

## INTERGOVERNMENTAL AGREEMENT

### Gateway Center for Domestic Violence Services

Contract Number [Enter Contract Number]

This INTERGOVERNMENTAL AGREEMENT ("Agreement") dated December 1, 2018 ("Effective Date"), is made and entered into by and between the City of Portland (the "City"), and Multnomah County (the "County"). The City and the County may be referred to jointly herein as the "Parties" or individually as a "Party".

#### Recitals

- A. The Gateway Center for Domestic Violence Services (the "Center") connects survivors of domestic violence and their families (collectively, "Participants") to victim-centered services and institutional support that promotes victim autonomy. It operates from a County-provided space where partner agencies that provide services to Participants can co-locate to ensure services are accessible and coordinated (the "Facility");
- B. Since it opened in 2009, the City and County have jointly supported the Center, with the City providing funding for and oversight of the Center's operations, and the County providing access and certain information technology (IT) services to the Facility;
- C. The Parties formalized their support of the Center by entering into an intergovernmental agreement (Agreement City #300000956). This initial contract created the Center, described how the Parties would jointly support the services provided at the Facility, and established an advisory group to provide oversight of the Center's operations. In 2009, the City approved an operational budget and an annual funding allocation for the Center and services at the Facility. The original intergovernmental agreement expired in 2014;
- D. Simultaneously, the Parties entered into a lease agreement for the Facility (Agreement City # 300000944) (the "Facility Lease"). Under the Facility Lease, the County, as the Facility's landlord, furnishes several utilities and services to the Facility, including phone and internet services. Except as otherwise provided herein, the Facility Lease is set to expire on October 31, 2019;
- E. Further, the City, through the Portland Housing Bureau, and the City, through the Center, are parties to a lease for the parking lot at 10225 E. Burnside Street, adjacent to the Facility (Agreement City # 30001506) (the "Parking Lot Lease") effective June 1, 2010, and renewed effective April 1, 2018, for a term extending until May 31, 2023. The City, through the Portland Housing Bureau, is the landlord under the Parking Lot Lease, and the City, through the Center, is the tenant under the Parking Lot Lease;
- F. By all accounts, the Center has helped countless Participants move past the events that brought them to the Facility. Center staff and the agencies at the Facility use a survivor-driven service model, and recognize that survivors are the experts in their own lives. They work to ensure that the services at the Facility are closely integrated with the public safety system. Almost one in four referrals to the Center come from police officers. More than half of protective orders in Multnomah County are filed at the Facility with assistance from Center staff. The Center is committed to partnering with public safety services to improve institutional supports for Participants, including safe, accessible protective order petitions and other legal services;
- G. The Center identifies as an anti-violence organization. Anti-violence work is connected to anti-oppression and anti-racism efforts, and when practices or policies are implemented, examined, or challenged, the foundational connection to these wider social movements should be recognized and used as guidance. The Center will be directed and overseen with an eye towards ensuring compliance with the Parties' equity goals;
- H. In 2014, the City and County entered into the current intergovernmental agreement (Agreement City # 3001467) to refine certain details of their collaboration supporting the Center, such as changing aspects of its advisory group and reaffirming the County's commitment to meeting the Center's technology needs. The current intergovernmental agreement became effective July 1, 2014, and was set to expire on June 20, 2018;

- I. To ensure the Center's continued support, the Parties in April 2018 began negotiating a new intergovernmental agreement. To provide the Parties with more time to explore Center-related issues informing negotiations, they executed an amendment to the current intergovernmental agreement authorizing an extension of its term through July 31, 2018;
- J. As of late July 2018, the Parties were still negotiating certain terms of the new intergovernmental agreement, including terms related to IT services and the Center Advisory Council, defined below. Again, to provide the Parties with more time to explore Center-related issues informing negotiations, they executed a second amendment to the current intergovernmental agreement authorizing an extension of its term through September 30, 2018;
- K. In early September 2018, the City concluded that the Center and its Participants would be better served by an overhaul to the Center's administrative structure. The City proposed to the County a major alteration to the intergovernmental agreement under discussion; specifically, it proposed that the Center be absorbed by the County. Recognizing that negotiation of this transition would require additional time, the Parties executed a third amendment to the intergovernmental agreement authorizing an extension to its term through December 27, 2018, at 5:00 p.m.;
- L. The Parties agree that the Center and its Participants would benefit from centralizing its funding, oversight, administration and facilities and IT services under the County. The County already supports programs and departments providing complementary services, and has expertise in administering programs that must comply with the same regulations as are applicable to the Center. Merging the Center with the County's Department of Human Services will enable the Center and its partners to focus more fully on improving outcomes for Participants rather than on administration;
- M. Although the County has the expertise to help the Center continue its important work, it lacks a near to long term funding source that is sufficient to support the Center's operations at its current level. Recognizing this limitation, the City has agreed to continue funding the Center at its current funding level as provided herein;
- N. The Parties have established the Baseline Support Levels, defined below, which are used to set each Party's minimum support level for the Center. However, the Parties acknowledge that the ongoing success of the Center may require support at levels exceeding the Baseline Support Levels; and
- O. This Agreement lays out the principles and processes by which the City-County collaboration furthering the Center's success may continue.

### **Agreement**

Now, therefore, the Parties agree as follows:

- 1. **Purpose.** The purpose of this IGA is to continue a framework for the City and County to collaborate in supporting the Center. This Agreement sets forth the administrative and funding infrastructure to support the Center's operations at its current service levels.
- 2. **Agreement Documents.** This Agreement includes the following attached documents:

| <i>Attachments</i> | <i>Description</i>          |
|--------------------|-----------------------------|
| Exhibit 1          | Center Contracts            |
| Exhibit 2          | Center Employees            |
| Exhibit 3          | Employee Transfer Agreement |
| Schedule A         | Representatives for Notice  |

### **3. Definitions.**

- a. "Baseline Support Level(s)" refer to the minimum annual support that the Parties must furnish to fund or otherwise support the Center in a given budget cycle to avoid jeopardizing the Center's ability to operate at service levels commensurate to its operations as of the Effective Date and avoid a disruption in the Center's operations, as set forth in **Section 10**. Any change to a Baseline Support Level must be by written amendment to this Agreement and approved by the City Council and the Board of County Commissioners.
- i. "City Baseline Support Level" is nine hundred forty three thousand four hundred fifteen dollars (\$943,415.00).

