

City of Portland Contract No. _____
Portland State University Contract No. _____

INTERGOVERNMENTAL AGREEMENT

Between
Portland State University
And
City of Portland

This Intergovernmental Master Agreement (this "Agreement") is entered into between the City of Portland, by and through the City Budget Office, hereinafter referred to as SPONSOR, and Portland State University, hereinafter referred to as UNIVERSITY. This Agreement may refer to SPONSOR and UNIVERSITY as a "Party" or jointly as the "Parties."

RECITALS

WHEREAS, SPONSOR provides timely, accurate, and unfiltered information and analysis regarding budgeting, forecasting, and fiscal policy issues to the Mayor, Commissioners, City Auditor, City bureaus, and the public.

WHEREAS SPONSOR desires UNIVERSITY'S participation on certain projects to be specified and identified as either service activity or sponsored project activity; and

WHEREAS the performance of such activities is consistent, compatible and beneficial to the academic role and mission of UNIVERSITY;

Therefore, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

ARTICLE I -SCOPE OF WORK

UNIVERSITY agrees to perform for SPONSOR certain activities (the "Work") which shall be described in Exhibit A to this Agreement. SPONSOR agrees to compensate UNIVERSITY for completion of the Work as set forth in Exhibit A to assist the City of Portland in undertaking the Portland Insights Study and the Spring 2022 Qualtrics Web panel and survey. SPONSOR may in its sole discretion reduce the scope of the Spring 2022 Qualtrics Web panel/survey, and in such case UNIVERSITY shall be paid for the actual amount of work done in a manner mutually agreed by the parties. The parties shall execute an amendment reflecting the change in scope of work.

ARTICLE II - AGREEMENT PERIOD

This Agreement shall become effective upon execution by both parties, and according to the last date of signature by either party ("Effective Date") and shall remain in effect for a period of two (2) years. Exhibit A contemplates that performance of substantive work would conclude pursuant to the timeline stated therein at the latest in December 2023 for Portland Insights Survey and in an approximate two month period for the Qualtrics Web Panel/Survey, with a period thereafter for administrative follow up and close out of the Agreement. The Agreement may be extended by written agreement of the Parties.

ARTICLE III - UNIVERSITY PERSONNEL UNIVERSITY

Project Manager(s) responsible for the overseeing performance of Work under this Agreement will be:

For UNIVERSITY:

Mary Oschwald
Director, Regional Research Institute for Human Services
oschwald@pdx.edu
(503) 725 – 9602
Additional UNIVERSITY personnel are described in Exhibit A.

The UNIVERSITY shall not replace the specified Project Manager(s) or additional personnel without prior written approval of the SPONSOR. Any substituted University Project Manager(s) or additional personnel must have equivalent or better education, qualification, experience, judgment and temperament to perform the tasks identified in Exhibit A.

ARTICLE IV -CONSIDERATION

SPONSOR agrees to pay UNIVERSITY for Work performed and reimbursable costs under this Agreement an amount not to exceed ("NTE") one hundred and seventy thousand (\$170,000) DOLLARS over a two (2) year period for the Portland Insights Survey, and forty thousand two hundred and fifty one (\$40,251) for the Spring 2022 Qualtrics Web Panel. Funding is subject to SPONSOR's annual budget authorization. The consideration and the budget information is set forth in Exhibit A. In the event the Spring 2022 SPONSOR reduces or eliminates some portion of work required for the Qualtrics Web Panel then the parties shall pro-proportionately reduce the compensation to be paid to UNIVERSITY for that lesser work scope.

UNIVERSITY may seek reimbursement from SPONSOR for the costs and expenses described in Exhibit A, subject to verification of actual documentation of performance and deliverables produced, subject to the expenditure of these funds for full performance of the Work and within the authorized budget.

SPONSOR is not liable for any payment in excess of the NTE amount unless agreed by SPONSOR in writing via written amendment to this Agreement.

UNIVERSITY shall submit invoices for Work accomplished under this Agreement to SPONSOR's contact (see ARTICLE V below) on the schedule specified in Exhibit A. Upon execution of this Agreement, SPONSOR certifies that sufficient funds are available and authorized to finance this Agreement. Payment shall be sent to Portland State University, to the Department and address specified in this Agreement. SPONSOR's payment terms are net thirty (30) calendar days from receipt of invoice.

