



Laura Zentner, CPA

Deputy Director

**BUSINESS AND COMMUNITY SERVICES**

Development Services Building

150 Beaver Creek Road, Oregon City, OR 97045

September 24, 2015

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of an Intergovernmental Agreement (License Agreement) between Clackamas County Business and Community Services and the Northwest Economic Research Center (NERC) at Portland State University for access to the Portland Metro Regional Population and Economic Forecast reports and acceptance of a License Agreement to copy, display and distribute the forecast reports.**

<b>Purpose/Outcomes</b>	Access to a forecasting model that will provide unbiased forecasts of population and demographics, economics, employment and income, and housing at the County level which can guide future policy decisions of the Board and cities in Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	\$50,000
<b>Funding Source</b>	BCS Economic Development Lottery Fund – approved as part of fiscal year 2015/2016 budget.
<b>Safety Impact</b>	None
<b>Duration</b>	The forecast report/reports will be available for two years from the effective date of License Agreement. The first forecasts are expected to be available in October 2015.
<b>Previous Board Action/Review</b>	Reviewed and approved by County Counsel
<b>Contact Person</b>	Gary Barth, Director, Business and Community Development, 503-742-4299

**BACKGROUND:**

The Northwest Economic Research Center at Portland State University has been working with Clackamas County Business and Community Services as well as several other partners in the region to build forecasting model/models and execute a License Agreement which would provide unbiased forecasts of population and demographics, economics, employment and income, and housing at the County level. These forecast models can be used to guide future policy decisions of the Board and cities within Clackamas County. The License Agreement also provides for custom analysis of economic, population and housing data for Clackamas County.

The attached License Agreement has been reviewed and approved the County Counsel and the payment for the project has been approved as part of the fiscal year 2015/2016 budget process.

**RECOMMENDATION:**

Staff respectfully recommends approval and execution of the attached Intergovernmental Agreement (License Agreement) between Clackamas County and Portland State University.

Respectfully submitted,

Laura Zentner  
BCS Deputy Director

**Portland Metro Region Population and Economic Forecast  
License Agreement**

This "Agreement" is between Clackamas County, a political subdivision of the State of Oregon having a principal place of business at 2051 Kaen Road, Oregon City, Oregon, hereafter referred to as "Partner", and Portland State University, an institution of higher education in the State of Oregon, located in Portland, Oregon, hereafter referred to as "University". The parties agree as follows:

**Background**

University owns or will own the copyright in Portland Metro Regional Population and Economic Development Forecast reports produced by University's Northwest Economic Research Center (the "Work" or "Works"), with exclusive right to use and license thereof, in the course of their academic and community mission.

University desires to promote the use of these reports and increase the impact of the mission of Northwest Economic Research Center ("NERC"), and to allow use of the Work under certain terms and conditions for the benefit of the community and public.

Partner is an organization desiring access to a Portland Metro Regional Population and Economic Development Forecast report and desires to accept a license to certain rights in the Works in connection with fulfilling their mission.

Partner recognizes the value of the goodwill associated with the NERC and Portland Metro Regional Population and Economic Development Forecast trademark and the need for adherence by Partner to the Quality Control Standards outlined in this Agreement.

**Definitions**

"Administrative Contact" means an individual authorized by Partner to receive access to the Work and notices from University.

"Agreement" means this License Agreement, with attached Schedules.

"Effective Date" shall be the last signed date of this Agreement.

"Know-How" means interpretation of the content of the Works and training on how to utilize the content of the Works.

"License Fee(s)" shall mean the amount due from Partner for the permissions and grants provided by this Agreement, as set forth on Schedule B.

"Quality Control Standards" means the standards listed in Schedule C.

"Territory" shall mean the Portland, Oregon metro region.

"Trademark" means the trademarks "Portland Metro Region Population and Economic Forecast" and "Metro Outlook".

“Work(s)” means the report or reports provided by University to Partner under this agreement, as described in Schedule A.

**Works Grant**

Beginning on the Effective Date, and subject to and conditioned upon Partner’s performance and satisfaction of the conditions set forth in this Agreement, University hereby grants to Partner, and Partner accepts, a limited, non-transferable, non-exclusive license to copy, display, and distribute Works in the Territory or online.

Partner may also make derivatives of the Works solely to the extent necessary to add Partner’s own brand or mark to the Works prior to internal distribution.

Partner acquires no proprietary interest in Work. Partner shall not remove or obscure rights management markings, such as copyright and trademark notices, from Works or printouts from Works.

Partner shall not sublicense, sell, display, lend, rent, lease or otherwise transfer all or any of Works without prior permission.

University reserves the right to use the Works internally for research and educational purposes.

**Know How Grant**

Additionally, University agrees to grant Partner access to Know How in relation to certain Works. Access to Know How shall be provided to Partner on an as-needed, no obligation, hourly basis and shall consist of interpretation of Works and training on using the content of Works.

**Communications**

University may provide certain instruction to Partner in regard to the interpretation and presentation of the Works, in order to enable Partner’s optimal use of the Work.

Notices to Partner shall be sent to the Administrative Contact. .

