

**PORTLAND DEVELOPMENT COMMISSION**  
Portland, Oregon

**RESOLUTION NO. 6715**

**AUTHORIZING CONTRACTS BETWEEN THE PORTLAND  
DEVELOPMENT COMMISSION AND THE CITY OF PORTLAND  
FOR THE PURPOSE OF TRANSFERRING THE ECONOMIC  
OPPORTUNITY INITIATIVE PROGRAMS TO PDC**

**WHEREAS**, the Portland Development Commission (“PDC”) is charged by the City Charter with implementing the vision and goals of the City of Portland (“City”) as adopted by the City Council relating to economic development;

**WHEREAS**, in carrying out this charge, the City Charter directs PDC to advance social equity and involve the City’s constituencies to create, maintain and promote a diverse, sustainable community in which economic prosperity and employment opportunities are made available to all residents;

**WHEREAS**, the City’s Bureau of Housing and Community Development (“BHCD”) developed a strategic plan and in September 2004 began implementing the Economic Opportunity Initiative, designed to reduce poverty citywide, as an element of its strategic plan;

**WHEREAS**, the purpose of the Economic Opportunity Initiative is to help propel low-income people out of poverty through participation in two program elements: youth and adult workforce development, which offers intensive training, placement, and long-term retention in specific career tracks; and microenterprise development, which offers business technical and planning assistance, life skills through a three-year program of individual and group coaching;

**WHEREAS**, the Economic Opportunity Initiative is a national model for developing and implementing best practices workforce and microenterprise development for multi-barriered, very low income populations;

**WHEREAS**, by consolidating the Economic Opportunity Initiative programs with PDC’s ongoing economic development activities, the City will enhance its ability to deliver community-wide economic development assistance; and

**WHEREAS**, to accomplish this objective, the City desires to transfer the Economic Opportunity Initiative programs to PDC and PDC desires to assume these programs.

**NOW, THEREFORE, BE IT RESOLVED** that the PDC Board of Commissioners (“Board”) hereby authorizes the Executive Director to execute the Assignment and Assumption Agreement with the City of Portland, acting by and through its Portland Housing Bureau, substantially in the form attached hereto as Exhibit A (the “Assignment and Assumption Agreement”);

**BE IT FURTHER RESOLVED** that the Board hereby authorizes the Executive Director to execute the Subrecipient Contract with the City of Portland, acting by and through its Portland

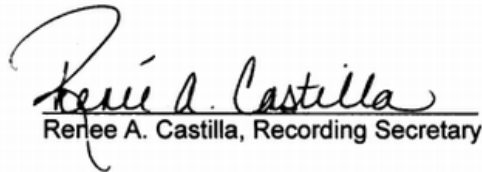
Housing Bureau and Office of Management and Finance, substantially in the form attached hereto as Exhibit B (the "Subrecipient Contract");

**BE IT FURTHER RESOLVED** that the Board hereby authorizes the Executive Director to execute the Intergovernmental Agreement for the Transfer of Employees with the City of Portland, acting by and through its Portland Housing Bureau and Bureau of Housing and Community Development, substantially in the form attached hereto as Exhibit C (the "Intergovernmental Agreement");

**BE IT FURTHER RESOLVED** that the Executive Director may approve changes to the Subrecipient Contract, the Assignment and Assumption Agreement, and the Intergovernmental Agreement prior to and subsequent to execution, if such changes, in the opinion of the Executive Director and General Counsel, do not materially change PDC's obligations or risks; and

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

**Adopted by the Portland Development Commission on June 24, 2009.**

  
Renee A. Castilla, Recording Secretary

## **ASSIGNMENT AND ASSUMPTION AGREEMENT**

This Assignment and Assumption Agreement (“Agreement”) is entered into as of July 1, 2009 by and between the City of Portland acting by and through its Portland Housing Bureau (as the successor to the Bureau of Housing and Community Development by governmental reorganization) (“PHB”) and the Portland Development Commission (“PDC”).

### **RECITALS**

WHEREAS, the City of Portland, through its former Bureau of Housing and Community Development (“BHCD”), has historically operated an Economic Opportunity Initiative program which assists low income individuals out of poverty through the delivery of intensive workforce and microenterprise development services (the “EOI Program”);

WHEREAS, BHCD implemented the EOI Program, in part, through a series of contracts, some of which remain in effect after June 30, 2009;

WHEREAS, effective July 1, 2009, PDC assumes responsibility for the EOI Program under the terms of that certain Subrecipient Contract (Economic Opportunity Initiative Program) between PDC and PHB of even date herewith (the “Subrecipient Contract”); and

WHEREAS, in order to facilitate PDC’s implementation of the EOI Program, the Subrecipient Agreement requires PHB and PDC to enter into this Agreement for PHB to assign and PDC to assume the continuing contracts for the EOI Program.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **AGREEMENT**

#### **1. Assignment and Assumption**

PHB hereby assigns to PDC all of PHB’s right, title and interest in and to each of the agreements listed on Exhibit A (collectively, the “Assigned Agreements”), and all rights of PHB thereunder, now and hereafter existing, and PDC hereby receives and accepts same. PHB hereby delegates to PDC all of PHB’s duties and obligations, arising on or after the date hereof, under each of the Assigned Agreements and PDC hereby accepts and assumes and agrees to perform and discharge those duties and obligations. PHB agrees and acknowledges that PDC is not assuming any liability, duty or obligation of PHB under the Assigned Agreements that arose or accrued prior to July 1, 2009, with any such liability, duty or obligation remaining the responsibility of PHB. All bills, invoices and obligations contracted for and performed through June 30, 2009 shall be processed by PDC staff and paid by PHB. Any bill, invoice or obligation based on work performed after June 30, 2009 shall be processed and paid by PDC.

**2. Indemnification**

To the extent permitted by law and subject to the limits of the Oregon Tort claims Act, PDC shall defend, save, hold harmless, and indemnify PHB and PHB's officers, agents and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from PDC's exercise of the rights under the Assigned Agreements assigned to PDC hereunder or PDC's failure or alleged failure to perform or discharge a duty or obligation of PHB under the Assigned Agreements assumed by PDC hereunder.

To the extent permitted by law and subject to the limits of the Oregon Tort claims Act, PHB shall defend, save, hold harmless, and indemnify PDC and PDC's officers, agents and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from any failure or alleged failure of PHB to perform or discharge a liability, duty, or obligation of PHB under the Assigned Agreements that arose or accrued prior to the date hereof.

