



City of Portland
Bureau of
Human Resources
Knowledgeable | Helpful | Responsive

Anna Kanwit, Director
1120 SW 5th Ave., Rm. 404
Portland, Oregon 97204-1912
(503) 823-3572
Fax (503) 823-4156

Office of Management and Finance

Tom Rinehart, Chief Administrative Officer

CITY OF PORTLAND Agreement No. _____

Pursuant to CITY Ordinance No. _____

This Intergovernmental Agreement ("IGA" or "Agreement") is entered into by and between the City of Portland, Oregon, acting by and through its Bureau of Human Resources, hereafter called "CITY" and Portland State University hereafter called "PSU." The CITY and PSU are referred to herein individually as a "Party" and collectively as the "Parties."

Pursuant to ORS 190.010, the CITY is authorized to enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a Party to the agreement, its officers or agencies, have authority to perform. Upon approval by CITY Council through the CITY's Ordinance process and upon final signature of both Parties' approving authorities, this Agreement shall be effective upon approval by Portland CITY Council.

Unless otherwise stated in this Agreement, the designees named below shall be the contact for all activities relating to the Services to be performed under this Agreement.

PSU Project Manager

Name: Debi Elliott
Address: PO Box 751(SRL)
Portland OR 97207
Phone: 503-725-5198
Email: elliottd@pdx.edu

PSU Contract Administration:

Name: Jennifer Ward, Associate Director
Sponsored Projects Administration
PO Box 751(SPA)
Portland, OR 97207-0751
Phone: 503-725-9900
Email: awards .edu

CITY Project Manager

Name: Gale Baird
Address: 1120 SW Fifth Ave, Room 404,
Portland, OR 97204
Phone: 503-823-4169
Email: gale.baird @portlandoregon.gov

CITY Contract Manager

Name: Larry Nelson
Bureau of Human Resources
1120 SW Fifth Ave, Room 404
Portland, OR 97204
Phone: 503-823-6118
Email: larry.nelson@portlandoregon.gov

RECITALS

- A. The purpose of this IGA is for PSU to assist the CITY with surveying City of Portland employees to gather CITY Employee attitudes and opinions about topics related to the CITY's Employer of Choice initiative. The goal is to obtain feedback from a representative sample of CITY Employees.
- B. The CITY has a need for PSU to create a Survey to measure CITY Employee attitudes and opinions regarding Employer of Choice topics.
- C. PSU has an interdisciplinary public service and research unit available and capable of performing the Services required by CITY.

D. This Agreement (including any exhibits and attachments hereto) constitutes the entire Agreement between the Parties.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

Acceptance	Deliverables have been configured, inspected, and delivered, and reviews have been performed to demonstrate, to the CITY's satisfaction, that Deliverables conform to the requirements of this Agreement, applicable Documentation, and PSU's representations.
Acceptance Date	The date on which the CITY certifies to PSU in writing that a Deliverable is complete.
Amendment	A written document required to be signed by both Parties when in any way altering this Intergovernmental Agreement, term, or cost provisions of the Agreement or changing, adding to, or substantially altering the Statement of Work.
Analysis Plan	Description of the analyses that PSU will perform on the Survey Response Data.
Business Day	Monday through Friday, 8 a.m. until 5 p.m., unless stated otherwise in this Agreement.
Calendar Day	Day of 24 hours unless stated otherwise in this Agreement.
CITY Confidential Information	Any information, in any form or media, including verbal discussions, whether or not marked or identified by CITY, which is reasonably described by one or more of the following categories of information: (1) financial, personnel, human resources data or Personally Identifiable Information as described in the Oregon Consumer Identity Theft Protection Act of 2007; (2) business plans, negotiations, or strategies; (3) unannounced pending or future products, services, designs, projects or internal public relations information; (4) trade secrets, as such term is defined by ORS 192.501(2) and the Uniform Trade Secrets Act ORS 646.461 to 646.475; (5) Exempt per ORS 192.501 and/or ORS 192.502 (6) attorney/client privileged communications, (7) exempt per federal laws (including but not limited to Copyright, HIPPA) and (8) information relating to or embodied by designs, plans, configurations, specifications, programs, or systems developed for the benefit of CITY including without limitation, data and information systems, any software code and related materials licensed or provided to the CITY by third parties; processes; applications; codes, modifications and enhancements thereto; and (9) CITY employee data and drafts of Deliverables produced with such data for the CITY.
Confidential Information	Any information that is disclosed in written, graphic, verbal, or machine-recognizable form, and is marked, designated, labeled or identified at the time of disclosure as being confidential or its equivalent; or if the information is in verbal form, it is identified as Confidential or proprietary at the time of disclosure and is confirmed in writing within thirty (30) days of the disclosure. Confidential Information does not include any information that: is or becomes publicly known through no wrongful or negligent act of the receiving Party; is already known to the receiving Party without restriction when it is disclosed; is, or subsequently becomes, rightfully and without breach of this Agreement or any other agreement

between the Parties or of any applicable protective or similar order, in the receiving Party's possession without any obligation restricting disclosure; is independently developed by the receiving Party without breach of this Agreement; or is explicitly approved for release by written authorization of the disclosing Party. All usage of the term "Confidential Information" in this Agreement shall be deemed to include the qualifications set forth in the attached Non-Disclosure Agreement, Exhibit A.

