



Portland Energy Efficient Home Pilot

Exhibit D: PEEHP Grant Agreement

GRANT AGREEMENT NO.

Grant Agreement

This agreement contains the terms and conditions of a grant issued by the City of Portland’s Bureau of Development Services (BDS or “City”) to _____ (“Grantee”). BDS and the Grantee are referred together collectively as the “parties” and may be referred to individually as a “party.”

The City of Portland and the development industry want to understand the costs and feasibility of construction one-and-two family houses to the 2008 Oregon Residential Specialty Code (hereafter referred to as the “Energy Code”) in comparison with constructing one-and-two family homes that perform with 15% and 30% more energy efficiency than the 2008 Oregon Energy Code standards as determined by energy modeling software.

To achieve this, the Bureau of Development Services (BDS) expects to award approximately 4 grants in the initial release period, and possibly 4 additional grants in a second release period, totaling approximately \$113,000, for the purpose of constructing one-and-two family homes that perform 15% and 30% better than the 2008 Oregon Energy Code standards. Of the \$113,000, \$50,000 is from the City of Portland, \$25,000 is contributed from the National Association of Homebuilders, NW Natural has committed City transportation credits totaling \$13,080 in value, \$5000 has been contributed by Pacific Power for high efficiency heat pumps or appliances, and \$20,000 has been contributed by Portland General Electric (PGE). In addition, PGE and NW Natural have arranged in-kind contributions of high efficiency water heaters and furnaces. Energy Trust of Oregon’s New Homes Program will provide technical assistance to help builders determine what measures need to be done to meet these goals, help in the design phase to meet energy efficiency requirements, provide consultation during the building phase and to verify the homes’ final performance. The Energy Trust of Oregon, the Homebuilders Association of Metropolitan Portland with the National Association of Home Builders, NW Natural, Pacific Power, and PGE are referred together as the “PEEHP Partners”. Grantee acknowledges that BDS has no actual control over the PEEHP partners of whether the Partners withdraw funding,

RECITALS:

1. Grantee has submitted a Proposal and Supplemental Packet to the BDS for participation in the PEEHP Grant program (the “Grant”)for the purpose of constructing a one-and-two family home that performs _____(insert 15% or 30%) better than the 2008 Oregon Energy Code standards on the property at _____(insert property tax ID #) (the ‘Project”).
2. BDS has reviewed the Proposal and Supplemental Packet and determined that the project is eligible for funding.
3. Grantee has agreed to complete performance of the whole project proposal as described in the Grantee’s application proposal and supplemental packet.

TERMS AND CONDITIONS:

- 1) **GRANT AWARD, AMOUNT AND USE** BDS agrees to pay Grantee \$ _____ (“Total Grant Amount”) for the construction, monitoring, and reporting of the Project as outlined in the Grantees’ Proposal. Grantee shall use the Grant funds only for executing the activities identified in the *PEEHP Tasks and Materials* (Exhibit 1.). To the extent that Grant Funds are dependent on receipt of funds from the PEEHP Partners, the City reserves the right to reduce the amount of grant funds.



- 2) **VERIFICATION AND PAYMENT** GRANTEE will receive its funding as follows: Grant awards will be disbursed in two installments. The first installment of _____ will be paid after the Grantee has signed the *PEEHP Grant Agreement*, provided a certificate of insurance verifying workers compensation coverage for all their subject workers, submitted a certificate of insurance coverage required under *Miscellaneous, Section R, Subsection 1* of this agreement filed with the City Auditor, and all of the required building permits have been issued by the City of Portland. The second installment will be paid when all construction is complete and when all of the following occur: a) building permits are finalized; b) when the energy scores modeled by the Energy Trust of Oregon confirm that the homes exceed the 2008 Energy Code by 15% or 30%; c) when the *Final Project Report* is approved by the City; and d) when the City receives funding from the PEEHP partners.

If a home built through the program does not meet the percentage target for efficiency, the second payment may not be awarded. Such a decision will be in the City's sole discretion. In addition, any project that does not meet a minimum of 50% of the target energy efficiency goal will be required to repay the first grant installment.

