

INTERGOVERNMENTAL AGREEMENT
Between
The City of Hermiston
And
Port of Umatilla
For Ongoing Information Technology Services

This Intergovernmental Agreement (Agreement) is made by and between the City of Hermiston, hereinafter ("COH") and the Port of Umatilla hereinafter ("PORT") (and collectively the "Parties") pursuant to ORS Chapter 190.

The Parties mutually agree as follows:

Term of Agreement. This Agreement shall be for a term of three years commencing on July 1, 2025, and expiring on June 30, 2028, with one optional three-year renewal term. Renewal of the Agreement shall be in writing and subject to the mutual agreement of the Parties. At the conclusion of any term, if the parties are not able to reach a mutual agreement on the terms and conditions for a renewal option, in their sole discretion, either party may terminate the Agreement upon ninety (90) days written notice to the other without cause.

Scope of Work. COH shall perform the work described in Attachment A, Statement of Work, which is attached to this Agreement and incorporated into this Agreement by this reference.

Consideration. PORT agrees to pay COH \$250 per hour for IT services. PORT will pay for devices and any other materials required to perform the services under this Agreement, and if COH purchases those materials for PORT, PORT agrees to reimburse COH for those costs. COH agrees to notify PORT prior to purchasing anything over \$500 and to provide adequate documentation and invoice PORT for the cost.

Payment for Work. No payments shall be made until this Agreement is fully executed by both Parties. Invoices shall be issued after services are rendered after the agreement is fully executed. COH will submit invoices monthly for services rendered and PORT shall remit payment within 30 calendar days of receipt of invoice.

STANDARD TERMS AND CONDITIONS

- 1. Legal Relationship.** The Parties intend the legal relationship between the parties to be at all times and for all purposes under this Agreement that of independent contracting agencies.
- 2. Subcontracts and Assignment.** Neither party shall subcontract or assign any part of

the Agreement without the prior written approval of the other party. Any attempted assignment of this Agreement without the prior written approval of the other party shall be void. If consent to a subcontract is properly given, then in addition to any other provisions of this Agreement, the subcontracting party shall hold its subcontractor to all the terms and conditions of this Agreement that would otherwise bind the party to whom consent was given. The Parties agree that any such subcontracts shall have no binding effect on the consenting party to this Agreement.

3. Termination. This Agreement may be terminated as follows unless otherwise specified herein:

- a. Mutual: The Parties may terminate this Agreement at any time by written Agreement. PORT shall pay COH for all materials purchased and work performed prior to the termination date.
- b. Party's Sole Discretion: Either party, in its sole discretion, may terminate this Agreement for any reason on thirty (30) calendar days' written notice to the other party. PORT shall pay COH for all materials purchased and work performed prior to the termination date.
- c. Breach: Either party may terminate this Agreement in the event of a breach by the other party. To be effective, the party seeking termination must give the other party written notice of the breach and its intent to terminate. If the breaching party does not entirely cure the breach within five (5) calendar days of the date of the notice, then the non-breaching party may terminate this Agreement at any time thereafter by giving a written notice of termination. PORT shall pay COH for all materials purchased and work performed prior to the termination date.
- d. Termination: by either party shall not constitute a waiver of any claim either party may assert against the other party.

4. Access to Records. Upon reasonable advance notice, each party shall have access to the books, documents and other records of the other party (electronic or otherwise) which are necessary for completion of this Agreement for the purpose of examination, copying and audit unless otherwise limited by law.

5. Confidentiality. No reports, information, and/or data prepared or assembled by the Parties under this Agreement shall be made available to any individual or organization by either party without the prior written approval of the other party unless required by state or federal law. If COH IT staff in their work is exposed to proprietary data particularly related to Economic Development/Business Recruitment efforts, they shall not disclose that to any third party. This Section 5 on Confidentiality shall survive termination of this Agreement.