CITY Employee Data	Excel or comma-separated values file of fields from the CITY employee data source. Fields include, but are not limited to, employee first name, employee last name, bureau assignment, work location address, employee CITY email account. Final definition of fields will be determined as part of developing the Sampling Plan.
Deliverables	The final versions of Work Products and the Services necessary to deliver final Work Products provided by PSU to the CITY. Deliverables are further defined in Exhibit B, Statement of Work.
Distribution Report	Report on the number of responses by each Employee Type as defined in the Sampling Plan.
Employee	An employee of CITY of Portland.
Final Report	Written report, based on the Analysis Plan, that describes Survey Results in narrative text and graphics. Includes an Executive Summary that describes summarizes and provides highlights of Final Report.
Key Service Levels	Measures used by the Bureau of Human Resources to gauge employee attitudes and opinions related to Employer of Choice topics.
Material Breach	Any breach of this Agreement that (a) causes or may cause substantial harm to the non-breaching Party; or (b) substantially deprives the non-breaching Party of the benefit it reasonably expected under this Agreement.
Project	The overall collection of Services required for generating the Deliverables including, but not limited to, consultation and setup, Survey recruitment, analysis of Survey Response Data, and writing the Final Report, any of which PSU may be providing in whole or in part.
Recruitment Materials	Letters, memos, emails, and other text asking Employees to participate in the Survey.
Research Questions	Questions that reflect the research goals of the CITY.
Sampling Plan	Description of the methods necessary to randomly select a representative subset of employees from the CITY employee Data.
Services	Both ordinary and professional services as required to be performed by PSU under this Agreement for the CITY. Services include, but are not limited to, needs assessment, consulting, formatting, sampling, programming, coordination, tracking, analysis, and writing.
Statement of Work	The written detailed specifications of the Deliverables to be delivered to the CITY by PSU subject to the terms and conditions of the Agreement.

Survey Administration	Hosting the Survey Instrument on a web server, tracking response rates, providing feedback to the CITY on the number of responses, advising the CITY on the need to send paper Survey Instruments and reminder notices.
Survey Instrument or Survey	The survey questionnaire.
Survey Participants	CITY Employees who complete the Survey Instrument.
Survey Response Data	Records of Survey Participants' to the Survey Instrument, stored in electronic form.
Survey Response Data Analysis	The analysis of Survey Participants' response data guided by the Sampling Plan.
Survey Results	The findings from the Survey Response Data Analysis in written or graphical form.
Work Products	Limited to the Deliverables I through 8 as defined in Exhibit B-Statement of Work: Sampling Plan, Survey Instrument, Analysis Plan, Recruitment Materials, Survey Response Data Analysis, Final Report, Survey Response Data.

2. GENERAL PROVISIONS

- A. Order of Precedence: In the event there is a conflict between the terms and conditions of one portion of this Agreement with another portion of this Agreement, the conflict will be resolved by designating which portion of the Agreement documents takes precedence over the other for purposes of interpretation, except where a clear statement of precedence other than that set forth in this section is included in the document. In this Agreement the order of precedence shall be
 1. Exhibit A, Nondisclosure Agreement
 2. This Intergovernmental Agreement No. _____
 3. Exhibit B, Statement of Work
- B. Oregon Venue/Choice of Law: This Agreement shall be construed according to the laws of the State of Oregon without reference to its conflict of laws provisions. Any litigation between the CITY and PSU arising under this Agreement or out of work performed under this Agreement 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.
- C. Compliance with Applicable Law: PSU shall comply with all applicable federal, state, and local laws and regulations. PSU agrees it is currently in compliance with all tax laws. PSU shall comply with Title VI of the Civil Rights Act of 1964 and its corresponding regulations as further described at: <http://www.portlandoregon.gov/bibs/article/446806>.
- D. Amendment of the Agreement: No provision of this Agreement may be amended or modified unless such Amendment or modification is approved as to form by the CITY Attorney and executed in writing by authorized representatives of the Parties. All changes that would permanently change any provisions of this Agreement shall be memorialized in the form of an Amendment. If the requirements for Amendment or modification of this Agreement as described in this section are not satisfied in full, then such Amendments or modifications automatically will be deemed null, void, invalid, non-binding, and of no legal force or effect.