- ii. "County Baseline Support Level" refers to the County's commitment to support the Center by providing it with access to resources, services, and a facility comparable to those used and received by the Center on the Effective Date, and continuing operation of the Center such that the services and resources it offers to Participants is substantially comparable to those offered on the Effective Date.
  - b. "Business Hours" means Monday through Friday, from 8am PST to 5pm PST, excluding for U.S. holidays.
  - c. "Center Advisory Council" or "CAC" refers to the council of advisors described in **Section 11** to make policy recommendations to the County regarding Center operations, mission, and specific events.
  - d. "Facility" means the real property located at 10305 E Burnside St., Portland, OR 97216.
  - e. "Inflation Factor" means a rate of inflation based on the annual change in the Consumer Price Index for All Urban Consumers (CPI-U), West Region – Size Class A, with a two percent (2%) floor.
  - f. "Parking Lot Lease" means that Agreement City # 30001506, as further described in **Section 10(I)**.
  - g. "Service Contract(s)" refer to agreements, such as contracts, grant agreements, or intergovernmental agreements, with entities such as direct service providers, navigators, and pass-through or administrative entities, for the provision of services to one or more Participants, and includes the procurement and administration of such contracts.
4. **Term.** The initial term of this Agreement shall commence on the Effective Date and continue until June 30, 2024. Thereafter, the Agreement shall automatically renew for additional one year terms unless this Agreement is otherwise terminated as outlined in **Section 12**. The initial term and each renewal term shall be a "Term."
  5. **Center Authorization.** Not later than December 13, 2018, the Parties' respective governing boards shall have ratified by ordinance the transfer of the Center to the County and approved the Agreement. Failure to obtain ratification will not be fatal if either Party has already begun and is making progress toward ratification; however, the delaying Party must provide notice and progress reports to the non-delaying party. If it does not appear ratification will be approved by either Party's governing body, the Party whose governing body does not approve shall provide immediate notice to the other Party.
  6. **Center Transition.** Provided the authorizations required under **Section 5** are given and the Agreement is approved by the Parties' respective governing bodies, transition of the Center to the County shall occur in stages, as provided in this section. In addition to the below stages, the Parties shall cooperatively develop a plan to facilitate the joint planning process by the City and the County. The overarching goal of the transition plan will be to ensure there is no disruption in service to the community.
    - a. From the Effective Date of this Agreement, through December 31, 2018, the Parties shall coordinate on ensuring that written notice is provided to all Service Contract parties and to Center partners about the Center's transition to the County. Such notice should provide recipients with any new or different contact information for the Center.
    - b. On January 1, 2019: (i) the Center shall become a part of the County's Department of Human Services (DCHS), in its Youth and Family Services Division and Center staff shall begin reporting to appropriate supervisors within DCHS; (ii) the City shall transfer all Service Contracts to County, as more specifically provided in **Section 8**; (iii) as more specifically set forth in **Section 7**, Center employees will be set up in the County's enterprise resource planning (ERP) system; and (iv) the City will remit payment to the County for all budgeted Center-expenses for remainder of FY 2018/19, as set forth in **Section 10**.
    - c. By January 1, 2019, the County shall support a Center website that reflects that the Center is now a part of the County and the City will take down its Center site and redirect users that query the Center's old URL to the County's new URL for the Center.
    - d. By January 1, 2019, the Center shall be fully and completely transferred to the County.
  7. **Transfer of City Employees.** Effective January 1, 2019, the City will transfer the Center's four (4) FTE positions to the County pursuant to ORS 236.610.

- a. **Transferred Positions.** The transfer will include the following positions, identified by their City class specifications:
- i. one (1) position with the City classification specification “Commissioner’s Senior Staff Representative”;
  - ii. two (2) positions with the City classification specification “Commissioner’s Administrative Support Specialist”; and
  - iii. one (1) position with the City classification specification “Commissioner’s Staff Representative.”

The transferred City employees are identified on **Exhibit 2** (each a “Transferred Employee” and collectively the “Transferred Employees”). The Transferred Employees shall become employees of the County as of January 1, 2019, subject to the terms and conditions of employment provided under Oregon law and the Employee Transfer Agreement contained in **Exhibit 3** (the “Employee Transfer Agreement”).

- b. **Compensation.** The wage rate for each Transferred Employee shall not be reduced as a result of the transfer during the first twelve (12) months of employment with the County in accordance with ORS 236.610(2). After the initial twelve (12) months of employment with the County, each Transferred Employee’s wage rate will remain the same until such time as the County initiates and completes a classification study or the range maximum surpasses the Transferred Employee’s pay rate in accordance with the terms of the Employee Transfer Agreement.
- c. **Seniority.** Pursuant to ORS 236.620(c), for purposes of seniority and benefit accrual calculations, the seniority of the Transferred Employees accrued at the City will be treated as seniority accrued at the County. The County will recognize both classification seniority and County-wide seniority. Each Transferred Employee’s classification seniority date and City-wide seniority date is as listed in **Exhibit 2**.
- d. **Leave Accruals.** The Transferred Employees are permitted to retain up to one hundred and sixty (160) hours of accrued unused vacation leave as agreed to by the City, the County, and each Transferred Employee. The amount of vacation leave retained by each Transferred Employee is listed in **Exhibit 2**.
- e. **Leave Accruals Transferred.** The City shall transfer to the County all of the accrued sick leave of each Transferred Employee. The City shall have no liability for payment to the County for the transfer of accrued sick or vacation leave.
- f. **Leave Accruals Subject to County Policies.** All accrued leave transferred to the County shall be subject to the County’s personnel rules or collective bargaining agreement provisions regarding use, payout, and maximum accrual rate.
- g. **Leave Accruals Not Transferred.** Compensatory leave, personal leave, or other similar leave shall not be transferred.
- h. **Health Insurance Coverage.** All Transferred Employees shall be entitled to coverage under the County’s current health insurance plans. The County shall seek a waiver of any benefit waiting period for preexisting conditions with its health insurer. The City shall reimburse the County for additional premium costs, if any, resulting from such waiver for a period not to exceed twelve (12) months.
- i. **Employment Records.** The City will provide the County with the employment records of the Transferred Employees at the time of transfer, as provided in ORS 236.610(6). The City will provide the Transferred Employees with copies of documents that are non-privileged or otherwise subject to disclosure under Oregon law and necessary to continue operations at the County as determined by the City. In the event of accidental disclosure of privileged or exempt documents or data containing personally identifiable information to the Transferred Employees or other parties not entitled to the information, all copies of the disclosed information, including hard copies and those copies in electronic format, shall be immediately returned to the City. For purposes of public records retention, disclosure, confidentiality, and handling of any subpoenas or public records requests, all legal decisions and obligations transfer to the County with the transfer of the employment records. Any subpoenas or public records requests received by the City subsequent to the transfer seeking employment records relevant to the transferred employees shall be promptly forwarded to the County.

