

INTERGOVERNMENTAL COOPERATION AGREEMENT

MADE AND ENTERED into this _____ day of _____, 2010, by and between the COUNTY OF ALLEGHENY, a Home Rule County and political subdivision of the Commonwealth of Pennsylvania, and the OFFICE OF THE COUNTY CONTROLLER, hereinafter “ County”,

A
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THE CITY OF PITTSBURGH, a Home Rule municipality under the laws of the Commonwealth of Pennsylvania, hereinafter “City”.

WITNESSETH

WHEREAS, County has implemented and operates a financial reporting Enterprise Resource Planning (ERP) system (the “ERP System”); and

WHEREAS, County as current license holder desires to add City to its license: and

WHEREAS, City wishes to join County license as a co-licensee: and

WHEREAS, County shall be the license holder and City a co-license holder herein referred to as co-end users: and

WHEREAS, County and City desire to implement a shared ERP System; and

WHEREAS, City and County have negotiated an Ordering Document (No. 3452109) with DLT Solutions (“DLT”), the price of which was negotiated by City using County’s current licensing for discounted pricing. Attached hereto as Exhibit A is said Ordering Document, setting forth the applicable licenses for ERP System components and related services to be provided by DLT in connection therewith; and

WHEREAS, City and County shall each utilize the ERP System pursuant to mutually agreed upon ERP System implementation, monitoring and service procedures; and

WHEREAS, County and City have determined that it is in the best interest of their respective governments and citizens for the County to share its current ERP System and infrastructure; and

WHEREAS, the specifics of licensing, implementation and post-implementation support are set forth in Sections 2-5,below.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and intending to be legally bound hereby, City and County agree as follows:

1. **Term and Termination**

- A. This Agreement shall become effective October 1, 2010 and remain in effect until December 31, 2015. By mutual written agreement of the parties, this Agreement may be extended for one or more additional annual periods.
- B. This Agreement may be terminated at the stated termination date, by either party, for any reason, upon one year's written notice to the other party. Said notice shall be given in the manner and to the persons set forth below.
- C. Termination of this agreement for any reason prior to December 31, 2015 shall entitle County to recover from City early termination costs for an amount based on the date of early termination as indicated in the table below:

Terminated After...	But, on or before...	Early Termination Cost
10-1-2010	10-1-2011	\$2,631,200
10-1-2011	10-1-2012	\$2,104,960

10-1-2012	10-1-2013	\$1,578,120
10-1-2013	10-1-2014	\$1,052,480
10-1-2014	10-1-2015	\$526,240

2. **Licensing**

A. Scope

- i. County shall modify its licenses to permit the City to participate as a co-licensee.
- ii. City shall be Co-License Holder under the Ordering Document with equal ownership and access to the subject software.
- iii. The parties agree that after the expiration of the five year term of this Agreement, the City may request in writing to Oracle to assign to the City its portion of the enterprise license, which, at the time of the City's request for assignment, is not being utilized by the County. The County shall only be entitled to the portion of enterprise licensing which they are utilizing up to \$800 million operating budget and 7500 employees. Such an assignment will result in separate enterprise licenses for the County and the City and separate technical support.

B. Fees Payable to ERP Vendor.

- i. City shall pay DLT a one-time JDE License Fee of \$2,392,000.00 by October 31, 2010;
- ii. City shall pay DLT a First Year Software Update License and Support Fee of \$526,240.00 by October 31, 2010;
- iii. County shall pay DLT a First Year Software Update License and Support Fee of \$211,377.70 by October 31, 2010;
- iv. City shall pay DLT an annual sum of \$526,240.00 for Technical Support fees starting in the second year and continuing each year through the fifth year of this Agreement;
- v. County shall pay DLT an annual sum of \$211,377.70 for Technical Support fees starting in the second year and continuing each year through the fifth year of this Agreement.

3. **Implementation Phase I: ERP Environment Creation**

A. Scope of Implementation Phase I Services

- i. County shall replicate a unique and secure instance of JDEdwards EnterpriseOne software for City, based on County's current instance.
- ii. City shall be provided access to said ERP system via network connectivity using compatible Web browsers.
- iii. Said ERP System shall be served from County's servers located in a County facility.
- iv. Data Storage shall be on County's storage area network ("SAN").

