighborhood Prosperity Initiative for Granted Revenues (City of Portland and PDC)

**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:

Granted Revenues = (IV Not to Use) X (CoPPR) X (Compression Rate) X  
(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 5<sup>th</sup> Avenue  
Portland, Oregon 97209  
Attn: Patrick Quinton  
Phone: 503-823-3355  
Fax: 503-865-3730



Email: [PDC-Quintonp@portlandoregon.gov](mailto: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 5<sup>th</sup> Avenue, Rm 1250  
Portland, Oregon 97204  
Attn: B. Jonas Biery, Debt Manager  
Phone: 503-823-4222  
Fax: 503-823-6924  
[Jonas.biery@portlandoregon.gov](mailto: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: \_\_\_\_\_

**Exhibit B**

**IGAs Related to the Sharing of TIF Revenues**

**Portland Development Commission**

**Board of Commissioners**

**March 12, 2012**

**Resolution No. 6931**

**Exhibit B includes this cover page and contains 8 pages:**

- Intergovernmental Agreement, Neighborhood Prosperity Initiative for Granted Revenues (Multnomah County and PDC)

**INTERGOVERNMENTAL AGREEMENT  
NEIGHBORHOOD PROSPERITY INITIATIVE  
FOR GRANTED REVENUES**

This Intergovernmental Agreement (this “Agreement”) commencing on [DATE] (the “Effective Date”) is made and entered into by and between MULTNOMAH COUNTY, OREGON, acting by and through its elected officials (the “County”), and the CITY OF PORTLAND, acting by and through the Portland Development Commission, its duly designated urban renewal agency (“PDC”). PDC and the County 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 Oct 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”) managed by a local community-based non-profit organization (each, a “District Manager”).
- 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.
- H. PDC and the County 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 County 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 County Grant.** Subject to the terms and conditions of this Agreement, the County shall provide PDC with an annual grant equal to the amount of its annual share of Shared Revenues due to the County 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:

Granted Revenues = (IV Not to Use) X (MCPR) X (Compression Rate) X  
(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;
- “MCPR” means the operating tax rate certified by Multnomah County 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 County hereby commits the Granted Revenues annually for the Term (as hereinafter defined) of each NPI District. Likewise, the City of Portland (the “City”) 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 “City’s Granted Revenues”) for the Term of each NPI District. In the event that the City fails to grant PDC any of the City’s Granted Revenues, such amount otherwise due as part of the City’s Granted Revenues shall be included in calculating the duration of the Term for each NPI District. Such failure on the part of the City shall not relieve the County from its obligation to fund its share of the Granted Revenues to PDC.

**Section 1.04 Term.** The County 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); (ii) the date that PDC discovers any misuse of the Granted Revenues by the District Manager; (iii) the date that a NPI District is closed; or (iv) June 30, 2022 (the earlier of which is the “Term”). The “Total Funding” for each NPI District is comprised of the TIR for the NPI District collected by PDC, the Granted Revenues, and the City’s 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 City 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”), provided that in each fiscal year during each NPI District’s Term, no more than 20% of the Granted Revenues for such fiscal year may be used for PDC Overhead.
- Other uses as first agreed in writing between PDC and the County.

## **Article II. Reports, 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 County 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 City Granted Revenues received by PDC for each NPI District;
- the amount of combined Granted Revenues and City 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 County and its representatives, as the County may reasonably request from time to time, to enable the County to perform examinations and audits and make excerpts and transcripts, provided that any such examinations and audits shall be at the County’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 County with a copy of the Grant Agreement or other records associated with the Grant Agreement upon request of the County.

**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 County and its representatives, as the County may reasonably request from time to time, to enable the County to perform examinations and audits and make excerpts and transcripts, provided that any such examinations and audits shall be at the County’s sole expense.

**Article IV. General**

**Section 4.01 Notices.** Any notice provided for under this Agreement shall be in writing and deemed delivered five days after mailing, postage prepaid and properly addressed to the Party to be notified. Unless a Party changes its address by giving notice to the other party as provided herein, notices shall be addressed as follows:

If to PDC:

If to County:



Patrick Quinton  
Portland Development Commission  
222 NW 5<sup>th</sup> Avenue  
Portland, OR 97209

John Tydlaska  
Office of the Chair  
Multnomah County  
501 SE Hawthorne Blvd., 6<sup>th</sup> Floor  
Portland, OR 97214

**Section 4.02 Agreement Administration.** Patrick Quinton is the PDC project staff person assigned to this Agreement and is authorized to administer it on behalf of PDC. John Tydlaska is the County project staff person assigned to this Agreement and is authorized to administer it on behalf of the County.

