

**Multnomah County/City of Portland
INTERGOVERNMENTAL AGREEMENT
No. 4400001675**

This Intergovernmental Agreement (Agreement) is entered into between Multnomah County, Oregon, (County), and the City of Portland, Oregon, (City), pursuant to ORS Chapter 190.

PURPOSE:

The purpose of this Agreement is to establish a partnership between City and County for developing a Digital Inclusion Strategic Plan (Plan). City will identify and contract with a qualified consultant (Consultant) to design and execute a process resulting in a countywide Plan. The Plan will include specific strategies, evaluation metrics and funding recommendations for a three year period and will leverage existing funds, programs and processes. The Consultant shall design and execute a planning process which engages a variety of departments, agencies and community partners and uses available resources to identify strategies and immediate and long-term recommendations for digital equity within City and County.

The overarching objective of the Plan will be to support the equitable adoption of broadband throughout Multnomah County in order to include those residents that have not previously had the opportunity to benefit from broadband technology.

RECITALS:

1. Whereas, in 2014, City and Multnomah County Library joined with other local organizations to organize the Digital Inclusion Summit. Regional leaders and organizations attended the Summit to discuss regional digital inclusion efforts and ideas for future action.
2. Whereas, the following City and County goals resulted from the Summit:
 - Increase awareness of digital inclusion's importance and its direct relevance to improving the quality of lives and opportunities for all residents;
 - Reduce the number of people who lack skills, resources, or motivation to engage with digital technology – particularly older and socially excluded populations, jobseekers, and disadvantaged communities;
 - Ensure that every child and young person gains information and communications technology and digital participation skills by embedding the use of technology into school and community education curricula;
 - Build more responsive public services by using digital media to support the design and delivery of services appropriate for the needs of disadvantaged groups and communities; and
 - Analyze the opportunities and risks for digitally excluded groups and communities arising from the increasingly digitally driven society.
3. Whereas, City and County seek to develop a Digital Inclusion Strategic Plan that will drive and guide their digital inclusion efforts over the next three years.
4. Whereas City and County have agreed to contribute resources, both financial and staff, to develop the Plan.

NOW THEREFORE, in consideration of the mutual promises, conditions and covenants contained in this Agreement and other good and valuable considerations, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. Term.

- a. The term of this Agreement shall be from April 1, 2015 through June 30, 2018, unless terminated by operation of law, or by either party as provided in this Agreement.
- b. This Agreement may be terminated by either party upon 15 days prior written notice. Prior to the termination date of this Agreement, County and City will determine the disposition of pending matters that will not otherwise be completed within the term of this Agreement.

2. Responsibilities of the City. City agrees to oversee the development of the Digital Inclusion Strategic Planning process and to provide \$25,000 that will be used to fund a Consultant contract. The Consultant contract shall be for the purpose of designing and executing a process culminating in the adoption of the Plan. City will invoice County for the County's contribution upon execution of this Agreement.

3. Responsibilities of the County. County agrees to participate on a committee to provide input and oversight of City's selection of the Consultant and development of the Plan. County agrees to contribute \$10,000 for the costs of funding a Consultant contract.

4. Indemnification.

- a. Subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, City shall indemnify, defend and hold harmless County from any and all claims, demands, damages, settlements or judgments, including all costs and attorney fees, arising out of or resulting from the acts of City, its officers, employees and agents in the performance of this Agreement. City's indemnification obligation shall not extend to liability to the extent caused by the negligence or willful misconduct of County or its officers, agents, boards or employees.
- b. Subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, County shall indemnify, defend and hold harmless City from any and all claims, demands, damages, settlements or judgments, including all costs and attorney fees, arising out of or resulting from the acts of County, its officers, employees and agents in the performance of this Agreement. County's indemnification obligation shall not extend to liability to the extent caused by the negligence or willful misconduct of City or its officers, agents, boards or employees.

5. **Insurance.** Each party shall be responsible for providing worker's compensation insurance as required by law. Neither party shall be required to provide or show proof of any other insurance coverage.
6. **Adherence to Law.** Each party shall comply with all with all federal, state and local laws applicable to the performance of this Agreement.
7. **Access to Records.** To the fullest extent allowed by law, each party shall have access to the books, documents and other records off the other which are related to the performance of this Agreement, for purposes of examination, copying and audit.
8. **Non-Discrimination.** Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances, to the extent applicable to the performance of this Agreement.
9. **Integration.** This Agreement embodies the whole of the agreement between the parties. Any prior written or oral agreements relating to the terms of this Agreement shall be superseded hereby.
10. **Severability.** If any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.
11. **Notice.**
 - a. **Program Managers.** The City Program Manager shall be Mary Beth Henry, or such other person as shall be designated in writing by the Mayor. The County's Program Manager shall be Sherry Swackhamer, the County's CIO, or such other person as shall be designated in writing by the County Chair.
 - b. Any notice provided for under this Agreement shall be sufficient if in writing and (1) delivered personally to the following addressee or deposited in the United States mail, postage prepaid, certified mail, return receipt requested; (2) sent by overnight or commercial air courier (such as Federal Express); or (3) sent by facsimile transmission, with the original to follow by regular mail; or (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded or printed. Notice will be deemed to have been adequately given three (3) days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day. Notices shall be addressed as follows, or to such other address as the receiving party specifies in writing:

If to City:

Mary Beth Henry
Office for Community Technology
111 SW Columbia, Suite 600
Portland, OR 97201

Email: Marybeth.henry@portlandoregon.gov

If to County:

Sherry Swackhamer
CIO & Director, Department of County Assets
Multnomah County
501 SE Hawthorne Blvd
Portland, OR 97214

Email: sherry.j.swackhamer@multco.us

- 12. Choice of Forum.** Any litigation between City and County arising under or regarding this Agreement 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, Portland.
- 13. Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, even if Oregon's choice of law rules would otherwise require application of the law of a different state.
- 14. Independent Contractor.**
- a. The City is engaged as an independent contractor and shall be responsible for any federal, state and local taxes and fees applicable to any payments under this Agreement.
 - b. The City, its subcontractors and their employees are not employees of the County and are not eligible for any benefits through the County including, without limitation, federal social security, health benefits, workers' compensation, unemployment compensation and retirement benefits.
- 15. Amendments.** City and County may mutually consent to modify or amend this Agreement at any time only by prior written agreement executed by duly authorized representatives of City and County.
- 16. Non-Waiver.** City and County shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.
- 17. Subcontracting and Assignment.** Neither party will subcontract or assign any part of this Agreement without the prior written consent of the other party.

Multnomah County Contract Number 4400001675

IN WITNESS WHEREOF, the authorized representatives of City and County, as parties hereto, acting pursuant to the authority granted to them, have HEREBY AGREED:

CITY OF PORTLAND

MULTNOMAH COUNTY

By _____
Mayor
City of Portland, Oregon

By Deborah Kaurungles
Chair
Multnomah County
Board of
Commissioners

Date signed: _____

Date signed: 3/31/15

Approved as to Form:

Reviewed by:

Tracy Reeve
Portland City Attorney

/s/ Lindsay Kandra

Jenny M Morf County Attorney
Multnomah County