**3. General**

3.1 Governing Law; Venue; Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit, or proceeding (collectively, "Claim") that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Multnomah County for the State of Oregon. EACH PARTY HERETO BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

3.2 Notices. Except as otherwise expressly provided in this Agreement, any communications between the parties pursuant hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to the party to be noticed at the address or number set forth below, or to such other addresses or numbers as a party may hereafter indicate in a notice to the other party pursuant to this section. Any communication or notice so addressed and mailed shall be deemed to be given five days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

If to PDC:

Portland Development Commission  
222 NW Fifth Avenue  
Portland, OR 97209-3859

Facsimile: 503-865-3817  
Attn: George Cornett

with a copy to:

Portland Development Commission  
222 NW Fifth Avenue  
Portland, OR 97209-3859  
Attn: General Counsel

If to PHB:

Portland Housing Bureau  
421 SW 6<sup>th</sup> Ave, Suite 1100A  
Portland, OR 97204  
Facsimile: 503-279-2673  
Attn: Antoinette Pietka

with a copy to:

City Attorney  
1221 SW 4<sup>th</sup> Avenue, Room 430  
Portland, OR 97204  
Attn: Linda Meng

- 3.3 Amendments. This Agreement may not be waived, altered, modified, supplemented, or amended in any manner except by written instrument signed by all parties.
- 3.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.
- 3.5 Entire Agreement. This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.
- 3.6 Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- 3.7 Headings. The section headings in this Agreement are included for convenience only, do not give full notice of the terms of any portion of this Agreement and are not relevant to the interpretation of any provision of this Agreement.
- 3.8 Time is of the Essence. Time is of the essence in the each party's performance of its obligations under this Agreement.



**EXHIBIT A**  
**ASSIGNED AGREEMENTS**

1. Subrecipient Contract No. 38177 as amended between the City of Portland, acting by and through its Bureau of Housing and Community Development, hereafter called "City" and Neighborhood Pride Team hereafter called Subrecipient for the Trillium Artisans Program.
2. Subrecipient Contract No. 38356 as amended between the City of Portland, acting by and through its Bureau of Housing and Community Development, hereafter called "City" and Oregon Microenterprise Network (OMEN) hereafter called Subrecipient for the Market to Market project.
3. Subrecipient Contract No. 38207 as amended between the City of Portland, acting by and through its Bureau of Housing and Community Development, hereafter called "City" and Open Meadow Alternative School hereafter called Subrecipient for the Corporate Connections Program.
4. Subrecipient Contract No. 38237 as amended between the City of Portland, acting by and through its Bureau of Housing and Community Development, hereafter called "City" and Outside In hereafter called Subrecipient for the Youth Employment Project.

Subrecipient Contract  
Contract No. \_\_\_\_\_  
Economic Opportunity Initiative Program

This subrecipient contract (“Contract”) is between the City of Portland, acting by and through its Portland Housing Bureau (“PHB”) and Office of Management and Finance (“OMF”), and the Portland Development Commission (“PDC” and “subrecipient”) for the implementation of the Economic Opportunity Initiative program.

**RECITALS**

- A. PDC is charged by the City Charter with implementing the vision and goals of the City of Portland as adopted by the City Council relating to economic development.
- B. In carrying out this charge, the City Charter directs PDC to advance social equity and involve the City of Portland’s constituencies to create, maintain and promote a diverse, sustainable community in which economic prosperity and employment opportunities are made available to all residents.
- C. PHB’s predecessor, the Bureau of Housing and Community Development (“BHCD”) developed a strategic plan and in September, 2004 began implementing the Economic Opportunity Initiative, designed to reduce poverty citywide, as an element of its strategic plan.
- D. The purpose of the Economic Opportunity Initiative is to help propel low-income people out of poverty through participation in two program elements: youth and adult workforce development, which offers a three-year program of intensive training, placement, advancement in specific career tracks, life skills support, and microenterprise development, which offers business technical and planning assistance, and life skills support, through a three year program of individual and peer mentoring.
- E. The Economic Opportunity Initiative is a national model for developing and implementing best practices workforce and microenterprise development for multi-barriered very low income populations. Current funding allows for a total enrollment of around 2,600 participants at any given time. Each person is served for three years with new graduations and enrollments starting each year.
- F. By consolidating the Economic Opportunity Initiative programs of PHB with PDC’s ongoing economic development activities, the City will enhance its ability to deliver community-wide economic development assistance. To accomplish this objective, PHB desires to transfer the Economic Opportunity Initiative programs to PDC and PDC desires to assume this programs on the terms and conditions of this Contract. [Other Economic Development Initiative programs, functions and resources are being transferred by a separate Assignment and Assumption Agreement and an Intergovernmental Agreement for Transfer of Employees.]

Now therefore, the parties agree as follows:

*PHB-OMF-PDC Subrecipient Contract (Economic Opportunity Initiative)*



**AGREEMENT**

Effective Date and Duration

This Contract shall become effective on July 1, 2009 (the “Effective Date”). This Contract shall terminate on June 30, 2010.

Contract Manager

Each party has designated a contract manager to be the formal representative for this Contract. All reports, notices, and other communications required under or relating to this Contract shall be directed to the appropriate individual identified below.

PHB	PDC
Contract Manager: Antoinette Pietka	Contract Manager: George Cornett
421 SW Sixth Ave., Suite 1100	222 NW Fifth Avenue
Portland, OR 97204	Portland, OR 97204
(503) 823-2394 (phone)	503-823-3727 (phone)
(503) 823-2375 (fax)	(503) 865-3817 (fax)
<a href="mailto:apietka@ci.portland.or.us">apietka@ci.portland.or.us</a>	cornettg@pdc.us
OMF-FPD	
Contract Manager: Andrew Scott	
1120 SW 5 <sup>th</sup> Avenue, Room 1250	
Portland, OR 97204	
(503) 823-6845 (phone)	
(503) 823-5384	

List of Exhibits

The following Exhibits are attached hereto and incorporated by reference into this Contract:

<u>Document</u>	<u>Description</u>	<u>No. of Pages</u>
Exhibit A	Budget	1
Exhibit B	IDIS Set-Up Report Form	1
Exhibit C	Sample Invoice to PHB	1
Exhibit D	Sample Invoice to OMF	1

**I. SCOPE OF WORK**

Subject to the terms and conditions of this Contract and as described in greater detail below, PDC will, during the term of this Contract, implement the Economic Opportunity Initiative formerly implemented by the City’s Bureau of Housing and Community Development, including youth and adult workforce projects, microenterprise projects, and common services for all participants. The Economic Opportunity Initiative is a City-wide economic prosperity program designed to significantly increase the incomes of very low-income residents. Currently, thirty-four community-based projects provide intensive, holistic support, and

*PHB-OMF-PDC Subrecipient Contract (Economic Opportunity Initiative)*

customized workforce or micro enterprise development services to each participant for three years. Participants are grouped by common backgrounds and career goals and provide peer support to each other. Income or business revenue growth is tracked quarterly.