- j. **PERS Funding.** The Parties are existing Public Employees Retirement System (PERS) employers and are not subject to ORS 238.231. Pursuant to ORS 236.610(7), the Parties acknowledge that there shall be no unfunded liability or surplus paid or credited to or by the other Party for the Transferred Employees. All PERS-qualified Transferred Employees shall continue their existing PERS status upon transfer to the County.
  - k. **PERS Claims.** The Parties agree that the County waives any claim it may have against the City for any PERS unfunded liability related to the Transferred Employees existing on January 1, 2019, and the City agrees to waive any claim it may have against the County to reimburse the City for any PERS surplus related to the Transferred Employees existing after December 31, 2018.
  - l. **Center Staffing After Transfer.** Beginning January 1, 2019, and thereafter, the County shall be considered the sole employer of all Center employees, including employees transferred from the City to the County pursuant to this Agreement, for all purposes, including employment relations and liability as the result of the operation of the Center.
8. **Transfer of Service Contracts.** The Service Contracts currently administered by the Center are set forth in **Exhibit 1**. The City desires to assign and transfer to the County all of the City's right, title, and interest in the Service Contracts, and the County desires to accept all such right, title, and interest, and assume all obligations under the Service Contracts. Accordingly, as of January 1, 2019, the City hereby assigns, transfers, and conveys to the County all of the City's right, title, and interest in the Service Contracts. As of January 1, 2019, the County hereby accepts the above assignment, assumes all of the obligations under the Service Contracts, and agrees to perform and discharge all such obligations in accordance with the terms and conditions of such Service Contracts. The County shall administer the Service Contracts assigned to and assumed by the County until the expiration dates provided therein, unless: (a) the other party to a Service Contract elects to terminate the Service Contract under the termination provisions contained therein, (b) the other party to a Service Contract and the County agree to renegotiate a new contract prior to the expiration of the Service Contract, or (c) the County determines that the Center would be best served by terminating the Service Contract. Thereafter, the County may, at its discretion and in compliance with the County's procurement rules, procure contracts for the services delivered pursuant to the assigned Service Contracts.

The City will transfer to the County all records related to the Service Contracts transferred under this Agreement. To the extent the actual transfer of records is not practicable, the City agrees to provide the County with full access to all current and archived records relating to transferred Service Contracts at the request of the County. For purposes of public records retention, disclosure, confidentiality, and handling of any subpoenas or public records requests, all legal decisions and obligations transfer to the County with the transfer of the Service Contract records. Any subpoenas or public records requests received by the City subsequent to the transfer seeking records relevant to the Service Contracts shall be promptly forwarded to the County.

9. **Center Functions.**

- a. **Center Director.** The County shall employ and supervise a full-time employee (the "Center Director") to oversee and manage the Center's operations, partnership outreach, and assessments.
- b. **Administer Service Contracts.** The County will continue to administer the Service Contracts as provided herein.
- c. **Participant Activities.** The County shall maintain the Center at the Facility as a secure space for Participants to seek assistance from criminal justice agencies and comprehensive healing services. The County shall continue operating the Center to reduce and break the cycle of domestic violence by building and maintaining partnerships with public and nonprofit, multi-disciplinary service providers, and housing these partners together in the Facility.
- d. **Monitoring and Reporting.** The County shall cause Center staff to provide the CAC with annual status reports on its operations. The County shall maintain detailed accounting records of all amounts received from the City for the Center and the actual expenditure of such amounts on Center-related activities. The County agrees to work in good faith with the City to comply with all applicable federal and state grant and reporting requirements, as applicable, related to the Center.

10. **Center Budgeting and Payment.**

- a. **Payment(s) for FY 2018/19.** By January 15, 2019, the City shall determine and report to the County the City's unspent budget allocation from the FY 2018/19 Center budget. The County will create an invoice, dated February 1,

to bill the City for this unspent allocation which the County shall use for Center expenses through June 30, 2019. This invoice is due upon receipt. The unspent allocation will also include twenty-five thousand and no/100 dollars (\$25,000.00) that was added to the Center budget as part of the City's Fall Budget Monitoring Process. The City anticipates transferring in excess of 50% of the existing budget, and the City will work in good faith to transfer every dollar remaining in the City's FY 2018/19 Center budget to the County.

- b. **City Appropriations For FY 2019/20 through FY2023/24.** For fiscal years 2019-20 through 2023-24, the City agrees that Portland City Council has committed to appropriate in each fiscal year an amount of funding for the Center that is not less than the City Baseline Support Level.
- c. **Establishing the City Baseline Support Level.** The City's funding level for the Center for fiscal year 2019-20 is the City Baseline Support Level. Thereafter, the City Baseline Support Level will be annually adjusted by the Inflation Factor. After each such adjustment, the City Baseline Support Level for the next fiscal year will be the previous year's City Baseline Support Level, as adjusted by the Inflation Factor.
- d. **Establishing the County Baseline Support Level.** The County's support level for the Center is the County Baseline Support Level. The County intends to continue supporting the Center with the same services received by the Center as of the Effective Date so that the Center may provide the same type, scope, and scale of services to Participants after its transition to the County is complete. As of the Effective Date, the Center's services involve:
  - i. Operating a family justice center during Business Hours that allows Participants convenient access to crisis and safety planning services, lethality and danger assessments, crime reporting, assistance with prosecutions, applications for restraining orders, access to emergency monetary assistance, and culturally specific navigator services for African and African American individuals, Spanish speaking/Latina individuals, immigrants and refugees, Native American individuals, and survivors of domestic violence.
  - ii. Employ the Center Director.
  - iii. Co-locating the services described in **Section 10(d)(i)** at the Facility.
  - iv. Receiving ongoing technical assistance and consultation through the County's Domestic and Sexual Violence Coordination Office.
  - v. Receiving from the County technical connectivity support for users at the Facility.
  - vi. Support from the Multnomah County Sheriff's Office for the continued staffing at the Facility during Business Hours of a Facility Security Officer (FSO) for security at the Center. The FSO will have the authority to exclude from the Center any persons whose behavior disrupts the work of the Center staff or the safety of staff or members of the public using the Center.
  - vii. Support from the Multnomah County District Attorney's Office for the continued staffing at the Facility during Business Hours of a Victim Advocate, with such advocate being co-located at the Center and tasked with working with Participants.
  - viii. Receiving from the County access to one full-time mental health counselor at the Facility.
  - ix. Maintenance of the Center parking lot leased under the Parking Lot Lease.
  - x. Receiving from the County access to a part-time Culturally-Specific Navigator at the Facility.
- e. **Transfer of City Baseline Support Level Payment.** Beginning in fiscal year 2019-20, and continuing through the Term, the City agrees to annually transfer to the County the City Baseline Support Level in two installments, with the first installment transferred by July 15, and the second installment transferred by January 1. The County shall present the City with invoices for the City Baseline Support Level payments, with the first invoice sent by July 1, with a July 15 invoice date, and the second invoice sent by December 15. Invoices are payable upon receipt by the City. If the City fails to timely transfer to the County a City Baseline Support Level payment, the County must provide the City with notice that the City is in breach of its payment obligation under this **Section 10(e)** of the Agreement and allow the City not less than thirty (30) days to cure the breach.