- E. Delivery Schedule: PSU shall use best efforts to deliver Deliverable(s) and/or Services(s) on time, in accordance with the scheduled delivery date as set forth in this Agreement. If PSU delivers Deliverable more than 120 days later than the scheduled delivery date as listed in this Agreement or an individual Change Order, the CITY may cancel the Change Order without penalty.
- F. Ownership of Property: All Work Products produced by PSU under this Agreement are the exclusive property of the CITY. Work Products include the Deliverables 1-8 as defined in Exhibit B - Statement of Work. PSU and the CITY intend that such Work Product shall be deemed "work made for hire" of which the CITY shall be deemed the author. If for any reason a Work Product is deemed not to be a "work made for hire," PSU hereby irrevocably assigns and transfers to the CITY all right, title and interest in such Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrines. PSU shall obtain such interests and execute all documents necessary to fully vest such rights in the CITY. PSU waives all rights relating to Work Product or any other rights of authorship, identification or approval, restriction or limitation on use or subsequent modifications.

The CITY grants to PSU a limited license to use the Work Product for PSU's own academic purposes, including but not limited to research, reports, publications and classroom teaching. PSU's license is limited by the following:

- i. PSU not to release any reports using the Work Products until the City has had an opportunity to present the Survey Results to the Portland City Council.
 - ii. PSU agrees to use the Survey Response Data in the aggregate, and not produce documentation that would identify any individual or compromise the individual's privacy.
 - iii. PSU agrees not to sell the Survey Response Data without the express written permission of the City, which shall not be unreasonably withheld.
- G. Return of Parties' Property: When the Agreement is terminated or expires, each Party shall return to the other all papers, materials, and properties of the other Party then in its possession. The CITY will retain one (1) copy of the Deliverables for the express purposes of public records and archiving per state law and Portland City Code.
- H. Records Retention: PSU shall maintain current financial records in accordance with professional accounting standards. PSU agrees to maintain and retain supporting financial and Agreement-related documents during the term of the Agreement and for a period of three (3) years after the date of submission of the final billing or until the resolution of all audit questions or claims, whichever is longer. All financial records, supporting documents, statistical records and all other records pertinent to this Agreement shall be retained by PSU for a minimum of three (3) years. The CITY shall retain the Survey Instrument and Survey Response Data until the Final Report of Survey Results is created or for three years, whichever is sooner. The CITY shall retain the Final Report of Survey Results permanently, per ORS 192.005(5).
- I. CITY Audits: The CITY, either directly or through a designated representative, may conduct financial and performance audits of the billings and services during the records retention period listed above. CITY audits shall be conducted in accordance with generally accepted auditing standards. PSU shall provide the CITY's internal auditor or external auditor, and their designees with a copy of all reports, including any management letters issued as a result of the specified audits.
- J. Access to Records: The CITY internal auditor or CITY external auditor, and their designees, shall be given the right, and the necessary access, to review the work papers of PSU audits if the CITY deems it necessary. Copies of applicable records shall be made available upon request. Both Parties and their duly authorized representatives shall have access to the books, documents, and

records which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts and transcript.

3. INDEPENDENT CONTRACTORS

It is understood and agreed by the Parties that PSU is an independent contractor with respect to the CITY and that this Agreement is not intended and shall not be construed to create an employer/employee relationship or a joint venture relationship between PSU and the CITY. PSU shall be free from the direction and control of the CITY in the performance of PSU's obligations under this Agreement, except that the CITY may indicate Deliverables and criteria for satisfaction of PSU's obligations under this Agreement.

4. SUMMARY OF WORK AND BUDGET

- A. PSU agrees to assist the CITY with surveying Employees to gather customer opinions and attitudes about topics related to CITY's Employer of Choice initiative. PSU agrees to provide five core Deliverables: Survey Instrument, Sampling Plan, Analysis Plan, Recruitment Materials, and the Final Report of Survey Results, and to provide related Services, including hosting and administration of the Survey, recruitment, analysis of the Survey Response Data, and providing updates and reports on progress to the CITY for the term of this Agreement.
- B. Professional Standard of Care: PSU shall perform all Services under this Agreement with care, skill and diligence, in accordance with the applicable professional standards currently recognized by similar professionals in this community in similar circumstances, and shall be responsible for the professional quality, technical accuracy, completeness, coordination and timeliness of all Services furnished under this Agreement.
- C. The CITY has authorized a total not to exceed amount of \$15,750.00 to fund the Services required under this Agreement. Funding is currently budgeted in the Fiscal Year (FY) 2016-2017. The CITY's Fiscal Year is defined as July 1 through June 30 of each year.
- D. A detailed Statement of Work, including Deliverables and budget are set forth and attached to this Agreement as Exhibit B, Statement of Work. In carrying out the terms of this Agreement, it may be necessary for the Parties to provide proprietary information to one another. In such event, the disclosure and use of all proprietary information shall be in accordance with the attached Exhibit A, "Non-Disclosure Agreement."

5. TERM

Work shall commence upon CITY's approval, via CITY Ordinance and upon the Agreement being signed by both Parties' approving authorities. The term of this Agreement shall be upon Portland CITY Council approval to 11 months after, estimated as March 1, 2017 to June 30, 2017. This Agreement is subject to renewal only by a written Amendment to the Agreement mutually agreed upon by Parties and per the requirements of CITY Council, which are subject to change.

