

RESOLUTION NO. 2466

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT BETWEEN MULTNOMAH COUNTY AND THE CITIES OF PORTLAND, GRESHAM, WOOD VILLAGE, FAIRVIEW AND TROUTDALE TO HAVE CTC TECHNOLOGY & ENERGY COMPLETE A MUNICIPAL BROADBAND FEASIBILITY STUDY

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The City Council first discussed the Multnomah County proposal to conduct a municipal broadband network study at its September 11, 2018 council meeting.
2. The various named local government agency and cities (named within the Staff Report) and Troutdale have had a long history of cooperation and collaboration. The signing of the IGA shows continued support to our partner cities regarding participating in the Broadband Feasibility Study.
3. On September 11, 2018 the Council approved contributing \$5,850 to the Broadband Feasibility study, pending the execution of an IGA. The proposed IGA is attached as Exhibit A.
4. The Troutdale City Council desires to enter into an Intergovernmental Agreement to proceed with the Broadband Feasibility Study.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE:

Section 1. The City of Troutdale authorizes the City Manager to sign an intergovernmental agreement (IGA) with Multnomah County for a Broadband Feasibility Study in substantially the form as attached.

Section 2. This Resolution is effective upon its adoption.

YEAS: 6
NAYS: 0
ABSTAINED: 0



Casey Ryan, Mayor
Date: September 1, 2019



Sarah Skroch, City Recorder
Adopted: August 27, 2019

INTERGOVERNMENTAL AGREEMENT

Contract Number DCA-IGA-R-10706-2019

This INTERGOVERNMENTAL AGREEMENT ("Agreement") is between MULTNOMAH COUNTY, a political subdivision of the state of Oregon, acting through its Department of County Assets (collectively, "Lead Agency"), and the those Parties (as hereinafter defined) listed on each signature page of this Agreement, each being a political subdivision of the state of Oregon ("Member Agency"). The effective date of the Agreement will be the date on which the second party signed the Agreement ("Effective Date").

Recitals

WHEREAS, Lead Agency and Member Agency, together with the other entities listed in **Schedule A** (each of whom is a "Party" and collectively they are the "Parties"), recognize that access to high-speed Internet is increasingly essential for delivery of services and information to the public, maintenance and growth of economic activity and businesses vitality, and as a tool for residents to promote education, health, safety, resource conservation and economic success.

WHEREAS, the Parties wish to collaborate on commissioning a third-party ("Consultant") to study and make recommendations concerning the feasibility of different models for a regional high-speed Internet network(s) to serve public needs.

NOW, THEREFORE, the Parties agree as follows:

Agreement

1. **PURPOSE.** The purpose of this Agreement is to set forth the Parties understandings and responsibilities in collaborating on hiring a Consultant to study and make recommendations concerning the feasibility of a regional high-speed Internet network, as more particularly set forth in **Exhibit 1** (the "Project").
2. **TERM.** The initial term of this Agreement shall begin on the Effective Date and shall end three (3) years from the Effective Date. Thereafter, on the anniversary of the Effective Date, the Agreement shall renew for additional one year terms until the Project is completed. The initial term and each renewal term shall be a "Term."
3. **CONSIDERATION.** Each Member Agency agrees to pay by a date mutually agreed by the Parties, to Lead Agency the lump sum amount set forth on **Schedule A**, which Lead Agency shall use for the Project. In the event the Parties agree to renew the Agreement, the Parties shall negotiate any additional Consideration to be paid by Member Agencies.
4. **RESPONSIBILITIES OF LEAD AGENCY.** Lead Agency shall be the Member Agency responsible for administering the obligations and performances set forth herein and for managing the Project on behalf of the Member Agencies. Its responsibilities include:
 - a. **Development of Statement of Work.** Lead Agency shall gather information provided by other Member Agencies, such as at scheduled Advisory Committee meetings, regarding the Project's scope and deliverables and develop an initial proposed statement of work ("SOW") for the Consultant, that reflects, as much as practicable, the needs and priorities established by the Advisory Committee. The Parties acknowledge and agree that the SOW shall be based on the scope and deliverables for the Project as described in **Exhibit 1** to this IGA. The SOW and any approved amendments thereto shall be used in the contract with the Consultant for the Project Report, as defined in **Exhibit 1**.
 - i. **Development of Member Agency Specific Requests for Work.** Lead Agency shall gather information provided by an individual Member Agency requiring greater specificity or other additional work, and develop additional Work Orders under the Consultant's SOW. The cost of the additional work shall be the sole responsibility of the Member Agency(ies) requesting the work and shall be in addition to the consideration described in Schedule A.
 - b. **Selection and Procurement.** Lead Agency shall be responsible for representing all Member Agencies in the selection of a Consultant, including all procurement, contracting, budgeting, and payment activities required to retain

