

## **Agreement Between Multnomah County and Oregon Historical Society**

This agreement is entered into this 28<sup>th</sup> day of April 2011 between Multnomah County, a home rule subdivision of the State of Oregon, hereinafter referred to as (the "County") and the Oregon Historical Society, hereinafter referred to as ("OHS").

### **GENERAL PROVISIONS**

On November 2, 2010 the voters of Multnomah County passed Measure 26-118, hereinafter referred to as ("voter approved measure"), which established a local option levy dedicated to OHS and four east Multnomah County historical societies. The levy is set at a rate of \$0.05 (five cents) per \$1,000 of assessed valuation in the County. Taxes will be collected beginning in fiscal year 2012 for a period of five years. The levy will expire in fiscal year 2016.

The County has developed estimates of the revenue to be collected by the local option levy. It is understood by both the County and OHS that the estimates will vary from year to year and are dependent upon a number of variables related to Oregon's property tax system. The purpose of this Agreement is to outline the roles and responsibilities of the County and OHS with regard to the voter approved measure.

### **AUDITS AND OVERSIGHT**

OHS agrees to pay for an annual Fiscal Audit, clearly representing levy funds, to be made public as promised in the voter approved measure. The County will select and approve the auditor to perform this function.

The County Chair has established a Levy Oversight Committee (LOC) as required by the voter approved measure. The LOC will meet at least semi-annually, and will provide an annual briefing to the Board of County Commissioners regarding OHS compliance with promises made in the voter approved measure. In addition to the board briefing, minutes from LOC meetings will be provided to the Chair's office and posted by the Board Clerk to the Board's website.

OHS understands that the LOC role is to provide oversight of the expenditure of levy funds on behalf of the Board of County Commissioners and to identify for OHS and the community any perceived or persistent practices that are inconsistent with the voter approved measure. OHS agrees that it will reasonably comply with recommendations from the LOC on matters related to their role as stated above.

OHS agrees to fully cooperate with the LOC and promptly provide any and all relevant documents, materials and other information as required by the LOC to fulfill its reporting function. Further, OHS agrees to have a Performance Audit performed at its own expense and by an auditor approved by Multnomah County should:

- a. The LOC have reason to believe that OHS is not in compliance with the levy provisions and this agreement; and
- b. The County Chair concurs.

This Performance Audit would be in addition to, not in place of, the annual Fiscal Audit required in the voter approved measure. The parties agree that any Performance Audit will occur only after the dispute resolution process in this Agreement has been completed and exhausted.

OHS agrees to fully cooperate with respect to all documents, materials and other information deemed necessary by the auditors to complete work in a timely fashion.

### **DISTRIBUTION OF FUNDS**

Taxes are assessed and billed annually by October 15. Tax payments are due on November 15 although taxpayers may choose to pay in installments. If paid in installments, the due dates, in addition to November 15, are February 15 and May 15. Approximately 85% of all taxes collected annually are paid in November.

OHS will encounter operational cash flow problems if funds are not received until November.

To avoid potential cash flow problems the County agrees to advance to OHS one-half of the annual estimated Property Tax revenues included in the County Chair's proposed budget not later than July 15 of each year the levy is in place.

The County will revise the estimate of annual tax collections following certification of the tax roll. The balance of tax revenues anticipated to be collected annually will be advanced not later than January 15 of each year the levy is in place. In the event annual tax collections exceed, or are lower, than estimates the County and OHS agree that those variances will be accounted for in the succeeding fiscal year.

Prior year taxes will continue to be collected for several years following expiration of the levy. The County and OHS will agree upon an estimate of the outstanding taxes not later than July 15, 2015. The County will transfer the full amount of the agreed upon estimate of prior year taxes by June 30, 2016.

OHS agrees to make payments from levy proceeds to the following east Multnomah County historical societies:

- Fairview-Rockwood-Wilkes Historical Society
- Gresham Historical Society
- Troutdale Historical Society
- Crown Point Country Historical Society

Together these organizations will receive \$150,000 annually over the life of the levy. Payments will be made in equal amounts of \$18,750 to each organization listed above not later than July 31 and January 31 of each year the levy is in place.

OHS agrees that it will cause each of these east Multnomah County historical societies to make a report to the LOC at least once annually. This report shall provide an accounting for the expenditure of the funds received under this agreement. In the event that any of the east Multnomah County organizations listed above fail to report at least once annually to the LOC,

OHS is authorized to withhold distribution of funds under this Agreement until the report is made to the satisfaction of OHS and the LOC.

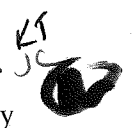
OHS agrees to pay the County \$7,500 annually as compensation for administrative duties related to the collection and distribution of tax revenues derived from the local option levy.

### MISCELLANEOUS

Both the County and OHS agree to comply with Oregon Local Budget Law (ORS, Chapter 294) with regard to the expenditure of levy funds. Payment on this agreement shall be paid in legal currency of the United States.

If the County determines that OHS is out of compliance with either the terms of the voter approved measure or this Agreement, it reserves the right to suspend distribution of funds under this Agreement until compliance is achieved to the satisfaction of the County.

The provisions of this Agreement shall be construed in accordance with the laws of the State of Oregon and ordinances of Multnomah County, Oregon.

Any dispute regarding the interpretation or application of the terms of this Agreement shall first be brought to the Co-Chairs of the LOC and the Executive Director of OHS *to for* resolution. If they are unable to agree, the matter shall be brought to the attention of the County Chair for final resolution. The Co-Chairs may refer the matter to mediation or alternative dispute resolution for resolution. 

Any legal action involving any question arising under this Agreement may be brought only after the conclusion of the dispute resolution outlined in this Agreement and must be brought in Multnomah County, Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the District of Oregon. In the event of litigation each side agrees to bear the cost of its own legal fees.

If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held invalid.

This Agreement and any attached exhibits constitute the entire agreement between the parties. All understandings and agreements between the parties and representations by either party concerning this Agreement are contained in this Agreement. No waiver, consent, modification or change in the terms of this Agreement shall bind either party unless in writing signed by both parties. Any written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. This Agreement can be modified by the parties in writing by mutual agreement at any time.


This agreement terminates upon expiration of the local option levy dedicated to the Oregon Historical Society.

ENTERED this 28 day of April 2011.

FOR MULTNOMAH COUNTY, OREGON

  
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Jeff Cogen, Chair

FOR THE OREGON HISTORICAL SOCIETY

  
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Kerry Tymchuk, Executive Director

REVIEWED:

HENRY H. LAZENBY, JR., COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By 

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Henry H. Lazenby, Jr., County Attorney