

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 7077

**AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH
PORTLAND BUREAU OF PARKS AND RECREATION FOR THE
CONSTRUCTION OF GATEWAY URBAN PLAZA AND NEIGHBORHOOD
PARK IN THE GATEWAY REGIONAL CENTER URBAN RENEWAL AREA**

WHEREAS, the 2001 Gateway Urban Renewal Plan calls to “increase the supply of new park land, giving priority to areas where serious geographical and service level deficiencies exist;”

WHEREAS, in 2008, Portland Development Commission (“PDC”) and Portland Bureau of Parks and Recreation (“PP&R”) jointly acquired three parcels totaling 4.2 acres at the southwest corner of NE Halsey Street and NE 106th Avenue in the Gateway Regional Center Urban Renewal Area (“Gateway URA”) for the purpose of developing a three-acre neighborhood park and one acre of complementary commercial, residential, or mixed-use development;

WHEREAS, Portland City Council in March 2011 approved a community-developed master plan for the Gateway Redevelopment, Urban Plaza, and Neighborhood Park;

WHEREAS, PP&R has estimated the construction aspect of the three-acre park (“Park”) project to cost \$5,100,000 and total costs to be approximately \$8,200,000;

WHEREAS, PP&R has allocated funding for most of the design and construction of the Park and has requested that PDC contribute up to \$1,000,000 for construction;

WHEREAS, when built, the Park will improve the livability and attractiveness of the area, promote a positive identity for the Gateway URA, support local businesses, and improve a long-vacant parcel on a major commercial corridor; and

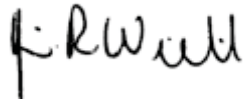
WHEREAS, the Park is expected to be completed in the spring of 2017.

NOW, THEREFORE, BE IT RESOLVED, that the PDC Board of Commissioners (“Board”) authorizes the Executive Director to execute an Intergovernmental Agreement (“IGA”) with PP&R substantially in the form attached hereto as Exhibit A;

BE IT FURTHER RESOLVED, that execution of the IGA with PP&R is conditioned upon PDC Board review of a budget for the Park project; and

BE IT FURTHER RESOLVED, that this resolution shall become effective immediately upon its adoption.

Adopted by the Portland Development Commission on October 29, 2014

A handwritten signature in black ink, appearing to read "Gina Wiedrick". The signature is written in a cursive, somewhat stylized font.

Gina Wiedrick, Recording Secretary

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 7077

EXHIBIT A

**AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH
PORTLAND BUREAU OF PARKS AND RECREATION FOR THE
CONSTRUCTION OF GATEWAY URBAN PLAZA AND NEIGHBORHOOD
PARK IN THE GATEWAY REGIONAL CENTER URBAN RENEWAL AREA**

Exhibit A includes this cover page and contains 17 pages:

- Intergovernmental Agreement between Portland Development Commission and Portland Parks & Recreation for the Gateway Park Project

INTERGOVERNMENTAL AGREEMENT
Between
Portland Development Commission
And
Portland Parks & Recreation
For the
Gateway Park Project

This Intergovernmental Agreement (this “Agreement”), dated this _____ day of _____, 20__, (“Effective Date”) is made and entered into by and between the **City of Portland, Parks & Recreation** (“PP&R”) and the **Portland Development Commission** (“PDC”).

RECITALS

1. PDC, as the duly-designated Urban Renewal agency of the City of Portland, is granted broad powers under ORS 457.170 for the planning and implementation of urban renewal projects.
2. PP&R is responsible for parks, open space, and recreation operations, services and improvements within the City.
3. A cooperative partnership between PDC and PP&R will be beneficial to the implementation of urban renewal plans and the development of other public policies, plans and capital projects.
4. Both parties desire to enter into an agreement that will establish terms and conditions by which one party will engage and compensate the other party for performing specific services.
5. The Portland City Council (“Council”), through Ordinance No. 181232, which was duly adopted by Council on August 29, 2007, and amended by Ordinance No. 183435, passed by Council on January 6, 2010, delegated to the Director of PP&R and the City Auditor the authority to enter into intergovernmental agreements with PDC. The form of agreement used for this Agreement is substantially similar to the template that was approved by City Council through the above referenced Ordinance.