the Consultant to deliver the Project Report. Any contract with Consultant shall be with Lead Agency as the contracting party for the Member Agencies.

- c. **Monitoring and Reporting.** Lead Agency shall work closely with the Consultant to ensure the Project is completed on time and on budget, and that the Project Report is consistent with the SOW. Periodically during the Term, but not more than quarterly, Lead Agency shall prepare a report for the other Member Agencies that shares information regarding the status of the Project, as compared against the performances required under the contract with Consultant.
- d. **Advisory Committee Chair.** Lead Agency's Representative shall convene all Advisory Committee meetings as the committee's chairperson and shall ensure that minutes of each meeting are recorded and made available to the other Member Agencies within a reasonable time after each meeting.

5. **RESPONSIBILITIES OF MEMBER AGENCIES.** Each Member Agency is responsible for the following:

- a. **Authorizations and Approvals.** Each Member Agency agrees it will seek and receive all approvals, political and administrative, required to authorize the Member Agency to fulfill its obligations required under the Agreement and to otherwise support the Project.
- b. **Payment of Consideration.** Each Member Agency agrees it will ensure its public body has timely paid to Lead Agency the payment set forth in **Section 3**, above.
- c. **Advisory Committee Representation, Attendance.** Each Member Agency agrees it will appoint an individual from its organization to serve as its representative on the Advisory Committee (each, a "Representative"). Representatives are required to attend, either in person or electronically, all Advisory Committee meetings and to provide to Lead Agency any input or feedback that Member Agency wishes to share to influence the Project or SOW. Should it become necessary for a Member Agency to replace its Representative, the Member Agency shall notify Lead Agency's Representative as soon as reasonably possible, but in all cases, within thirty (30) days, and provide the name and contact information of the new Representative.
- d. **Assistance to Consultant.** Each Member Agency agrees it will actively assist the Consultant with requested tasks, such as participating in workshops, site surveys and local outreach to residents and businesses, and acting as a liaison for the Consultant in communications to residents within Member Agency's jurisdiction.

6. **ADVISORY COMMITTEE.** An advisory committee comprised of Member Agencies (the "Advisory Committee") is established to define and review the status of the Project and make policy recommendations. Nothing in this Agreement shall deprive any Party's elected or appointed officials of any power they may have under the laws of the State or otherwise.

- a. **Membership.** Each Member Agency shall appoint one Representative to serve on the Advisory Committee. Each Member Agency's initial Representative to the Advisory Committee is set forth in the Municipal Broadband Regional Partner Advisory Committee Charter, attached hereto as **Attachment 1**, along with contact information for communicating with that individual.
- b. **Meetings.** Lead Agency may periodically schedule meetings of the Advisory Committee, which may be held in-person at an identified location or by electronic means. Lead Agency shall cause written notice of each meeting to be provided to each Representative, whenever possible, not less than ten (10) calendar days before the date of the meeting.
- c. **Statement of Work.** The Advisory Committee shall assist Lead Agency with developing the SOW to be used to hire the Consultant and define the requirements of the Project Report. Specifically, Representatives shall review the scope and deliverables proposed for the Project and provide Lead Agency with any input on required or key characteristics of a regional high-speed Internet network or obstacles to investment in same for one or more Member Agencies.
- d. **No Conflicts of Interest.** No Advisory Committee member, nor any Representative, may be an employee, officer, director, or agent of any entity that receives funding from the Advisory Committee for the Project, such as the Consultant.