- v. A new dedicated fiber link shall be installed between the County Office Building and City data centers with a managed firewall to protect County. County shall manage and monitor the network up to the firewall demarcation point.
- vi. Upon completion of environment creation work, County shall provide written certification to City that the ERP System environment is fully functioning and ready for acceptance testing.
- vii. Commencing upon receipt of the certification set forth above, City shall have a 30-day period (the "Acceptance Period") to test the ERP System environment (the "Acceptance Test"). City shall promptly notify (which may include notice by email or facsimile) County upon discovery of any error. County and/or its contractors shall, at no additional charge, devote sufficient resources to correct any error as soon as possible. The Acceptance Period shall be extended by the amount of time elapsing between City's notice to County of an error or material defect and County's delivery of a correction, provided, however, that City shall have a minimum of 10 days to test any correction delivered by County.

B. Reimbursement of Costs from City to County for Implementation Phase I

- i. The parties shall evenly divide the costs of necessary hardware and infrastructure, not including internal wiring and end user equipment, which shall be the sole responsibility of each party. Any County incurred external costs shall be billed separately.

- ii. City shall pay County a total estimated cost of Five Hundred Thousand Dollars (\$500,000.00);
- iii. An initial payment of Two Hundred Fifty Thousand Dollars (\$250,000.00), on the above amount shall be paid by City to County prior to the start of any Implementation Phase I work;
- iv. The final reimbursement amount will be calculated to reflect actual costs incurred to create the environment. County shall provide support for these costs to City in the form of vendor invoices and county employee timesheets identifying hours worked, billed at the following actual rates:
 - a. Managers \$70/hour
 - b. Sr. Analysts/Developers \$60/hour
 - c. Analysts/Infrastructure \$50/hour
 - d. Accountants \$40/hour
 - e. Clerks/Help Desk \$30/hour

4. **Implementation Phase II: Configuration, Conversion and Training**

A. Scope of Implementation Phase II Services

- i. County and City shall each appoint a qualified staff member to act as project manager (hereinafter the "Project Managers") for all work undertaken pursuant to Conversion and Training services. Each such Project Manager shall (i) act as the principal contact between the parties, and (ii) ensure that County personnel coordinate with City personnel.

County’s Project Manager shall be responsible for the overall technical direction and approval of the work. County shall be responsible for supervision of the work by its employees or agents in accordance with the directions to the City's Project Manager and, when necessary, shall provide supervisory personnel on City's premises to carry out this responsibility.

- ii. Project Managers shall focus efforts on the completion of the following deliverables by project phase:

Phase	Deliverables
Configuration & Development	<ul style="list-style-type: none"> • Gap Definition & Resolution • Unit Tested & Documented versions of <ul style="list-style-type: none"> ○ Transactions ○ Interfaces ○ Conversions ○ Reports ○ Master Data Setup ○ Security
Conversion	<ul style="list-style-type: none"> • Documented final scripts • Final security is configured • All Vendors and current GL Balances Converted • No Historical Transactional Data will be converted
Training	<ul style="list-style-type: none"> • All functional users having attended at least one formal training session using their own credentials/menus
Go Live & Run in Parallel	<ul style="list-style-type: none"> • Functional live environment with validated data

- iii. Dispute Resolution – Implementation Phase II

- 1. Either party shall submit a dispute to the County Project Manager and City Project Manager, who shall meet as often as the parties reasonably deem necessary to gather and analyze any information

relevant to the resolution of the dispute. The County Project Manager and City Project Manager shall negotiate in good faith in an effort to resolve the dispute.

2. If either the County Project Manager or the City Project Manager determines in good faith that resolution through continued discussions does not appear likely, the matter shall be referred to the Implementation Steering Committee.
 - a. The Implementation Steering Committee will be comprised of the County Executive, County Controller, Mayor and City Controller, to meet as needed and resolve all Conversion and Training disputes.
3. If the Implementation Steering Committee determines in good faith that resolution through continued discussions does not appear likely, the matter shall be resolved by the existing JDE Management Board.

iv. Acceptance Testing

1. Upon completion of all conversion and training work, County shall provide written certification to City that JDE is fully functioning and ready for acceptance testing.
2. Commencing upon receipt the completion of the installation and configuration of the ERP System, City shall have a 30-day period (the "Acceptance Period") to test the ERP System to determine whether it is free of Errors and otherwise free of material defects (the "Acceptance Test"). The City may conduct the Acceptance

Test using its own personnel or together with County and/or contractor personnel providing installation and configuration services. The Acceptance Test may include, at the City's discretion, performance, capacity, end-to-end functionality, initial production use, and other testing. City shall promptly notify (which may include notice by email or facsimile) County upon discovery of any Error. County and/or its contractors shall, at no additional charge, devote sufficient resources to correct any Error within a reasonable period of time. The Acceptance Period will be extended by the amount of time elapsing between City's notice to County of an Error or material defect and County's delivery of a correction, provided, however, that City shall have a minimum of 10 days to test any correction delivered by County.