A. PDC will assume responsibility on the Effective Date for all Economic Opportunity Initiative program activities, including: outreach; planning; negotiating, preparing and administering all related contracts and agreements, including disbursement of funds, compliance monitoring, accounting and reporting; and annual reporting to the City Council. In addition, PDC's EOI staff will provide ongoing technical assistance on program issues, facilitate collaborative needs identification, solve problems, train staff and develop resources to benefit all participants in the Initiative.

B. To enable and facilitate PDC's implementation of the Economic Opportunity Initiative programs and as soon as reasonably practical after the Effective Date, PHB will deliver documents and take such other actions as may be necessary or desirable for PHB to transfer all program-related functions and activities to PDC.

C. PHB agrees and acknowledges that PDC intends to implement the Economic Opportunity Initiative principally through the further subgrant of funds made available under this Contract to other subrecipients, as permitted by, and in accordance with, the federal law governing the Community Development Block Grant Program, in substantially the same manner as the City's former Bureau of Housing and Community Development.

D. PHB shall continue to support and make available to PDC and PDC's subrecipients, the Service Point information system until the new I-Track information system currently being developed by Worksystems, Inc. is available for use by PDC and its subrecipients. PDC currently anticipates that the I-Track information system will be available in September 2009. PHB and PDC shall cooperate in preparing reports, based on the data in the Service Point system, that are required under this Contract or under applicable federal or other law.

E. PHB and PDC understand that PDC intends to develop a Community Economic Development strategy and recognize that the Economic Opportunity Initiative programs may contribute to that strategy by providing economic development assistance to the City's most low income citizens. PDC agrees that the Economic Opportunity Initiative programs will continue to be implemented, during the term of this Contract, in substantially the same manner as the City's Bureau of Housing and Community Development implemented them, subject to the funding made available to PDC under this Contract. If this Contract is renewed or extended after the Term hereunder has expired, it is the parties' intent that PDC may modify programs thereafter, provide that any modifications will be consistent with the purpose of the federal Community Development Block Grant program. PHB shall include PDC in discussions and other internal processes involving the City's update of its 5-year Consolidated Plan for the use of Community Development Block Grant Funds and allow PDC to comment on the proposed use of the portion of the CDBG funds currently allocated to the Economic Opportunity Initiative programs.

## **II. [SECTION RESERVED]**

*PHB-OMF-PDC Subrecipient Contract (Economic Opportunity Initiative)*

### **III. REPORTING**

- A. The subrecipient shall provide quarterly progress reports from the I-TRAC performance management system. Reports shall include: number of people served and basic demographics. Reports are due no later than October 15, 2009, January 15, 2010, April 15, 2010 and July 31, 2010. Disbursement of funds will be delayed if reports are not turned in by these dates without adequate notice of delay and approval of the contract manager.
- B. All project set-ups and draw-downs will be processed by PHB through the HUD IDIS systems. For annual CBDG contracts, the Subrecipient will complete project set-up form (Exhibit A) and send to PHB as soon as the contract is finalized. For amendments, the set up form must be completed and sent to PHB when the amendment is first drafted to allow time for a Consolidated Plan Amendment. PHB will return setups if there are problems to be corrected and will provide Pd PDC written verification of setup entries.
- C. PHB will provide PDC with monthly reports of all IDIS balances; PDC will reconcile the IDIS reports to project balances in PDC's financial systems. If discrepancies exist, PDC and PHB will work immediately to determine the source of the discrepancy and the required corrective action.

### **IV. COMPENSATION AND METHOD OF PAYMENT**

PHB and OMF shall provide the following funding to PDC for performance of the work described in the Scope of Work above:

- A. PHB will provide PDC with \$2,749,310 in on-going CDBG funding for FY 2009-2010 and all CDBG funding budgeted to BHCD in FY 2008-2009 for the Economic Opportunity Initiative that remained unexpended at the end of FY 2008-2009.
- B. PHB will provide PDC with \$700,000 in CDBG-American Reinvestment and Recovery Act ("ARRA") funding. PHB and PDC shall take such additional actions and execute and deliver such additional documents, including an amendment to this Agreement, as PHB or PDC may reasonably request in order to secure the CDBG-ARRA funding.
- C. OMF will disburse up to \$1,493,962 in on-going City General Fund to PDC as appropriated by City Council in the FY 2009-10 Adopted Budget.
- D. OMF will disburse up to \$374,893 in City General Fund one-time-only funding to PDC as appropriated by City Council in the FY 2009-10 Adopted Budget.
- E. PHB will provide PDC with \$120,000 in private grant funds received by PHB for the EOI program from the Oregon Community Foundation, \$21,500 in carryover

from 2008-09 private grant funds received by PHB for the EOI program from the Northwest Health Foundation, and \$64,000 in carryover private grant funds received by PHB for the EOI program from the Northwest Area Foundation. PHB's payment of the grant funds received from the Northwest Area Foundation is conditioned on PHB obtaining the Northwest Area Foundation's consent to the transfer of such funds, which PHB shall use commercially reasonable efforts to obtain.

- F. PHB shall transfer the private grant funds identified above to PDC promptly after PDC's written request. PHB and OMF shall pay all other compensation to PDC under this Agreement on an expense reimbursement basis, for expenses identified in the Contract Budget, attached hereto as Exhibit B, and reasonably incurred by PDC in performing the work described in the Scope of Work. Requests for expense reimbursement shall be submitted and processed as described in Section G below.
- G. PDC shall submit requests for expense reimbursement from the CDBG and CDBG-ARRA sources in the form of Exhibit C attached hereto, to PHB monthly for expenses accrued in the prior calendar month. PHB will review, modify if necessary, approve, and then forward them to the OMF Contract Manager in the Financial Planning Division in OMF for payment. Periodic reimbursement requests between monthly billings may be submitted on an interim basis as approved by both PDC and PHB. PHB shall make payment to PDC within 30 business days of receiving a billing. If for some reason payment cannot be made due to errors or omissions then PHB will request from PDC a corrected billing within the 30 day period. The request for corrected billing shall detail all deficiencies in the billing which have caused payment to be withheld.
- H. PDC shall submit requests for expense reimbursement from the General Fund and General Fund-one-Time-Only sources in the form of Exhibit D attached hereto, to OMF monthly for expenses accrued in the prior calendar month. OMF will review, modify if necessary, approve, and then make payment. Periodic reimbursement requests between monthly billings may be submitted on an interim basis as approved by both PDC and OMF. OMF shall make payment to PDC within 30 business days of receiving a billing. If for some reason payment cannot be made due to errors or omissions then OMF will request from PDC a corrected billing within the 30 day period. The request for corrected billing shall detail all deficiencies in the billing which have caused payment to be withheld.