- f. **Voluntary Funding Increases.** The City and the County may, individually or collectively, elect to provide additional funding or services to the Center above the Baseline Support Levels. Any voluntary increases by either Party will not impact the Baseline Support Levels. Such voluntary increases, including funding to address emergency needs as described in **Section 10(i)**, will be documented in writing. Such revisions do not require formal amendment of the Agreement.
- g. **City Carryover.** In any fiscal year where the County does not spend all of that year's Baseline Support Level, such unspent funds shall be carried over to the next fiscal year and credited toward the adjusted Baseline Support Level for that subsequent year. Unspent funds that remain available at the close of a County fiscal year (June 30th) must be reported to the City by August 12 each year.
- h. **City and County Audits, Investigations and Reviews.** The City Auditor's Office and the County Auditor's Office, directly or through contractors, may conduct financial and performance audits, investigate, and/or review the billings and services specified in this Agreement at any time during the Term. Audits will be conducted in accordance with generally accepted auditing standards as promulgated by the U.S. Government Accountability Office. Investigations will be conducted in accordance with City Code. The City Auditor's Office and County Auditor's Office will have access to all records, materials, personnel, and property needed to conduct audits, investigations and reviews.
- i. **Emergency Funding Needs.** If either Party identifies any emergent, unanticipated, and unfunded need for services that, by their nature, should be offered by the Center, the Party shall bring that need to the other for discussion on how the Parties, jointly, should respond to such need. Nothing in the Agreement shall require either Party to provide additional funding or services, nor shall this Agreement preclude either Party, independent of the other Party, from responding to an emergent need in a manner that that government deems appropriate.
- j. **Equipment.** The City assigns, transfers, and conveys to the County, which hereby accepts, all rights, title, and interest in any City furniture, fixtures, and equipment at the Center, including but not limited to any computers and video conferencing equipment, and the County shall be responsible for the maintenance and replacement of the same as necessary and any such costs shall not be reimbursable by the City.
- k. **Termination of Facility Lease.** The Facility Lease referred to in **Recital D** is terminated, and the Parties' respective rights and obligations thereunder are extinguished, effective January 1, 2019.
- l. **Substitution of Tenant under the Parking Lot Lease.** The City, as the Tenant under the Parking Lot Lease through the Center, hereby assigns all of its rights, interest and obligations to the County, and the County hereby accepts and assumes the same effective January 1, 2019. Thereafter, the City, through the Portland Housing Bureau, shall remain the Landlord and the County shall be the Tenant under the Parking Lot Lease. This signed Agreement shall be deemed the City's consent in its capacity as Landlord, to the assignment and assumption of the rights and obligations of Tenant under the Parking Lot Lease from the City in its capacity as Tenant to the County. Except to the extent expressly modified in this Agreement, all terms and conditions of the Parking Lot Lease shall remain unchanged and in full force and effect.

#### 11. Center Advisory Council.

- a. **Charter.** Center Advisory Council (CAC) will be established to make policy recommendations to the County regarding the Center's operations, mission, and specific events. Nothing in this **Section 11** shall deprive the Parties' elected or appointed officials of any power they may have under the laws of the state or otherwise.
- b. **Membership.** The CAC shall consist of no fewer than ten (10) and no more than twelve (12) members (each a "Member" and collectively, the "Members") who represent the diversity of agencies that provide intervention in domestic violence and community members, such as Participants, that benefit from the Center's services. The Members may by majority vote increase the number of Members on the CAC. The CAC shall be comprised as follows:
  - i. a member of the Multnomah County Board of Commissioners, to be appointed by the Multnomah County Chair;
  - ii. a member of the Portland City Council, to be appointed by the Mayor of the City of Portland;

- iii. a representative from the Multnomah County Domestic and Sexual Violence Coordinator's Office;
  - iv. the Multnomah County District Attorney, or their designee;
  - v. the City of Portland Chief of Police, or their designee;
  - vi. the Chief Family Court Judge of the Multnomah County Circuit Court, or their designee;
  - vii. the Regional Director of the Oregon Department of Human Services, or their designee;
  - viii. one domestic violence survivor;
  - ix. one civil legal service provider; and
  - x. three nonprofit domestic violence service providers.
- c. **Meetings.** The Members described in **Section 11(b)(i)** and **(ii)** shall serve as Co-Chairs of the CAC ("CAC Co-Chairs"). The CAC Co-Chairs are responsible for scheduling CAC meetings, which shall occur at least quarterly and on a recurring, set date, as practicable; however, the CAC Co-Chairs may schedule more frequent meetings, as needed. The Center Director shall staff and provide administrative support to the CAC. All meetings shall take place at the Facility, unless otherwise indicated in the meeting notice. The CAC Co-Chairs shall cause written notice of each meeting to be provided to each Member not less than twenty (20) business days before the date of the meeting. Unless otherwise provided in a meeting notice, Members may attend meetings in person or electronically via IT resources arranged by the CAC Co-Chairs for the meeting. CAC meetings have no quorum requirement.
- d. **Additional Roles of Co-Chairs.** The CAC Co-Chairs shall provide leadership to the Center at the community level and participate in and support the activities of the CAC. In addition, the CAC Co-Chairs shall confer as needed and individually with the other Members about the Center, including regarding its operations and the Baseline Support Levels. The County shall consult with the CAC regarding the hiring and performance of the Center Director.
- e. **Emergency Funding Needs.** In the event the CAC identifies any emergent and unanticipated need for unbudgeted services consistent with its functions described in **Section 9**, and the Center lacks the funding to provide those services, either the CAC or any Member may request additional funding from either or both Parties for the unbudgeted service need.

## 12. Termination, Effect of Termination.

- a. **Termination.** This Agreement shall terminate upon any of the following events:
- i. If the City fails to timely pay to the County an amount equal to its then current City Baseline Support Level in a given fiscal year and fails to cure such breach within thirty (30) days after written notice by the County;
  - ii. If the County fails to provide the County Baseline Support Level and fails to cure the breach within thirty (30) days after written notice by the City;
  - iii. At any time by mutual written agreement the Parties;
  - iv. At any time after a Party has failed to cure a material breach of the Agreement after receiving thirty (30) days written notice from the non-breaching Party; and
  - v. At the end of a Term if a Party has provided the other with not less than one hundred eighty (180) days written notice prior to the end of that Term of its intent to not renew the Agreement.
- b. **Effect of Termination.** Termination of the Agreement will cause the Center to be dissolved at the County and for the Center to be transferred to the City, as provided in **Section 12(c)**.
- c. **Transition Plan Upon Termination.** Within sixty (60) days of the receipt of a written termination notice, the Parties shall commence work on a plan to provide for an orderly transition of responsibilities from the County to the City for



the Center. The planning method should proceed along the lines of a project management approach to facilitate the joint planning process by the City and the County. The overarching goal of the transition plan will be to ensure there is no disruption in service to the community. Each Party shall bear its respective costs in developing the transition plan and each will work cooperatively with the other Party in the coordination of efforts. The transition plan shall also identify and address any personnel, capital equipment, workload and any other issues related to the transition.