**Section 4.03 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 4.04 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 4.05 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 4.06 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 4.07 Time is of the Essence.** Time is of the essence in performance of this Agreement.

**Section 4.08 Counterparts.** 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.

**Section 4.09 Material Breach.** If the County 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. Material terms of this Agreement include, but are not limited to, Sections 1.05, 1.06, 2.01 and 3.02 and, in addition to the rights set forth in the first sentence of this Section 5.09, in the event of (i) a breach of Sections 1.05, 1.06, 2.01 or 3.02 or (ii) the failure of a District Manager to comply with the provisions of the Grant Agreement described in Sections 3.01 and 3.02, then, if such breach or failure remains uncured 60 days after written notice thereof to PDC, the County may send a notice of termination to PDC and this Agreement shall terminate automatically upon delivery as set forth in Section 5.01.

**Section 4.10 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 amendment, consent or waiver of terms of this Agreement shall bind either Party unless in writing and signed by all Parties. Any such amendment, consent, or waiver shall be effective only in the specific instance and for the specific purpose given. 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.

**Section 4.11 PDC Obligation to Indemnify.** To the extent permitted by law and within the limitations of the Tort Claims Act, PDC shall defend, save, hold harmless, and indemnify the County and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorneys fees, resulting from, arising out of, or relating to the activities of PDC or its officers, employees, subcontractors, or agents under this Agreement. However, neither PDC nor any attorney engaged by PDC shall defend the claim in the name of the County or any department of the County, nor purport to act as legal representative of the County or any of its departments, without first receiving from the Multnomah County Attorney's Office, authority to act as legal counsel for the County, nor shall PDC settle any claim on behalf of the County without the approval of the Multnomah County Attorney's Office. The County may, at its election and expense, assume its own defense and settlement.

**Section 4.12 County Obligation to Indemnify.** To the extent permitted by law and within the limitations of the Tort Claims Act, the County shall defend, save, hold harmless, and indemnify PDC and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorneys fees, resulting from, arising out of, or relating to the activities of the County or its officers, employees, subcontractors, or agents under this Agreement. The County shall have control of the defense and settlement of any claim that is subject to this paragraph. However, neither the County nor any attorney engaged by the County shall defend the claim in the name of PDC or any department of PDC, nor purport to act as legal representative of PDC or any of its departments, without first receiving from PDC's General Counsel, authority to act as legal counsel for PDC, nor shall the County settle any claim on behalf of PDC without the approval of PDC's General Counsel's Office. PDC may, at its election and expense, assume its own defense and settlement.

**Section 4.13 Adherence to Law.** Each Party shall comply with all federal, state and local laws and ordinances applicable to this Agreement.

**Section 4.14 Nondiscrimination.** Each Party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local nondiscrimination ordinances.

**Section 4.15 Severability.** If any terms 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 construed and enforced as if the Agreement did not contain the particular term or provision to be held invalid.

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

COUNTY:

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

By: \_\_\_\_\_  
Jeff Cogen, Chair

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

By: \_\_\_\_\_  
Jed Tomkins, Assistant County Attorney

**RESOLUTION NO. 6931**

**RESOLUTION TITLE:**

**AUTHORIZING INTERGOVERNMENTAL AGREEMENTS BETWEEN THE PORTLAND DEVELOPMENT COMMISSION AND THE CITY OF PORTLAND AND BETWEEN THE PORTLAND DEVELOPMENT COMMISSION AND MULTNOMAH COUNTY RELATED TO THE SHARING OF TAX INCREMENT REVENUES TO IMPLEMENT THE NEIGHBORHOOD PROSPERITY INITIATIVE DISTRICTS**


**Adopted by the Portland Development Commission on March 12, 2012**

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Scott Andrews	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Aneshka Dickson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner Steven Straus	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner Charles Wilhoite	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Regular Agenda		

**CERTIFICATION**

**The undersigned hereby certifies that:**

*The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and as duly recorded in the official minutes of the meeting.*

	<p><b>Date:</b></p> <p>June 26, 2012</p>
<p><b>Emily Swensen, Recording Secretary</b></p>	