

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 09-095**

Approving an Intergovernmental Agreement with the City of Portland Defining Roles and Responsibilities Related to the Portland Clean Energy Fund and the Clean Energy Works Portland Pilot Program

**The Multnomah County Board of Commissioners Finds:**

- a. In April 2001, by Resolution No. 01-052, Multnomah County adopted a joint Global Warming Action Plan with the City of Portland to establish a goal of reducing community-wide greenhouse gas emissions to 10% below 1990 levels;
- b. In April, 2008, by Resolution No. 08-035, Multnomah County adopted the U.S. Cool Counties Climate Stabilization Declaration in partnership with Clackamas County;
- c. In August of 2009, Multnomah County and the City of Portland will consider adoption of an updated version of the Joint Global Warming Action Plan, re-titled the Joint Climate Action Plan, which will include the goal of reducing community-wide greenhouse gas emissions to 80% below current levels by the year 2050;
- d. Buildings account for more than 40% of the carbon emissions in Multnomah County—a larger share of total carbon emissions than comes from transportation or industry;
- e. Clean energy retrofits to existing buildings are among the best strategies to strengthen the local economy while reducing CO<sup>2</sup> emissions;
- f. A major barrier to retrofitting existing buildings is the up-front cost of the improvements;
- g. Multnomah County has worked closely with the City of Portland Bureau of Planning and Sustainability, EnergyTrust of Oregon, NW Natural, Pacific Power, Portland General Electric, Shorebank Enterprise Cascadia, and Work Systems Inc. to establish a program to provide financing and project assistance for clean energy retrofits;
- h. Clean Energy Works Portland will establish a loan fund (called the Portland Clean Energy Fund) that will pay the upfront costs of installing energy-efficiency improvements to homes, with the loan repaid over time on the homeowners' utility bill. Because the home will use less energy, the savings will partly or wholly cover the cost of repaying the loan. Once the loan is paid off, the homeowner will keep all of the savings, while enjoying the benefits of a more energy efficient, comfortable, and healthier home;
- i. The economic arguments for implementing this program are compelling. Jobs created in the home energy retrofit sector cannot be outsourced, and money that no longer is spent on wasted energy will circulate in the local economy more productively;
- j. Clean Energy Works Portland is earning national recognition as a pioneering partnership linking good local jobs, climate protection, energy savings, and increased opportunities for low and moderate income people;

- k. The County has applied to the Oregon Department of Energy for grant funding through the federal American Recovery and Reinvestment Act (ARRA) for an Energy Efficiency and Conservation Block Grant allocation to the Clean Energy Works Portland (Portland Clean Energy Fund) pilot project. The City of Portland has received an Energy Efficiency and Conservation Block Grant allocation which they are dedicating a large part of to this program;
- l. The attached Intergovernmental Agreement spells out roles and responsibilities of the County and City of Portland related to the Portland Clean Energy Fund. Portland will take the lead on negotiating a fund management agreement with the fund manager and will handle all day to day interactions with the fund manager, but will involve the County in all major decisions. Portland will also take the lead in reporting to the federal government on federal stimulus dollars used in this program;
- m. The attached Intergovernmental Agreement requires approval from both the County and the City of Portland. Portland is scheduled to hear this matter on July 8th, 2009.

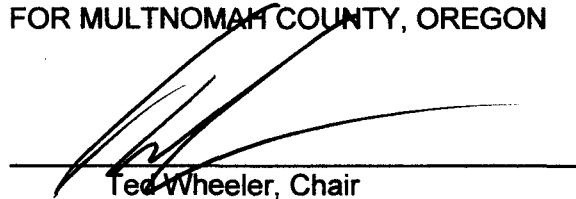
**The Multnomah County Board of Commissioners Resolves:**

- 1. The attached Intergovernmental Agreement Regarding Portland Clean Energy Fund is approved; and upon approval of the agreement by Portland, the County Chair is authorized and directed to sign the agreement in a form substantially as set forth in the attachment.

ADOPTED this 9th day of July 2009.