After the parties have executed the *PEEHP Tasks and Materials* (Exhibit 1), the document shall be incorporated into this agreement as if fully set forth herein. Within 30 days after project completion, the Energy Trust of Oregon will verify that the homes exceed the 2008 Energy Code by 15% or 30%; through energy scores. Upon final verification, Grantee will have a maximum of 30 days to submit a Final Project Report (the "Final Report") as provided in Paragraph 9. Within 30 days of approval of the Final Report by BDS, and provided all the actions listed in (a) through (d) above have occurred, BDS will pay to Grantee the remaining balance of the Total Grant Amount.

Grantee acknowledges and agrees that BDS has final and sole discretion to determine whether Grantee has fully and successfully completed all of the *PEEHP Tasks and Materials*. BDS Grant Manager may extend the time for completing the examination of the Project, depending upon the availability of personnel or other factors. No payment will be due and owing unless BDS has determined that Grantee has successfully executed the *PEEHP Tasks and Materials* and completed the *Final Report*.

If for any reason GRANTEE receives a grant payment under this Grant Agreement and does not use grant funds, provide required services or take any actions required by the Grant Agreement the BDS may, at its option terminate, reduce or suspend any grant funds that have not been paid and may, at its option, require GRANTEE to immediately refund to the BDS the amount improperly expended or received by GRANTEE.

Grant payments under this Agreement may only be used to provide the services or take the actions listed in the *PEEHP Tasks and Materials* and shall not be used for any other purpose.

- 3) **SITE VISITS** During the term of this Grant, Grantee authorizes BDS and PEEHP Partners to conduct periodic site visits. BDS and PEEHP Partners site visits will occur only during the hours between 8:00 a.m. until 6:00 p.m., Monday through Friday, unless otherwise mutually agreed by the parties. In addition, Grantee shall allow BDS and PEEHP Partners to conduct a final site visit. The frequency and the level of site visits will be determined by the Grant Manager. Notwithstanding such site visits or lack thereof, Grantee shall remain fully responsible for complying with all terms and conditions of this agreement.
- 4) **PUBLICITY** Grantee will allow BDS and PEEHP Partners to collect and publish information about the application, construction, and performance of the *PEEHP Tasks and Materials* in the Project, including but not limited to interviews with Grantee and project participants such as the project designer and general contractor. BDS and PEEHP Partners may photograph and videotape work regarding Grantee's use of *PEEHP Tasks and Materials*. BDS and PEEHP Partners may also collect data about the costs of installing and operating the *PEEHP Tasks and Materials*. Any publicity shall indicate that the project was made possible by a Grant from BDS through funds provided by the Portland Energy Efficient Home Pilot (PEEHP) Partnership. BDS and PEEHP Partners may include information regarding the Project in periodic public reports. BDS will not to use personal information such as the project address or Grantee's identity in publicizing the PEEHP Program without Grantee's express permission.

