

**After recording return to:**  
Regional Arts & Culture Council  
Public Art Murals Program  
Public Art Collections Registrar  
411 NW Park Ave, Suite 101  
Portland, OR 97209

## ART EASEMENT

THIS ART EASEMENT, effective on \_\_\_\_\_(month/day/year), is between \_\_\_\_\_("Grantor"), and the City of Portland, an Oregon municipal corporation ("City").

### RECITALS

A. The City has adopted a program for the placement of art in and on public and private locations throughout the City of Portland. The Regional Arts & Culture Council, an Oregon nonprofit corporation, administers the City's public art program as the City's contracted arts agent.

B. Grantor owns the real property **ADDRESS** ("Property"), which is legally described in Exhibit A (attached and incorporated herein) and is willing to make Property available to the City for the placement of public art, as defined in Portland City Code Section 5.74.020.D (hereinafter, "Artwork"). The Artwork is described in Exhibit B, attached and incorporated herein.

IN CONSIDERATION of the mutual promises and performances set forth below, the parties incorporate the Recitals above and agree as follows:

1. Grant of Easement. Grantor conveys, grants and warrants to the City, its successors and assigns, an easement for the purpose of installing, maintaining, operating and exhibiting the Artwork at Property. The location of the installation of the Artwork at the Property shall be as approved by the Regional Arts & Culture Council.

2. Term of Easement. This easement shall be for a period of two years from the date of execution ("Initial Term") and shall automatically renew for a successive two-year periods, unless sooner terminated as provided in Section 3.

3. Termination.

- a) At or after the expiration of the Initial Term in Section 2, the easement may be terminated by either party upon 30-days written notice to the other party with the effective date of termination stated in notice for a day after the notice period.
- b) During the Initial Term (or at any time thereafter), the easement may be terminated by Grantor with the City's consent in writing upon Grantor's showing of any of the following: i) that the Property is to be sold and the buyer requires in writing removal of the easement as a condition of the purchase and sale; ii) that the Property is to be refinanced and the lender requires in writing removal of the easement as a condition of the refinancing; iii) that the Property is to be substantially remodeled or altered in a way that precludes continued maintenance of the Artwork; or iv) that circumstances have materially changed and the continued existence of the easement or maintenance of the Artwork substantially impedes Grantor's reasonable use and enjoyment of the Property. The City shall not unreasonably withhold consent to termination upon Grantor's satisfactory demonstration of any of the foregoing conditions of termination.
- c) The City may terminate the easement at any time at its sole discretion upon 30-days written notice to Grantor if Grantor fails to substantially perform Grantor's obligations under Section 4.
- d) Grantor expressly agrees and warrants that upon effective termination under Section 3, the Artwork shall be removed by Grantor no later than 30-days from the effective date of termination and the Property restored to its prior condition. Time for removal may be extended in writing by the City.

4. Maintenance; Removal of Artwork. Grantor shall be responsible for maintaining and if necessary repairing the Artwork described in Exhibit B during the term of the easement. If in the sole judgment of the City, the Artwork is being excessively damaged and Grantor fails or refuses to maintain or repair the Artwork after 30-days written notice from the City, the City may remove the Artwork from the Property or take action to repair or maintain the Artwork. If the City removes the Artwork from the Property, the City will restore the Property to its original condition where practicable. If the City undertakes repair or maintenance, Grantor shall not obstruct or impede the City's access to the portions of the Property or the City's work.

5. Right of Entry. The City shall have the right to access any portions of the Property at or near where the Artwork is located during normal business hours, and at all other times with advance approval of the Grantor, for any and all of the purposes described in this easement including but not limited to installation, inspection, repair or maintenance.

6. Binding Effect. This easement shall run with the land and be binding upon and inure to the benefit of the Grantor and the City, and their respective successors or assigns, and any person or entity acquiring any right, title, or interest in the Property.

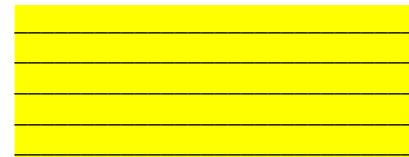
7. Independent Status. Neither party is the agent or legal representative of the other for any purpose whatsoever. The parties are not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of the other or to bind the other in any manner whatsoever.

8. Notice. Notice shall be made to the following addresses, unless otherwise provided for in writing:

City of Portland

Grantor (name and mailing address)

City of Portland-Office of Management and Finance  
Bureau of Internal Business Services  
Property Acquisition & Services Manager  
1120 SW 5<sup>th</sup> Avenue, Room 1204  
Portland, Oregon 97204



**AND**

Portland City Attorney's Office  
1221 SW 4<sup>th</sup> Avenue, Room 430  
Portland, Oregon 97204

Copy to

Regional Arts & Culture Council  
Public Arts Mural Program  
411 NW Park Avenue, Suite 101  
Portland, Oregon 97209

9. Non-Assignment; Amendment. The parties' obligations under this easement may not be assigned without the written mutual consent. The easement may be modified by written mutual agreement executed by authorized representatives of the parties.

10. Remedies. The parties acknowledge that breaches of the covenants in this easement will effect substantial harm to the public interest which harm is difficult or impossible to prove as actual damages in an action hereunder. The parties agree that the prevailing party in an action for the breach shall be entitled to a) liquidated damages in an amount of \$2,500 per material breach; b) specific performance of the covenants of this easement, and each of them; c) reasonable attorney's fees; and d) any other remedies available at law or in equity. The remedies under this Section are cumulative. The failure to exercise on any occasion any right shall not operate to forfeit the right on another occasion. The use of one remedy shall not be taken to exclude or waive the right to use another.

11. Invalidity of Particular Provisions. In the event any term, provision, condition or other portion of this easement or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of this easement or the application of the term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

12. **No Waiver.** No waiver of full performance by any party shall be construed, or operate, as a waiver of any subsequent default or breach of any of the terms, covenants or conditions of this easement.

13. **Indemnification.** To the extent permitted by Oregon Law and subject to the limits of the Oregon Tort Claims Act, ORS 30.260 to 30.300, the City shall indemnify and defend grantor against all claims, demands, actions and suits arising from tortious conduct by Grantee. Grantor shall indemnify and defend the City against all claims, demands, actions and suits arising from tortious conduct by Grantor.

IN WITNESS WHEREOF, the parties/persons have caused this instrument to be executed by its duly authorized representative(s).

**GRANTOR**

By: \_\_\_\_\_  
**"NAME OF GRANTOR REPRESENTATIVE"**  
 \_\_\_\_\_  
 (print name of grantor representative)

\_\_\_\_\_   
 (print title of grantor representative)

STATE OF \_\_\_\_\_ )  
 ) ss.  
 County of \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_, \_\_\_\_ by  
 \_\_\_\_\_ as \_\_\_\_\_ of the Grantor.

\_\_\_\_\_  
 Notary Public – State of \_\_\_\_\_

GRANTEE: City of Portland, Oregon

By: \_\_\_\_\_  
 Pauline Goble, Property Acquisition & Services Manager  
 Bureau of Internal Business Services  
 Office of Management and Finance

Approval to Form

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

## **Exhibit A**

### Legal Description of the Property

## **Exhibit B**

### Description of the Artwork