6. BILLING PROCEDURES AND COMPENSATION

- A. The CITY shall compensate PSU for the actual cost of the Project in an amount not to exceed \$15,750.00, in accordance with the budget specified in the attached Exhibit B, Budget Detail.
- B. The CITY certifies that at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within current appropriation and limitation. In the event of any extension or non-appropriation, the CITY shall notify PSU of its intent to terminate this Agreement. The CITY's contribution of funding for the term of the Agreement is contingent upon receipt of approval by CITY Council and upon continuation of funding.

- C. Nothing in this Agreement requires the CITY to pay for work that does not meet the Standard of Care or other requirements of this Agreement.

PSU shall promptly perform such additional Services as may be necessary to correct errors in the Services as described in Exhibit B, Statement of Work, as required by this Agreement without undue delays and without additional cost. PSU shall bear all costs associated with requested corrections. Typographical and/or clerical errors shall be corrected and returned to the CITY Project Manager within 2 Business Days. PSU shall present written corrective actions taken within 15 Calendar Days of any other non-clerical error.

- D. The CITY's policy is to pay its invoices via electronic funds transfers through the automated clearing house (ACH) network. To initiate payment of invoices, PSU is required and shall execute the CITY's standard ACH Vendor Payment Authorization Agreement. This is available on the CITY's website at: <https://www.portlandoregon.gov/bfrs/index.cfm?a=409834&>.

Upon verification of the data provided, the Payment Authorization Agreement shall authorize the CITY to deposit payment for Services rendered directly into PSU accounts with financial institutions. All payments shall be in United States currency. Payment of any invoice, however, does not preclude the CITY from later determining that an error in payment was made and from withholding the disputed sum from the next monthly payment until the dispute is resolved.

- E. By the 30th of the month following the end of the calendar quarter after the effective date, PSU shall submit via email to the CITY an invoice for work performed during the previous quarter. The final invoice is due within 60 days after the expiration of the performance period. Each invoice shall include the following:
- i. The CITY's Agreement Number.
 - ii. Period of performance for the work completed in the previous quarter.
 - iii. CITY's Project Manager's Name.
 - iv. Expenses incurred per task(s).
 - v. Final total cost of expenses per each invoice.
 - vi. Cumulative amount billed to date.
 - vii. Itemized costs, including hourly rates.
- F. Invoices must only be submitted to the Project Manager electronically.
- G. The CITY shall pay PSU based on these invoices for acceptable work performed and approved by the CITY's Project Manager.
- H. The CITY shall pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any bill, however, does not preclude the CITY from later determining that an error in payment was made and from withholding the disputed sum from the next progress payment until the dispute is resolved.
- I. PSU shall fully cooperate with a CITY Audit of the records at any time. PSU shall also fully cooperate with an audit to account for all expenses if necessary.

7. REPORTING REQUIREMENTS

- A. PSU shall provide formal reports on the progress of the Deliverables as required in the Statement of Work, Exhibit B on a quarterly basis.

- B. Both Parties' Project Managers, identified further in this Agreement, shall confer weekly to review project management, staffing needs, and performance to identify desired changes if necessary. Meeting minutes will be maintained for record by both Parties.
- C. The assignment as Project Manager is for the full term of the Agreement. Should either Party require to replace its assigned Project Manager during the term of the Agreement, the requesting Party shall notify the other Party's Project Manager in writing, and if required, they shall meet to discuss and agree on any necessary adjustment to provide adequate time to make such change. Any changes to the assigned Project Manager requires a written Amendment to the Agreement and must be signed by both Parties' delegated authorities.

8. DELEGATION OF AUTHORITY

- A. PSU has delegated Jennifer Ward, Associate Director, Sponsored Projects Administration as PSU's approving authority. This delegation includes signature authority for this Agreement and Amendments for the Agreement and authority to give notices and to carry out other actions to herein, including termination of the Agreement as provided in under Section 9, Termination.
- B. The CITY Ordinance authorizing this Agreement delegates the CITY's Bureau of Human Resources Director as the approving authority for the CITY. This delegation includes authority to sign the Agreement once CITY Council has approved the legislation authorizing this Agreement. Amendments increasing the total compensation of the Agreement may be agreed to and executed by the CITY's Bureau of Human Resources Director up to twenty-five percent of the original total Agreement amount and must also include the endorsement of the CITY's Budget Officer and approval by the CITY Attorney and follow with a formal Amendment to the Agreement. The CITY's Bureau of Human Resources Director has the authority to give notices and to carry out other actions referred to herein, including termination of the Agreement as provided in this Agreement under Section 9, Termination and per Portland CITY Code.