**V. GENERAL CONTRACT PROVISIONS**

- A. **TERMINATION FOR CAUSE.** In accordance with 24 CFR 85.43, if, through any cause, PDC shall fail to fulfill in timely and proper manner his/her obligations under this Contract, or if PDC shall violate any of the covenants, agreements, or stipulations of this Contract, PHB may avail itself of such remedies as cited in 24 CFR 85.43 by giving written notice to PDC of such action and specifying the effective date thereof at least 30 days before the effective date of such action. In

such event, all finished or unfinished documents, data, studies, and reports prepared by PDC under this Contract shall, at the option of PHB, become the property of PHB, as the case may be, and PDC shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

Notwithstanding the above, PDC shall not be relieved of liability to PHB for damages sustained by PHB by virtue of any breach of the Contract by PDC, and PHB may withhold any payments to PDC for the purpose of setoff until such time as the exact amount of damages due PHB from PDC is determined.

- B. **TERMINATION FOR CONVENIENCE.** In accordance with 24 CFR 85.44, the PDC, PHB may terminate this Contract at any time by mutual written agreement. If the Contract is terminated as provided herein, PDC will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of PDC covered by this Contract less payments of compensation previously made.
- C. **ENFORCEMENT AND REMEDIES.** In the event of termination under section A hereof by the PHB due to a breach by PDC, then PHB may complete the work either itself or by agreement with another subrecipient, or by a combination thereof. In the event the cost of completing the work exceeds the amount actually paid to PDC hereunder plus the remaining unpaid balance of the compensation provided herein, then PDC shall pay to PHB the amount of excess. Allowable costs shall be determined in accordance with 24 CFR 85.43(c).

The remedies provided to PHB under sections A and C hereof for a breach by PDC shall not be exclusive. PHB and OMF also shall be entitled to any other equitable and legal remedies that are available.

In the event of breach of this contract by PHB or OMF, then PDC's remedy shall be limited to termination of the Contract and receipt of payment as provided in section B hereof.

In the event of termination under Section A, the PHB, as the case may be, shall provide PDC an opportunity for an administrative appeal to the PHB Director.

- D. **CHANGES.** PHB, OMF and PDC may, from time to time, request changes in writing in the scope of services or terms and conditions hereunder. Such changes, if the parties so agree, shall be implemented through written amendments to this Contract. Changes to the scope of work, budget line items (so long as the total compensation is not changed), timing, reporting, or billing procedures may be approved by the Contract Managers.
- E. **NON-DISCRIMINATION.** During the performance of this Contract, PDC agrees as follows:

(a) PDC will comply with the non-discrimination provisions of Title VI of the Civil Rights Act of 1964 (24 CFR 1), Fair Housing Act (24 CFR 100), and Executive Order 11063 (24 CFR 107).

(b) PDC will comply with prohibitions against discrimination on the basis of age under Section 109 of the Act as well as the Age Discrimination Act of 1975 (24 CFR 146), and the prohibitions against discrimination against otherwise qualified individuals with handicaps under Section 109 as well as section 504 of the Rehabilitation Act of 1973 (24 CFR 8).

(c) PDC will comply with the equal employment and affirmative action requirements of Executive Order 11246, as amended by Order 12086 (41 CFR 60).

(d). PDC will comply with the equal employment and non-discrimination requirements of Portland City Code Sections 3.100.005 (City Policies Relating to Equal Employment Opportunity, Affirmative Action and Civil Rights), 3.100.042 (Certification of Contractors), and Chapter 23 – Civil Rights.

(e) PDC will comply with the Americans with Disabilities Act (42 USC 12131, 47 USC 155, 201, 218 and 225), which provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodation, state and local government services and telecommunications. The Act also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. For CDBG and/or HOME funded projects, PDC will also comply with affirmative marketing policy and outreach to minorities and women and to entities owned by minorities and women per 24 CFR 92.351 and/or 24 CFR 570.601(a)(2), if the funds will be used for housing containing 5 or more assisted units.

F. SECTION 3: PDC will comply with the training and employment guidelines of Section 3 of the Housing and Urban Development Act of 1968, as amended (12U.S.C. 1701a), and regulations pursuant thereto (24 CFR Part 135).

G. ACCESS TO RECORDS. PHB, OMF, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, general organizational and administrative information, documents, papers, and records of PDC which are directly pertinent to this Contract, for the purpose of making audit or monitoring, examination, excerpts, and transcriptions. All required records must be maintained by PDC for four years after the final payment from PHB or OMF under this Contract and all other pending matters are closed.

H. MAINTENANCE OF RECORDS. PDC shall maintain fiscal records on a current basis to support its billings to PHB and OMF. PHB shall retain fiscal as well as all records relating to program management and operation, program beneficiaries, demographics and eligibility for inspection, audit, and copying for four years

from the date of completion or termination of this Contract. PHB or OMF or its authorized representative shall have the authority to inspect, audit, and copy on reasonable notice and from time to time any records of PDC regarding its billings or its work here under.

- I. AUDIT OF PAYMENTS. PHB or OMF, either directly or through a designated representative, may audit the records of PDC at any time during the four-year period established by Section H above.

If an audit discloses that payments to PDC were in excess of the amount to which PDC was entitled, then PDC shall repay the amount of the excess to PHB or OMF, as the case may be.

- J. INDEMNIFICATION. To the extent permitted by law and subject to the limits of the Oregon Tort Claims Act, PDC shall hold harmless, defend, and indemnify PHB and OMF and PHB's and OMF's officers, agents and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from PDC work under this Contract. To the extent permitted by law and subject to the limits of the Oregon Tort Claims Act, PHB and OMF shall hold harmless, defend, and indemnify PDC and PDC's officers, agents and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from the activities of PHB or OMF or their respective employees or agents under this Contract.

- K. LIABILITY INSURANCE.