**Confidentiality**

“Proprietary Information” means information of any form or format disclosed by University to Partner pertaining to the Work and identified by University at the time of disclosure as not for public release, or if orally disclosed, identified orally as confidential and immediately reduced to written form and identified by University as not for public release within thirty (30) days of disclosure. Proprietary Information does not include information which (i) Partner can demonstrate was previously known to Partner, or (ii) has been independently developed by Partner by those without access to Proprietary Information, or (iii) has been obtained by Partner from sources not breaching any obligation to University, or (iv) which is or in the future becomes public knowledge other than through acts or omissions of Partner, or (v) is required to be disclosed by operation of law, including but not limited to Oregon Public Records Law, or the action of a court of competent jurisdiction.

Partner shall hold Proprietary Information in confidence for ten (10) years from date of disclosure, using safeguards at least comparable to those by which Partner handles its own similar proprietary information,

but in any case not less than reasonable safeguards. Partner shall not disclose Proprietary Information to any third party, including without limitation any patent or copyright office without prior permission unless otherwise required by applicable law.

**Request and Delivery** Works are expected to be delivered by October 1, 2015.

**Payment** Partner shall pay to University License Fees for both Copyright grants and Know How grants in the amounts and according to the schedule as set forth on Schedule B. Should payment not be received from Partner within thirty (30) days of the scheduled date, University, at its sole discretion, may end Partner's access to Work and terminate this Agreement.

**Term** Partner's right to request Works shall expire two years after the Effective Date. Partner's rights under the copyright grant shall last for the life of the copyright unless other terms of this Agreement are breached.

**Notices** All notices to University regarding this license agreement and payment hereunder shall be sent by U.S. mail or email per the following:

Portland State University  
PO Box 751, Mailcode RSP  
Portland, OR 97207  
Attention: Director, Innovation & Intellectual Property  
Telephone: 503.725.8454  
Email: [iip@pdx.edu](mailto:iip@pdx.edu)

All notices to University regarding the delivery and preparation of Works shall be sent by U.S. mail or email per the following:

Portland State University  
Tom Potiowsky  
NERC Urban Center  
PO Box 751  
Portland, OR 97207

All notices to Partner shall be sent by U.S. mail or email to the Administrative Contact listed in Schedule B of this Agreement.

**Termination** Partner may terminate this Agreement at any time upon thirty (30) days written notice to University.

University may terminate this Agreement upon notice if Partner is in breach of this Agreement and fails within thirty (30) days of a written demand for performance to cure such breach. After notice period elapses, access and grants to Works will be immediately terminated.

The provisions under which this Agreement may be terminated shall be in addition to any and all other legal remedies which either party may

have for the enforcement of any and all terms hereof, and do not in any way limit any other legal remedy such party may have.

Termination of this Agreement shall terminate all rights and permissions granted to Partner relating to Work. The obligation to pay any required License Fee due within sixty (60) days of the date of termination survives termination of this Agreement.

**Disclaimers**

The Works have been developed as part of research conducted at Portland State University. The Works are experimental in nature and is made available "AS IS," without obligation by University to provide accompanying services or support except as specified in this Agreement. The entire risk as to the quality and performance of the Work is with Partner.

UNIVERSITY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, PERTAINING TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF WORK OR ANY SUBJECT MATTER OTHERWISE PROVIDED TO PARTNER UNDER THIS AGREEMENT.

The Works may contain links to third-party websites that are not owned or controlled by University. University has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, University will not and cannot censor or edit the content of any third-party site. By using the Works, Partner expressly agrees that University has no liability arising from Partner's use of any third-party website.

**Indemnification**

Partner shall save, hold harmless and indemnify the State of Oregon, the State Board of Higher Education, University, and their agencies, subdivisions, officers, employees and agents from and against any and all claims, suits, actions, losses, demands, damages, costs, expenses (including, but not limited to, those arising out of personal injuries, wrongful death or property damage suffered by any third party) incurred by University, arising out of or relating to the negligent or willful misuse of Works, Trademarks, or any other activities of Partner or its officers, employees, subcontractors or agents under this Agreement.

**General**

Partner may not assign any of its rights under this Agreement without the prior written consent of the University. The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition of the Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other party. In the event that any provision hereof is found to be invalid or unenforceable pursuant to a final judgment or decree, the remainder of this Agreement shall remain valid and enforceable according to its terms. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership or employment relationship between the parties hereto. Except as specified herein,

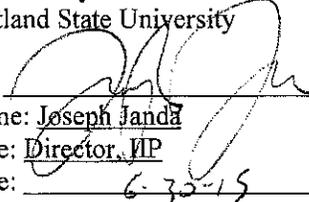
neither party shall have the right, power or implied authority to create any obligation or duty, express or implied, on behalf of the other party hereto. Partner and University are the only parties to this Agreement and are the only parties entitled to enforce its terms; nothing in this Agreement gives or is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to any third persons. Partner agrees not to use the name of University or any of its employees, in any advertisement or sales promotion relating to any Work without prior written approval by University. This document represents the entire Agreement between the parties as to the matters set forth and integrates all prior discussions or understandings between them. This Agreement may only be modified or amended in writing by a document signed by an authorized representative of University and Partner.

**“Partner”**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**“University”**

Portland State University

By:  \_\_\_\_\_  
Name: Joseph Janda  
Title: Director, IP  
Date: 6-30-15