- 5) **PROJECT UPDATES** Grantee shall provide BDS with *Weekly Activity Logs* and *Monthly Summaries*. The *Weekly Activity Log* shall be delivered to BDS by the Tuesday following the previous week being reported within the term of this Agreement. The *Weekly Activity Log* shall include the subcontractors working on the site that week, scheduled inspections and their results, PEEHP partner meetings or technical assistance, changes to scheduling or materials, and notes regarding any added complexity or issues associated with the new energy efficient measures. The *Monthly Summary* shall be delivered to BDS by the 15th of each month within the term of this agreement. *Monthly Summaries* shall include the current status of the project and monthly record of costs associated with the energy efficient measures. The Grant Manager will provide a template to be used when preparing *Weekly Activity Logs* and *Monthly Summaries*.
- 6) **MONITORING AND VERIFICATION** BDS will work with PEEHP Partners to provide assistance in monitoring and verifying the Grantee's performance under this agreement. Grantee agrees to cooperate in all aspects of the evaluation. Grantee shall perform any monitoring of PEEHP measures proposed in the Proposal and as identified the *PEEHP Tasks and Materials*. Grantee agrees to cooperate with the BDS and /or PEEHP Partners throughout the term of this agreement. The PEEHP Partners may accompany BDS in the final walk through inspection of the property.
- 7) **TERM** This agreement is effective upon the date of the last signature by a party as indicated below. The term of this agreement is through, and including _____.
- 8) **EARLY TERMINATION** This agreement may be suspended or terminated at any time by:
- A. Written notice provided by BDS to Grantee before Grantee incurs any obligations upon which grant funds are to be used;
 - B. Written notice by BDS resulting from a material failure by Grantee to comply with any term of this Grant, or;
 - C. Mutual written agreement of the parties.
- Within sixty (60) days of early termination of this Grant, Grantee agrees to return to BDS the full amount of any Grant funds paid by BDS to the Grantee under this agreement.
- 9) **FINAL PROJECT REPORT** Upon final verification, Grantee will have a maximum of 30 days to submit a *Final Project Report* (the "Final Report") to BDS. Within 30 days of approval of the Final Report by BDS and completion of the tasks listed in 2(a) through (d) above, BDS will pay to Grantee the remaining balance of the Total Grant Amount. The *Final Report* will include all details outlined in the template provided. Specifically, all measures will require details on measure by measure projected and actual performance, costs and savings as applicable.
- 10) **NOTICE** Any notice provided under this agreement shall be sufficient if in writing and: (1) delivered personally; (2) deposited in the United States mail, postage prepaid, first class; (3) sent by courier; or, (4) transmitted by facsimile, addressed as follows, or to such other address as the receiving party specifies in writing:

Grant Manager
 Anne Hill
 Bureau of Development Services
 1900 SW 4th Avenue, Suite 5000
 Portland, OR 97201
 Tel. 503-823-4807
 Fax 503-823-76001
 hilla@ci.portland.or.us

Grantee
 [Grantee contact person]
 [Grantee name]
 [Grantee address]

 [Grantee Tel:]
 [Fax:]
 [Email address:]

11) **MISCELLANEOUS**

A. Termination for Cause: If, through any cause, Grantee shall fail to fulfill in timely and proper manner his/her obligations under this *Grant Agreement*, or if Grantee shall violate any of the covenants, agreements, or stipulations of this *Grant Agreement*, the CITY shall have the right to terminate this Grant Agreement by giving written notice to Grantee of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination.

1. During the 30 day period BDS is under no obligation to continue providing Grant Funds and Grantee is not authorized to perform services or take actions that would require the BDS to pay additional grant funds to Grantee.

2. During the 30 day period, Grantee shall not spend unused grant funds.

3. In the event of a termination for cause, all finished or unfinished documents, data, studies, and reports prepared by Grantee under this *Grant Agreement* shall, at the option of the BDS, become the property of the BDS. Parties shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents up until the time of notice of termination.

B. Termination by Agreement or for Convenience: The Parties may terminate this Grant Agreement at any time by mutual written agreement. Alternatively, the BDS may, upon thirty (30) days written notice, terminate this agreement for any reason deemed appropriate in its sole discretion. If the Grant Agreement is terminated as provided in this paragraph Grantee shall return any Grant funds that would have been used to provide services after the effective date of termination.

C. Changes: The BDS may request changes in the scope of the services or terms and conditions hereunder. Such changes, including any increase or decrease in the amount of Grantee's award, shall be incorporated in written amendments to this *Grant Agreement* before they become effective.

D. Records: Information submitted to BDS may be subject to public review and inspection under the Oregon Public Records Law. Grantee acknowledges its responsibility for becoming familiar with the provisions of the Oregon Public Records Law. Grantee understands that, in response to public records requests, the City of Portland may be required to disclose documents in its possession regarding the Project. If BDS receives any public records request for disclosure of such information, BDS will provide the Grantee with written notice of the request, including a copy of the request, within five (5) working days of receipt of the request. Grantee will have five (5) days within which to provide a written response to BDS regarding the request, before BDS may release the requested records. Whether the Grantee submits any written response to BDS, BDS will retain final discretion to determine whether to release the requested records, provided that BDS will give the Grantee at least five (5) days written notice after receipt of any response from Grantee.

