

**2013 MASTER INTERLOCAL AGREEMENT
FOR PARTICIPATION IN THE URBAN COUNTIES TECHSHARE PROGRAM**

1. Purpose

- 1.1. Pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and for the purpose of participation in the Urban Counties' TechShare Program, the undersigned Local Governments and agencies of the State of Texas, enter into this Interlocal Agreement (hereinafter, "Agreement") with the Texas Conference of Urban Counties, Inc. (hereinafter, "Urban Counties"), a nonprofit corporation created to provide governmental functions and services on behalf of its members.
- 1.2. The undersigned Texas Local Governments and state agencies and any and all other Local Governments and agencies of the State of Texas adopting this Agreement may be referred to in this Agreement individually as "Participant" and collectively as "Participants." The Participants and Urban Counties may be referred to in this Agreement individually as "Party" or collectively as "Parties."

2. Recitals

- 2.1. Texas Local Governments and agencies of the State of Texas have the ability to realize substantial savings by jointly planning, developing, procuring, operating or maintaining information technology projects and resources necessary to conduct business for their citizenry;
- 2.2. Texas Local Governments and agencies of the State of Texas approving this Agreement by formal action of their respective governing bodies desire to jointly plan, develop, procure, operate or maintain one or more information technology projects or resources;
- 2.3. The Participants designate the Urban Counties to supervise the performance of this Agreement and to provide contract supervision and administration services and such other services necessary to accomplish the purpose of this Agreement as authorized by Tex. Gov't Code § 791.013;
- 2.4. The Urban Counties has created TechShare, a program whereby Texas Local Governments may realize economies of scale by jointly developing, procuring, operating, maintaining, and enhancing information technology projects and resources;
- 2.5. The Participants and the Urban Counties desire to enter into this Agreement for the Participants' participation in TechShare;
- 2.6. This Agreement, including all addenda, exhibits and attachments hereto, set forth the rights and responsibilities of the Participants in their joint endeavor(s) and the role of the Urban Counties as contract supervisor and administrator;
- 2.7. Each of the Participants finds that its payments for services performed pursuant to this Agreement may be made from current revenues that are readily available only for payments that are due in the then-current fiscal year;

- 2.8. The Participants and the Urban Counties each find that the amount paid for the services performed under this Agreement fairly compensates the performing party;
- 2.9. The Participants, acting by and through their respective governing bodies, individually and collectively, do hereby adopt and find the foregoing premises as findings of said governing bodies; and
- 2.10. In consideration of the promises, inducements, covenants, agreements, conditions and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Participants and the Urban Counties agree as follows:

3. Definitions

- 3.1. For purposes of this Agreement and all other agreements, contracts and documents executed, adopted, or approved pursuant to this Agreement, which shall include any exhibit, attachment, or addendum, the following terms shall have the meaning prescribed to them within this Section 3 (Definitions), unless the context of their use dictates otherwise. Other terms used in this Agreement that are not defined herein, but defined in any of the other agreements, contracts and documents executed, adopted, or approved pursuant to this Agreement, which shall include any exhibit, attachment, addendum or associated document, shall have the same meaning herein as in such other documents
- 3.2. "Board of Directors" means the Board of Directors of Urban Counties.
- 3.3. "Capital Costs" means the costs of acquiring, developing, or otherwise establishing a Resource so that it can be shared by Participants, including any costs of financing, such as interest and risk premiums.
- 3.4. "Executive Director" means the Executive Director of Urban Counties.
- 3.5. "Funding Entity" means a Participant that contributes Pre-Paid Costs for the initial development or acquisition of a Resource or for the enhancement of a Resource.
- 3.6. "Implementation Costs" means costs unique to each Participant for the installation and/or implementation of a Resource in or for a Participant's information technology environment.
- 3.7. "Intellectual Property" means documented or undocumented knowledge, creative ideas, or expressions of human mind that have commercial (monetary) value and are protectable under copyright, patent, service mark, trademark, or trade secret laws from imitation, infringement, and dilution.
- 3.8. "Local Government" has that meaning assigned to it by Texas Government Code § 791.003(2).
- 3.9. "Operation and Maintenance (O&M) Costs" means the costs of operating and maintaining the functionality of a Resource, including modifications necessary to address changes in applicable laws, rules or regulations.
- 3.10. "Pre-Paid Costs" means amounts contributed by one or more Funding Entities pursuant to a Project Addendum for the initial development or acquisition of a Resource or for the enhancement of a Resource, plus applicable interest and risk premiums.