ARTICLE V - NOTICE

Any notice provided for under this Agreement shall be sufficient if in writing and delivered to the following addressee:

If to SPONSOR:

Ning Jiang

City Budget Office
1120 SW 5th Avenue
Portland, OR 97204
Ning.Jiang@portlandoregon.gov
503-865-6892

If to UNIVERSITY:

For Service Activities:

Contracts Officer Contracting and Procurement Services
Portland State University 1600 SW 4th Avenue, Suite 260
Portland, OR 97201
contract@pdx.edu
(503) 725-3441

For Sponsored Project Activities:

Asst. Director, Director, or designee
Sponsored Projects Administration
Portland State University PO Box 751 (SPA)
Portland, OR 97207-0751
awards@pdx.edu
(503) 725-9900

ARTICLE VI - PERFORMANCE / REPORTING REQUIREMENT

- 1) UNIVERSITY is responsible for the performance of Work and will provide progress reports of findings, if any, as stated in Exhibit A, or as may be requested by SPONSOR.
- 2) UNIVERSITY shall maintain current financial records in accordance with Generally Accepted Accounting Principles (GAAP). UNIVERSITY agrees to maintain and retain all financial records, supporting documents, statistical records and all other records pertinent to this Agreement during the term of this Agreement and for a minimum of six (6) years after the expiration or termination date of this Agreement or until the resolution of all audit questions or claims, whichever is longer.
- 3) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and Work at any time in the course of this Agreement and during the records retention period listed above. Audits shall be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States Government Accountability Office.
- 4) The City may examine, audit and copy UNIVERSITY's books, documents, papers, and records relating to this Agreement at any time during the records retention period listed above upon reasonable notice. Copies of applicable records shall be made available upon request.

ARTICLE VII - PUBLICATION BY UNIVERSITY

Subject to the confidentiality provisions of this Agreement and the City's written consent, UNIVERSITY retains the right to publish or present at meetings the results of research and academic work conducted by UNIVERSITY under this Agreement. The City's consent to UNIVERSITY's use, publication, dissemination will be made after the City has the opportunity to determine appropriate operational, administrative and/or policy decisions from the outcomes of the Work or research, and for the City to implement or undertake appropriate City action from those decisions. At least thirty (30) days prior to submission for publication or public presentation of a manuscript or abstract describing the results of the Work or research under this Agreement, UNIVERSITY shall send a copy of the proposed manuscript

or abstract to SPONSOR. SPONSOR shall then have thirty (30) days to review such manuscript or abstract and identify any inadvertent inclusion of SPONSOR confidential information. During this thirty (30) day period, SPONSOR may make general suggestions or comments, as well as request the removal of SPONSOR confidential information. UNIVERSITY shall remove any identified SPONSOR confidential information from such manuscript or presentation.

Additionally, UNIVERSITY will consider incorporating SPONSOR's other suggestions or comments, but is not obligated to make any such changes, except for the removal of such confidential information.

In addition, UNIVERSITY may use, reuse, and analyze the data developed by the UNIVERSITY during the course of research and the Work performed under this Agreement for its academic, teaching and/or research purposes. UNIVERSITY's use, publication and future dissemination of the WORK or research, UNIVERSITY shall acknowledge the City in contracting for the Work or research and the City funds involved.

ARTICLE VII - CONFIDENTIALITY

UNIVERSITY, subject to the limitations and conditions of the Oregon Public Records law, agrees to keep confidential any SPONSOR proprietary information that SPONSOR designates as such and supplies to UNIVERSITY during the course of Services performed under this Agreement. Such information will not be included in any published material without prior approval by SPONSOR. UNIVERSITY agrees to provide any proposed publication to SPONSOR thirty (30) days prior to submission, to review for the inclusion of SPONSOR-owned confidential information, and to determine whether patentable inventions or discoveries are disclosed therein.

UNIVERSITY is not authorized to disclose the WORK or research without the City's written approval. It is understood that the Work or research that results from this Agreement will be used by the City for analysis and assessment for future City decisions and for staff to engage in frank communications between City officials preliminary to any final city decision of policy or action.

ARTICLE VIII - CONTRIBUTION IN LIEU OF INDEMNIFICATION

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 the State is jointly liable with the City (or would be if joined in the Third Party Claim), the State 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 the State on the

one hand and of the City 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 the State 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 correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State'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.