3. City shall accept the ERP System when the County has shown that the system can transact and record the various financial transactions currently in place on the County system. City shall notify County in writing upon City's acceptance of the ERP System, the date of such notice being the "Acceptance Date." In the event that City terminates this Agreement, County shall return City data, in a mutually accepted format, and provide all necessary versioning information. Upon written notice from the City, County shall certify removal of all City data.

B. Reimbursement of Costs from City to County for Implementation Phase II

- i. City shall pay County a total estimated cost of Nine Hundred Thousand Dollars (\$900,000.00) for configuration, conversion and training.
- ii. An initial payment of \$200,000 on the above amount shall be paid by City to County prior to the start of any Implementation Phase II work.
- iii. Quarterly payments of \$200,000 on the above amount shall be paid by City to County until the completion of Implementation Phase II work. Payment is expected within thirty days of invoice date.
- iv. The final reimbursement amount will be calculated to reflect actual costs incurred and payments disbursed. County shall provide support for these costs to City in the form of vendor invoices and county employee timesheets identifying hours worked, billed at the rates referenced in Section 3.B.iv.

5. Post-Implementation ERP Support Services

A. Scope of ERP Support Services and Shared Services Organization

- i. The County's current JDE Governance structure including the JDE Service Center, JDE Executive Steering Committee and JDE Management Board shall expand to form an ERP Shared Services Organization with City. Representation for all members of the ERP Shared Services Organization shall be pro-rata based on total expenditures of each member, excluding capital expenditures. Representation and/or decision

making authority shall not be modified unless in writing and signed by all parties.

ii. All support services shall be provided through the ERP Shared Services Organization and shall be delivered in accordance with all policies and service agreements contained therein.

iii. The following services are, or shall be, contained in the JDE Service Center Service Level Agreement applicable to all users including City users:

1. Service Reliability. County shall ensure that the ERP System is supplied with uninterrupted power and implement redundant servers for all key services on the county network up to the firewall demarcation point. County shall, in accordance with industry best practice, maintain and implement security policies, which include the implementation of firewall technology and intrusion detection software to protect against viruses or security breaches. In the event of a virus, a denial of service attack or an attack or threatened or suspected breach of security against the ERP System, County shall (i) take all necessary steps to halt such attack; (ii) immediately notify City; and (iii) provide City with a remediation plan to avert any such future attacks.
2. Data Backup Procedures. On a daily basis, County shall perform backups of all City Data, less images, or any other information of City provided to County in relation to the ERP System. Backups of City Data, including images shall reside on County's hot backup site. County shall store such backups in a separate, fire-proof location.
3. Disaster Recovery Plan. County shall provide disaster recovery and backup capabilities and facilities through which it shall be able

to render the ERP System to City with minimal disruptions or delays. As part of the services provided under this Agreement, County shall: (i) develop a disaster recovery plan ("DRP") and implement such DRP within thirty (30) days from the Effective Date, (ii) within sixty (60) days of the Effective Date, and at least once every calendar year during the term of the Agreement, test the operability of the DRP, (iii) upon City's request, certify to City that the DRP is fully operational, and (iv) upon discovery by County, immediately implement the DRP upon the occurrence of a disaster or other event affecting the delivery or receipt of the ERP System ("Disaster") and promptly provide City with a written notice of the Disaster. County shall reinstate the ERP System within twenty-four (24) hours of a Disaster. Reinstating the ERP System of City shall receive as high or greater priority as that of County's affiliates and other customers. City shall be entitled to review the DRP at any time and, in its sole discretion, make suggested changes or amendments to the DRP which County, acting reasonably shall consider.