Now therefore, the parties agree as follows:

AGREEMENT

I. THE PROJECT

A. Background.

Gateway is an area of East Portland that could benefit from commercial stimulation and from the presence of a new urban park in what is currently a park-deficient neighborhood. PP&R and PDC have acquired the 4-acres of property necessary to create a joint project for a new commercial development and a new park in the Gateway Regional Center Urban Renewal Area (“Gateway URA”) in the south-west corner of NE Halsey and NE 106th Avenue.

The process began in March 2011 with the planning of the Gateway Redevelopment and Neighborhood Park Project. This involved preliminary project scoping, site analysis, public involvement, redevelopment feasibility options, urban design concepts, and ultimately a new Master Plan design that created a combined development plan and a new park for the jointly owned property. The project supports the Gateway URA goal to stimulate commercial redevelopment and also supports the goal of Portland Parks & Recreation to provide equal park and recreation opportunities to all Portlanders.

The Gateway Park project (“Project”) scope will be to design and construct a new 3-acre park at NE Halsey and NE 106th. The adjacent 1-acre PDC-owned lot will be redeveloped by PDC through an independent process and timeline to be defined by PDC. The boundaries of said lots have generally been identified on page 13 of the 2011 City Council accepted Gateway Urban Plaza and Neighborhood Park plan, jointly prepared by PP&R and PDC. PDC funding for the Project is a total of \$1,000,000 over (2) fiscal years in FY 15-16 and FY16-17 to be used for construction of the new 3-acre park. Additional costs will be covered by Parks SDC funding.

Under the current schedule, the construction plans would be completed by December 2015 and park construction would be completed by March 2017. The commercial development and park construction support several existing City plans and strategies:

1. The Portland Development Commission 2014 Halsey Weidler Corridor Investment Strategy.
2. The Portland Parks & Recreation 2008 Strategic Business Plan which focuses on key areas to “Improve Service Delivery” and “Reach & Involve the Community.”
3. The Parks 2020 Vision which identifies outer East Portland and Gateway as underserved communities needing more parks and open spaces.
4. The Portland Development Commission Gateway Regional Center Urban Renewal Plan which has a goal to provide new parks and opportunities for commercial development in order to promote revitalization of the regional center.

5. The Original Gateway Acquisition and Development Study (November 2004) which has an objective to provide “Parks as a Catalyst for Re-development.”
6. The Outer Southeast Community Plan (2006) which has a policy statement that “Adequate parks, open spaces, and community centers are crucial to the area’s livability.”
7. The Gateway Urban Plaza and Neighborhood Park plan accepted by City Council on March 2, 2011

The project design will begin in FY 2014-2015 and will include project set-up, design consultant selection, project design options and public engagement. The project design will continue into FY 2015-2016 and will include production of final design plan and specification documents. The construction of the park will follow the final design documents phase.

B. Summary of Work and Budget.

1. The following is a summary of the scope of work:
 - a. Under this Agreement, PP&R will manage the design development, as generally described in the Master Plan, the preparation of the construction documents, the securing of necessary permits and the construction of the 3-acre Gateway Park project.
 - b. PDC and selected development partners for the 1-acre PDC-owned lot will be participants in the design process; and will stay coordinated with PP&R throughout the construction documents, permitting and park construction phases.
 - c. The following is a summary of the tasks involved in the scope of work:
 - i. Design consultant RFP and selection
 - ii. Site analysis and character refinement
 - iii. Program and feasibility assessment
 - iv. Schematic design
 - v. Cost estimating
 - vi. Required permitting
 - vii. Construction documents – plans and specifications
2. The following is a summary of the budget:
 - PDC has budgeted \$1,000,000 for the construction aspect of the Project in the FY 15-16 and FY 16-17 forecast budget. PDC will reimburse Project construction expenses up to \$1,000,000.

- PP&R has budgeted the remaining project costs. The current total project cost including PDC funding is \$8.2 million.

II. CONTRACT MANAGEMENT

- A.** The party for whom the Work is being performed, and who will be compensating the other party for performing the Work, shall be referred to in this Agreement as the “Funding Agency”. PDC shall be referred to herein as the Funding Agency.
- B.** The party performing the Work for the Funding Agency shall be referred to in this Agreement as the “Performing Agency”. PP&R shall be referred to herein as the Performing Agency.