9. TERMINATION

Either party may terminate this Agreement by giving the other party at least thirty (30) days prior written notice of such termination. In the case of such termination, PSU will proceed in an orderly fashion to terminate any outstanding commitments and to stop work as soon as practicable to do so. Should the Agreement be terminated prior to the completion of the Initial Term of the Contract, CITY shall reimburse PSU for all reasonable costs incurred for the Project through the date of termination. Such costs shall include all non-cancelable commitments that exist at the time the notice of termination is received. The CITY shall negotiate in good faith with PSU to resolve the disposition of the Deliverables, including any partial work performed.

10. NON-DISCRIMINATION

In carrying out activities under this Agreement, neither Party shall discriminate against any employee or applicant for employment because of race, color, religion, sex, age handicap, familial status, sexual orientation, or national origin. Either Party shall take affirmative 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, sexual orientation, or national origin. Such action shall include but not be limited to, the following: employment, upgrading, demotion, or transfer; employment recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

11. INDEMNIFICATION

Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 7, and Oregon Tort Claims Act, ORS 30.260 through 30.300, PSU shall indemnify, defend and hold harmless CITY from and against all liability, loss and costs arising out of or resulting from PSU's and its officers, employees' and agents' negligence or intentionally wrongful acts in the performance of this Agreement.

Subject to the conditions and limitations of the Oregon Constitution, Article XI Section 9, and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the CITY shall indemnify, defend and hold harmless PSU from and against all liability, loss and costs arising out of or resulting from CITY's and its officers' employees' and agents' negligence or intentionally wrongful acts in the performance of this Agreement.

12. INSURANCE

PSU is insured with respect to tort liability through the Public Universities Risk Management and Insurance Trust (PURMIT), and subject to the Oregon Tort Claims Act (ORS 30.260 through 30.300). All PSU personnel, officers and employees, acting within the scope of their employment are covered by ORS 30.270. PSU is a subject employer under the Oregon Workers' Compensation law in compliance with ORS 656.017, and shall maintain workers' compensation insurance through the duration of this Agreement.

13. SUBCONTRACTING AND ASSIGNMENT

PSU shall not subcontract or assign its work under this Agreement without the written consent of the CITY.

14. DISPUTES

The signatories to this Agreement shall expend their best efforts to amicably resolve any dispute that may arise under this Agreement. Any dispute that the signatories are unable to resolve shall be submitted to the Director of PSU, or his/her designee, and the CITY of Portland Bureau of Human Resources Director, or his/her designee, for resolution.

15. OREGON LAWS AND FORUM

This Agreement shall be construed according to the laws of the State of Oregon. Any litigation between the CITY and PSU arising under this Agreement or out of work performed under this Agreement shall occur, in the state courts, in the Multnomah County Court having jurisdiction thereof and if in the federal Courts, in the United States District Court for the State of Oregon.

16. SEVERABILITY

If any term or provision of this Agreement 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 Agreement did not contain the particular term or provision held to be invalid. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination of this Agreement for any cause.

17. 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 Agreement. Without limiting the generality of the foregoing, parties expressly agrees to comply with (i) Title VI of 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 190, and (vi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

18. FORCE MAJURE

Neither Party shall be held responsible for delay or default caused by fire, riot, acts of God 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 the Agreement.

19. NO THIRD PARTY BENEFICIARY

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

20. 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 Agreement or the proceeds thereof. No board of director member or employee of PSU during his or her tenure or for one year thereafter, shall have any direct financial interest in the Agreement or the proceeds thereof. No CITY Officer or employees who participated in the award of this Agreement shall be employed by PSU during this Agreement.

21. CONTRIBUTION

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 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either 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 Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party 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 Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which PSU is jointly liable with the CITY (or would be if joined in the Third Party Claim), PSU shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the CITY in such proportion as is appropriate to reflect the relative fault of CITY on the one hand and of the PSU on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of PSU on the one hand and of the CITY on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to connect or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. PSU's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

22. COUNTERPARTS

This Agreement may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same Agreement.

23. MERGER CLAUSE

This Agreement constitutes the entire agreement between the Parties. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties. 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 Agreement.

SIGNATURE PAGE

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This Agreement, together with all exhibits, attachments and those documents which by their reference have been incorporated herein, constitutes the entire Agreement between the CITY and PSU and supersedes all proposals, oral and written agreements, between the Parties on this subject.

The Parties agree the City and PSU may conduct this transaction, including any amendments, by electronic means, including the use of electronic signatures.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed.