- 3.11. "Prime Rate of Interest" means the U.S. prime rate of interest published in the Wall Street Journal on December 31, or if not printed on December 31, then the nearest date preceding December 31 on which the prime rate of interest is published. The Prime Rate of Interest will be used as required herein for the preceding January 1 - December 31.
- 3.12. "Project" means a collaborative effort through TechShare by which Participants seek to achieve a common goal related to their information technology needs, and may include the acquisition, creation, or enhancement of a Resource.
- 3.13. "Project Addendum" means an addendum to this Agreement entered into by one or more Participants and the Urban Counties to conduct a Project.
- 3.14. "Resource" means Intellectual Property, personal property, service or knowledge acquired or developed by, or made available to, Participants through TechShare.
- 3.15. "Resource Sharing Addendum" means an addendum to this Agreement entered into by one or more Participants and the Urban Counties for the use of a Resource.
- 3.16. "Urban Counties" means the Texas Conference of Urban Counties.

4. Participation in TechShare

- 4.1. Participation in TechShare is open to all Texas Local Governments and to Texas state agencies.
- 4.2. A county eligible for membership in the Urban Counties must be a member in good standing of the Urban Counties to become and to remain a Participant in a Project.
- 4.3. A Participant eligible for membership in Urban Counties but not a member in good standing that is sharing one or more Resources shall pay annually, as additional O&M Costs, an amount that in total for all Resources equals the amount the Participant would pay in dues if it were a member of Urban Counties. Such additional amount shall be accounted for in the same manner as dues revenue to Urban Counties.
- 4.4. Each Participant must approve, by its usual approval process for contracts, this TechShare Master Interlocal Agreement and, for each Project and Resource, the applicable Project Addendum or Resource Sharing Addendum to this TechShare Master Interlocal Agreement.
- 4.5. Project Addenda and Resource Sharing Addenda shall not be binding upon a Participant unless approved by formal action of the governing body of the Participant.

5. Contract Supervision and Administration

- 5.1. As authorized by Tex. Gov't Code § 791.013(a)(3), Participants designate Urban Counties to supervise the performance of this Agreement.
- 5.2. The role of Urban Counties is to supervise, administer, and carry out the purposes of this Agreement.
 - 5.2.1. Urban Counties shall have any and all powers necessary to carry out the purposes of this Agreement, which shall include any and all acts necessary and proper for the operation and management of this Agreement.

- 5.2.2. Services to be provided by Urban Counties for each Project and Resource may include, but not necessarily be limited to:
- 5.2.2.1. procuring or providing necessary services and supplies as contemplated by a Project Addendum or Resource Sharing Addendum and the applicable budget;
 - 5.2.2.2. administering all contracts, procedural documents, manuals, and other guidelines pertaining to the management of each Project and Resource under the guidance of the Board of Directors;
 - 5.2.2.3. providing information to Participants and potential participants to increase awareness of TechShare and the opportunities for sharing and collaboration therein;
 - 5.2.2.4. preparing and presenting detailed and summary financial information necessary for the administration and management of each Project and Resource;
 - 5.2.2.5. rendering invoices, receiving funds, establishing and maintaining appropriate accounting records, establishing and utilizing an appropriate cost accounting system, and managing accounts receivable;
 - 5.2.2.6. reviewing and approving travel reimbursement requests for each Project and Resource in accordance with the applicable budget and applicable policies;
 - 5.2.2.7. serving as the communication and distribution center for all information related to TechShare;
 - 5.2.2.8. reviewing and making recommendations on all contracts;
 - 5.2.2.9. acting as a liaison with federal and state agencies and responding to their inquiries;
 - 5.2.2.10. computing and providing billings for participation;
 - 5.2.2.11. filing required forms and reports with state and other governmental agencies;
 - 5.2.2.12. assisting a Participant's auditor and actuary as necessary;
 - 5.2.2.13. coordinating banking functions and handling deposits and reconciliations;
 - 5.2.2.14. providing notices of meetings, supplying resource material for meetings, and keeping minutes of meetings; and
 - 5.2.2.15. forming or administering committees.