### 13. Disputes, Remedies.

- a. **Notice.** If any third-party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a “Third-Party Claim”) against a Party (the “Notified Party”) with respect to which one or more other of the Parties (the “Other Parties”) may have liability, the Notified Party shall promptly notify the Other Parties in writing of the Third-Party Claim and deliver to the Other Parties, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third-Party Claim that have been received by the Notified Party.
- b. **Participation.** Where indemnification does not otherwise apply as outlined in **Section 14** below, each Party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Parties of the notice and copies required in this section and a meaningful opportunity for the Other Parties to participate in the investigation, defense and settlement of the Third-Party Claim with counsel of its own choosing, are conditions precedent to the Other Parties’ contribution obligation under this **Section 13** with respect to the Third-Party Claim.
- c. **Contribution.**
  - i. **Damages at Trial.** Where indemnification does not otherwise apply as outlined in **Section 14** below, with respect to a Third-Party Claim for which both Parties are found jointly liable, each liable Party shall contribute damages in the amount a trier of fact determined was their portion of fault, or, where a percentage of liability and overall damages is determined, in an amount not to exceed the applicable percentage of fault.
  - ii. **Other Monetary Awards at Trial.** Where indemnification does not otherwise apply as outlined in **Section 14** below, all non-damage expenses, excluding attorneys’ fees, and costs actually and reasonably incurred and paid or payable shall be totaled and then paid by each party proportionate to reflect the relative fault of each Party. The relative proportion of fault shall be determined by any jury verdict form or award order. To the extent same are not provided by the court of otherwise available, such proportions will be decided based on, among other things, the Parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, or fines. Each liable Party’s contribution obligation under this section is subject to the limits of the Oregon Tort Claims Act (OTCA) and the Oregon Constitution.
- d. **Settlement.** Each Party that elects to settle their portion of any tort claim may do so without the consent of the other Party, but must promptly provide notice of settlement to the other Party (including settlement amount). Contributions are not expected or required between the Parties when they have elected to settle for an amount under any applicable tort caps. Contribution will also not be expected or required if one Party settles, but the other proceeds to trial and their damages are under the tort cap. In no event will any Party be liable for the monetary or injunctive sanctions assessed against the other Party.

- 14. **Indemnification.** Subject to the limits of the OTCA and the Oregon Constitution, the City shall indemnify and hold harmless the County and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any act or omission of the City, its officers, agents, and employees, or any of them relating to or arising out the City’s operation of the Center prior to January 1, 2019. In the event that any suit based upon such a claim, action, loss, or damages is brought against the County, the City shall defend the same at its sole cost and expense; provided that the County reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County, and its officers, agents, and employees, or any of them, or jointly against the County and the City and their respective officers, agents, and employees, or any of them, the City shall satisfy the same.

Subject to the limits of the OTCA and the Oregon Constitution, the County shall indemnify and hold harmless the City and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any act or omission of the County,

its officers, agents, and employees, or any of them relating to or arising out the County's operation of the Center after January 1, 2019. In the event that any suit based upon such a claim, action, loss, or damages is brought against the City, the County shall defend the same at its sole cost and expense; provided that the City reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the City, and its officers, agents, and employees, or any of them, or jointly against the County and the City and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

15. **Dispute Resolution.** The Parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition to other processes to resolve disputes arising under the Agreement, any Party may notify the others that it wishes to engage in a more guided dispute resolution process. Upon such notification, the Parties shall engage in non-binding mediation to resolve the dispute, with a mediator selected and jointly and equally paid for by the Parties. If the Parties do not reach agreement as a result of the non-binding discussion, the Parties may agree to consider further appropriate dispute resolution processes.
16. **Remedies.** In the event a Party has materially failed to perform under the Agreement, any other Party that is then not in default shall be entitled to seek all rights and remedies available to it under the Agreement or by law. Provided, however, all remedies, whether under the Agreement or at law or equity, shall be subject to the limits of the OTCA and the Oregon Constitution. No remedy provided for is exclusive of any other available remedy. All remedies are cumulative and in addition to every other remedy available under the Agreement, at law, in equity, or by statute.
17. **Notices.** Each Party will identify an individual in **Schedule A** (each, a "Representative") to receive notice for that Party under the Agreement. The contact information in **Schedule A** for each Representative will be used for any notice or other communication required or permitted in the Agreement, except as otherwise provided. All notices must be directed to a Party's Representative, in writing, by any means effective, and deemed received three (3) days after the date sent based on verified date-stamp. Each Party may update **Schedule A** as needed and can provide for a new Representative as deemed appropriate by that Party without need of formally amending the Agreement.
18. **Insurance.** Each Party shall each be responsible for providing worker's compensation insurance as required by law. No Party shall be required to provide or show proof of any other insurance coverage.
19. **Adherence to Law.** Each Party shall comply with all federal, state and local laws and ordinances applicable to this Agreement.
20. **Non-Discrimination.** Each Party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
21. **Subcontracts and Assignment.** No Party will subcontract or assign any part of this Agreement without the written consent of the other Party.
22. **ORS 190-Cooperation Of Government Units.** This Agreement is an intergovernmental agreement subject to Chapter 190 of the Oregon Revised Statutes. The Agreement does not constitute an authorization by a public body under ORS 190.010 for a Party to perform one or more inherent governmental responsibilities for another Party.
23. **Federal Funds Subrecipient.** The Parties acknowledge and represent that the funds provided to the County under **Section 10** are not from federal funds.
24. **Requests For Records.**
  - a. **Definitions.**
    - i. "Loss" and "Losses" means any claim, damage, loss, liability or expense including, without limitation, attorney fees and legal costs suffered directly or by reason of any act, omission, claim, suit or judgment.
    - ii. "Proceeding" means any actual, threatened, pending or completed dispute, investigation, or inquiry, whether civil, criminal, administrative or investigative, implicating a matter arising under or related to the Agreement and brought by a third-party.

- iii. “Public Records Law” means the Oregon Public Records Law, including ORS 192.311 to 192.475, the provisions for the Custody and Maintenance of Public Records, ORS 192.005 to 192.170, and laws incorporated by reference.
- iv. “Records” means information prepared, owned, used, or retained by a Party, and pertaining to their respective operations and business related to the Agreement, that is inscribed on a tangible medium, commonly a document, or that is stored in an electronic or other medium and is retrievable in perceivable form.
- b. **Access to Each Other’s Records.** Each Party shall have access to the books, documents and other records of the other Parties which are related to this Agreement for the purpose of examination, copying and audit, unless otherwise limited by law. The Parties will retain, maintain, and keep accessible all Records for a minimum of seven (7) years following Agreement termination, unless a longer period of time is required under law. The Parties will maintain financial Records in accordance with generally accepted accounting principles.
- c. **Public Records Law.** As custodians of Records under ORS 192.311(2), and public bodies responsible under ORS 192.318(2) and ORS 192.411(2) with responding to public records requests, the Parties acknowledge they must respond to public records requests concerning Records. Any Record request made that pertains to the Project and this Agreement may be subject to application of the Public Records Law.
- d. **Responses to Records, Data Requests.** If a Party (the “Recipient”) receives a subpoena, warrant, or other legal order, demand or request (collectively, a “Legal Demand”) seeking Records for which the other Party is the proper custodian or the custodian by virtue of a transfer of records per **Sections 7 and 8** above (the “Custodian”), the Recipient will promptly provide a copy of the Legal Demand to the Custodian along with any copies of Records in their possession, if not previously transferred to the Custodian, that the Recipient believes responds to the Legal Demand. In the event of a Legal Demand the Parties agree to consult, cooperate, and collaborate with each other in their responses. The Recipient will notify the requestor of the Records that the request has been forwarded to the Custodian.
- e. **Records, Data Subject to a Public Records Law Exemption.** If a Party asserts that any Records, including some or all of the Agreement, disclosed hereunder meets the statutory requirements under the Public Records Law for one or more exemptions and wishes that an exemption be asserted to prevent public disclosure of any Record, it will: (i) notify each Party of its assertion; (ii) identify with adequate specificity the Records to which it asserts an exemption applies and the basis for such assertion; and (iii) as commercially practical, mark such Records with the words “DISCLOSURE EXEMPT.”