(a) PDC shall maintain public liability and property damage insurance that protects PDC and PHB and OMF and their officers, agents, and employees from any and all claims, demands, actions, and suits for damage to property or personal injury, including death, arising from PDC's work under this Contract. The insurance shall provide coverage for not less than \$200,000 for personal injury to each person, \$500,000 for each occurrence, and \$500,000 for each occurrence involving property damages; or a single limit policy of not less than \$500,000 covering all claims per occurrence. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the state of Oregon during the term of this Contract. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds PHB and OMF and their officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The insurance shall provide that it shall not terminate or be canceled without 30 days written notice first being given to the City Auditor. If the insurance is canceled or terminated prior to termination of the Contract, PDC shall provide a new policy with the same terms. PDC agrees to maintain continuous,

uninterrupted coverage for the duration of the Contract. The insurance shall include coverage for any damages or injuries arising out of the use of automobiles or other motor vehicles by PDC.

(b) PDC shall maintain on file with the City Auditor a certificate of insurance certifying the coverage required under subsection (a). The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain liability insurance shall be cause for immediate termination of this Contract by PHB or OMF.

In lieu of filing the certificate of insurance required herein, PDC shall furnish a declaration that PDC is self-insured for public liability and property damage for a minimum of the amounts set forth in ORS 30.270.

L. WORKERS' COMPENSATION INSURANCE.

(a) PDC, its subcontractors and subrecipients, if any, and all employers working under this Contract are subject employers under the Oregon Worker's compensation law and shall comply with ORS 656.017, which requires them to provide worker's compensation coverage for all their subject workers. A certificate of insurance for PDC, or copy thereof, shall be attached to this Contract and shall be incorporated herein and made a term and part of this Contract. PDC further agrees to maintain worker's compensation insurance coverage for the duration of this Contract.

(b) In the event PDC's worker's compensation insurance coverage is due to expire during the term of this Contract, PDC agrees to timely renew its insurance, either as a carrier-insured employer or a self-insured employer as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration, and PDC agrees to provide PHB such further certification of worker's compensation insurance as renewals of said insurance occur.

(c) If PDC believes itself to be exempt from the worker's compensation insurance coverage requirement of (a) of this subsection, PDC agrees to accurately complete the City of Portland's Questionnaire for Worker's Compensation Insurance and Qualification as an Independent Contractor prior to commencing work under this Contract. In this case, the Questionnaire shall be attached to this Contract and shall be incorporated herein and made a term and part of this Contract. Any misrepresentation of information on the Questionnaire by PDC shall constitute a breach of this Contract. In the event of breach pursuant to this subsection, PHB may terminate this Contract immediately and the notice requirement contained in Section A, TERMINATION FOR CAUSE, hereof shall not apply.

M. SUBCONTRACTING AND ASSIGNMENT. PDC shall not sub-contract its work under this contract, in whole or in part, without the written approval of PHB and OMF. PDC shall require any approved subcontractor to agree, as to the



portion subcontracted, to fulfill all obligations of PDC as specified in this Contract. Notwithstanding PHB approval of a subcontractor, PDC shall remain obligated for full performance hereunder, and PHB and OMF shall incur no obligation other than its obligations to PDC hereunder. PDC agrees that if subcontractors are employed in the performance of this contract, PDC and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation. PDC shall not assign this Contract in whole or in part or any right or obligation hereunder, without prior written approval of PHB and OMF.

Any subcontractor shall be responsible for adhering to all regulations cited within this Contract.

Notwithstanding the foregoing restrictions on subcontracting, PDC may provide funds received under this Contract to other subrecipients for purposes of carrying out the Scope of Work. If PDC provides CDBG or HOME funds to for-profit owners or developers, non-profit owners or developers, other subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance or contractors, PDC must have a written agreement that meets the requirements of 24 CFR 570.503(b) or 92.504(c), respectively.

- N. INDEPENDENT CONTRACTOR STATUS. PDC is engaged as an independent contractor and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder.

PDC and its subcontractors, subrecipients and employees are not employees of PHB or OMF and are not eligible for any benefits through the PHB or OMF, including without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

- O. CONFLICTS OF INTEREST. Per 24 CFR 92.356 and/or 24 CFR 570.611, no PHB officer or employee, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or the proceeds thereof. No board of directors member or employee of PDC, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

PDC shall also comply with the provisions of 24 CFR 84.42 and/or 85.36(b)(3), which require that a written Code of Standards of Conduct be maintained by the agency, as it relates to the performance of employees engaged in the award and administration of contracts.

- P. CONTRACT ADMINISTRATION, 24 CFR 570.502(b). PDC shall comply with the applicable provisions of OMB Circular Nos. A-122, A-21, A-133 and A-110 as described by 24 CFR 570.502(b) and 570.610. PDC shall comply with the provisions of OMB Circulars A-87 (Cost Principles for State, Local and Indian Tribal Governments) and 24 CFR Part 85 (Administrative Requirements for

Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).

- Q. OREGON LAWS AND FORUM. This Contract shall be construed according to the laws of the State of Oregon.

Any litigation between PHB or OMF and PDC arising under this Contract or out of work performed under this Contract shall occur, if in the state courts, in the Multnomah County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.

- R. AVAILABILITY OF FUNDS. It is understood by all parties to this Contract that a portion of the funds used to pay for services provided herein are provided to the PHB through a grant from the U.S. Department of Housing and Urban Development. In the event that funding is reduced, recaptured, or otherwise made unavailable to the PHB as a result of federal action, PHB and OMF reserve the right to terminate the Contract as provided under Section B hereof, or request a change the scope of services as provided under Section D hereof.

- S. PROGRAM INCOME/PERSONAL PROPERTY. For Community Development Block Grant-funded projects, PDC shall comply with provisions of 24 CFR 570.504 regarding program income. Program income shall be retained by the PDC provided that it shall be used only for those activities identified in the Scope of Work, and shall be subject to all provisions of this Contract.

- T. COMPLIANCE WITH LAWS. In connection with its activities under this contract, PDC shall comply with all applicable federal, state, and local laws and regulations. For Community Development Block Grant-funded projects, PDC shall carry out its activities in compliance with 24 CFR 570 Subpart K, excepting the responsibilities identified in 24 CFR 570.604 and 570.612. For McKinney-Vento Supportive Housing Program funded projects, PDC shall carry out its activities in compliance with 24 CFR 583. For McKinney-Vento Emergency Shelter Grant funded projects, PDC shall carry out its activities in compliance with 24 CFR 576.

- U. PROGRAM AND FISCAL MONITORING. PHB shall monitor on a regular basis to assure Contract compliance. Such monitoring may include, but are not limited to, on site visits, telephone interviews, and review of required reports and will cover both programmatic and fiscal aspects of the Contract. The frequency and level of monitoring will be determined by the PHB Contract Manager.