CITY OF PORTLAND

Anna Kanwit, Director
Bureau of Human Resources

Date signed

APPROVED AS TO FORM:
APPROVED AS TO FORM



CITY of Portland, Deputy City Attorney
CITY ATTORNEY

Date signed

1/23/07

PORTLAND STATE UNIVERSITY

(PSU Signature, Designated Authority)

Printed Name, Title

Date signed

Exhibit A • NON-DISCLOSURE AGREEMENT

RECITALS

- A. The Parties have entered into the attached Intergovernmental Agreement (IGA) _____.
- B. In furtherance of the Survey work to be done under IGA _____, the CITY will need to disclose certain CITY employee information to PSU that the CITY considers to be Confidential, proprietary and/or a trade secret
- C. In order to protect the Confidentiality of such CITY information, the Parties agree as follows:

AGREEMENT

1. Recitals. The Recitals set forth above are hereby incorporated into this Amendment as though set forth in full herein.
2. Definition of Confidential Information. The term "Confidential Information" is defined in the IGA and includes, but is not limited to, and all tangible or intangible information that is or has been received by PSU from the CITY that is:
 - a) Marked "Confidential" or "Proprietary" by the CITY or bears a mark of similar import;
 - b) Orally disclosed information or information in an intangible form that
 - i) is contemporaneously identified as Confidential information by the CITY and a written statement describing such oral information or information in intangible form and identifying it as Confidential Information is delivered to PSU within thirty (30) days after disclosure; or
 - ii) from all relevant circumstances, a reasonable person would understand that such information is confidential and proprietary to the CITY; or
 - c) Information of the CITY that is not generally known to the public or others who can obtain economic value from its disclosure, misappropriation or use; or
 - d) Information that would be exempt from disclosure under Oregon's Public Records laws.
3. Maintenance of Confidentiality. PSU shall treat as confidential any CITY Confidential Information that has been made known or available to PSU or that PSU has received, learned, heard or observed; or to which PSU has had access. PSU shall use CITY Confidential Information exclusively for the CITY's benefit and in furtherance of the Products and/or Services provided by PSU in Exhibit B-Statement of Work under this IGA _____. Except as may be expressly authorized in writing by the CITY, in no event shall PSU publish, use, discuss or cause or permit to be disclosed to any other person such CITY Confidential Information, PSU shall (1) limit disclosure of the CITY Confidential Information to those directors officers, employees and agents of PSU who need to know the CITY Confidential Information in connection with the CITY Project, (2) exercise reasonable care with respect to the CITY Confidential Information, at least to the same degree of care as PSU employs with respect to protecting its own proprietary and confidential information and (3) return immediately to the CITY, upon its request, all materials containing CITY Confidential Information, in whatever form, that are in PSI-JG possession or custody or under its control PSU is expressly restricted from and shall not use Confidential intellectual property of the CITY without the CITY's prior written consent
4. Excluded Information. Confidential Information shall not include information that:

- (a) Is information about either Party or its products that was in the possession of the other Party prior to its receipt without an obligation to maintain its confidentiality;
 - (b) Is or becomes generally known to the public without violation of this NDA;
 - (c) Is obtained from a third party without an obligation to maintain its confidentiality;
 - (d) Is independently developed by the Party without use of the other Party's information;
 - (e) Is disclosed by a Party with the prior written consent of the other Party; or
 - (f) Is disclosed pursuant to the requirement or request of an individual, governmental agency or court of competent jurisdiction to the extent such disclosure is required by a valid law, regulation or court order and sufficient notice is given by one Party to the other Party of any such requirement or request in order to permit the Party to seek an appropriate protective order or exemption from such requirement, request or order.
5. Data Security Requirements: PSU shall comply with all CITY information confidentiality and data security rules, regulations, standards, practices, and procedures, as described in this Non-Disclosure Agreement, with respect to transfer, communication or dissemination of CITY Confidential Information on any media (including, but not limited to, email, paper, tape, computer memory, disk, CD, portable disk, thumb drive, and flash drives).
6. Use and Protection of Confidential information. PSU AGREES THEY SHALL ONLY USE CITY CONFIDENTIAL INFORMATION FOR THE PURPOSES OF: Creating a sample survey, distributing the survey and analyzing results for the City of Portland's Employee Survey. Further, PSU agrees to protect and treat as Confidential any information that constitutes Confidential Information of the CITY. When PSU receives the CITY's Confidential Information, it shall restrict the disclosure, dissemination and availability of such Confidential Information to its directors, officers, employees and advisors with a demonstrable need to know such Confidential Information (the "Permitted Personnel"). PSU shall not:
- (a) Use any Confidential Information received by it in any way detrimental to the CITY;
 - (b) Disclose or make available to any third party, including but not limited to consultants and other agents of PSU, any Confidential Information received by it without prior written consent of the CITY;
 - (c) Reproduce or copy the Confidential Information without the prior written consent of the CITY;
 - (d) Use any Confidential Information received by it to develop a Survey for sale;
 - (e) Use any Confidential Information received by it to develop another Survey based on the Confidential Information; or
 - (f) Otherwise use the Confidential Information received by it for its own benefit or the benefit of another.

Each Party shall instruct their Permitted Personnel with regard to the restrictions on use of Confidential Information as well as this NDA generally.

7. Rights to Confidential Information, No License. All Confidential Information received by PSU shall remain the sole and exclusive property of the CITY. The Parties recognize and agree that nothing contained in this NDA shall be construed as granting to the other any rights, by license or otherwise, to any of the CITY's Confidential Information.