C. Funding Agency.

1. **Contract Signatory.** The Funding Agency Contract Signatory shall be Patrick Quinton, or such other person as designated in writing by the Funding Agency Director (the "Funding Agency Contract Signatory"). The Funding Agency Contract Signatory is authorized to give notices and to carry out other actions referred to herein, including termination of this Agreement as provided in Section V.
2. **Contract Manager.** The Funding Agency Contract Manager shall be Dan Spero (the “Funding Agency Contract Manager”). The Funding Agency Contract Manager is responsible for the day-to-day management of this Agreement as provided herein and serves as the first level of conflict resolution.

D. Performing Agency.

1. **Contract Signatory.** The Performing Agency Contract Signatory shall be Mike Abbaté, or such other person as designated in writing by the Performing Agency Director (the "Performing Agency Contract Signatory"). The Performing Agency Contract Signatory is authorized to give notices and to carry out other actions referred to herein, including termination of this Agreement as provided in Section IV.
2. **Contract Manager.** The Performing Agency Contract Manager shall be Lauren McGuire (the “Performing Agency Contract Manager”). The Performing Agency Contract Manager is responsible for the day-to-day management of this Agreement as provided herein and serves as the first level of conflict resolution.

E. Management Staffing.

1. A project manager shall be designated by the Performing Agency (the "Performing Agency Project Manager"), and a project manager shall be designated by the Funding Agency (the "Funding Agency Project Manager") to carry out designated responsibilities designated in this Agreement.
 - a) The Funding Agency Project Manager shall be Susan Kuhn, or such other person as designated in writing by Funding Agency Contract Manager.
 - b) The Performing Agency Project Manager shall be George Lozovoy, or such other person as designated in writing by Performing Agency Contract Manager, and approved by the Funding Agency Project Manager.
2. If either project manager is not performing or is not able to continue performing the responsibilities designated in this Agreement, then the respective contract manager shall designate a replacement project manager. If a replacement project manager is not available, or cannot be made available by hiring, then upon written agreement of the parties, the other party may take on all project management responsibilities designated in this Agreement.
3. The Funding Agency Contract Manager and the Performing Agency Contract Manager will confer quarterly to review project management and staffing needs and performance, and identify desired changes, if any. If either PDC or PP&R desires to replace a project manager, or other key staff identified in section II.F. or section II.G. of this Agreement, the party's contract manager shall notify the other contract manager in writing, and if required, they will meet to discuss and agree on any necessary adjustments to provide adequate time to make such change.
4. Notice. Any notice or communications provided under this intergovernmental agreement shall be sufficient if in writing and addressed as follows:

CITY Point of Contact	PDC Point of Contact
George Lozovoy	Susan Kuhn
City of Portland Parks and Recreation	Portland Development Commission
1120 SW 5 th Ave. Ste. 1302	222 NW 5 th Ave.
Portland, OR 97201	Portland, OR 97209
Or george.lozovoy@oprlandoregon.gov	Or kuhns@pdc.us

F. Project Staffing – Performing Agency. The following Performing Agency personnel are being assigned to perform the Work. Only personnel listed below, or subsequently identified and authorized by the Funding Agency Project Manager, shall be reimbursed for performance of the Work. The Funding Agency will not unreasonably delay or withhold subsequent authorization for personnel identified by the Performing Agency to perform the Work, and its failure to notify the Performing Agency in writing of denial of authorization within 10 business days after the Project Manager's receipt of a written request for authorization from the Performing Agency shall be deemed as authorizing those identified personnel to perform the Work.

1. George Lozovoy, Landscape Architect - Project Manager
2. Lauren McGuire, CIP Team Manager
3. Kia Selley, Asset Manager
4. Elizabeth Kennedy Wong, Public Involvement
5. Construction Manager
6. Dale Cook, Construction Supervisor

G. Project Staffing – Funding Agency. The following Funding Agency personnel are being assigned to perform the Work.

1. Susan Kuhn, Sr. Project Manager
2. Trang Lam, Neighborhood Manager
3. Colin Polk, Construction Services
4. Nixie Stark, Administrative Services
5. Dan Spero, Contract Manager
6. Patricia Weekley, Business, Workforce and Social Equity

H. Approvals.

1. No construction work shall be performed and no funds shall be obligated until this Agreement is executed.
2. The Performing Agency is not obligated to perform, and the Funding Agency is not authorized to pay for, any work not identified in the Scope of Work and Budget.