- e. **Emergency Needs.** If any Member Agency identifies any emergent, unanticipated, and unfunded need for Project-related services, the Advisory Committee shall be responsible for evaluating the need and voting on a majority basis on how the Parties, jointly, should respond to such need. Nothing in the Agreement shall preclude any Member Agency, independent of the other Parties and the Advisory Committee, from responding to an emergent need in a manner that that government deems appropriate.
7. **TERMINATION.** This Agreement may be terminated: (a) by written agreement of ALL of the Parties at any time; or (b) by a Member Agency that is not then in breach of the Agreement after providing not less than thirty (30) days written notice to Lead Agency. In addition, the Lead Agency may terminate the agreement with a Member Agency that is in breach of the Agreement and that failed to timely cure such breach.
8. **EFFECT OF TERMINATION.** In the event of termination of the Agreement by ALL Parties, Lead Agency shall refund to the Member Agencies, Payments made by each Member Agency to Lead Agency, on a pro-rata basis based upon the amount of Payments made, all moneys that have not been previously irrevocably committed to or paid to the Consultant. If a single Member Agency terminates the Agreement, whether due to breach or for convenience, no refund shall be made.
9. **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 (a "Third-Party Claim") against a Party (the "Notified Party") with respect to which one or more other of the Parties (the "Other Parties") may have liability, the Notified Party shall promptly notify the Other Parties in writing of the Third-Party Claim and deliver to the Other Parties, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third-Party Claim that have been received by the Notified Party. Each 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 Parties of the notice and copies required in this section and a meaningful opportunity for the Other Parties 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 Parties' contribution obligation under this **Section 9** with respect to the Third-Party Claim.
- With respect to a Third-Party Claim for which a Party is jointly liable with one or more other Parties (or would be if joined in the Third-Party Claim), each liable Party 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 first Party in such proportion as is appropriate to reflect the relative fault of the first Party on the one hand and of each other liable Parties on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the first Party on the one hand and of the other liable Parties 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. Each liable Party's contribution obligation under this section is subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution.
10. **DISPUTE RESOLUTION.** The Parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition to other processes to resolve disputes arising under the Agreement, any Party may notify the others that it wishes to engage in a more guided dispute resolution process. Upon such notification, the Parties shall engage in mediation or non-binding arbitration to resolve the dispute. The Parties shall mutually agree on a mediator or arbitrator and payment therefore. If the Parties do not reach agreement as a result of the non-binding discussion, the Parties may agree to consider further appropriate dispute resolution processes.
11. **REMEDIES.** In the event a Party has materially failed to perform under the Agreement, any other Party that is then not in default shall be entitled to seek all rights and remedies available to it under the Agreement or by law. Provided, however, all remedies, whether under the Agreement or at law or equity, shall be subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution. No remedy provided for is exclusive of any other available remedy. All remedies are cumulative and in addition to every other remedy available under the Agreement, at law, in equity, or by statute.
12. **LIMITATION OF LIABILITY.** NO PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT LOSSES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NO PARTY WILL BE LIABLE FOR ANY LOSSES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