- V. EXPIRATION/REVERSION OF ASSETS. For Community Development Block Grant-funded projects, PDC shall comply with the Reversion of Assets provision of 24 CFR 570.503 (b)(7).

For Emergency Shelter Grant funded projects, PDC shall transfer to PHB any ESG funds on hand at the time of expiration and any accounts receivable

attributable to the use of ESG funds. Any real property under PDC's control that was acquired or improved in whole or in part with ESG funds in excess of \$25,000 shall be disposed of in a manner which results in the PHB being reimbursed in the amount of the current fair market value of the property less any portion thereof attributable to expenditures of non-ESG funds for acquisition of, or improvement to, the property. Such reimbursement is not required after a five-year period after termination of this Contract.

- W. RELOCATION, ACQUISITION AND DISPLACEMENT. PDC agrees to comply with 24 CFR 570.606, 574.630 or 576.80 relating to the acquisition and disposition of all real property utilizing grant funds, and to the displacement of persons, businesses, non-profit organizations and farms occurring as a direct result of any acquisition of real property utilizing grant funds. PDC agrees to comply with applicable City of Portland ordinances, resolutions and policies concerning displacement of individuals from their residences.
- X. PROGRAM ACCESS BY THE DISABLED. PDC shall, to the maximum feasible extent, follow PHB's guidelines on ensuring interested persons can reasonably obtain information about, and access to, HUD-funded activities.
- Y. SEVERABILITY. If any provision of this Contract is found to be illegal or unenforceable, this Contract nevertheless shall remain in full force and effect and the provision shall be stricken.
- Z. [SECTION RESERVED].
- AA. LABOR STANDARDS. PDC agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C 276, 327-333) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Contract. PDC shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the PHB for review upon request.

PDC agrees that, except with respect to the rehabilitation or construction of residential property designed for residential use for less than eight (8) households, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this contract, shall comply with federal requirements adopted by the City of Portland pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 3, 15 and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve PDC of its obligation, if any, to require payment

of the higher wage. PDC shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph, for such contracts in excess of \$100,000.

- BB. FLOOD DISASTER PROTECTION. PDC agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (P.L.-2234) in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this Contract, as it may apply to the provisions of this Contract.
- CC. LEAD-BASED PAINT. PDC agrees that any construction or rehabilitation of residential structure with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, 574.635 and 24 CFR Part 35, and in particular Sub-Part B thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants or properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning.
- DD. FUND-RAISING. Funds provided to PDC under this Contract may be used to cover expenses directly related to the Scope of Work. Costs associated with general agency fund-raising activities are not eligible. No Emergency Shelter Grant (ESG) fund dollars may be used to cover expenses associated with general agency fund raising activities not directly related to ESG-funded projects.
- EE. PUBLICITY. Publicity regarding the project shall note participation of the City of Portland through the Portland Housing Bureau.
- FF. LOBBYING. No Federal appropriated funds have been paid or will be paid, by or on behalf of PDC, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, PDC shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

PDC shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreement) and that all subcontractors and subrecipients shall certify and disclose accordingly.

- GG. CHURCH/STATE. PDC agrees to comply with the applicable provisions of 24 CFR 570.200(j) or 24 CFR 576.22 regarding the use of federal funds by religious organizations.
- HH. INDEPENDENT FINANCIAL AUDITS/REVIEWS. If required by law, PDC shall obtain an independent audit of its federally funded program(s), in compliance with federal OMB Circular A-133. Two copies of the audit will be submitted to the designated PHB Contract Manager within 30 days of its completion.
- II. DRUG-FREE WORKPLACE. PDC will maintain a drug-free workplace in conformance with 24 CFR part 24, subpart F.
- JJ. ENVIRONMENTAL REVIEW. If required by law, (i) PDC will comply with the requirements of the National Environmental Policy Act of 1959 [24 CFR Part 58] and (ii) no funds will be committed and no work will be carried out on any project until the environmental review is complete and a Release of Funds is issued by HUD, if applicable.
- KK. DEBARRED, SUSPENDED OR INELIGIBLE CONTRACTORS. Federal funds may not be used to directly or indirectly employ, award contracts to or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension or placement of ineligibility status [24 CFR Part 24]. Contractors and subrecipients are responsible for checking the Federal publications that list debarred, suspended and ineligible contractors to assure compliance.
- LL. SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS AREA FIRMS. PDC must comply with the requirements of Executive Orders 11625, 12432 and 12138 and 24 CFR 85.36(e), which require that contractors and subrecipients take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Such affirmative steps would include: (i) placing qualified small and women's business enterprises on solicitation lists; (ii) assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources; (iii) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (iv) establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; (v) using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and (vi) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

## **VI. SURVIVAL OF CERTAIN PROVISIONS**



**EXHIBIT A**

**EOI IDIS Set-Up Form**

<b>#</b>	<b><u>INFORMATION REQUESTED</u></b>	<b><u>RESPONSE</u></b>
	Date	
	Activity Contract Manager	
	<i>Manager Phone Number</i>	
	<i>Is this an original Set-up? (Y or N)</i>	
	<i>Is this a revision to a previous Set-up? (Y or N)</i>	
	<i>Previous set-up activity name</i>	
	<b><i>GENERAL INFORMATION-ALL ACTIVITIES</i></b>	
1	CDBG National Objective Code (LMC)	
2	Activity Name	
3	Activity Address (include zip code)	
4	Activity Description	
5	Contract period (begins/ends) (Initial Funding Date)	
6	HUD Matrix Code (05H, 18C)	
7	Funding Sources	
8	CDBG Costs	
9	Other Costs	
10	Total Activity Costs	
11	<i>Proposed Accomplishment Type (People or Businesses)</i>	
12	<i>Will the Activity Prevent Homelessness?</i>	
13	<i>Will the Activity Help the Homeless?</i>	
	<b><i>ECONOMIC DEVELOPMENT</i></b>	
	<b><u>Workforce Activities</u></b>	
14	Number of clients served in contract year	
	<b><u>Microenterprise Activities</u></b>	
15	Number of businesses served in contract year	