With respect to a Third Party Claim for which the City is jointly liable with the State (or would be if joined in the Third Party Claim), the City 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 State in such proportion as is appropriate to reflect the relative fault of the City on the one hand and of the State 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 the City on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The City's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

ARTICLE IX - COMPLIANCE WITH LAWS

This Agreement shall be governed and construed in accordance with the laws of the State of Oregon. Any suit for enforcement shall occur, if 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 District of Oregon.

ARTICLE X – ASSIGNMENT

Neither Party shall assign or transfer any interest in this Agreement, nor assign any claims for money due or to become due during this Agreement, without the prior written approval of the other Party.

ARTICLE XI – DELIVERABLES AND OWNERSHIP

Pursuant to this Agreement, UNIVERSITY will provide to SPONSOR the Work or research described in Exhibit A. As work for hire, SPONSOR shall have the right to use all such Deliverables for its own purposes and to modify the Deliverables at its option, with the exception of software source code or patented inventions. SPONSOR may not use or modify software source code or patented inventions unless UNIVERSITY and SPONSOR agree to either an appropriate commercial license or to release the source code under an appropriate open source license. Any software source code or patented inventions produced pursuant to or funded by this Agreement shall be jointly owned and all license and source code rights shall be shared by the parties.

Copyright in Work or research created by UNIVERSITY personnel under this Agreement will vest in jointly in UNIVERSITY and SPONSOR.

Inventorship of any patents developed during the Work under this Agreement will be determined by policies applicable to whomever would be named an “inventor” on a patent application, as defined in Chapter 35 of the United States Code. The disposition of jointly-owned inventions shall be determined on a case-by-case basis between UNIVERSITY and SPONSOR at the time a jointly-owned invention is identified; neither party shall take any action to file a patent application which may be jointly-owned without first informing the other party. UNIVERSITY shall grant to the City an irrevocable license at no cost to the City, that would permit use of any patents developed under this Agreement or funded by this Agreement, where such patents are deemed solely UNIVERSITY’s.

Each Party shall retain ownership as against the other Party of any Background Intellectual Property that may have been used to develop or is incorporated into any Deliverable. “Background Intellectual Property” means any development, concept or other proprietary information developed, obtained, licensed or acquired by a Party prior to the Effective Date of this Agreement or that a Party develops, obtains, licenses or acquires independently of this Agreement. However, UNIVERSITY shall grant the City an irrevocable license, at no cost to the City, over any Background Intellectual Property incorporated into the Work or research under this Agreement.

ARTICLE XII – CERTIFICATIONS

By execution of this Agreement or acceptance of any payments under this Agreement, UNIVERSITY certifies that:

1. UNIVERSITY is not presently debarred, suspended, proposed for disbarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency.
2. UNIVERSITY is not delinquent on the repayment of any federal debt.
3. UNIVERSITY is in compliance with Sections 5151 to 5160 of the Drug-Free Workplace Act of 1988 (P.L. 100-960, Title V, Subtitle D).
4. To the best of UNIVERSITY’s knowledge and belief:
 - a) No federally appropriated funds have been paid or will be paid by or on behalf of the UNIVERSITY to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
 - b) If funds other than federally appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or any employee of a member of Congress in connection with this federally-funded contract, grant, loan or cooperative agreement, UNIVERSITY shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
 - c) UNIVERSITY shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

ARTICLE XIII - TERMINATION

This Agreement may be terminated by either of the Parties hereto upon written notice delivered to the other Party at least thirty (30) days prior to intended date of termination. By such termination, neither Party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. Payment to UNIVERSITY under this Agreement shall be prorated to and include any expenses incurred under this Agreement up to the day of termination.

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. EACH PARTY, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE AGREEMENT AND EACH PARTY AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

This Agreement may be executed in counterparts, each shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. Electronic signatures, together with copies of signature transmitted by facsimile or electronic transmission in portable document format (.pdf) shall be deemed original signatures for all purposes.

The Parties hereto have caused this Agreement to be executed as of the date set forth herein by their duly authorized representatives.

PORTLAND STATE UNIVERSITY

For Sponsored Projects Administration:

By: _____

Name: _____

Title: Assistant Director of Grants & Agreements

Date: _____

**CITY OF PORTLAND, BY AND THROUGH
THE CITY BUGET OFFICE**

By: _____

Name: _____

Title: _____

Date: _____

For Contracting & Procurement Services:

By: _____

Name: _____

Title: _____

Date: _____

PSU Employer Tax ID Number: 36-4776757