INTERGOVERNMENTAL AGREEMENT
TO FUND A MULTI-JURISDICTIONAL HIGHER EDUCATION SOFTWARE LICENSE
G-20002

This agreement is between the State of Oregon acting by and through the State Board of Higher Education, on behalf of the seven Oregon University System (Institutions) who are parties to this agreement, the Oregon Department of Community Colleges and Workforce Development (ODCCWD), and Oregon Health Sciences University (OHSU), a public corporation.

RECITALS

WHEREAS, Institutions, ODCCWD and OHSU wish to join together for the purpose of funding a multi-jurisdictional license agreement for their use of Environmental Systems Research Institute, Inc. (ESRI) geographic information systems (GIS) software for spatial data management and analysis; and

WHEREAS, Institutions, ODCCWD and OHSU are members of the Oregon Educational Technology Consortium (OETC) whose purpose is to aggregate volume of its membership to obtain cost savings on software purchases; and

WHEREAS, OETC is willing to purchase and make available to Institutions, ODCCWD and OHSU licenses for the software at a cumulative cost total of $69,995 for the first year and thereafter, $70,000 plus OETC’s 3% administrative fee per annum for each year;

NOW THEREFORE, Institutions, ODCCWD and OHSU hereby agree as follows:

AGREEMENT

1. TERM OF AGREEMENT - This agreement shall become effective on February 1, 2001 and shall run for a period of three years through January 31, 2004 at which time it may be extended for additional three year periods with or without adjustment to the funding apportionment for such future periods as deemed necessary by agreement of the parties hereto.

2. WITHDRAWAL OF PARTIES - Upon ninety (90) days advance delivery of written notice to all other parties to this agreement of its intent to do so, any party may terminate its participation in this agreement. There shall be no rebate or pro-ration for fees paid prior to termination. Fees for the remaining parties shall be recalculated per the formula listed under “Annual Fees” below.

3. ADDITION OF PARTIES - Any new party or additional sub-unit of an existing party may be added to this agreement upon mutual consent of the existing parties and a fee agreed upon by the existing parties. Upon additions, fees for all parties will be recalculated per the formula listed under “Annual Fees” below.

4. ANNUAL FEES - Per the licensing agreement between OETC and ESRI attached hereto as Exhibit 1, there shall be no total license fee increase beyond the initial year total of $69,995 and annual thereafter $70,000, plus the annual OETC 3% fee. The annual license and OETC fee on a per annum basis will not increase during the three year period of this agreement. At the highest tier of the hierarchy with full participation as shown, the $72,100 combined annual license fee and OETC administrative fee shall be apportioned as follows among the parties to the agreement with sub-unit breakdowns as shown: the Institutions shall be responsible for $59,740, ODCCWD for $10,300 and OHSU for $2,060. Should either Institutions, ODCCWD or OHSU withdraw from the agreement, the lost amount will be made up proportionally by the two remaining partners. Fees shall further be broken down as follows:

<table>
<thead>
<tr>
<th>Institution</th>
<th>Fee Basis</th>
<th>Calculation</th>
<th>Recalculated Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oregon State University (OSU)</td>
<td>$16,055</td>
<td>+ 3% (482)</td>
<td>$16,536.65</td>
</tr>
<tr>
<td>Portland State University (PSU)</td>
<td>$16,055</td>
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<td>$16,536.65</td>
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<tr>
<td>Institution</td>
<td>Fee</td>
<td>Increase</td>
<td>Total</td>
</tr>
<tr>
<td>-------------------------------------------------</td>
<td>------</td>
<td>----------</td>
<td>---------</td>
</tr>
<tr>
<td>University of Oregon (UO)</td>
<td>$10,555</td>
<td>+ 3% (317)</td>
<td>$10,871.65</td>
</tr>
<tr>
<td>Oregon Institute of Tech. (OIT)</td>
<td>$6,555</td>
<td>+ 3% (197)</td>
<td>$6,751.65</td>
</tr>
<tr>
<td>Southern Oregon University (SOU)</td>
<td>$2,555</td>
<td>+ 3% (77)</td>
<td>$2,631.65</td>
</tr>
<tr>
<td>Eastern Oregon University (EOU)</td>
<td>$2,555</td>
<td>+ 3% (77)</td>
<td>$2,631.65</td>
</tr>
<tr>
<td>Western Oregon University (WOU)</td>
<td>$2,555</td>
<td>+ 3% (77)</td>
<td>$2,631.65</td>
</tr>
<tr>
<td>Oregon Health Sciences Univ.(OHSU)</td>
<td>$2,555</td>
<td>+ 3% (77)</td>
<td>$2,631.65</td>
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<tr>
<td>OR. Dept. of Community Coll.(ODCCWD)</td>
<td>$10,555</td>
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<td>$10,871.65</td>
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<tr>
<td></td>
<td>$70,000</td>
<td>+ $2,100</td>
<td>$72,100</td>
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**Yr. 2 (02/01/02 – 01/31/03)**

<table>
<thead>
<tr>
<th>Institution</th>
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<th>Increase</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Oregon State University (OSU)</td>
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<tr>
<td>Portland State University (PSU)</td>
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<tr>
<td>University of Oregon (UO)</td>
<td>$15,000</td>
<td>+ 3% (450)</td>
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</tr>
<tr>
<td>Oregon Institute of Tech. (OIT)</td>
<td>$6,000</td>
<td>+ 3% (180)</td>
<td>$6,180</td>
</tr>
<tr>
<td>Southern Oregon University (SOU)</td>
<td>$2,000</td>
<td>+ 3% (60)</td>
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**Yr. 3 (02/01/03 – 01/31/04)**

<table>
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</table>

5. **EFFECT OF ADDITIONS AND WITHDRAWALS ON FEE STRUCTURE**

**A)** Addition of any OUS institution will be at an amount set by concurrence of the other OUS institutions and shall reduce the amounts paid by said other OUS institutions in proportion to their share of the total OUS amount (i.e. $59,740).