**EXHIBIT B**  
**CONTRACT BUDGET 2009-10**

	<i>General Fund</i>		<i>CDBG</i>		<i>Private Grants</i>		<i>Cash Transfer In</i>	<i>Approved Budget Total</i>	<i>Estimated Carryover</i>	<i>Estimated Total Budget with Carryover</i>
	<i>On Going</i>	<i>One Time</i>	<i>Formula</i>	<i>ARRA</i>	<i>OCF/NWAF</i>	<i>NWHF</i>	<i>HIF</i>		<i>CDBG</i>	
<b><u>Total Resources</u></b>	<b><u>1,493,962</u></b>	<b><u>374,893</u></b>	<b><u>2,749,310</u></b>	<b><u>700,000</u></b>	<b><u>184,000</u></b>	<b><u>111,500</u></b>	<b><u>150,000</u></b>	<b><u>5,763,665</u></b>	<b><u>197,369</u></b>	<b><u>5,961,034</u></b>
<b><u>Total Requirements</u></b>										
Economic Opportunity Initiative Programs										
MicroEnterprise Growth	29,797	0	823,325	0	0	0		853,122	22,310	875,432
Youth Workforce Development	559,226	300,000	1,029,448	150,000	0	0		2,060,174	140,059	2,200,233
Adult Workforce Development	753,987	0	497,339	365,896	0	111,500		1,707,222		1,707,222
Other/System Wide	56,707	74,893	0	184,104	184,000	0		499,704	35,000	534,704
Neighborhood Team Staff	33,444	0	300,999	0	0	0		334,443		334,443
Indirect Transfers	60,801	0	98,199	0	0	0	150,000	309,000		309,000
<b><u>Total Requirements</u></b>	<b><u>1,493,962</u></b>	<b><u>374,893</u></b>	<b><u>2,749,310</u></b>	<b><u>700,000</u></b>	<b><u>184,000</u></b>	<b><u>111,500</u></b>	<b><u>150,000</u></b>	<b><u>5,763,665</u></b>	<b><u>197,369</u></b>	<b><u>5,961,034</u></b>



**EXHIBIT C**  
**PAYMENT INVOICE TO PHB**

**Payment Invoice**

**Sample Invoice (on PDC Letterhead)**  
**Portland Development Commission**

**Contract #:** \_\_\_\_\_ **Invoice Period:** \_\_\_\_\_ **Invoice #:** \_\_\_\_\_

Organization: Portland Development Commission	Total Grant Award: \$
Organization: Portland Development Commission Mailing Address: 222 NW Fifth Avenue  Portland, OR 97204	Funding Award Amount: CDBG: \$2,749,310 CDBG ARRA: \$700,000
Contact Name/Title: George Cornett	Grant Period: July 1, 2009– June 30, 2010
Phone/Fax: 503-823-1692	

**CDBG**

Activity	Budget	Expense This Period	Expenses YTD Including This Invoice	Balance From Budget
EOI Microenterprise Growth: List expenses for each contract				
EOI Workforce Development: List expenses for each contract				
EOI Program Delivery List expenses such as staffing and indirect				
<b>Total CDBG</b>	<b>\$2,749,310</b>			

**CDBG ARRA**

Activity	Budget	Expense This Period	Expenses YTD Including This Invoice	Balance From Budget
Small Business Law Center (Lewis & Clark College)				
Homeless Youth Employment Access (Outside In)				
ESL CNA Training (Mt. Hood Community College)				
Corporate Connections (Open Meadow)				
Health Occupations (Open Meadow)				
<b>Total CDBG ARRA</b>	<b>\$700,000</b>			

Total Amount Requested: \_\_\_\_\_ Total Balance: \_\_\_\_\_

Certification: I certify to the best of my knowledge and belief that the invoice is correct and complete and that all the expenses are for the purpose set forth in the award document, and I understand that all of this request will be funded with federal money and that these expenses are subject to future audit.	
Typed or Printed Name and Title: _____	Phone: _____
Signature of Authorized Certifying Official: _____	Date Submitted: _____
<b>FOR OFFICE USE ONLY</b> I have received this information and have forwarded the invoice for processing	
Contract Manager _____	Date Sent to Accounting _____

**EXHIBIT D**  
**INVOICE TO OMF**

**Expense Summary**

**Sample Invoice (on PDC Letterhead)**  
**Portland Development Commission**

**Contract #:** \_\_\_\_\_ **Invoice Period:** \_\_\_\_\_ **Invoice #:** \_\_\_\_\_

Organization: Portland Development Commission	Total Budget: \$
Organization: Portland Development Commission Mailing Address: 222 NW Fifth Avenue Portland, OR 97204	GF: \$1,493,962 OTO GF: \$374,893
Contact Name/Title: George Cornett	
Phone/Fax: 503-823-1692	Funding Period: July 1, 2009– June 30, 2010

**GF**

Activity	Budget	Expense This Period	Expenses YTD Including This Invoice	Balance From Budget
EOI Microenterprise Growth: List expenses for each contract				
EOI Workforce Development: List expenses for each contract				
EOI Program Delivery List expenses such as staffing and indirect				
<b>Total GF</b>	<b>\$1,493,962</b>			

**OTO GF**

Activity	Budget	Expense This Period	Expenses YTD Including This Invoice	Balance From Budget
EOI Microenterprise Growth: List expenses for each contract				
EOI Workforce Development: List expenses for each contract				
EOI Program Delivery List expenses such as staffing and indirect				
<b>OTO Total GF</b>	<b>\$374,893</b>			

Total Amount Requested: \_\_\_\_\_ Total Balance: \_\_\_\_\_

Certification: I certify to the best of my knowledge and belief that the invoice is correct and complete and that all the expenses are for the purpose set forth in the award document, and I understand that a portion or all of this request will be funded with federal money and that these expenses are subject to future audit.	
Typed or Printed Name and Title: _____	Phone: _____
Signature of Authorized Certifying Official: _____	Date Submitted: _____
FOR OFFICE USE ONLY I have received this information and have forwarded the invoice for processing	
Contract Manager _____	Date Sent to Accounting _____

**INTERGOVERNMENTAL AGREEMENT**

**Between**  
**Portland Development Commission**  
**And**  
**City of Portland**  
**For**  
**Transfer of Employees**

This Intergovernmental Agreement (“Agreement”), dated July 1, 2009, is made and entered into by and between the **City of Portland, acting by and through its Bureau of Housing and Community Development** and its **Portland Housing Bureau (“City”)**, and the **Portland Development Commission (“PDC”)**.

**Background**

The parties have entered into that certain Subrecipient Contract dated July 1, 2009 (the “EOI Transfer Contract”) to transfer funding and responsibility for the City’s Economic Opportunity Initiative program to PDC, to the extent and as further described therein. ORS 236.605 to 236.630 (the “Public Employee Transfer Statutes”) provide for the transfer of the employment of public employees from one public employer to another when a public program is transferred. The parties desire to enter into this Agreement to implement, in accordance with the Public Employee Transfer Statutes, the transfer to PDC of the employment of those City employees whose duties of employment are assumed by PDC under the EOI Transfer Contract. For purposes of this Agreement and the Public Employee Transfer Statutes, the “Transferring Employer” is the City and the “Receiving Employer” is PDC.