I. Project Management.

1. Susan Kuhn – PDC Project Manager – will provide input, and oversight of PDC’s interest involving consultant selection, design process including final design review, public outreach plan, and be a non-voting member of the Project Advisory and Technical Advisory Committees.
2. George Lozovoy – PP&R Project Manager – will oversee the day to day operations associated with the Project. Operations include design oversight, public outreach, Project Advisory and Technical Advisory Committees

coordination, scope, schedule, budget, invoicing, management of consultants, and contract management. PP&R Project Manager will provide input into site development of the PDC building pad and its relationship to the park.

3. Project Status Reports, including those that may be required in connection with the Business and Workforce Policy, are required to be submitted within 60 days after the Effective Date of this Agreement and thereafter at a frequency of *quarterly*.

J. Public Involvement.

1. PDC will provide input into the development and implementation of the Parks outreach plan.
2. PDC will participate as a non-voting member of the Project Advisory and Technical Advisory Committees.
3. PP&R and PDC will keep each other informed of written material (e.g., news releases, brochures, newsletters, reports) produced for the Project that are intended for public distribution and will provide adequate time for review and discussion prior to distribution.
4. Each project manager will inform the other of inquiry from a media or press representative and make reasonable efforts to consult with the other project manager prior to any verbal or written information on the project being provided to such a representative; if unable to make a prior consultation, notice will be provided afterwards.

K. Meeting Participation. Each project manager will invite the other to attend all public meetings.

L. Work Product. The Performing Agency will provide Funding Agency Project Manager with design documents at 30%, 60% and 90% completion and other information and will provide adequate time for review and comment period.

M. Subcontractors. A subcontractor is any other entity that the Performing Agency contracts with to carry out all or part of the Work.

1. The Performing Agency will have the sole authority to direct the work of any subcontractors.

N. Regional Arts & Culture Council (RACC) – Percent for Art Program.

City Code Section 5.74 sets the policy of the City of Portland to dedicate two percent of the total Eligible Costs, as defined by Code, or two percent of the total Eligible Funds, as defined by Code, of all Improvement Projects, as defined by Code, (whichever is less) to

the selection, acquisition, fabrication, installation, maintenance, management, de-accessioning, community education, documentation and registration of Public Art.

1. This Agreement includes Eligible Funds for work conducted by PP&R. PP&R is responsible for fulfilling the requirements.

O. Business and Workforce Equity.

1. The Project shall comply with PDC’s Business and Workforce Equity Policies and Guidance attached hereto as Exhibit ____.
2. PP&R may use a CM/GC and prequalification process for the general contractor. There will be no subcontractor selection prequalification . A PDC representative and Minority Evaluator will take part in the RFP development and in the evaluation of prequalification applications and PP&R and PDC will jointly decide on the prequalification of applicants.

P. Prevailing Wage. PP&R shall comply with all applicable provisions of Oregon’s Prevailing Wage Rate law under ORS 279C.800 et. seq.

Q. Special Contract Management Provisions.

1. While this IGA is to fund the Construction Phase of the Project, PDC Project Manager will participate in the Project Design Phase and PP&R commits to:
 - a) PDC Project manager will be invited to Project Design Process team meetings;
 - b) PDC will be a non-voting member on the Project Advisory and Technical Advisory Committees; and
 - c) PP&R and PDC will include development partner selected for PDC-owned lot to participate in Design and Construction Phases.
2. PDC has been working with Gateway stakeholders and specifically, the Halsey Weidler Group to revitalize the Halsey Weidler commercial corridor of which the Gateway Park will be a vital part. The selected Proposer of the QBS for Gateway Park will consult and coordinate efforts with the Halsey Weidler Group with the intent to reach agreement on what the “Gateway story/identity” along the Halsey Weidler Commercial Corridor is and how best the Gateway identity can be communicated as part of the final Park design.
3. PDC’s financial participation in the development of Gateway Park is in part made to support the proposed adjacent commercial development site and the

importance of the two sites functioning in mutually compatible ways. To support this:

- a) PP&R commits to programming the plaza space, at least quarterly, for a minimum of two years after park construction is complete;
- b) Plaza area design and amenities will consider adjacent planned retail space and appropriate operation, coordination and budget; and
- c) The park will be maintained in a safe manner addressing safety issues of area businesses and residents.