8. Removal. PSU agrees not to remove (physically or electronically) any of the CITY's Confidential Information from the CITY's premises without the CITY's prior written approval. The premises of the CITY shall include any location where the CITY regularly conducts business. PSU also agrees to comply with any and all terms and conditions the CITY may impose upon PSU in connection with such approved removal.
9. Return. Upon the CITY's request, PSU shall promptly return a) of the CITY's Confidential Information along with all copies thereof. It is also agreed that all information of the CITY that may not constitute Confidential Information shall be the exclusive property of the CITY. Upon the CITY's request PSU shall promptly return all such information along with all copies thereof. PSU may retain one copy of any information that is required under Oregon Public Records and state archiving laws. At no time shall PSU possess such information longer than required by law.
10. Copies. PSU agrees not to reproduce or make copies of any Confidential Information without the written consent of the CITY and that any such copies made shall be returned to the CITY as specified in paragraph 9 above.
11. Agreement Supplements Other Rights and Remedies. Notwithstanding any term or provision hereunder to the contrary, this NDA is supplementary to any and all rights and remedies the Parties' have or may have in the future under applicable local, state, and federal law. No provision or term of this NDA shall be deemed to supplant or be deemed a waiver of the Parties' rights and remedies under applicable local and federal law.
12. Remedies for Breach.
 - a) PSU acknowledges that any publication or disclosure of CITY Personal and Confidential Information to others may cause immediate and irreparable harm to the CITY. The CITY believes that money damages would likely be inadequate to remedy any breach of this NDA. As a result, the Parties agree that the CITY may seek, and a court of competent jurisdiction may grant, specific performance and injunctive or other equitable relief as a remedy for any breach of this NDA. Such remedy shall be in addition to all other remedies, including money damages, at law or in equity.
 - b) PSU agrees to instruct all such employees and Permitted Personnel on these obligations with respect to use, copying, protection, and confidentiality of the Confidential Information. If PSU should publish or disclose such CITY Personal and Confidential Information, the CITY may be entitled to seek temporary or permanent injunctive relief or any other remedies to which it is entitled under law or equity. Subject to the limitations of the Oregon Tort Claims Act (ORS 30.260 through 30.300), PSU shall indemnify, defend, and hold harmless the CITY from all damages, costs, liabilities and expenses caused by or arising from PSU's failure to protect CITY Personal and Confidential Information. Violation of information confidentiality shall be considered a breach of this NDA. PSU's obligations under this paragraph will survive the termination of this NDA.
13. Amendment and Waiver. No amendment to this NDA shall be valid and binding unless such amendment is agreed to in writing and signed by an authorized officer of each of the Parties. No waiver by either Party of any breach by the other Party of any condition or provision contained in this NDA to be performed by such other Party shall be deemed a waiver of a similar or dissimilar condition or provision at the same or any prior or

subsequent time. Any waiver must be in writing and signed by the Party to be charged with the waiver. No delay by either Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

14. Severability. In the event that any provision or portion of this NDA shall be determined to be invalid or unenforceable for any reason, in whole or in part, the remaining provisions of this NDA shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law.
15. Successors and Assigns. This NDA shall be binding upon the Parties hereto and their respective successors and assigns and shall not be construed to confer any right, interest or benefit in favor of any other person or entity. Notwithstanding the foregoing, neither Party shall be entitled to neither assign nor transfer all or any of its rights, benefits and/or obligations under this NDA without the prior written consent of the other Party.
16. Counterparts. This NDA may be executed in counterparts, each of which when so executed and delivered shall be an original, but all such counterparts together shall constitute one and the same instrument.
17. Public Records Laws.
 - a) The CITY recognizes that PSU is a public entity subject to the Oregon Public Records Law, ORS 192.410 *et seq.* and the Oregon Public Meeting Law, ORS 192.610 *et seq.* PSU's commitments to maintain certain information Confidential under this NDA are all subject to the constraints of those laws. Within the limits and discretion allowed by those laws, PSU will maintain the confidentiality of CITY Confidential Information.
 - b) In the event that any Party is requested or required, by subpoena, oral deposition, interrogatories, request for production of documents, administrative order or otherwise to disclose any Confidential information, the Party so requested or required shall provide the other with prompt notice of such request(s) so that it may seek, at its own expense, an appropriate protective order or waiver of compliance with the terms of this NDA. If, in the absence of a protective order or waiver, any Party is compelled, in the opinion of its legal counsel, to disclose any Confidential Information, the Party may make such disclosure after notice to the other.
 - c) The Parties understand that third persons may claim that CITY Confidential Information possessed by PSU is by virtue of that possession a public record and subject to disclosure pursuant to Oregon law. The Parties agree that if such claim is made, PSU shall immediately notify the CITY of the claim. CITY may, at its own cost, defend such claim and the PSU agrees to reasonably cooperate with the CITY in such defense. PSU agrees not to disclose any such proprietary or CITY Confidential information in response to any such claim until either a) CITY fails to contest the release in advance of PSU's statutory deadline to release the information or b) a final unappealable order from a court or agency having authority to issue such order shall have been issued. Any such disclosure shall be the minimum necessary to comply with a) the requested information and b) the requirements of the final order.
18. Survival. All obligations relating to Confidentiality; indemnification; publicity; representations and warranties; proprietary rights; limitation of liability; shall survive the termination or expiration of this NDA or the IGA and shall, to the extent applicable, remain