In the event a Recipient receives a Legal Demand for Records not previously transferred, notifies the Custodian of same, and the Custodian asserts the Records are exempt from disclosure under the Public Records Law, the Custodian must immediately: (i) assume control of responding to the Legal Demand, and (ii) notify the requester in writing, with a copy to the other Parties, that the Custodian is the custodian of record.

- f. **Public Records Law Proceedings.** In the event of a Proceeding that occurs at the Custodian’s request or that seeks disclosure of Records which the Custodian asserts is exempt, the Custodian will have complete control over the Parties’ defense in the Proceeding and will bear all Losses associated with such defense, including any Losses borne by any other Party arising from such Proceeding.

Notwithstanding the foregoing, if the Custodian does not assume its obligation to defend the other Parties in a Proceeding related to a Legal Demand for Records that the Custodian has demanded be withheld from public review or disclosure, then such Custodian shall defend, indemnify, and hold harmless the other Parties, including their officials, affiliates, officers, directors, agents, employees, and representatives, from and against all Proceedings and Losses related to the Proceeding described in this section, above. In such event, the other Parties shall have the option of: (i) resisting disclosure of Records identified by the Custodian as exempt from disclosure under the Public Records Law; or (ii) disclosing such Records.

- 25. **Parties’ Relationship; Non-Exclusivity.** The Parties acknowledge and agree that their relationship is that of independent contracting entities. This Agreement does not create any form of legal association that would impose liability upon one Party for any act or omission of the other, including but not limited to joint employer liability, nor does it preclude a Party from conducting similar business with other parties.

26. **Intended Beneficiaries.** The Parties are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.
27. **Governing Law, Venue, Consent to Jurisdiction.** The Agreement will be interpreted and enforced according to the laws of the state of Oregon. Any proceeding arising under the Agreement must be brought in Multnomah County, Oregon. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURT. Except as provided in this section, no Party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. The Parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that a Party does not have the right to seek judicial enforcement of this Agreement.
28. **Warranties.** The Parties represent and warrant that they have the authority to enter into and perform this Agreement, and that this Agreement, when executed, shall be a valid and binding obligation enforceable in accordance with its terms.
29. **Entire Agreement and Waiver of Default.** Both Parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement.
30. **General.** The Agreement sets forth the entire agreement of the Parties, and supersedes all prior communications, oral or written. Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement. The invalidity of any term or provision will not affect the validity of any other provision. Both Parties actively participated in the drafting of this Agreement and neither Party shall be considered the drafter for purposes of construing this Agreement. All provisions that by their nature should survive Agreement termination or expiration of the Term will so survive. No Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. The Agreement may only be amended or supplemented by a writing that is signed by a representative duly authorized by the Portland City Council or the Multnomah County Board of Commissioners, respectively, clearly recites the Parties' understanding and intent to amend the Agreement, and clearly and with specificity describes the terms to be amended or supplemented. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement. Each copy of the Agreement so executed constitutes an original.

**MULTNOMAH COUNTY INTERGOVERNMENTAL AGREEMENT**  
**Contract Number: [insert contract number]**

**CITY OF PORTLAND SIGNATURE**

*I have read this Contract including any attached Exhibits and Attachments. I understand the Contract and agree to be bound by its terms.*

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Name (print): \_\_\_\_\_ Date: \_\_\_\_\_

**City Attorney Review:**

Reviewed: TRACY REEVE, CITY ATTORNEY FOR PORTLAND, OREGON

By Deputy City Attorney: \_\_\_\_\_ Date: \_\_\_\_\_

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**MULTNOMAH COUNTY SIGNATURE**

This Contract is not binding on the County until signed by the Chair or the Chair's designee.

County Chair or Designee: \_\_\_\_\_ Date: \_\_\_\_\_

**Department Director Review (optional):**

Director or Designee: \_\_\_\_\_ Date: \_\_\_\_\_

**County Attorney Review:**

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: \_\_\_\_\_ Date: \_\_\_\_\_

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**EXHIBIT 1**  
**Center Contracts**

|                         |
|-------------------------|
| <b>City of Portland</b> |
| Bradley Angle           |
| Catholic Charites       |
| Catholic Charites UNICA |
| IRCO                    |
| Legal Aid Services OR   |
| NAYA                    |
| YWCA                    |
| <b>Multnomah County</b> |
| Lifeworks               |
| DCHS Budget Balance     |

**EXHIBIT 2**  
**Center Employees**

| <b>Name</b>             | <b>County<br/>Classification</b> | <b>Hire Date</b> | <b>Union Status</b> | <b>Classification<br/>Seniority Date</b> | <b>County<br/>Seniority Date</b> |
|-------------------------|----------------------------------|------------------|---------------------|--|----------------------------------|
| Martha Strawn<br>Morris | Program<br>Supervisor            | 4/1/2009         | Non-represented     | N/A                                      | 4/1/2009                         |
| Karina Rutova           | Program<br>Coordinator           | 6/14/2010        | Represented         | 6/14/2010                                | 6/14/2010                        |
| Amanda Lee              | Office Assistant<br>Senior       | 8/30/2012        | Represented         | 6/26/2017                                | 8/30/2012                        |
| Scott MacNeill          | Office Assistant<br>Senior       | 9/20/2014        | Represented         | 3/20/2017                                | 9/20/2014                        |

**EXHIBIT 3**  
**Employee Transfer Agreement**

This Employee Transfer Agreement ("ETA") is entered into by and between Multnomah County ("County"), the City of Portland ("City"), and the American Federation of State County and Municipal Employees ("AFSCME"), Local 88 ("Local 88"), and will become effective only in the event the Intergovernmental Agreement, Gateway Center for Domestic Violence Services Contract # \_\_\_\_\_ ("IGA") is approved and executed.