- 6. Compliance with Applicable Laws.** Parties shall comply with all federal, state, county and local laws, ordinances and regulations applicable to the work to be done under this Agreement, including all applicable State and local public contracting provisions.
- 7. Insurance.** The Parties represent that they are insured according to the statutory limits set in the State of Oregon for any liability, property, or auto claims. The Parties represent that they will maintain insurance to cover any claim that may result from or arise out of this Agreement. COH is insured for workers' compensation as required by law and shall provide benefits as prescribed by the State of Oregon.
- 8. Indemnity and Hold Harmless.** The Parties individually accept responsibility for liability arising out of their individual performance of this Agreement. In accordance with the Oregon Tort Claims Act and the Oregon Constitution, PORT shall hold harmless, and indemnify COH from any and all liability, settlements, loss, costs and expenses in connection with any action, suit or claim resulting or allegedly resulting from PORT's negligent acts, omissions, activities or services provided pursuant to this Agreement. COH shall hold harmless, and indemnify PORT from any and all liability, settlements, loss, costs and expenses in connection with any action, suit or claim resulting or allegedly resulting from COH's negligent acts, omissions, activities or services provided pursuant to this Agreement.
- 9. Waiver, Severability.** Waiver of any default or breach under this Agreement by either party does not constitute a waiver of any subsequent default or a modification of any other provision(s) of this Agreement. 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 provision 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 invalid.
- 10. Remedies.** In case of PORT's breach, COH shall be entitled to receipt of payments for work performed and to any other available legal and equitable remedies. In case of COH's breach, PORT shall be entitled to a refund of any prepayments of any work not performed and to any other available legal and equitable remedies.
- 11. Dispute Resolution.** The Parties shall exert every effort to cooperatively resolve any disagreements they may have under this Agreement. In the event that the Parties alone are unable to resolve any conflict under this Agreement, they agree to present their disagreements to a mutually agreeable mediator for mediation. Each party shall bear its own costs for mediation and the parties shall share the cost of the mediator. This

mediation procedure shall be followed to its conclusion prior to either party seeking relief from the court, except in the case of an emergency.

12. Attorney Fees. The Parties agree if any suit or action at law, in equity, or through arbitration is filed to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party its reasonable attorney fees, costs, and disbursements in addition to any other relief to which that party may be entitled. If the prevailing party is represented by "in-house" counsel, it shall nevertheless be entitled to recover reasonable attorney fees based upon reasonable time, rates and charges generally accepted in the Morrow/Umatilla County, Oregon area for the type of legal services performed.

13. Notices/Point of Contact. All notice or demands of any kind required or desired to be given by the Parties must be in writing and shall be deemed delivered upon in-person delivery or depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the respective party at its address listed below:

City of Hermiston, Attn: City Manager
180 NE 2nd Street; Hermiston, OR 97838
Email: bsmith@hermiston.or.us PH: (541) 667-5002

Port of Umatilla, Attn: General Manager
500 Willamette Street; Umatilla, Oregon 97882
Email: kim@portofumatilla.org PH: (541) 922-3224

Either party may change their address for notices by at least fifteen (15) days advance notice to the other party.

14. Governing Law. The provisions of this Agreement shall be construed in accordance with the laws of the State of Oregon. Any legal action involving any question arising under this Agreement must be brought in Umatilla County Circuit Court. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the State of Oregon. PARTIES AGREE TO THE JURISDICTION OF THESE COURTS.

15. Force Majeure. Neither COH nor PORT shall be responsible for delay or default caused by any contingency beyond their control, including, but not limited to war or insurrection, strikes or lockouts by the Parties' own employees, walkouts by the Parties' own employees, fires, natural calamities, riots or demands or requirements of governmental agencies other than COH or PORT.

16. Ownership of Work Product. Any and all goods and services developed for PORT pursuant to this Agreement are intended as works made for hire. Works made for

hire are the exclusive property of PORT.

17. Modification. No waiver, consent, modification or change in the terms of this Agreement shall bind either party unless in writing signed by both Parties. A written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

18. Entire Agreement. When signed by the authorized representatives of both parties, this Agreement and its attached exhibit(s) is their final and entire Agreement. This Agreement supersedes all prior and contemporaneous oral or written communications between the Parties, their agents, and representatives. There are no representations, promises, terms, conditions, or obligations other than those contained herein.

19. Counterparts. Each party may deliver executed signature pages to this Agreement by electronic means to the other (e.g. PDF and DocuSign), and the electronic copy will be deemed to be effective as an original. This Agreement may be executed simultaneously or in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same contract.

I HAVE READ THIS AGREEMENT INCLUDING THE ATTACHMENT(S). I CERTIFY THAT I HAVE THE AUTHORITY TO SIGN AND ENTER INTO THIS AGREEMENT. I UNDERSTAND THIS AGREEMENT AND AGREE TO BE BOUND BY ITS TERMS.