4. System Availability. The ERP System shall be Available 99.5% of the normal business hours calculated on a monthly basis, excluding incidents where the root cause is proven not to be attributable to County. For example, if there were (20) twenty business days in a month (and therefore 14,400 business minutes in such month), and the ERP System was not available for 3 hours for all accounts (or 180 total business minutes) in that month, the system availability would be 98.75% for that month.
5. Error Response and Resolution. County shall engage staff continuously until an acceptable fix or workaround is achieved. Acceptable workaround means that the workaround does not cause considerable inconvenience for the use of the ERP System.

- iv. Improvements. County shall provide to City all Improvements to the ERP Software generally made to County's version of the ERP Software at no additional charge on an agreed upon schedule.
- v. Priority of Request, Response and Resolution. City shall at all times during support hours receive support, whether by County personnel or a contractor utilized for provision of Support Services in the ERP System, on an equal priority basis with County. All requests shall receive response and resolution by order of priority as set forth on the Service Level Agreement regardless of which party, City or County submits the request.

B. Reimbursement of Costs from City to County for Post-Implementation ERP Support Services

- i. Costs for on-going hosting and support services provided through the ERP Shared Services Organization shall be shall be pro-rata based on total expenditures of each member, excluding capital expenditures.
- ii. County shall invoice City quarterly in arrears for the City's portion of actual costs incurred to staff and manage the ERP Shared Services Organization. County shall provide support for these costs to City in the form of vendor invoices and annual budget information.

6. Notices All notices, reports and documents required or furnished pursuant to this Agreement shall be in writing and shall be mailed by first-class mail, postage prepared, or sent by facsimile, confirmed by letter, addressed to each party as follows:

A. As to County:

County Controller
104 Courthouse
436 Grant Street
Pittsburgh, Pennsylvania 15219
&
County Manager
119 Courthouse
436 Grant Street
Pittsburgh, Pennsylvania 15219

Or to other such persons or places as County may from time to time designate in writing.

B. As to City:

City Controller
City-County Building
414 Grant Street
Pittsburgh, Pennsylvania 15219
&

Director of Finance
City of Pittsburgh
City-County Building
414 Grant Street
Pittsburgh, Pennsylvania 15219-2476

With a copy to:

Solicitor
City of Pittsburgh Department of Law
313 City-County Building
414 Grant Street
Pittsburgh, Pennsylvania 15219

With another copy to:

Clerk
City of Pittsburgh
414 Grant Street, 5th Floor
Pittsburgh, Pennsylvania 15219

Or to such other persons or places as City may from time to time designate in writing.

7. **No Personal Liability** No elected official, director, officer, agent or employee of City or County shall be charged personally or held contractually liable by or to City and/or County under this Agreement or because of any breach thereof, provided that the actions giving rise to each claim occurred within the scope of the regular duties or course of employment.
8. **Amendment or Modification** Except as noted herein, this Agreement constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, or extended except by a written amendment duly executed by the parties.
9. **Applicable Law** This Agreement shall be deemed to have been made in and shall be construed according to the laws of the Commonwealth of Pennsylvania.
10. **Contingency**
 - A. **Terms and Conditions Contingent Upon Funds**
 - i. The terms, conditions and mutual covenants contained herein are contingent upon City receiving Commonwealth of Pennsylvania funds identified for ERP System.
11. **Authorization** This Agreement was authorized by the County Manager, County Controller on _____ on Executive Action Number _____ and by the Mayor, Controller of City of Pittsburgh by Resolution _____, effective _____.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day and year first above written.

APPROVED:

COUNTY COUNCIL

Date: _____

COUNTY OF ALLEGHENY

By _____

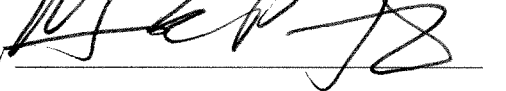
APPROVED AS TO FORM:

County Solicitor

Assistant County Solicitor

County Controller's Solicitor

ALLEGHENY COUNTY CONTROLLER

By  _____

APPROVED:
CITY COUNCIL

Date: _____

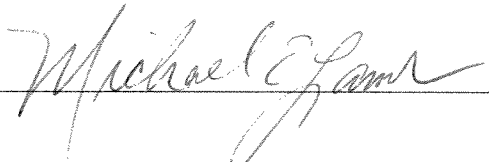
MAYOR OF CITY OF PITTSBURGH

By _____

APPROVED AS TO FORM:

City Solicitor

CITY OF PITTSBURGH CONTROLLER

By  _____