



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No. 110-2015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO UPDATE AN INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY OF CLACKAMAS FOR SHARING OF EMPLOYEES FOR BUILDING INSPECTION/ PLAN REVIEW SERVICES

WHEREAS, The City of Milwaukie currently has an intergovernmental agreement with the County of Clackamas; and

WHEREAS, ORS 190.010 authorizes a unit of local government to enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform; and

WHEREAS, The past 18 years of the existing intergovernmental agreement have been mutually beneficial such that all parties support the continuance of the relationship; and

Now, Therefore, be it Resolved that City council approves the renewal of an Intergovernmental Agreement with the County of Clackamas to continue provided mutual services as needed between the jurisdictions and granting the City Manager approval to sign the Agreement.

Introduced and adopted by the City Council on 12/15/15.

This resolution is effective on 12/15/15.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Intergovernmental Agreement For Provisions of
Building Inspection/Plan Review (BI/PR) Services

This Agreement is entered into by and between City of Milwaukie (A political subdivision of the State of Oregon) and the following counties or cities, each of which is an Oregon municipal corporation:

County of Clackamas

RECITALS

- A. ORS 190.010 authorizes and allows the parties to this Agreement to perform the functions and activities that another party to this Agreement has authority to perform.
- B. Each of the parties has staff that provides BI/PR services for their respective jurisdictions.
- C. With the fluctuations in development and construction activity in Oregon the parties have experienced variations in demand for BI/PR services over the course of the last few fiscal years; and the parties believe it may be more cost effective and better serve the public to share experienced staff of another jurisdiction rather than independently hiring additional staff.

AGREEMENT

Now, therefore, based on the foregoing, the signatories agree as follows:

- 1. Definitions. As used herein, the following words and phrases mean:
 - 1.1. "Borrowing Party" is the governmental entity requesting and obtaining staff assistance from another signatory to this Agreement.
 - 1.2. "Building Inspection/Plan Review Services" (BI/PR) are services related to the issuance of permits under the provisions of ORS Chapters 197.215, 227 or 455.
 - 1.3. "Originating Party" is the entity loaning one or more of its employees to another signatory for staff assistance related to BP/PR.
 - 1.4. "Reimbursement Costs" are those charges related to a Shared Employee as set forth in a fee schedule adopted by an Originating Party. The charges shall be set out as an hourly rate for inspection services, and a percentage of the plan review fee for plan review services.
 - 1.5. "Shared Employee" is the Originating Party's employee loaned to a Borrowing Party under this Agreement.
- 2. Requested Use of Shared Employees. Each Party to this Agreement shall make available its employees providing BP/PR, to the extent these employees are (in the opinion of the Originating Party) available for loan. The Borrowing Party shall inform the Originating Party, that it desires staff assistance related to BP/PR from of the Originating Party stating the number of positions and the minimum qualifications of the staff requested. The request shall also set out when the Shared Employee would be needed and an estimate of the duration for the need.
- 3. Response to Request for Use. The Originating Party shall promptly provide Borrowing Party with the name(s) of employee(s) that are available and a brief description of the employees' qualifications. It shall be in the sole discretion of the Originating Party to select the employees subject to this Agreement. This process is to be quick and

responsive such that a Borrowing Party may make a request in the morning and be lent a Shared Employee that same day.

4. Payment for Use of Shared Employee and Revenue Sharing.

4.1 Inspections services, excluding electrical, the payment shall be at the rate of \$95.00 per hour and shall include travel time between jurisdictions.

4.2 Plan review services, excluding electrical, shall be paid at 70% of the plan check fee.

4.3 Plan review and inspection services for electrical shall have the revenue collected by the City dispersed accordingly; the City shall forward to the County seventy percent (70%) of the permit revenues collected on a monthly basis for electrical permits. The City shall retain the other thirty percent (30%) of the permit revenues. The City shall maintain records to assure compliance with ORS 479.845(1) and remit to the State Building Codes Division all surcharge due according to ORS 455.210(4)

5. Accounting for Shared Employee. The Originating Party shall provide to the Borrowing Party an accounting of hours spent performing inspections services for the Borrowing Party. This information shall be provided monthly and may be provided via e-mail or fax. Each party shall keep a running total of the hours worked by each party for the other. Both parties shall prepare an accounting and pay all reimbursement costs within 30 days of the end of each month.

6. Status of Shared Employee. A Shared Employee shall:

6.1. Account for the number of hours in service to a Borrowing Party;

6.2. Remain an employee of the Originating Party continuing to be paid and receiving employee benefits therefrom without entitlement or claim to any salary, compensation or other benefits from the Borrowing Party;

6-3. Continue working the number of hours specified in his or her contract of employment with the Originating Party while loaned to a Borrowing Party, unless the Originating Party, Borrowing Party and the Shared Employee agree otherwise;

6.4. In the event of any dispute between the Shared Employee and Borrowing Party about the performance of services under this Agreement, Shared Employee shall be subject to the exclusive direction and control (including personnel actions and discipline) of the Originating Party.