E. Independent Status of Grantee: Grantee is independent of the City and Grantee and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. Grantee and its contractors and employees are not employees of the City and are not eligible for any benefits through the City, including without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

F. Amendment: The Grant Manager will be Anne Hill or such other person as may be designated in writing by the Director of the Bureau of Development Services. The Grant Manager shall have the authority to extend the term of the agreement or make other changes that do not increase the Total Grant Amount or otherwise increase the City's risks, subject to approval of the Director of the Bureau of Development Services. No amendments of this agreement will be valid unless signed by a duly authorized representative of the Grantee and the Grant Manager. The Grant Manager is also authorized to determine if Grantee has failed to substantially comply with the requirements of this agreement, and to act on behalf of BDS to suspend or terminate this agreement.

G. Forum: Any litigation between the parties arising under or regarding this agreement shall occur, if in the state courts, in the Multnomah County Circuit Court in Portland, Oregon, and if in the federal courts, in the United States District Court for the District of Oregon in Portland, Oregon.

H. Compliance with laws: In connection with its activities under this *Grant Agreement*, Grantee shall comply with all applicable federal, state, and local laws and regulations.

I. Merger: This *Grant Agreement* and the *PEEHP Tasks and Materials* constitute the terms and conditions of the Grant. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Grant. Grantee, by the signature of its authorized representative, hereby acknowledges that the terms and conditions have been reviewed, that they are understood, and that Grantee agrees to be bound by all of the terms and conditions set forth in this agreement.

J. Project Liability, Indemnification And Responsibility For Project: Grantee is solely responsible for selection, installation, construction, operation and maintenance of the project, as well as the PEEHP Tasks and Materials, as well as the selection and oversight of any contractor for the PEEHP Tasks and Materials. Grantee agrees that BDS has no responsibility or liability for the management or construction of the Project. BDS makes no warranties, express or implied, regarding the PEEHP Tasks and Materials or their potential benefits. Grantee expressly waives any claims against BDS regarding the PEEHP Tasks and Materials. BDS's liability under this agreement shall be limited to payment of the Total Grant Amount, to the extent that Grantee has otherwise fully and completely complied with all terms and conditions of this agreement. In no event shall BDS or the City of Portland be liable to Grantee for any special, punitive, exemplary, consequential, incidental or indirect losses or damages (in tort, contract or otherwise) under or in respect of this agreement or for any failure of performance related to the Project or this agreement, Grantee shall hold harmless, defend and indemnify the City and the City's officers, agents and employees against all claims, demands, actions and suits (including all attorney fees and costs) brought against any of them arising from or relating to the Project.

K. Non-Discrimination: In carrying out activities under this agreement, the Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, familial status or national origin. The Grantee shall take actions to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, handicap, familial status or national origin. Such action shall include but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee shall post in conspicuous places, available to employees and applicants for employment, notices provided by the City setting forth the provisions of this nondiscrimination clause. The Grantee shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. The Grantee shall incorporate the foregoing requirements of this paragraph in all of its contracts for work funded under this agreement, except contracts governed by Section 104 of Executive Order 11246. Grantee shall be EEO certified by the City of Portland in order to be eligible to receive grant funds.

L. Severability: If any provision of this agreement is found to be illegal or unenforceable, this agreement shall nevertheless remain in full force and effect, and the provision stricken.

M. Access to Records: Grantee shall provide the CITY, or its duly authorized representatives, prompt access to any and all books, general organizational and administrative information, documents, papers, and records of Grantee that are related to this Grant Agreement or Grantee's performance of services, for the purpose of making audit examination, copies, excerpts, and transcriptions. All required records must be maintained by Grantee for four years after the CITY makes final payment and all other pending matters are closed.