III. FUNDING / COMPENSATION / ALLOWABLE COSTS

- A.** The Funding Agency shall pay the Performing Agency a sum not to exceed **ONE MILLION DOLLARS (\$1,000,000.)** for accomplishment of the Work, subject to budget authorization by the Funding Agency.
- B.** The funding is from *Gateway Regional Center URA*.
- C.** The full amount of funds is not authorized in the current fiscal year's budget. If the Project funding spans multiple fiscal years, the PDC will encumber the funds as the funds are approved through budget appropriation. All funding is subject to budget appropriation. If the full amount of funds is not authorized in the current fiscal year's budget, it is acknowledged that contract amounts identified for expenditure in future fiscal years have not been appropriated in the current year budget. If funding has been identified in the Portland Development Commission Five-Year Budget Forecast, PDC staff agree to recommend to the PDC Board of Commissioners that the funds identified in the Five-Year Budget Forecast be appropriated in subsequent budgets.
- D.** PDC funds shall only be expended on Tax Increment Financing eligible uses, for example, planning for improvements, design and engineering for improvements, and construction of improvements. Costs for operations, maintenance, and moving transit stock are not typically eligible for Tax Increment Financing.
- E.** The Performing Agency may seek reimbursement from the Funding Agency for the following costs, subject to the expenditure of these funds for performance of the Work and within the authorized budget. In certain circumstances, such as advance payment to RACC, the Funding Agency Project Manager may authorize a prepayment of future expense obligations.
 - 1. Direct Costs.

- a) Personal Services. Covers reimbursement for direct wages paid to personnel engaged in performance of the Work.
 - b) Benefit Costs. Covers reimbursement for the fully loaded benefit costs associated with direct wages, which represents the actual benefit load attributable to the respective employees.
 - c) Materials & Services. Covers actual costs for the purchase of materials, supplies, and services, or reimbursement of incidental expenses and PP&R or PDC support staff personal services where the expenditure is for performance of the Work and within the authorized budget.
 - d) Contracted Services. Covers reimbursement for contracted professional or construction services in carrying out the Work and within the authorized budget.
2. Indirect Costs. Covers reimbursement for overhead costs shall be at the rate established annually by Council for PP&R in accordance with City Code Section 5.48 and for PDC in accordance with Cost Recovery Policy through Resolution 6560.
- a) This Agreement was originated in Fiscal Year 2014-15. For that Fiscal Year, PP&R's rate is 101.74% (ONE HUNDRED AND ONE AND SEVENTY-FOUR ONE HUNDRETHS PERCENT) of the sum of Personal Services and Benefit Costs per Ordinance No. 182377. PP&R Indirect costs pay for administrative time and generally fixed costs related to program management costs including Council charges, central administration costs, executive management staff, rent, telephone, power, insurance, office supplies, and equipment.
 - b) This Agreement was originated in Fiscal Year 2014-15. For that Fiscal Year, the PDC rate is \$17.00 per labor hour (SEVENTEEN DOLLARS AND ZERO CENTS) of Personal Services and Benefit Costs billed under this Agreement. PDC Indirect costs pay for generally fixed costs related to the administration and operation of an organization, as well as program management costs including administrative staff, rent, telephone, power, insurance, office supplies and equipment.
 - c) If this Agreement extends to a new Fiscal Year, the Performing Agency Contract Manager shall provide written notification to the Funding Agency Contract Manager of the new Fiscal Year rate; a change to the rate does not require an amendment to this Agreement.

3. The Funding Agency Project Manager shall be immediately notified of any actual or anticipated variance between the authorized budget and the estimated cost or expenditures described in the Scope of Work and Budget. The parties shall then make a good faith effort to negotiate for a successful modification to this Agreement. Unless this Agreement is modified, the Funding Agency shall not be obligated to make payments for costs that exceed the authorized budget.

F. Expense Costs. Expenses, including personal services, incurred for out of town travel, training, educational expenses and equipment purchase are not reimbursable under this Agreement unless mutually agreed to in advance.