13. **NOTICES.** The contact information provided on **Schedule A** will be used for any notice or other communication required or permitted in the Agreement, except as otherwise provided. All notices must be directed to a Party's Representative, in writing, by any means effective, and deemed received three (3) days after the date sent based on verified date-stamp.
14. **INSURANCE.** Each Party shall each be responsible for providing worker's compensation insurance as required by law. No Party shall be required to provide or show proof of any other insurance coverage.
15. **ADHERENCE TO LAW.** Each Party shall comply with all federal, state and local laws and ordinances applicable to this Agreement.
16. **NON-DISCRIMINATION.** Each Party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
17. **SUBCONTRACTS AND ASSIGNMENT.** No Party will subcontract or assign any part of this Agreement without the written consent of the other Parties.
18. **ORS 190-COOPERATION OF GOVERNMENT UNITS.** This Agreement is an intergovernmental agreement subject to Chapter 190 of the Oregon Revised Statutes. The Agreement does not constitute an authorization by a public body under ORS 190.010 for a Party to perform one or more inherent governmental responsibilities for another Party.
19. **USE OF COOPERATIVE AGREEMENT.** Pursuant to ORS Chapter 279, and General Services Administration Directive ADM 4800.2G, Member Agencies may make use of the Services Contract between Lead Agency and the Consultant (Multnomah County Contract # 44000003956) to obtain services directly from Consultant, for services required outside the scope of this Agreement. The SOW(s) for such services shall be contracted for by Member Agency and Consultant, at Member Agency's sole cost.
20. **FEDERAL FUNDS SUBRECIPIENT.** The Parties acknowledge and represent that the funds provided to Lead Agency under **Section 3** are not from federal funds.
21. **REQUESTS FOR RECORDS.**
 - a. **Definitions.**
 - ii. "Loss" and "Losses" means any claim, damage, loss, liability or expense including, without limitation, attorney fees and legal costs suffered directly or by reason of any act, omission, claim, suit or judgment.
 - iii. "Proceeding" means any actual, threatened, pending or completed dispute, investigation, or inquiry, whether civil, criminal, administrative or investigative, implicating a matter arising under or related to the Agreement and brought by a third-party.
 - iv. "Public Records Law" means the Oregon Public Records Law, including ORS 192.311 to 192.475, the provisions for the Custody and Maintenance of Public Records, ORS 192.005 to 192.170, and laws incorporated by reference.
 - v. "Records" means information prepared, owned, used, or retained by a Party, and pertaining to their respective operations and business related to the Agreement, which is inscribed on a tangible medium, commonly a document, or that is stored in an electronic or other medium and is retrievable in perceivable form.
 - b. **Access to Records.** Each Party shall have access to the books, documents and other records of the other Parties which are related to this Agreement for the purpose of examination, copying and audit, unless otherwise limited by law. The Parties will retain, maintain, and keep accessible all Records for a minimum of seven (7) years following Agreement termination, unless a longer period of time is required under law. The Parties will maintain financial Records in accordance with generally accepted accounting principles.
 - c. **Public Records Law.** As custodians of Records under ORS 192.311(2), and public bodies responsible under ORS 192.318(2) and ORS 192.411(2) with responding to public records requests, the Parties acknowledge they

must respond to public records requests concerning Records. Any Record request made that pertains to the Project and this Agreement may be subject to application of the Public Records Law.

- d. **Responses to Records, Data Requests.** If a Party receives (the “Recipient”) a subpoena, warrant, or other legal order, demand or request (collectively, a “Legal Demand”) seeking Records for which another Party is the original custodian (the “Custodian”), the Recipient will promptly provide a copy of the Legal Demand to the Custodian along with copies of Records in their possession that the Recipient believes responds to the Legal Demand. In the event of a Legal Demand the Parties agree to consult, cooperate, and collaborate with each other in their responses.
- e. **Records, Data Subject to a Public Records Law Exemption.** If a Party asserts that any Records, including some or all of the Agreement, disclosed hereunder meets the statutory requirements under the Public Records Law for one or more exemptions and wishes that an exemption be asserted to prevent public disclosure of any Record, it will: (i) notify each Party of its assertion; (ii) identify with adequate specificity the Records to which it asserts an exemption applies and the basis for such assertion; and (iii) as commercially practical, mark such Records with the words “DISCLOSURE EXEMPT.”

In the event a Recipient receives a Legal Demand for Records that the Custodian asserts is exempt from disclosure under the Public Records Law, the Recipient will notify the Custodian of such request as provided in this **Section 21** and the Custodian must immediately: (i) assume control of responding to the Legal Demand, and (ii) notify the requester in writing, with a copy to the other Parties, that the Custodian is the custodian of record.

- f. **Public Records Law Proceedings.** In the event of a Proceeding that occurs at the Custodian’s request or seeks disclosure of Records which the Custodian asserts is exempt, the Custodian will have complete control over the Parties’ defense in the Proceeding and will bear all Losses associated with such defense, including any Losses borne by any other Party arising from such Proceeding.