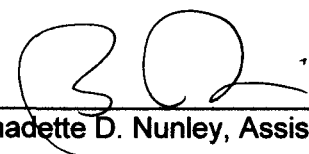


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Bernadette D. Nunley, Assistant County Attorney

SUBMITTED BY:

Jeff Cogen, Commissioner District 2

## **INTERGOVERNMENTAL AGREEMENT REGARDING PORTLAND CLEAN ENERGY FUND**

THIS AGREEMENT is between each of the City of Portland, a municipal corporation duly incorporated under the laws of the State of Oregon, (the "City"), and Multnomah County, a home rule county formed under the laws of the State of Oregon, (the "County") hereinafter referred to as the "Jurisdictions." This Agreement is made pursuant to ORS 190.003 to ORS 190.110, the general laws and constitution of the State of Oregon, and the laws and charters of the Jurisdictions.

### **Section 1. General Purposes.**

A. In 2007, the Portland City Council and the Multnomah County Board of Commissioners adopted resolutions directing staff to develop strategies for reducing local carbon emissions 80% by 2050 (Portland Resolution No. 36548 and Multnomah County Resolution 08-035). In an effort to achieve this mutual benchmark, one proposed strategy is to address options for accelerating energy efficiency and renewable energy measures in existing buildings. The Portland Clean Energy Fund 500-home pilot, intended to run from Summer 2009 to Summer 2010, is a vehicle for creating these options. To further the public interest, the Jurisdictions desire to clarify roles and responsibilities related to ongoing activities of the Portland Clean Energy Fund.

B. The terms of this Agreement will become effective upon execution by the County and the City. However, both the County and the City are actively pursuing funding for the Clean Energy Fund pilot project from outside sources, such as the State of Oregon or the federal government. Neither the County nor the City shall be obligated to provide any funding under this Agreement unless and until funding is provided from these third-party sources. To the extent that funding will come from third-party grants, the parties acknowledge that the funds will be subject to restrictions upon usage. The parties do not expect or anticipate any return of these funds or making any claims upon these funds after the funds have been turned over to the Fund Manager, so long as the funds are used for the purposes identified in the various third-party agreements.

### **Section 2. Definitions.**

A. "Fund" means the Portland Clean Energy Fund.

B. "Fund Manager" means a third-party acceptable to both the County and the City that will be responsible for managing the Fund.

C. "Jurisdiction" means the City of Portland and Multnomah County initially, and any Oregon municipality or county which enters into this Agreement by amendment.

D. "Lead office" means Bureau of Planning and Sustainability for the City of Portland and Sustainability Office for Multnomah County.

### **Section 3. Fund Management Coordination.**

A. The City will take the lead in negotiating an Agreement with a Fund Manager, who will manage the Fund and perform other activities to be defined for the Fund's pilot program. The Agreement with the Fund Manager will address the range of services to be provided by the Fund Manager, the compensation to be paid to the Fund Manager for administering the Clean Energy Fund, and other matters related to management of the Clean Energy Fund.

- B. The Jurisdictions anticipate that compensation to Fund Manager will be limited to funds received from third-parties in initiating the Clean Energy Fund, or from revenues derived from loan application fees, loan revenues or other loan-related operations. Neither the County nor the City shall be obligated to provide any general revenue resources to pay the Fund Manager for administering and overseeing the Clean Energy Fund. Some initial bridge funding may occur in anticipation of receiving third-party funding from state or federal sources. This initial bridge funding will not change the Jurisdictions' over-all expectations regarding the Fund Manager's compensation. Entering into this Agreement does not bind any of the Jurisdictions to providing bridge funding.
- C. The City will negotiate on behalf of both jurisdictions' interests in enabling equitable access to the Fund by citizens from a variety of income and credit quality levels.
- D. The City will handle all day-to-day interactions with the Fund Manager, involving the County in major decisions. Day-to-day interactions will include:
  - a. Banking functions
  - b. Loan applications
  - c. Disbursement of funds
- E. The County will respond to major decisions in a timeframe reasonable to the pace of the pilot timeline.

#### **Section 4. Federal Stimulus Reporting.**

- A. The City will take the lead in reporting to the Federal Government for purposes relating to use of Energy Efficiency Conservation Development Block Grant (EECDBG) Federal Stimulus dollars, or other reporting requirements related to the American Recovery and Reinvestment Act of 2009.
- B. The County will retain its reporting role for Weatherization Assistance Program (WAP) dollars, as well as any other County-specified, non-EECDBG dollars.

