

This Intergovernmental Agreement (IGA) is entered into by and between the Mt. Hood Cable Regulatory Commission, an Oregon intergovernmental entity, hereafter called the "MHCRC," and the City of Portland, an Oregon home rule municipality, hereafter called "the City", individually the "Party", collectively the "Parties". This IGA is entered into by the Parties pursuant to ORS 190.110.

### RECITALS

The purpose of this IGA is for the MHCRC to fund equipment related to the City's Bureau of Technology Services provisioning 2 Gigabit connections on the Institutional Network (I-Net) for Portland Public Schools and Multnomah Educational Service District. The MHCRC collects PEG/I-Net fees under cable services franchise agreements to, among other purposes, fund capital costs of local governments' and educational institutions' use of the I-Net.

### GENERAL PROVISIONS

#### 1. Effective Date and Duration

This IGA is effective January 31, 2014. Unless earlier terminated or extended, this IGA shall expire June 30, 2014, or earlier when deliverables have been completed. This IGA may be extended by mutual written consent signed by the Parties.

#### 2. Statement of Work

The MHCRC shall reimburse the City for the following equipment, in accordance with Section 6 of this IGA:

Two edge devices, totaling no more than \$17,000  
Optics, totaling no more than \$33,000

#### 3. Project Representatives

Each Party has designated a Project Manager to serve as its formal representative for the purposes of this IGA. All reports, notes, and other communications required under or relating to the technical aspects of this IGA shall be directed to the Project Manager.

#### MHCRC'S CONTACT:

Project Manager: Julie S. Omelchuck, Program Manager

Organization: MHCRC

Address: Office for Comm Tech/MHCRC, PO Box 745, Portland, OR 97207-0745

Phone: 503.823.5385

Email: julie.omelchuck@portlandoregon.gov

#### CITY'S CONTACT:

Project Manager: Elizabeth (Beth) Fox

Organization: City of Portland, Bureau of Technology Services, Communications

Address: 3732 SE 99<sup>th</sup> Ave, Portland, Oregon 97266

Phone: 503 823-5233

Email: beth.fox@portlandoregon.gov

#### 4. Subcontracts

The City shall not enter into any subcontract for the work scheduled under this IGA.

5. Amendments

The terms of this IGA shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever, except by written instrument signed by duly authorized representatives of both Parties.

6. Reimbursement

Total amount of reimbursement to the City under this agreement is not to exceed \$50,000.

Upon completion of the installation of the equipment under Section 2 of this IGA, the City shall provide documentation to the MHCRC describing the location of the installed equipment, together with testing results confirming the functionality of the equipment.

The City shall submit an invoice to the MHCRC, on City letterhead and signed and dated by an authorized representative of the City. The invoice shall include an invoice number and a breakout of the equipment purchased along with the paid receipts for the equipment.

The invoice and documentation shall be sent to the MHCRC's Project Manager or designee. The MHCRC's Project Manager or designee shall review and approve invoices. The MHCRC shall pay all amounts to which no dispute exists within thirty (30) days of receipt of the invoice. Payment shall be sent to City of Portland, OMF, Attention: Ralph Smith, 1120 SW 5<sup>th</sup> Ave, Rm 1204, Portland, Oregon 97201.

7. Termination

A. This IGA may be terminated for convenience at any time by mutual consent of both Parties, or by either Party upon fifteen (15) days' notice in writing, and delivered by certified mail or in person.

B. Termination or modification of this IGA pursuant the section above, shall be without prejudice to any obligations or liabilities of either Party already accrued prior to such termination. However, upon receiving a notice of termination, the MHCRC and/or the City shall immediately cease all activities under this IGA, unless expressly directed otherwise by the MHCRC and/or the City in the notice of termination. Further, upon termination, the MHCRC and/or the City shall deliver to the other Party all works-in-progress and other property that are or would be deliverables had the IGA been completed.

8. Funds Available and Authorized

The MHCRC certifies that at the time the IGA is written that sufficient funds are available and authorized for expenditure to finance costs of this IGA within current appropriation and limitation. In the event of any extension or non-appropriation, the MHCRC will notify the City of its intent to terminate this IGA.

9. Captions

The captions or headings in this IGA are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this IGA.

10. Choice of Venue

This IGA shall be governed construed in accordance with the laws of the State of

Oregon, without regard to the choice of law provisions. Any litigation between the City and the MHCRC that arise out of or relates to performance of this IGA shall occur, 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.

#### 11. Severability

If any term or provision of this IGA is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the IGA did not contain the particular term or provision held to be invalid.

#### 12. Access to Records

Both Parties and their duly authorized representatives shall have access to the books, documents, and records which are directly pertinent to the specific IGA for the purpose of making audit, examination, excerpts and transcript.

#### 13. Compliance with Applicable Law

Both Parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this IGA. Without limiting the generality of the foregoing, parties expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; (v) Any applicable sections of ORS Chapter 279, and (vi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

#### 14. Insurance

The City is self-insured through the State Insurance Fund, administered by Risk Management Division, Department of Administrative Services. All City personnel, officers and employees, acting within the scope of their employment are covered, limited by ORS 30.270. The City is a subject under the Oregon Workers' Compensation law in compliance with ORS 656.017, and will maintain workers' compensation insurance throughout the duration of this Agreement.

#### 15. Force Majeure

Neither Party shall be held responsible for delay or default caused by fire, riot, acts of Nature and war which are beyond its reasonable control. The affected Party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under this IGA.

#### 16. No Third Party Beneficiary

The MHCRC and the City are the only Parties to this IGA and as such, are the only Parties entitled to enforce its terms. Nothing contained in this IGA gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third parties unless third persons are expressly described as intended to be beneficiaries of its terms.

#### 7. Indemnification

Subject to the limitations and conditions of the Oregon Constitution, Article XI, Sections 7 and 9, and the Oregon Tort Claims Act (ORS 30.260 through 30.300), the Parties

agree to indemnify and hold one another harmless from any loss, damage, injury, claim, or demand arising from their respective activities in connection with this IGA. Neither Party shall be liable for any loss, damage, claim, or demand arising from the negligence of the other Party or its agents or employees.

18. Merger Clause

This IGA constitutes the entire agreement between the Parties. No waiver, consent, modification or change of terms of this IGA shall bind either party unless in writing and signed by both Parties and approved by the Portland City Attorney's Office. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written not specified herein regarding this IGA.

THE PARTIES, BY THEIR SIGNATURES BELOW, ACKNOWLEDGE HAVING HAD ADVICE OF COUNSEL, READ THIS IGA, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

**MT. HOOD CABLE REGULATORY COMMISSION**

Chair Signature \_\_\_\_\_ Date \_\_\_\_\_

Name Sue Dicile

Approved as to Form:

\_\_\_\_\_  
MHCRC Counsel Date \_\_\_\_\_

**THE CITY OF PORTLAND**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Portland City Attorney's Office Date \_\_\_\_\_