Notwithstanding the foregoing, if the Custodian does not assume its obligation to defend the other Parties in a Proceeding related to a Legal Demand for Records that the Custodian has demanded be withheld from public review or disclosure, then such Custodian shall defend, indemnify, and hold harmless the other Parties, including their officials, affiliates, officers, directors, agents, employees, and representatives, from and against all Proceedings and Losses related to the Proceeding described above. In such event, the other Parties shall have the option of: (i) resisting disclosure of Records identified by the Custodian as exempt from disclosure under the Public Records Law; or (ii) disclosing such Records.

- 22. **PARTIES’ RELATIONSHIP; NON-EXCLUSIVITY.** The Parties acknowledge and agree that their relationship is that of independent contracting entities. This Agreement does not create any form of legal association that would impose liability upon one Party for any act or omission of the other, nor does it preclude a Party from conducting similar business with other parties.
- 23. **INTENDED BENEFICIARIES.** Lead Agency, Member Agency, and the entities listed on **Schedule A**, are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.
- 24. **GOVERNING LAW, VENUE, CONSENT TO JURISDICTION.** The Agreement will be interpreted and enforced according to the laws of the state of Oregon. Any proceeding arising under the Agreement must be brought in Multnomah County, Oregon. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURT. Except as provided in this section, no Party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. The Parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that a Party does not have the right to seek judicial enforcement of this Agreement.
- 25. **GENERAL.** The Agreement sets forth the entire agreement of the Parties, and supersedes all prior communications, oral or written. The invalidity of any term or provision will not affect the validity of any other provision. The doctrine of *contra proferentem* may not be applied to the Agreement. All provisions that by their nature should survive Agreement termination or expiration of the Term will so survive. No Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war,

which is beyond that Party's reasonable control. The Agreement may only be amended or supplemented by a writing that is signed by a duly authorized representative of each Party, clearly recites the Parties' understanding and intent to amend the Agreement, and clearly and with specificity describes the terms to be amended or supplemented. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement. Each copy of the Agreement so executed constitutes an original.

MULTNOMAH COUNTY INTERGOVERNMENTAL AGREEMENT
Contract Number DCA-IGA-R-10706-2019

CITY OF WOOD VILLAGE

I have read this Contract including any attached Exhibits and Attachments. I understand the Contract and agree to be bound by its terms.

Signature: _____ Title: _____

Name (print): _____ Date: _____

MULTNOMAH COUNTY SIGNATURE

This Contract is not binding on the County until signed by the Chair or the Chair's designee.

County Chair or Designee: _____ Date: _____

Department Director Review (optional):

Director or Designee: _____ Date: _____

County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: _____ Date: _____

MULTNOMAH COUNTY INTERGOVERNMENTAL AGREEMENT
Contract Number DCA-IGA-R-10706-2019

CITY OF TROUTDALE

I have read this Contract including any attached Exhibits and Attachments. I understand the Contract and agree to be bound by its terms.

Signature: _____ Title: _____

Name (print): _____ Date: _____

MULTNOMAH COUNTY SIGNATURE

This Contract is not binding on the County until signed by the Chair or the Chair's designee.

County Chair or Designee: _____ Date: _____

Department Director Review (optional):

Director or Designee: _____ Date: _____

County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: _____ Date: _____

MULTNOMAH COUNTY INTERGOVERNMENTAL AGREEMENT
Contract Number DCA-IGA-R-10706-2019

CITY OF GRESHAM

I have read this Contract including any attached Exhibits and Attachments. I understand the Contract and agree to be bound by its terms.

Signature: _____ Title: _____

Name (print): _____ Date: _____

MULTNOMAH COUNTY SIGNATURE

This Contract is not binding on the County until signed by the Chair or the Chair's designee.

County Chair or Designee: _____ Date: _____

Department Director Review (optional):

Director or Designee: _____ Date: _____

County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: _____ Date: _____

MULTNOMAH COUNTY INTERGOVERNMENTAL AGREEMENT
Contract Number DCA-IGA-R-10706-2019

CITY OF PORTLAND

I have read this Contract including any attached Exhibits and Attachments. I understand the Contract and agree to be bound by its terms.

Signature: _____ Title: _____

Name (print): _____ Date: _____

MULTNOMAH COUNTY SIGNATURE

This Contract is not binding on the County until signed by the Chair or the Chair's designee.