**Section 1: Transfer of City Employees**

- A. Pursuant to ORS 236.605 through 236.640, the City will transfer to the County the employees listed in **Section 2(B)** of this ETA (hereafter referred to individually as "Transferred Employee" or collectively as "Transferred Employees"). The Transferred Employees will become employees of the County at 12:01 a.m. on January 1, 2019 ("Transfer Date").
- B. The employment of all Transferred Employees whose employment at the County is covered by a collective bargaining agreement shall comply with the terms of the collective bargaining agreement. The employment of Transferred Employees whose employment at the County is not covered by a collective bargaining agreement shall comply with the County's personnel rules. As provided in ORS 236.610(2), the County shall not terminate the employment of the Transferred Employees for the first twelve months after the transfer unless a Transferred Employee violates the County's personnel rules. In that instance, the County shall provide the Transferred Employee with just cause protections, including the right to progressive discipline.

**Section 2: Seniority**

- A. Seniority of Transferred Employees will be in accordance with ORS 236.620(1)(c). Transferred Employees shall retain the seniority they accrued while employed by City. Effective on the Transfer Date and pursuant to ORS 236.620(1), Transferred Employees will be placed on the County's employee roster and the roster shall be consolidated into a single seniority list according to the County's classification system. Subject to other provisions of this ETA, the crediting of seniority shall apply for all purposes, including relative seniority for layoffs and demotion, shift preferences, and vacation preferences, as well as salary step increases (subject to **Section 3**, below), vacation accrual, premiums, and all other wage and hour benefits under the Local 88 Collective Bargaining Agreement and Multnomah County policies.
- B. Transferred Employees shall have the following seniority dates:

| Name                 | County Classification   | Hire Date | Union Status    | Classification Seniority Date | County Seniority Date |
|----------------------|-------------------------|-----------|-----------------|-------------------------------|-----------------------|
| Martha Strawn Morris | Program Supervisor      | 4/1/2009  | Non-represented | N/A                           | 4/1/2009              |
| Karina Rutova        | Program Coordinator     | 6/14/2010 | Represented     | 6/14/2010                     | 6/14/2010             |
| Amanda Lee           | Office Assistant Senior | 8/30/2012 | Represented     | 6/26/2017                     | 8/30/2012             |
| Scott MacNeill       | Office Assistant Senior | 9/20/2014 | Represented     | 3/20/2017                     | 9/20/2014             |

- C. If a Transferred Employee and a current County employee have the same classification seniority, seniority shall be determined by each employee's date of hire. If the dates of hire are the same, seniority shall be determined by the date of job offer. If the job offer dates are the same, the Transferred Employee shall be placed below the County employee on the seniority list.
- D. Pursuant to ORS 236.620(c), no County employee shall be laid off or demoted because of the transfer of the City employees to the County at the time the transfer occurs.



### **Section 3: Wages**

- A. All Transferred Employees shall be allocated into the County classification that best fits the Transferred Employee's assigned body of work.
- B. Pursuant to ORS 236.610(2), the wage rate for each Transferred Employee shall not be reduced for the first twelve (12) months of employment with the County.
- C. After the first twelve (12) months of employment with the County, the Transferred Employee's salary will remain at the same rate, if such rate falls within the County's salary wage range for the Transferred Employee's assigned classification, until the next scheduled salary increase as determined by the County's standard salary increase schedule.
- D. If the Transferred Employee's salary is above the maximum rate of the salary range in the Transferred Employee's assigned classification, the Transferred Employee's salary will remain the same until the maximum rate for the salary range exceeds the employee's actual salary or a classification and compensation study is initiated and completed.
- E. If the Transferred Employee's City classification was non-represented, the Transferred Employee will be transferred to the County at his/her current annual salary rate, and be allocated into the classification that best fits the Transferred Employee's assigned body of work.
- F. Non-represented employees will be treated in the same manner as the County's other non-represented staff and shall receive standard salary increases in accordance with the County's policies.
- G. After transfer to County employment, Transferred Employees shall maintain their current City salary and be eligible to move to higher steps on the County's wage schedule on the dates set forth below. Any employee transferred under this Agreement shall receive the County's cost of living adjustment (COLA) for FY 2018-19. The County's standard COLA policy shall apply thereafter.

| Name                 | City of Portland Classification                  | County Classification   | Current COP Wage/Step        | Transferred County Wage/Step | Anniversary Date              | Date Eligible for Step Increase =               |
|----------------------|--|-------------------------|------------------------------|------------------------------|-------------------------------|---|
| Martha Strawn Morris | Commissioner's Senior Staff Representative       | Program Supervisor      | \$106,828.80                 | \$106,828.80 (Grade 124-126) | July 1 but above range        | <i>Red circle</i> (top of range is \$92,241)    |
| Karina Rutova        | Commissioner's Staff Representative              | Program Coordinator     | \$73,070.40 (\$35.13 hourly) | \$73,070.40 (Grade 25)       | June 14 but at/above top step | <i>Red circle</i> (top of range is \$70,073.28) |
| Amanda Lee           | Commissioner's Administrative Support Specialist | Office Assistant Senior | \$49,732.80 (\$23.91 hourly) | \$50,884 (Grade 15)          | June 26                       |   |
| Scott MacNeill       | Commissioner's Administrative Support Specialist | Office Assistant Senior | \$42,619.20 (\$20.49 hourly) | \$42,762.24 (Grade 15)       | March 20                      |   |

### **Section 4: Accrued Leave of Affected Employees**

#### **A. Compensatory Time**

Pursuant to ORS 236.610(3), the City will liquidate the Transferred Employees' accrued compensatory time at the time of transfer at the Transferred Employee's then-effective City rate of pay.

#### **B. Sick Leave**

Pursuant to ORS 236.610(4)(a)(A), Transferred Employees may elect to retain any accrued sick leave upon transfer to the County.

C. Vacation Leave

1. Pursuant to ORS 236.610(4)(a)(C), the City, County, and the Transferred Employees agree that the employees may elect to retain up to 160 hours of accrued vacation leave upon transfer to the County.
2. Any vacation that a Transferred Employee does not carry over to the County shall be paid by the City to the Transferred Employee at the Transferred Employee's then-effective City rate of pay.
3. The Transferred Employees have elected to retain the following hours of unused accrued vacation leave to be transferred to the County, and the County and City agree to such transfer:

| Name                 | Number of Accrued Vacation Hours to be Transferred |
|----------------------|--|
| Martha Strawn Morris | 160  |
| Karina Rutova        | 55.80  |
| Amanda Lee           | 60.72  |
| Scott MacNeil        | 131.36   |

D. Payment

1. The City will pay final wages to Transferred Employees through the normal City pay cycle, which concludes immediately following the Transfer Date. Affected Employees will be paid using the City's standard direct deposit process and pay date for that period. Further, normal tax withholding and employee benefit deductions will be applied to the final wages. However, only the standard supplemental pay tax withholding will be applied to any paid leave payouts.
2. The City will pay any owing compensatory time, holiday leave, vacation leave and sick leave consistent with this ETA to Transferred Employees through the normal City pay cycle which concludes immediately following the Transfer Date. Transferred Employees will be paid through the City's standard direct deposit process and pay date for that pay period. Further, the standard supplemental pay tax withholding only will be applied to any paid leave payouts.