6.5. Administer the building code and the adopted policies of the Borrowing Party, and shall defer to the direction of the building official of the Borrowing Party on matters relating to the BI/PR services and the issuance of permits. It is agreed by and between the parties that the Shared Employee is carrying out a function on behalf of the Borrowing Party, and the Borrowing Party has the right of direction or control of the manner in which the Borrowing Party delivers services under this Agreement and exercises control over the activities of the Shared Employee when providing agreed upon services.”

7. Obligations of Borrowing Party. If the Shared Employee does not meet the needs or is otherwise not satisfactory to Borrowing Party, Borrowing Party's sole recourse shall be the return of Shared Employee to Originating Party. The Borrowing Party shall provide a written explanation to the Originating Party for the return of the Shared Employee(s). Borrowing Party shall provide a Shared Employee with all material(s) and work space necessary to perform the requested BP/PR.

8. Obligations of Originating Party. In addition to its other obligations set out elsewhere in this Agreement, the Originating Party shall be responsible for provision of any official motor vehicle necessary for performance of services by a Shared Employee.

9. General Provisions.

- 9.1 Compliance with Laws. Every party shall comply with all applicable federal, state and local laws, including those related to discrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability and all applicable laws and regulations regarding the handling and expenditure of public funds.
- 9.2 Oregon Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon.
- 9.3 Time is of the Essence. Time is of the essence in the performance of this Agreement.
- 9.4 System Access. The borrowing party agrees to provide the originating party access to the borrowing parties permitting system. The Borrowing Party may limit access to any materials or information systems that the Borrowing Party determines, in its sole discretion, is not necessary to perform the requested BI/PR services.
- 9.5 Default. A party shall be deemed in default if it fails to comply with any provision of this Agreement. The non-defaulting party shall provide defaulting party written notice of the default and an explanation thereof and allow the defaulting party thirty (30) days within which to cure. In the event of default, the non-defaulting party may terminate this Agreement immediately upon written notice provided to the defaulting party.
- 9.6 Indemnification. Each entity in its capacity as an Originating Party hereby agrees to indemnify, defend and hold harmless those entities acting as Borrowing Parties (including their officers, employees and agents) from and against all claims, demands and causes of actions and suits of any kind or nature made by a third party for personal injury, death or damage to property arising out of the service(s) performed by the Originating Party its, officers, employees (including Shared Employees) and agents pursuant to the terms of this Agreement. Each party shall give the other parties to this Agreement notice of any claim made or case filed that relates to this Agreement or services performed hereunder.
- Each entity in its capacity as a Borrowing Party hereby agrees to indemnify, defend and hold harmless the entity acting as the Originating Party (including their officers, commissioners, employees and agents) from and against all claims, demands and causes of actions and suits of any kind or nature made by a third party for personal injury, death or damage to property arising out of the service(s) performed by the Borrowing Party its, officers, commissioners, employees (including Shared Employees) and agents pursuant to the terms of this Agreement. Each party shall give the other party to this Agreement notice of any claim made or case filed that relates to this Agreement or services performed hereunder.
- 9.7 Insurance. Each party agrees to maintain liability and workers compensation insurance in accordance with statutory requirements at levels necessary to protect against liabilities allowed by law. Each Originating Party shall maintain workers compensation coverage for any Shared Employee loaned under this Agreement.
- 9.8 Modification. This agreement may be amended in writing as may be mutually agreed to between the parties.
- 9.9 Dispute Resolution. The parties shall first attempt to informally resolve any dispute concerning this Agreement. A neutral party may be used to facilitate those negotiations. In the event of an impasse, the issue shall be submitted to the governing bodies for a recommendation or resolution.
- 9.10 Enforcement. Subject to the provisions in paragraph 9.6, any party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement.
- 9.11 Excused Performance. In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations,

new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control of the party to be excused.

9.12 Termination. A party may terminate its participation in this Agreement, with or without cause and at any time, by providing thirty (30) days written notice to the other parties to this Agreement.

9.13 Severability. If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.

9.14 Entire Agreement. This Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.

10. Term of Agreement. This Agreement shall take effect on the date that both parties have signed the agreement and continue thereafter from year to year in perpetuity unless terminated by the parties consistent with section 9 above.

11. Contact Persons. Communications about this Agreement and any notice sent under its terms shall be sent by and to the following contact persons for the respective parties:

<u>Jurisdiction</u>	<u>Contact Person</u>	<u>Address</u>
City of Milwaukie	Samantha Vandagriff	6101 SE Johnson Creek Blvd.
Clackamas County	Scott Caufield	150 Beaver creek Rd

12. Appropriations Clause. The obligations of the parties are subject to appropriations by their governing bodies. This Agreement is subject to the debt limitations in Oregon Constitution, Article XI, section 10 and any debt limitations contained in a city charter.

13. Terms Specific to this Agreement. This Agreement is effective January 1st, 2016.

City of Milwaukie
Jurisdiction

Signature Bill Monahan

Date

Bill Monahan
Printed Name

City Manager
Title

Address: 10722 SE Main Street Milwaukie OR, 97222

City of Clackamas County
Jurisdiction

Signature: John Ludlow

4-28-16 B.I.
Date

John Ludlow
Printed Name

Chair
Title

Address: 150 Beaver Creek Rd, Oregon City, OR, 97045
