

## **INTERLOCAL COOPERATION CONTRACT for Information Resources Technologies**

THIS INTERLOCAL COOPERATION CONTRACT is entered into by and between the City of Portland, Oregon [DIR Customer] and the STATE OF TEXAS, acting by and through the DEPARTMENT OF INFORMATION RESOURCES, 300 West 15<sup>th</sup> Street, Suite 1300, Austin, Texas 78701 [DIR], pursuant to the authority granted and in compliance with the provisions of the Interlocal Cooperation Act, Texas Government Code, Chapter 791 for Texas based Customers and Section 2054.0565, Texas Government Code, for out of state Customers.

### **I. STATEMENT OF PURPOSE:**

The purpose of this Interlocal Cooperation Contract [Contract] is to allow DIR Customer to purchase information resources technologies through DIR Contracts.

### **II. CONSIDERATION:**

- a. Per the Interlocal Cooperation Act, Texas Government Code, § 791.025, or other applicable law, the DIR Customer's use of this cooperative procurement satisfies the requirement to seek competitive bids for the purchase of goods and/or services.
- b. DIR agrees to provide to DIR Customer those information resources technologies available through existing Vendor contracts and Vendor contracts that DIR may enter into during the term of this interlocal cooperation contract, in accordance with specifications submitted through purchase orders from Customer. All DIR Vendor contracts shall be made available to the DIR Customer via the DIR Internet web site. DIR Customers utilizing the Cooperative Contracts shall issue a Purchase Order directly to the relevant Vendor. DIR Customers utilizing a DIR Contract for which DIR is the fiscal agent, the DIR Customer's Purchase Order shall be issued to DIR.
- c. DIR Customer agrees to notify DIR of any substantial problems in quality or service in relations with a vendor under a DIR vendor contract.

### **III. PAYMENT FOR GOODS AND SERVICES:**

- a. DIR Customer shall comply with Chapter 2251, Texas Government Code, or applicable local in making payments to the Vendor. Payment under a DIR Contract shall not foreclose the right to recover wrongful payments.
- b. Payments must be made from current funds available to DIR Customer and authorized by its governing board.
- c. DIR Customer agrees to pay the rates and/or prices set by DIR with its vendors. DIR Customer understands these rates and/or prices include a DIR administrative fee.
- d. All purchases executed under a DIR Contract will require a DIR Customer purchase order.

#### **IV. TERM OF CONTRACT:**

This Interlocal Cooperation Contract shall begin when fully executed by both parties and shall continue until terminated.

Either party, upon written notice, may terminate this contract on thirty (30) days advance written notice. Customers shall pay for all goods and services received through the effective date of termination.

#### **V. GOVERNING LAW AND OTHER REPRESENTATIONS:**

##### DIR Customer:

Unit of Texas Local Government hereby certifying that it has statutory authority to perform its duties hereunder pursuant to Chapter \_\_\_\_\_, Texas \_\_\_\_\_ Code.

Non-Texas State agency or unit of local government of another state hereby certifying that it has statutory authority to enter in to this Interlocal Agreement and perform its duties hereunder pursuant to ORS 279A.220.

#### **VI. CERTIFYING FUNCTION:**

Department of Information Resources acting as the owner of the DIR Contracts hereby certifies the eligibility of the DIR Customer to use the DIR Contracts.

#### **VII. TERMS AND CONDITIONS FOR OUT OF STATE DIR CUSTOMERS:**

##### SELECTIONS PER THE GOVERNING LAW OF THE OUT OF STATE DIR CUSTOMER:

1. DIR Customer's use of the DIR Contracts shall be governed by the law of the State of Oregon, excluding the conflicts of law provisions.
2. Exclusive Venue for litigation between DIR Customer and Vendor arising from use of the DIR Contracts is, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.
3. The following dispute resolution procedures shall be used to resolve disputes arising from use of the DIR Contracts. Vendor shall cooperate with the DIR Customer to ensure that all claims and controversies which arise during Vendor's performance under this contract will be resolved as expeditiously as possible in accordance with the following resolution procedure:
  - a. Any dispute between the DIR Customer and Vendor arising prior to completion or termination of this Contract shall be resolved, if possible by the Project Manager or their designee on behalf of the DIR Customer and Vendor's Project Manager on behalf of Vendor.
  - b. If the Project Manager or the Project Manager's designee and Vendor are unable to resolve any dispute within three (3) Business Days after notice of such dispute is given by either party to the other, the matter shall be submitted to the Chief Procurement Officer on behalf of the DIR Customer and Vendor's Executive Sponsor on behalf of Vendor for resolution, if

- possible.
- c. Should any dispute arise between the Parties concerning this contract that is not resolved by mutual agreement above, it is agreed that such dispute will be submitted to mandatory mediated negotiation prior to any party's commencing arbitration or litigation. In such an event, the parties to this contract agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the parties.
  - d. Should an equitable solution not result from the foregoing, the DIR Customer and Vendor shall be free to pursue other remedies allowed under this contract.

Unless ordered by the DIR Customer to suspend all or any portion of Vendor's Services, Vendor shall proceed with the performance of such Services or delivery of Products without any interruption or delay during the pendency of any of the foregoing dispute resolution procedures and shall comply with any mutually agreed upon Change Orders that the DIR Customer may issue regarding the acceleration of all or any portion of the Products or Services. During the pendency of any of the foregoing dispute resolution procedures, the DIR Customer shall continue to make all payments that are not in dispute, in accordance with the provisions of this Contract or Change Order.

This Interlocal Cooperation Contract is executed to be effective as of the date of the last party to sign.

**City of Portland, Oregon**

Authorized By: Signature on File

Approved as to Form: Signature on File

Name: Christine Moody

Name: C. Kalei L. Taylor

Title: Chief Procurement Officer

Title: Deputy City Attorney

Date: 12/12/14

Date: November 14, 2014

**THE STATE OF TEXAS, acting by and through the DEPARTMENT OF INFORMATION RESOURCES**

Authorized By: Signature on File

Name: Karen Robinson

Title: Executive Director

Date: 12/30/14

Office of General Counsel: M. Zelinsky