N. Maintenance of Records: Grantee shall maintain records on a current basis to support any billings or invoices submitted by Grantee to city. The city, or its authorized representative, shall have the authority to inspect, audit, and copy on reasonable notice, and from time to time may examine any records of Grantee regarding its billings or its work hereunder. Grantee shall retain these records for inspection, audit, and copying for four years from the date of completion or termination of this Grant Agreement.

O. Audit: The City, either directly or through a designated representative, may audit the records of Grantee at any time during the four year period established by Section G above. If an audit discloses that payments to Grantee were in excess of the amount to which Grantee was entitled, then Grantee shall repay the amount of the excess to the City.

P. Indemnification: Grantee shall hold harmless, defend, and indemnify the City and the City's officers, agents, and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from Grantee's work or any of Grantee's contractors work under this Grant Agreement.

Q. Workers' Compensation Insurance:

1. Grantee, its contractors, if any, and all employers working under this Agreement, are subject employers under the Oregon Worker's Compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers. A certificate of insurance, or copy thereof, shall be attached to this Agreement and shall be incorporated herein and made a term and part of this Agreement. Grantee further agrees to maintain worker's compensation insurance coverage for the duration of this Agreement.

2. In the event Grantee's worker's compensation insurance coverage is due to expire during the term of this Agreement, Grantee agrees to timely renew its insurance, either as a carrier-insured employer or a self-insured employer as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration, and Grantee agrees to provide the CITY such further certification of worker's compensation insurance a renewals of said insurance occur.

R. Liability Insurance:

1. Grantee shall maintain public liability and property damage insurance that protects Grantee and the City and its officers, agents, and employees from any and all claims, demands, actions, and suits for damage to property or personal injury, including death, arising from Grantee's work under this Grant Agreement. The insurance shall provide coverage for not less than \$1,000,000 per occurrence. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the City and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy. The insurance shall provide that it shall not terminate or be canceled without 30 days written notice first being given to the City Auditor. If the insurance is canceled or terminated prior to completion of the Grant Agreement, Grantee shall provide a new policy with the same terms. Grantee agrees to maintain continuous, uninterrupted coverage for the duration of the Grant Agreement. The insurance shall include coverage for any damages or injuries arising out of the use of automobiles or other motor vehicles by Grantee.

2. Grantee shall maintain on file with the CITY Auditor a certificate of insurance certifying the coverage required under subsection (1). The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain liability insurance shall be cause for immediate termination of this agreement by the City.

S. Grantee's Contractors and Assignment: If grantee utilizes contractors to complete its work under this Grant Agreement, in whole or in part, grantee shall require any of its contractors to agree, as to the portion contracted, to fulfill all obligations of the Grant Agreement as specified in this Grant Agreement. However, grantee shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to grantee hereunder. Grantee agrees that if Grantee's contractors are employed in the performance of this Grant Agreement, grantee and its contractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation. Grantee shall not assign this Grant Agreement in whole or in part or any right or obligation hereunder, without prior written approval of the City. Grantee's contractors shall be responsible for adhering to all local, state and federal laws and regulations.

T. Conflicts of Interest: No City officer or employee, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Grant Agreement or the proceeds thereof. No City officer or employees who participated in the award of this Grant Agreement shall be employed by Grantee during the period of the Grant Agreement.

U. Third Party Beneficiaries: There are no third party beneficiaries to this grant agreement. The agreement may only be enforced by the parties.

V. Assignment: This agreement cannot be assigned or transferred by Grantee without the prior written permission of City.

W. Term of Grant: The terms of this Grant Agreement shall be effective when an ordinance is passed by City Council and the Grant Agreement is executed by all the parties, as shown by their signatures below, and shall remain in effect during any period for which Grantee has received City funds. Work by Grantee shall terminate as of October __, 2009.

X. Integration: This agreement contains the entire agreement between BDS and Grantee and supersedes all prior written or oral discussions or agreements. There are no oral or written understandings that vary or supplement the conditions of this Grant that are not contained herein.

