

## Intergovernmental Agreement for provision of Building Inspection/Plan Review (BI/PR) Services

This Agreement is entered into by and between City of Oregon City (an Oregon municipal corporation and the City of Happy Valley (an Oregon municipal corporation).

### 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 employ staff members that provide BI/PR services for their respective jurisdictions.
- C. With the fluctuations in development and construction activity in the Greater Portland Metropolitan Area 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) services 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 BI/PR services.
  - 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, including but not limited to, costs relating to salary, payroll and other taxes, medical, dental and other insurance for said Shared Employee, employer-paid retirement contributions for said employee, vacation, sick leave and other benefit(s) which are part of the compensation package for the Shared Employee(s) for the Originating Party.
  - 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 BI/PR services, 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 BI/PR services 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. Payment shall be at the current hourly rate (including overhead) of the employee classification used for BI/PR services, and shall include travel time between jurisdictions. The Originating Party shall provide to the Borrowing Party an accounting of hours spent performing work for the Borrowing Party. This information shall be provided daily 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. Payment shall be made at the end of each calendar month based on the difference between the reimbursement costs owing to and by each party for the work. The party with the obligation to pay reimbursement costs shall prepare an accounting and pay all reimbursement costs, after deducting any reimbursement costs owed to the paying party, within 10 days of the end of each calendar month.
5. Duration of Use of Shared Employee. Borrowing Party shall attempt to use Shared Employee for the duration specified in its request. If a Shared Employee is requested for a period longer than one (1) month and is not needed for the entire period, Borrowing Party shall give Originating Party seven (7) calendar days' notice of its intent to return Shared Employee. In that case, Borrowing Party shall be liable for Shared Employee(s)' Reimbursement Cost for the seven (7) day notice period, unless the two parties otherwise agree. A Borrowing Party shall not retain a Shared Employee longer than six (6) consecutive months under this Agreement.
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.
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 BI/PR services.

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. Default. A party shall be deemed in default if it fails to comply with any provision of this Agreement. A 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.
  - 9.5. 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
  - 9.6. 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.
  - 9.7. Modification. No waiver, consent, modification or change of terms of this Agreement shall be binding unless in writing and signed by all parties.
  - 9.8. 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 or a recommendation or resolution.

- 9.9. 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.
- 9.10 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.
- 9.11 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.
- 9.12. 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.
- 9.13. 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 is for a term of ten (2) years from the date of the party's execution of the Agreement.
11. 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
12. Notices. All notices or other communications required or permitted under this Agreement shall be in writing, and shall be mailed or sent by scanned document (e-mailed) or faxed with hard copy to follow by post, addressed as follows:

To: City of Happy Valley  
Building Official  
16000 SE Misty Drive  
Happy Valley, OR 97086

To: City of Oregon City  
Building Official  
221 SE Molalla Ave.  
Oregon City, OR 97045

IN WITNESS WHEREOF, the respective parties have caused to be signed in their behalf to make and enter into this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF HAPPY VALLEY

By Jason A. Tuck  
Jason A. Tuck, City Manager

Date 5/8/13

Approved as to Form:

By \_\_\_\_\_  
City Attorney

Date \_\_\_\_\_

CITY OF OREGON CITY

By \_\_\_\_\_  
David W. Frasher, City Manager

Date \_\_\_\_\_

Approved as to Form:

By \_\_\_\_\_  
City Attorney

Date \_\_\_\_\_