IV. BILLING AND PAYMENT PROCEDURE

- A.** The Performing Agency shall submit to the Funding Agency Project Manager a separate itemized billing for work performed as described in the Scope of Work and Budget for review and approval at least quarterly.
1. In order to receive timely payment, interim billings must be received no later than thirty (30) days following the end of a billing period.
 2. Final billings upon termination or early termination of this Agreement need to be received within sixty (60) days of the date of termination. If no bill or interim Project Status Report is received within this time period, the Funding Agency will have no obligation to honor late billings.
- B.** Each billing shall include a Billing Detail Report in a format created and/or approved by the Funding Agency. At a minimum, each billing shall include:
1. A description of the nature and cost of work accomplished;
 2. The names, rates and hours worked of personnel;
 3. Disbursements to consultants, contractors and outside vendors for materials and services; and
 4. Any other specific detail or documentation as desired by the Funding Agency Contract Manager, which can be reasonably provided by the Performing Agency.
- C.** If billings are received with incomplete information or disputed items, the Funding Agency will advise the Performing Agency in writing what specific information is missing or disputed. The Funding Agency will proceed to process payment for items not in dispute.

V. GENERAL

A. Termination.

1. The Termination Date of this Agreement is June 30, 2017.
2. Early Termination of Agreement.
 - a) This Agreement may be terminated at any time by mutual written consent.
 - b) Upon thirty (30) days written notice, either party may terminate this Agreement where the public interest requires work to cease.
 - c) In the event of early termination of this Agreement, the work shall cease promptly, as reasonably possible, and a final billing request submitted within sixty (60) days of the effective date of termination. In the event of early termination, eligible costs incurred through the date of the Agreement's termination will be reimbursed.

B. Change and Conflict Resolution.

1. Every effort has been made to accurately identify the scope, schedule and budget for the Work. The Performing Agency and the Funding Agency recognize that events and conditions may arise that significantly impact the Project. A "significant" impact is one that may require expenditure of the Funding Agency controlled contingency, increase the budget beyond the total authorized budget amount shown in the Scope of Work and Budget, or delay completion of this phase of the Project more than one year. Should either party identify or foresee such a circumstance, both parties agree to the following:
 - a) As soon as practicable, notify both the project manager and contract manager of the other party in writing of the circumstance, its origin and anticipated or confirmed impact.
 - b) Both project managers shall make reasonable efforts to meet within 14 days to identify anticipated or confirmed effects to the Project's scope, schedule and budget.
 - c) Both parties shall seek to reach agreement on any necessary revisions to this IGA as described below in Section V. B. 2.
2. If a dispute arises regarding performance, cost, schedule, scope, quality or other terms and conditions of this Agreement, all parties agree to exercise good faith in expeditiously resolving said conflict in the following manner.

- a) All conflicts should first be discussed and resolved if at all possible by the project managers specified in Section II.
- b) If the conflict cannot be resolved by the project managers, or involves one of the project managers, then the conflict should be elevated to the contract managers specified in Section II for discussion and resolution.
- c) Any conflicts not resolved by the contract managers shall be elevated to the contract signatories for discussion and resolution.

C. Compliance with Laws. In connection with its activities under this Agreement, the parties shall comply with all applicable federal, state and local laws and regulations.

D. Indemnification.

- 1. Subject to the limits of the Oregon Tort Claims Act and Oregon Constitution, PP&R agrees to indemnify, hold harmless and defend, PDC, 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 the activities of PP&R, its officers, employees or agents under this Agreement.
- 2. Subject to the limits of the Oregon Tort Claims Act and Oregon Constitution, PDC agrees to indemnify, hold harmless and defend, PP&R, its 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 the activities of PDC, its directors, employees or agents under this Agreement.

E. Subcontracting. Work under this Agreement shall not be subcontracted in whole or in part to other than City agencies, without the prior written approval of the Funding Agency Project Manager. The Funding Agency will not unreasonably delay or withhold subsequent authorization for contractors identified by the Performing Agency to perform the Work under the Agreement and that its failure to notify the Performing Agency in writing of denial of authorization within 10 business days after the Funding Agency Project Manager's receipt of a written request for authorization from the Performing Agency shall be deemed as authorizing those identified contractors to perform the Work. The Performing Agency shall require any approved subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the Performing Agency as specified in this Agreement. Notwithstanding approval by the Funding Agency Project Manager of a subcontractor, the Performing Agency shall remain obligated for full performance hereunder, and the Funding Agency shall incur no obligation to the subcontractor

hereunder. The Performing Agency shall have the sole authority to direct the work of any authorized and approved subcontractors.