County Chair or Designee: _____ Date: _____

Department Director Review (optional):

Director or Designee: _____ Date: _____

County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: _____ Date: _____

MULTNOMAH COUNTY INTERGOVERNMENTAL AGREEMENT
Contract Number DCA-IGA-R-10706-2019

CITY OF FAIRVIEW

I have read this Contract including any attached Exhibits and Attachments. I understand the Contract and agree to be bound by its terms.

Signature: _____ Title: _____

Name (print): _____ Date: _____

MULTNOMAH COUNTY SIGNATURE

This Contract is not binding on the County until signed by the Chair or the Chair's designee.

County Chair or Designee: _____ Date: _____

Department Director Review (optional):

Director or Designee: _____ Date: _____

County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: _____ Date: _____

MULTNOMAH COUNTY INTERGOVERNMENTAL AGREEMENT
Contract Number DCA-IGA-R-10706-2019

LOCAL GOVERNMENT SIGNATURE PAGE (Replace name here)

I have read this Contract including any attached Exhibits and Attachments. I understand the Contract and agree to be bound by its terms.

Signature: _____ Title: _____

Name (print): _____ Date: _____

MULTNOMAH COUNTY SIGNATURE

This Contract is not binding on the County until signed by the Chair or the Chair's designee.

County Chair or Designee: _____ Date: _____

Department Director Review (optional):

Director or Designee: _____ Date: _____

County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: _____ Date: _____

Schedule A

The State of Oregon political subdivisions that are Parties to this Agreement are:

City of Fairview Contribution amount: \$3,350	City of Gresham Contribution amount: \$39,000
City of Portland via Grant to Municipal Broadband Coalition of America Contribution amount: \$25,000	City of Troutdale Contribution amount: \$5,850
City of Wood Village Contribution amount: \$10,000	Multnomah County Contribution amount: \$150,000
City of Portland Contribution amount: _____	Agency Name Contribution amount: _____
See Attachment #1 for a list of Advisory Committee Representatives.	

Other interested parties to this Agreement are:

Municipal Broadband Coalition of America Representative: Michael O. Hanna, Campaign Manager	Entity Name Representative:
Entity Name Representative:	Entity Name Representative:
Entity Name Representative:	Entity Name Representative:

For purposes of this Agreement, "Other interested parties" have no rights or obligations in this Agreement and shall participate in the activities contemplated herein at Lead Agency's sole discretion.

INTERGOVERNMENTAL AGREEMENT

Contract Number [Enter Contract Number]

Exhibit 1

The Project's deliverable is a comprehensive, investment-grade feasibility analysis and plan for the deployment of a high-speed fiber-to-the-premises (FTTP) network in the geographic area described herein ("Geographic Area"), including business modeling that evaluates both public sector operations and public-private partnerships. The deliverable will be contained in a report that sets forth Consultant's analysis and plan for the enhanced FTTP network (the "Project Report"), and contains as an attachment the SOW describing Consultant's recommended Project scope and deliverables.

The Project Report should include, but need not necessarily be limited to, the following:

1. *Assess and evaluate each Party's current network capabilities and the Parties' combined infrastructure landscape.* This task begins with an engineering assessment of existing fiber and other broadband-enabling infrastructure (owned and leased) and should result in an inventory of each Party's existing, relevant assets and facilities (e.g., towers, wireless facilities, fiber, conduit) and coverage.
2. *Assess the broadband service options in the Parties' market(s).* This task is a survey and analysis of the existing and emerging high-speed Internet service offerings in the Geographic Area. The result should be a profile that details the types of services, pricing, availability, and limitations of the existing network for the collective telecommunications environment of the Parties across the Geographic Area, as well as individual profiles broken out per Party, where applicable.
3. *Assess the Parties' current and foreseeable FTTP network needs, including "middle mile" and "last mile" service.* This task includes an analysis of how and whether the Parties' existing Internet service offerings meet community needs and a projection, based on input from the Parties, regarding how existing need may change based on a change in demand, services, and (network) technology. This assessment will target: (a) the collective needs of the Parties across the Geographic Area, (b) each Party's internal needs (i.e., its various departments and agencies), (c) the needs of other public agencies in the Geographic Area, (d) the needs of business partners in the Geographic Area, (e) and the needs of commercial users in the Geographic Area. This task should include recommendations for long-term provision to maintain high-speed FTTP network access and quality in the Geographic Area.
4. *Conduct stakeholder outreach.* This task is a series of workshops and discussions with local (within Multnomah County) and regional stakeholders on issues surrounding high-speed Internet. These events should result in a list of stakeholder issues that inform policy and SOW development.
5. *Conduct customer market research.* This task involves compiling recent and relevant, or preparing and distributing new, residential and business surveys that solicit(ed) feedback on:
 - a. satisfaction with existing telecommunications, high-speed Internet service and providers;
 - b. proposed characteristics of a municipal enhanced FTTP network drawn from stakeholder input and policy direction received from the Parties;
 - c. anticipated current and future needs of customers and the community's desire for enhanced FTTP network and services;
 - d. community willingness to support and patronize FTTP network and services provided by municipal government agencies over commercial providers;
 - e. user willingness to pay for alternative service (as provided by municipal government agencies); and
 - f. overall interest in obtaining services from one or more new providers.
6. *Assess potential for regional coordination and cooperation.* This task involves meeting with other potential regional partners and service providers and assessing their interest in working with the Parties on an enhanced FTTP network.
7. *Engage with potential providers.* Identify and engage potential network provider-partners to:
 - a. identify entities that can be service providers to end-users;
 - b. engage providers early to understand network infrastructure and operations; and

- c. determine what financial resources and investment providers can bring to the Project.
8. *Provide assessment of benefits/risks, gap analysis, and project map.* This task involves developing cost estimates for the various proposed FTTP network options, evaluating their cost-based benefits and risks and then considering differences in service levels. Specifically, assessing community benefits and risks through improved and more efficient municipal enhanced FTTP network services (enhancing citizen opportunities for learning, health care, leisure, emergency services, law enforcement and community connections); evaluating the current environment against current and future needs of each of the Parties, including all identified stakeholders; identifying key issues limiting enhanced FTTP network expansion; and creating a comprehensive map that provides analysis of the Geographic Area's broadband environment.
9. *Recommendation for FTTP network strategies, business models.* This task involves describing enhanced FTTP network options and then identifying those models that are recommended approaches. Recommendations should be based on the Consultant's analysis and feedback from the Parties, stakeholders, and residents and include modeling the option and developing a conceptual network design. Business model strategies must be based on sound and reasonable business cases that can be demonstrated quantitatively through development of a comprehensive financial model that presents the potential benefits and risks of each model. At least one business case should consider options and alternatives for addressing the most underserved areas of the study first.

Business models must also identify at a minimum but not limited to the following:

- a. ownership of network, such as:
 - i. a network built and operated by the Parties;
 - ii. a network built and operated by the Parties but with related services provided by another party;
 - iii. a network built and services offered by another party or in partnership with another party.
- b. management and operation of network;
- c. capital investment required (i.e., amount, timeframe, responsible party);
- d. assets required (alignment with inventory of assets and inventory); and
- e. potential services and partners.

Business model strategies to be considered should include at a minimum:

- f. municipal retail – residential and commercial;
- g. municipal retail – commercial only;
- h. open access provider;
- i. municipal broadband partnership;
- j. infrastructure;
- k. public services; and
- l. public policy only.

This should include consultant's recommended approach to implementation of preferred business model strategies.

10. *Evaluate financing and funding availability.* This task includes evaluating the potential or confirmed availability of Project financing, including:
 - a. from contributions by potential additional partners, and/or stakeholders;
 - b. via one or more public-private partnerships;
 - c. from grants funds; and
 - d. from capital, revenue bond and municipal self-funding sources (e.g., advertising).
11. *Address lifecycle issues for infrastructure and technologies.* This task requires an evaluation of the likely operational life of network assets and technologies; costs associated with replacement, decommissioning, and disposal; and models for building into network architecture flexibility to accommodate technology advances to improve network performance and reduce costs.