**Section 5. Other Collaborative Activities.** The City and County will, on an ongoing basis, identify and implement mutually agreeable solutions to the following activities related to the Clean Energy Fund:

- A. Program outreach;
- B. Coordination with Energy Trust of Oregon, participating utilities and other involved parties; and,
- C. Workforce development.

**Section 6. Effective Date.** This Agreement shall become effective upon its adoption by all Jurisdictions.

#### **Section 7. Duration and Termination.**

- A. Duration. The duration of this Agreement is perpetual and shall continue beyond the pilot period from year to year, subject to termination or dissolution as provided below.
- B. Termination.
  - a. A Jurisdiction may terminate further participation under this Agreement by filing, with the other Jurisdiction's lead office, a written notice of withdrawal. Due to anticipated conditions upon the initial funding, as derived from the State of Oregon or the federal

government, any funds deposited into the Clean Energy Fund by the Jurisdiction shall remain with the Fund upon withdrawal, and the Jurisdiction shall have no expectation or right to claim return of the previously deposited funds. The effect of withdrawal by a Jurisdiction shall be that the remaining Jurisdictions may continue to oversee and support the Clean Energy Fund, or may turn the program over to the Fund Manager to administer.

- b. If the Fund Manager seeks to continue this program using funding sources other than those to be provided by the Jurisdictions, and without the further involvement of the Jurisdictions, then upon agreement between the Fund Manager and the Jurisdictions, the Jurisdictions may each withdraw as described above and turn the program over to the Fund Manager to administer. Upon the Jurisdictions entering into such an agreement, this Agreement will terminate.

**Section 8. Dissolution.** The Jurisdictions may terminate this Agreement at any time by mutual agreement of all Jurisdictions. Upon termination, the Fund shall continue to be managed by the Fund Manager, subject to the funds continuing to be used for the same or similar purposes of making loans to finance energy retrofits of residential properties within Portland and Multnomah County.

**Section 9. General Terms.**

- A. **Integration.** This Agreement constitutes the entire agreement between the Jurisdictions. This Agreement may be modified or amended only by ~~the a~~ separate written agreement, duly authorized by the Jurisdictions.
- B. **Severability.** The terms of this Agreement are severable and a determination by any Court or agency having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part, shall not affect the remainder of this Agreement.
- C. **Interpretation.** The terms and provisions of this Agreement shall be liberally construed in accordance with its general purposes.
- D. **Increasing Member Units of Government.** The City and the County may develop a method for allowing other units of local government to enter into this Agreement.
- E. **Amendments.** The terms of this Agreement shall not be amended without the written authorization of the governing bodies of all Jurisdictions.
- F. **Indemnification.** Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, County shall indemnify, defend and hold harmless the City of Portland from and against all liability, loss and costs arising out of or resulting from the acts of County, its officers, employees and agents in the performance of this Agreement. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the City of Portland shall indemnify, defend and hold harmless County from and against all liability, loss and costs arising out of or resulting from the acts of the City of Portland, its officers, employees and agents in the performance of this Agreement.
- G. **Insurance.** Each party shall each be responsible for providing worker's compensation insurance as required by law. Neither party shall be required to provide or show proof of any other insurance coverage.
- H. **Adherence To Law.** Each party shall comply with all federal, state and local laws and ordinances applicable to this Agreement.

- I. Non-Discrimination. Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
- J. Access To Records. Each party shall have access to the books, documents and other records of the other which are related to this Agreement for the purpose of examination, copying and audit, unless otherwise limited by law.
- K. Subcontracts And Assignment. Neither party will subcontract or assign any part of this Agreement without the written consent of the other parties.

APPROVED AND EXECUTED by the appropriate officer(s) who are duly authorized to execute this Agreement on behalf of the governing body of each Jurisdiction.

MULTNOMAH COUNTY, OREGON

CITY OF PORTLAND, OREGON

By



By

\_\_\_\_\_

Title Ted Wheeler, Multnomah County Chair

Title

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Date: July 9, 2009

Date:

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Reviewed:



Agnes Sowle, County Attorney  
for Multnomah County

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Auditor, City of Portland

Date:

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Linda Meng, City Attorney  
Approved as to form