F. Ownership of Work Product. Ownership of any and all plan sets, technical data, documents, plans, designs, drawings, technical data reports, specifications, working papers and other materials produced in connection with this Agreement (the “Work Product”) will be handled as described below. Ownership of the Work Product includes all rights, title and interest, including but not limited to copyright rights of specified Work Products.

1. Except as described in paragraph 2 below, the Performing Agency shall own all Work Product.
2. If the parties determine that the Performing Agency is unable or unwilling to complete the Project, and the Funding Agency determines that a transfer of ownership of the Work Product is necessary in order to effect completion of the Project, upon the Funding Agency’s written request the Performing Agency shall assign ownership of the Work Product to the Funding Agency.
3. Regardless of ownership of the Work Product, both parties shall have reasonable access to the Work Product and the Funding Agency shall be provided copies of any material necessary to inform the coordination of design and construction on the adjacent 1-acre parcel.

G. Delivery / Maintenance of Records. The Performing Agency shall maintain records on a current basis to support its billings to the Funding Agency. The Funding Agency or its authorized representative shall have the authority to inspect, audit and copy, on reasonable notice and from time to time, any records of the Performing Agency regarding its billings or its work hereunder, for a period of 3 years after completion or termination of this Agreement.

I. Funding Acknowledgement / Signage.

1. Any oral reports made to neighborhood, business, or other civic organizations, as well as to any members of the press shall acknowledge work being done is based on a partnership between PP&R and the Portland Development Commission and, if appropriate, financed by “the Gateway Regional Center Urban Renewal Area budget”.
2. For projects involving construction activities funded by PDC, PP&R shall display a sign near the construction site and readily visible to the public, specifying that the Project is being "funded by the Portland Development Commission’s Gateway Urban Renewal Project". The sign shall remain in place until construction is complete.

VI. AMENDMENTS

1. Except as otherwise provided for in this Agreement, PP&R or PDC may amend this Agreement only in writing signed by the contract signatories.
2. Changes to the Scope of Work and Budget:
 - a) Changes to the Scope of Work and Budget, including changes to scope, schedule, and budget identified in Section I of this Agreement, which do not increase the total compensation under this Agreement, may be made upon written agreement by the project managers identified in Section II of this Agreement.
 - b) Changes will not take effect or be binding on either party until agreed to in writing.

VII. MERGER CLAUSE

This Agreement contains the entire agreement between PDC and PP&R. It supersedes all prior written or oral discussions or agreements concerning work to be performed by either party.

VIII. MISCELLANEOUS PROVISIONS

INSTRUCTIONS: Delete if not used

[Signature page to follow]

IN WITNESS WHEREOF, PP&R and PDC have executed this Agreement as of the Effective Date.

CITY OF PORTLAND

PORTLAND DEVELOPMENT COMMISSION

Mike Abbaté, Director, Portland Parks and Recreation Bureau

Patrick Quinton, Executive Director

(Executed under authority delegated by Ordinance No. 181232, passed by Council on August 29, 2007 and amended by Ordinance No. 183435, passed by Council on January 6, 2010.)

Date

Date

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

PDC Legal Counsel

City Auditor

Date

RESOLUTION NO. 7077

RESOLUTION TITLE:

AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH PORTLAND BUREAU OF PARKS AND RECREATION FOR THE CONSTRUCTION OF GATEWAY URBAN PLAZA AND NEIGHBORHOOD PARK IN THE GATEWAY REGIONAL CENTER URBAN RENEWAL AREA

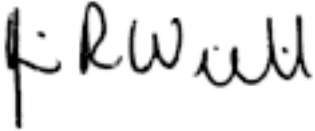
Adopted by the Portland Development Commission on October 29, 2014

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Tom Kelly	<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 Mark Edlen	<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 checked="" type="checkbox"/>	Commissioner Charles Wilhoite	<input checked="" 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>Date:</p> <p>November 6, 2014</p>
<p>Gina Wiedrick, Recording Secretary</p>	