**B)** Addition of any non-OUS entity will be at an amount agreed upon by the existing parties to the agreement and shall reduce the amount owing by each in proportion to its portion of the whole.

**C)** Withdrawal of any OUS institution will require the remaining OUS institutions to make up the OUS portion of the fee in proportion to each institution’s percentage of the OUS total at the time of the withdrawal.

**D)** Withdrawal of either OHSU or ODCCWD will cause the remaining parties to make up the lost amount in proportion to their percentage of the total license fee at the time of the withdrawal (e.g. at time of agreement execution these percentages are: OUS institutions - 82.8%, OHSU - 2.9%, and ODCCWD - 14.3%)
6. PAYMENT OF ANNUAL FEES - Annual fees will be payable within 40 days of receipt by each Institution, OHSU and ODCCWD of invoices presented by OETC. The existing University of Oregon license fee of $10,000 paid to ESRI shall be deducted from the first year annual fee leaving a balance due ESRI of $555 and OETC fee of $317 due and owing.

7. CAPTIONS. The captions or headings in this agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this agreement.

8. COMPLIANCE WITH APPLICABLE LAW. Parties shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to this agreement. Parties specifically agree to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Parties also shall comply with the Americans with Disabilities Act of 1990 (Pub L No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

9. EXECUTION AND COUNTERPARTS. This agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

10. GOVERNING LAW. This agreement shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between parties that arises out of or relates to performance of this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Marion County, for the State of Oregon. PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

12. LIMITATION OF LIABILITIES. No party shall be liable for (i) any indirect, incidental, consequential or special damages under this agreement or (ii) any damages of any sort arising solely from termination of this agreement in accordance with its terms.

13. NOTICES. Except as otherwise expressly provided in this agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, or mailing the same, postage prepaid, to other parties at the addresses or numbers set forth on the signature page of this agreement, or to such other addresses as parties may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

14. 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.

15. SUBCONTRACTS AND ASSIGNMENTS. Parties shall not enter into any subcontracts for the responsibilities required by this agreement, or assign or transfer any of its interest in this agreement.

16. SUCCESSORS IN INTEREST. The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

17. TERMINATION DUE TO NONAPPROPRIATION OF FUNDS. Notwithstanding Section 2, if sufficient funds are not provided in future legislatively approved budgets of the parties (or from applicable Federal, state, or other sources) to permit the parties in the exercise of their reasonable administrative discretion to continue this agreement, or if the program for which this agreement was executed is abolished, that party may terminate this agreement without further liability by giving the other parties not less than forty-five (45) days notice. In the event of termination under this Section, there shall be no refund or pro-rataion of fees paid prior to termination.
18. INDEMNIFICATION. Except as otherwise limited by Oregon law, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7, each party shall be responsible for its tortious acts and those of its officers or employees arising out of, or in any way connected with the activities of each party under this agreement.

19. WAIVER. Failure to enforce any provision of this agreement shall not constitute a waiver by of any party or parties of that or any other provision.

MERGER. 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 ANY PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES AND ALL NECESSARY STATE OR LOCAL APPROVALS HAVE BEEN OBTAINED. 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 HERETO OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS AGREEMENT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year appearing after their signature below.

Oregon Health Sciences University,

By: Deborah L. Goss
(Signature) 3/6/01
Date
Title: Contracts Coordinator
Address: Contracts Office - MC104
3181 SW Sam Jackson Park Road
Portland, OR 97201-4406
(503) 494-5075

STATE of Oregon, acting by and through the ODCCWD.

By: 
(Signature) 4/3/01
Date
Title: Asst. Commissioner
Address: 255 CAPITOL ST. NE
SALEM, OR 97310

Oregon State University

By: J. .
(Signature) 2/26/01
Date
Title: Purchasing Manager/Contracts Officer
Address: 641 SW 13th Pl.
Corvallis, OR 97331

University of Oregon:

By: 
(Signature) FEB 21 2001
Date
Title: Sherri McDowell
Director of Business Affairs and Contracts Office
Address: P.O. Box 1499
EUGENE, OR 97403

State of Oregon, acting by and through the ODCCWD.

By: 
(Signature) 4/3/01
Date
Title: Asst. Commissioner
Address: 255 CAPITOL ST. NE
SALEM, OR 97310

Portland State University

By: Timothy R. Johnston
(Signature) 2/27/01
Date
Title: Telecom Director/Contracts Officer
Address: P.O. BOX 75
PORTLAND, OR 97207-0751

Oregon Institute of Technology:

By: 
(Signature) 2/27/01
Date
Title: \(\text{Purchasing Manager}\)
Address: 8200 Campus Drive
Hood River, OR 97031-1815
Western Oregon University:
By [Signature] 3/1/01
Title Western Oregon University
Address Business Office
345 N Monmouth Ave
Monmouth, OR 97361

Eastern Oregon University
By [Signature] 2/1/01
Title
Address

Southern Oregon University:
By [Signature] 3/1/01
Title CRAIG MORRIS
Address DIRECTOR OF BUSINESS SERVICES
SOUTHERN OREGON UNIVERSITY

Approved as to Legal Sufficiency:
By [Signature] 4/1/01
Title Assistant Attorney General

State of Oregon, acting by and through the Oregon State Board of Higher Education:
By [Signature] 5/1/01
Title Director of Legal Services
Address: P.O. Box 3175, Eugene, OR 97403