binding and in full force and effect for the purposes of the ongoing business relationship by and between PSU and the CITY. Nothing in this NDA shall alter, modify, or supersede the content and survival of such provisions, except as otherwise expressly agreed to in writing by the Parties and with the prior approval of the CITY Attorney's Office.

19. Entire Agreement. This NDA and IGA _____ contain the entire understanding and Agreement between the Parties concerning the subject matter hereof and supersedes any prior agreements, whether written or oral, between the Parties concerning the subject matter hereof.

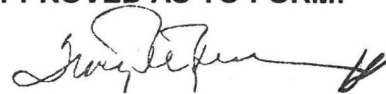
IN WITNESS WHEREOF, the Parties have executed this NDA as of the Effective Date.

CITY OF PORTLAND

Anna Kanwit, Director
Bureau of Human Resources

Date signed

APPROVED AS TO FORM
~~APPROVED AS TO FORM~~



CITY of Portland, Deputy City Attorney

Date signed

1/30/17

PORTLAND STATE UNIVERSITY

(PSU Signature, Designated Authority)

Date signed

STATEMENT OF WORK AND COSTS

City of Portland Employee Web Survey

Prepared for: Gale Baird (gale.baird@portlandoregon.gov, 503-823-4169)

Prepared by: Portland State University Survey Research Lab

1600 SW 4th Avenue, Suite 400, Portland, OR 97201

Debi Elliott, PhD, Director (503-725-5198, elliottd@pdx.edu)

Amber Johnson, PhD, Project Manager (amberj@pdx.edu)

December 20, 2016

Scope of Work

- *SRL will consult with City of Portland HR Department staff to develop and implement a web survey of all employees.
- *SRL will assist in the development of the survey items that will provide them with information regarding employee job engagement and satisfaction.
- *SRL will assist in the development of recruitment email content and the timing of invitation and reminder emails to be sent to existing employees across 26 bureaus.
- *SRL will program and pretest a web survey in Qualtrics software.
- *SRL will securely receive a list of employees, email addresses and bureau for creation of the web survey panel of invited respondents.
- *SRL will schedule and send at least three emails: (1) initial invitation, (2) first reminder 5-7 business days after the invitation, and (3) second reminder 3-5 business days after the first reminder.
- *SRL will create a paper version of the survey (≤ 4 pages) and work with Portland HR staff to determine the appropriate distribution of paper surveys to employees without email addresses. The printing will be done by Portland P&D and the distribution will be done by Portland HR staff.
- *SRL will manage the implementation of the web survey, providing periodic status reports of survey counts and a link to review findings as the data is being gathered.
- *The goal will be to secure at least 360 completed surveys, which would be generalizable to the total population of approximately 5,500 Portland employees.
- *SRL and Portland HR staff will periodically review the frequency of completed surveys across the 26 bureaus to with the goal of gathering a sufficient number to be representative. Additional email reminders will be sent to target lower responding bureaus, if necessary.
- *SRL will receive and enter the data from paper surveys.
- *SRL will clean and analyze the survey data, providing Portland HR staff with a final data file in Excel or SPSS.
- *SRL will prepare a final report of the methodology and findings.
- *Project Time Period: ~February - June 2016

STATEMENT OF WORK AND COSTS

Estimated Costs:

Consultation on survey content and methodology	16 hrs @	\$ 150 /hr	\$ 2,400.00
Assist with development of recruitment emails and determining the timing of invites and reminders	2 hrs @	\$ 100 /hr	\$ 200.00
Program web survey in Qualtrics	12 hrs @	\$ 150 /hr	\$ 1,800.00
Pretest web survey	2 hrs @	\$ 50 /hr	\$ 100.00
Receive and prep employee list for panel upload	6 hrs @	\$ 150 /hr	\$ 900.00
and distribution to employees without emails	8 hrs @	\$ 100 /hr	\$ 800.00
scheduling of up to three emails and monitoring for representativeness across the 26 bureaus	12 hrs @	\$ 100 /hr	\$ 1,200.00
Review and data entry of paper surveys	12 hrs @	\$ 25 /hr	\$ 300.00
Clean data file and conduct analyses	12 hrs @	\$ 150 /hr	\$ 1,800.00
Prepare final report of methodology and findings	20 hrs @	\$ 150 /hr	\$ 3,000.00
Total Direct Costs			\$ 12,500.00
PSU Indirect Costs at the Local Rate of 26%			\$ 3,250.00
Total Costs			\$ 15,750.00