E. Other Leave

1. Pursuant to ORS 236.610(4)(c), after the transfer of Transferred Employees to the County, the County shall grant any leave to Transferred Employees according to the Local 88 Collective Bargaining Agreement. As practicable, the County shall accommodate a Transferred Employee's preselected vacation times. However, no current County employee will be bumped from his/her preselected vacation time to accommodate a Transferred Employee.
2. The parties agree that the County is a successor employer for the purpose of complying with other applicable leaves of absence and reinstatement obligations, including but not limited to parental leave, the Oregon Family Leave Act (OFLA), the Family Medical Leave Act (FMLA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA).
3. For purposes of all leave, including but not limited to sick, vacation, FMLA and OFLA, and paid parental leave, the time spent as City employees shall be determinative of leave rights and accruals for those employees transferred to the County under this agreement. As an example, if a transferred employee worked at least 1,250 hours at the City for the twelve (12) months prior to transfer and requested FMLA leave shortly after starting at the County, then that employee would meet the minimum time worked requirements for qualification for FMLA leave. Accrual rates for transferred employees shall be either the same, or as close to the same as entitled to as a City employee. The City shall provide all necessary documentation for the County to determine these leave and accrual qualifications and rights.

- F. The City and County agree that any payment or reimbursement between the City and County that is necessary to effectuate the transition of all forms of leave will be subject to the IGA and will not adversely affect the Transferred Employees.

## **Section 5: Health Insurance, Disability, Life Insurance, and Deferred Compensation Benefits**

- A. To avoid any interruption or overlap in medical, dental, vision, disability, or life insurance benefits, the City will continue Transferred Employees on the City's medical, dental, vision, disability, and life insurance plans through the end of the calendar month of their final date of employment with the City. Effective on the Transfer Date, Transferred Employees will be eligible for medical, dental, vision, disability, and life insurance benefits under the Local 88 Collective Bargaining Agreement and County Personnel Rules. No later than ten (10) calendar days prior to the Transfer Date, each represented Transferred Employee shall elect plan coverage for medical/dental/vision benefits under Article 11 of the Local 88 Collective Bargaining Agreement. The City and County agree that any payment or reimbursement between the City and County that is necessary to effectuate the transition will be subject to the IGA and will not adversely affect the benefit eligibility of Transferred Employees.
- B. Pursuant to ORS 236.610(5), in the event that any Transferred Employee is subject to a waiting period for coverage of preexisting conditions under any County health insurance plan, the County shall arrange for a waiver of such waiting period with its health insurer. The City shall reimburse the County for the additional premium costs, if any, resulting from such waiver, for a period not to exceed twelve (12) months.
- C. Transferred Employees may participate in the County's deferred compensation program in accordance with applicable County policies and provisions of the Local 88 Collective Bargaining Agreement, if applicable.

## **Section 6: PERS Liability**

In accordance with ORS 236.610(7), any PERS unfunded liability or surplus shall be paid or credited to or by the party that was the employer at the time the unfunded liability or surplus accrued.

## **Section 7: Benefits under Local 88 Collective Bargaining Agreement**

- A. Pursuant to ORS 236.620(1)(d), effective upon the Transfer Date to County, all Transferred Employees who are represented employees under the County's personnel rules shall become Local 88 members and shall enjoy the same privileges, wages, benefits, hours, and conditions of employment and be subject to the same regulations as other County employees and Local 88 bargaining unit members under the Local 88 Collective Bargaining Agreement.
- B. Upon transfer of the Transferred Employees to County employment on the Transfer Date, all eligibility for wages, benefits and other conditions of employment under the City's personnel rules shall cease.
- C. Pursuant to ORS 236.620(1)(d), effective upon the Transfer Date to the County, all Transferred Employees who are non-represented shall become County non-represented employees and shall enjoy the same privileges, wages, benefits, hours, and conditions of employment and be subject to the same regulations as other County non-represented employees under the County's personnel rules.

## **Section 8: Transfer of Employment Records**

- A. The City will provide copies of the employment records for each Transferred Employee at the time of transfer pursuant to ORS 236.610(6).
- B. The City, subsequent to the Transfer Date, shall retain any and all employment records for the Transferred Employees in accordance with the Secretary of State's General Records Retention guidelines and City policy. (Schedule for Cities, OAR 166-200-0200 through OAR 166.200-0405.) This ETA does not limit the right of any party to subpoena records retained by the City, but not transferred to the County.
- C. City employment records transferred to the County pursuant to this ETA will thereafter be subject to County policies and practices, and all applicable terms of the Local 88 Collective Bargaining Agreement for Employees transferred into represented positions.

## **Section 9: Term & Dispute Resolution**

- A. This ETA is effective upon execution of the IGA between the City and the County.
- B. Upon request, the City and the County agree to furnish all information to Local 88 that is necessary to confirm performance of the contractual obligations contained in this ETA that impact Transferred Employees who will be represented by Local 88 after transferring to the County.
- C. Any issue regarding the transfer of Transferred Employees to the County that arises during the term of this ETA shall be addressed by the entity employing the Transferred Employee at the time the issue arose.

This ETA represents the entire agreement of the parties and supersedes all prior oral or written understandings, statements, representations, or promises regarding the impact of the transfer of Transferred Employees to the County. The parties expressly represent that there are no other understandings, representations, or agreements between them relative to the subject matter of this ETA, except as set forth in the IGA referenced above. This ETA may be amended by the written consent of all parties.

The parties agree that the transfer of employees from the City to the County, which is governed by ORS 236.605 through ORS 236.640, is fulfilled by the terms of this ETA. The parties further agree that they understand all of the provisions of this ETA and execute it voluntarily with full knowledge of its significance and consequences.

### **AFSCME, LOCAL 88:**

By: \_\_\_\_\_  
Eben Pullman, Council Representative

Date: \_\_\_\_\_

### **CITY OF PORTLAND:**

By: \_\_\_\_\_  
Ron Zito, Employee Relations Manager

Date: \_\_\_\_\_

*Approved as to Form:*

By: \_\_\_\_\_  
Heidi Brown, Deputy City Attorney

Date: \_\_\_\_\_

### **MULTNOMAH COUNTY:**

By: \_\_\_\_\_  
Steve Herron, Labor Relations Director

Date: \_\_\_\_\_

*County Attorney review:*

Reviewed: Jenny M. Madkour, County Attorney for Multnomah County, Oregon

By: \_\_\_\_\_  
William Glasson, Assistant County Attorney

Date: \_\_\_\_\_

**SCHEDULE A**  
**Representatives For Notice**

*For the City:*

Sheila Black-Craig  
OMF Grants Manager  
Sheila.Black-Craig@portlandoregon.gov  
(503) 823-6863

*For the County:*

Peggy Samolinski  
DCHS Director, Youth and Family Services Division  
peggy.l.samolinski@multco.us  
(503) 988-7453