PORT OF UMATILLA

Signature: _____ Title: _____

Name (print): _____ Date: _____

CITY OF HERMISTON

Signature: _____ Title: _____

Name (print): _____ Date: _____

Attachment A: Statement of Work

Managed Help Desk

- Monitor, triage and remediate IT issues submitted by PORT staff
- Provide SLA agreement
- Ensure Help Desk solution is updated/patched and configured, adhering to best practices
- Train PORT staff on process for submitting help requests

Managed Server and Infrastructure Support

- Monitor servers and infrastructure
- Configure for optimal performance
- Maintain updates /patches for hardware and software
- Ensure compliancy for licensing/usage

Managed Workstations/Laptops/Software

- Windows OS patch management
- Maintain hardware/firmware updates
- Maintain updates for standard add-on software (i.e. Adobe Reader, Java, etc.)
- Remote management/support
- Installation and configuration of any new hardware such as servers, PCs, printers, peripherals, etc.
- Installation and configuration of any new software such as MS Office, version upgrades, etc.

Active Directory

- Audit current AD environment
- Remediate issues
- Configure for best practices
- Review group policy

Expectations:

To ensure COH's ability to provide satisfaction to PORT, the following provisions apply as appropriate to services contracted with COH. COH is pleased to offer a complete package of IT support services for PORT. The IT support package is designed to handle all PORT's technology-related needs. All servers, workstations, and other network devices and Microsoft Operating Systems are considered covered items that will be maintained or serviced.

What this service covers and includes:

Vendor Liaison: COH will act as PORT's duly appointed representative and advocate. COH IT Team will diagnose problems and dispatch or contact third parties such as Internet service providers, hardware manufacturers, IT contractors, etc. when deemed necessary. The COH IT Team is not intended to replace third party/line-of-business applications support. PORT agrees to refrain from interacting with the third parties (except line-of-business application support) because it may result in misdirected activity and/or delay of resolution.

Best Interest: In the event of a failure or problem, remedial activities may commence prior to notifying PORT of the problem. This will allow the COH IT Team the ability to begin problem resolution, open trouble tickets with other vendors, or dispatch personnel with replacement parts when deemed necessary. In doing so, COH is acting in PORT's best interest to resolve the issue as quickly as possible. All efforts will be made to communicate any technology-related issues that arise to PORT as soon as possible.

Administrative Access: It is imperative that COH IT Team maintain and control administrative access to the PORT's network and be responsible for providing all other third parties with needed or requested access.

Approval of Hardware and Software: The COH IT Team will collaborate with PORT's appointed staff to procure hardware and software. COH's role will be to research, evaluate and recommend with final approval coming from PORT's designated IT liaison.

Advisory Role: To assist with proper planning and third-party services involving the network, telecommunications, data access, future growth or down-sizing, PORT will involve the COH IT Team in such discussions as an advisor.

IT Policy and Procedure: The COH IT Team will work with PORT's designated liaison to establish relevant IT policies and procedures based on best practices.

Support Tiers: The Help Desk will be the first point of contact for IT support requests.

Criminal Justice Information Systems Compliance: COH IT staff will maintain Criminal Justice Information Systems (CJIS) certifications for compliance in supporting law enforcement agencies and municipal court operations if applicable.

Service Level Agreements (SLAs):

SLA 1: Service not available (not able to work, network down, workstation not turning on, etc.) This is an instant contact scenario. Submitting Help Desk Ticket is not required and may not be available. Contact information will be provided to PORT staff. Response time is immediate as possible.

SLA 2: Significant degradation in services (obvious slow network, internet, etc., but still functional). Submitting Help Desk Ticket required if possible. Depending on resources, impacted PORT staff will be provided with contact information for COH IT Team and instructed on appropriate time for direct contact. COH IT Team response time is within two hours during normal business hours.

SLA 3: Limited degradation of service. This is impacting resources, but business process can continue. Submitting Help Desk Ticket required. COH IT Team response time is within four hours during normal business hours.

SLA 4: Slight service degradation. This is when an issue needs to be researched or resolved but is not having a significant impact on business process. Submitting Help Desk Ticket required. COH IT Team will respond within one business day.

SLA 5: After hours support will be available for critical widespread outages as needed by PORT staff.