Signed

Grantee's Signature

Date

Name (please print)

Address

Social Security # or Tax ID if Applicable:

Paul L. Scarlett, Director, Bureau of Development Services

Date

Dated this _____ day of _____, 2009.

CITY OF PORTLAND

GRANTEE

Name:
Title:

Name:
Title:

APPROVED AS TO FORM:

Linda Meng, City Attorney



**Bureau of
Development
Services** FROM CONCEPT
TO CONSTRUCTION

PEEHP



Portland Energy Efficient Home Pilot

Exhibit D1: PEEHP Tasks and Materials

Grantee Contact Information

Name of Primary Contact:				
Company or Organization:				
Address:				
City, State & Zip:				
Phone:		Fax:		E-mail:

Certifies that the PEEHP Tasks and Materials described in this Exhibit D1 will be completed for the following locations:

Project Name:	
Project Owner:	
15% Project Address:	
City, State, ZIP:	
30% Project Address:	
City, State, ZIP:	

PEEHP Tasks and Materials—15% above the 2008 Oregon Energy Code

The Portland Energy Efficient Home Pilot Grant requires the construction of a one-and-two family house that exceeds the 2008 Oregon Energy Code by 15% installation of the following Tasks and Materials:. Documentation on all items below shall be provided in the Final Project Report (see PEEHP Grant Agreement, item 9).

Feature	Approved Cost
(e.g.—advanced framing labor).	(the lowest of the three bids obtained for each feature minus the lowest code path, adjusted to reflect one dwelling unit)
Total per unit	
Multiplied the number of units	
Total Grant Amount for 15% units	



PEEHP Tasks and Materials—30% above the 2008 Oregon Energy Code

The Portland Energy Efficient Home Pilot Grant requires the construction of a one-and-two family house that exceeds the 2008 Oregon Energy Code by 30% installation of the following Tasks and Materials:. Documentation on all items below shall be provided in the final report (see PEEHP Grant Agreement, item 9).

Feature	Approved Cost
(e.g.—advanced framing labor).	(the lowest of the three bids obtained for each feature minus the lowest code path, adjusted to reflect one dwelling unit)
Total per unit	
Multiplied the number of units	
Total Grant Amount for 30% units	
Total Combined Grant Award for 15% and 30% Units	

Monitoring and Verification

BDS will work with PEEHP Partners to provide assistance in monitoring and verifying the Grantee’s performance under this agreement. During the term of this Grant, Grantee authorizes BDS and/or Stakeholders to conduct periodic site visits to examine, inspect and collect data on the *PEEHP Tasks and Materials* installed by the Grantee. BDS and/or Stakeholders will conduct such site visits only after providing reasonable notice to the Grantee. BDS and/or Stakeholders site visits will occur only during the hours between 8:00 a.m. until 6:00 p.m., Monday through Friday, unless otherwise mutually agreed by the parties. In addition, Grantee shall allow BDS and/or Stakeholders to conduct a final site visit to verify that the Project features have been fully and appropriately implemented as outlined in *PEEHP Tasks and Materials*. Grantee agrees to cooperate in all aspects of the evaluation. (see *PEEHP Grant Agreement*, items 3& 6).

Deliverables and Timeline

Within 30 days after project completion, and no less than 60 days before expiration of this agreement, as provided in Paragraph 7, Grantee shall contact BDS for a final walk through inspection to verify that the *PEEHP Tasks and Materials* have been fully and appropriately implemented. Upon final verification by BDS, Grantee will have a maximum of 30 days to submit a *Final Project Report* (the “Final Report”) as provided in Paragraph 9. Within 30 days of approval of the Final Report by BDS, BDS will pay to Grantee the remaining balance of the Total Grant Amount as identified in item 1, *PEEHP Grant Agreement*.

PEEHP Tasks and Materials- Required Signatures

Grantee’s Signature

Date

Name (please print)

Address

PEEHP Project Mgr. Signature

Date