NOW, THEREFORE, the parties agree as follows:

**Agreement**

1. **Transfer of Employees.** The parties acknowledge that the employment of the Affected Employees (as defined below) with the Transferring Employer shall end on June 30, 2009. The parties agree that the Affected Employees will become employees of the Receiving Employer on July 1, 2009 (the “Transfer Date”).
2. **Affected Employees and Seniority Dates.** A list of employees to be transferred to the Receiving Employer is set forth in Exhibit A, attached hereto and incorporated herein by this reference (“Affected Employees”). For reference and clarity purposes only, Exhibit A also includes each Affected Employee’s PDC job classification effective July 1, 2009 and seniority date in that job classification.
3. **Salary on Transfer.** In accordance with ORS 236.610(2), Affected Employees shall not have their salary reduced as a result of the transfer for the first 12 months of employment with the Receiving Employer. On or before the Transfer Date, the

Transferring Employer shall provide the Receiving Employer with the salary of each Affected Employee as of June 30, 2009.

4. **Leave Accruals.** In accordance with ORS 236.610(4)(a), on the Transfer Date or as soon as practicable thereafter, the Receiving Employer shall credit each Affected Employee with the sick leave and vacation accruals set forth on Exhibit B, attached hereto and incorporated herein by this reference. The vacation accruals to be credited, as set forth on Exhibit B, reflect each Affected Employee's election. The Receiving Employer and Transferring Employer agree that Affected Employees with vacation accrual, as of May 29, 2009, which exceeds 80 hours may elect to retain more than 80 hours, up to the maximum vacation accrual cap established by the Receiving Employer's policy, rule or collective bargaining agreement, as applicable.
5. **Waiver of Payment for Accrued Leave.** The Receiving Employer waives its right, under ORS 236.610(4)(b), to payment from the Transferring Employer for the sick leave and vacation accruals credited to Affected Employees under Section 4 above.
6. **Health Benefits.** On the Transfer Date, each Affected Employee will be eligible to participate in the Receiving Employer's health benefits plan. The Receiving Employer acknowledges that there is no waiting period for coverage of preexisting conditions under its health benefit plans and that, accordingly, no reimbursement is due from the Transferring Employer, under ORS 236.610(5), for additional premium costs related to the waiver of such a waiting period.
7. **Personnel Records.** On the Transfer Date, or as soon as reasonably possible thereafter but in any event no later than July 31, 2009, the Transferring Employer will provide the current personnel file of each Affected Employee to the Receiving Employer.
8. **No PERS Liability or Surplus.** In compliance with ORS 236.610(7), the parties understand there is no unfunded Public Employees Retirement System liability or surplus to address.
9. **Compliance with Public Employee Transfer Statutes.** Subject to Section 5 above and with respect to the transfer of the Affected Employees, the parties shall comply with their respective obligations under the Public Employee Transfer Statutes. In the event of a conflict between a provision of this Agreement and the Public Employee Transfer Statutes, the Public Employee Transfer Statutes shall control.
10. **No Third-Party Beneficiary Rights.** No person or entity not a party to this Agreement is an intended beneficiary of this Agreement, and no person or entity not a party to this Agreement shall have any right to enforce any term of this Agreement.

11. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.
12. **Agreement Subject to Governing Body Approvals.** This Agreement is subject to the approval of the Portland City Council and the governing body of the Portland Development Commission.

IN WITNESS WHEREOF, the City of Portland, acting by and through its Bureau of Housing and Community Development and Portland Housing Bureau, and the Portland Development Commission have executed this Agreement as of the dates set forth below their respective signatures.

**CITY OF PORTLAND ACTING BY  
AND THROUGH ITS BUREAU OF  
HOUSING AND COMMUNITY  
DEVELOPMENT/PORTLAND  
HOUSING BUREAU**

**PORTLAND DEVELOPMENT COMMISSION**

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Nick Fish  
Commissioner-in-Charge  
Bureau of Housing and Community  
Development/Portland Housing Bureau

---

Bruce A. Warner, Executive Director

---

Date

---

Date

APPROVED AS TO FORM:

APPROVED AS TO FORM:

---

City Attorney

---

Legal Counsel

**EXHIBIT A**  
**AFFECTED EMPLOYEES**  
**ECONOMIC OPPORTUNITY INITIATIVE PROGRAM TRANSFER**

<u>Employee Name</u>	<u>Position Status at City on 6/30/09</u>	<u>City Original Hire Date</u>	<u>PDC Job Classification</u>	<u>Seniority Date in PDC Job Classification</u>
Lynn Knox	Permanent Full-Time	4/4/1996		
Andrew Reed	Permanent Full-Time	7/28/2008		
Howard Cutler	Retiree	7/1/2003		

**EXHIBIT B**  
**SICK LEAVE AND VACATION ACCRUALS**  
**ECONOMIC OPPORTUNITY INITIATIVE PROGRAM TRANSFER**

**Effective May 29, 2009\***

Employee	SL Accrual	VL Accrual**
Lynn Knox	495.77	277.77
Andrew Reed	56.2	81.1

\* Vacation accrual credited after May 29, 2009 through the last day of employment on June 30, 2009, will be cashed out on termination of City employment. City and PDC will finalize sick leave accruals credited for the period May 30, 2009 through June 30, 2009 no later than July 10, 2009.

\*\* Actual vacation accruals credited depend on Employee Election.

# PDC

PORTLAND DEVELOPMENT COMMISSION

## Resolution Number 6715

Title:

AUTHORIZING CONTRACTS BETWEEN THE PORTLAND DEVELOPMENT COMMISSION AND THE CITY OF PORTLAND FOR THE PURPOSE OF TRANSFERRING THE ECONOMIC OPPORTUNITY INITIATIVE PROGRAMS TO PDC

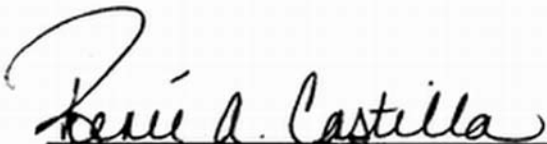
Adopted by the Portland Development Commission on June 24, 2009.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Charles Wilhoite, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Scott Andrews	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Bertha Ferrán	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Steven Straus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Consent Agenda		<input 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 duly recorded in the official minutes of the meeting.*

  
\_\_\_\_\_  
Renee A. Castilla, Recording Secretary

Date: July 14, 2009