- 5.3. Urban Counties shall have the authority to conduct procurement functions and enter into contracts with one or more vendors as may be deemed necessary to carry out the purposes of this Agreement and to effectively manage each information technology project and resource.
- 5.3.1. All contracts approved by Urban Counties with vendors to fulfill the requirements of a Project or Resource Sharing Addendum, will be exclusively between the Urban Counties and the selected vendors.
- 5.3.2. No Participant may be a third-party beneficiary to such contracts unless specifically set forth in the applicable Addendum.
- 5.3.3. Urban Counties is prohibited from binding any Participant to any obligations arising from contracts between Urban Counties and third-party vendors regarding goods or services, unless expressly approved by a Participant's governing body.
- 5.3.4. When appropriate, Urban Counties shall inquire into warranties from vendors and provide such information to the appropriate Stakeholder Committee.
- 5.4. Urban Counties acknowledges and agrees that information or other data provided by a Participant to Urban Counties to be stored or managed within a Resource will remain the property of the Participant. The Urban Counties further acknowledges and agrees that such information or other data shall not be used by the Urban Counties other than in connection with the performance of this Agreement, disclosed, sold, assigned, leased or otherwise provided to third parties, or commercially exploited by or on behalf of the Urban Counties, its employees, officers, agents, subcontractors, invitees, or assigns in any respect.
- 5.5. Urban Counties will provide regular reports on operations or activities as determined appropriate by each Stakeholder Committee and by the Oversight Committee.
- 5.6. Urban Counties must exercise a duty of good faith, fair dealing, and loyalty in relation to services provided to Participants under this Agreement.
- 5.7. For services performed under this Agreement, the Urban Counties shall be paid as set forth in each Project Addendum and Resource Sharing Addendum.
- 5.7.1. The Participants have no equity rights in any of the assets or property of the Urban Counties unless specifically provided for herein or by way of a separate contract, agreement or other document executed by a Participant and the Urban Counties.
- 5.8. The Participants intend that the Urban Counties shall operate only within the scope herein set out and have not herein created, as between the Participants, any relationship of surety, indemnification or responsibility for the debt of or claims against any other Participant. Nor is such a relationship created between any Participant or group of Participants and the Urban Counties.
- 5.9. The Participants have not, by entering into this Agreement, assumed, in any manner, any liability for the debts of or claims against the Urban Counties.

- 5.10. Urban Counties will not be financially liable to Participants for the performance or function of any Resource. In the event of non-performance of a Resource, Urban Counties will make best efforts within the applicable budget to correct the non-performance.

6. Oversight

- 6.1. Board of Directors: The Board of Directors is responsible for overall management of each Project and Resource. The Board of Directors:
- 6.1.1. will adopt a budget for each Project and Resource, and set costs to share a Resource;
 - 6.1.2. will approve, or confer Urban Counties staff with authority to approve in accordance with Board policy and practice, all contracts necessary or desirable for a Project or Resource, within the adopted budget;
 - 6.1.3. will approve, as applicable, the scope, deliverables, work plans, goals, and other matters impacting the effort and budget of each Project and Resource; and
 - 6.1.4. may adopt technical standards and guidelines necessary to facilitate the sharing of Resources and to ensure Resources are flexible and adaptable to meet county needs.
- 6.2. Participant Representatives: Each Participant participating in a Project or sharing a Resource shall designate a Representative to the Project or Resource by providing written notice to the Urban Counties. A Participant may change its Representative at any time by notifying the Urban Counties in writing. Each Participant Representative shall serve as the Participant's primary point of contact for matters pertaining to the Project or Resource, and may serve on the TechShare Oversight Committee if the Participant Representative meets the qualifications as provided in 6.3.
- 6.3. Oversight Committee: There shall be one TechShare Oversight Committee for all Projects and Resources. The TechShare Oversight Committee shall meet regularly as Projects and Resources may require, and make recommendations to the Board of Directors as to matters pertaining to a Project or Resource.
- 6.3.1. The TechShare Oversight Committee will be composed of seven (7) voting members as follows:
 - 6.3.1.1. the Chair-Elect of Urban Counties; and
 - 6.3.1.2. one member of the governing body from each of six (6) TechShare Participants, as appointed by the Chairman of the Board of Directors. In making appointments, the Chairman of the Board of Directors shall endeavor to make the Oversight Committee representative of all Participants in TechShare.
 - 6.3.2. Subject to section 6.3.3., appointed members of the Oversight Committee serve staggered 2-year terms. Upon the expiration of his/her term, an Oversight Committee member will continue to serve until a successor is appointed.

- 6.3.3. In making initial appointments, the Chairman of the Board of Directors shall designate three (3) appointees to have initial terms expiring December 31, 2013, and shall designate four (4) appointees to have initial terms expiring December 31, 2014. Thereafter, all terms shall be for two (2) years.
- 6.3.4. Each year, prior to the expiration of the terms of Oversight Committee members, the Oversight Committee shall recommend to the Chairman of the Board of Directors qualified persons in sufficient numbers to replace the Oversight Committee members whose terms will be next expiring.
- 6.3.5. Oversight Committee members may serve no more than three (3) consecutive terms as an appointed member of the Oversight Committee. Service as the Chair-Elect of the Board of Directors is not considered in applying this limitation.
- 6.3.6. No TechShare Participant may have more than one person serve on the Oversight Committee simultaneously.
- 6.3.7. No voting member of the Oversight Committee may also simultaneously serve on a Stakeholder Committee.
- 6.3.8. Each voting member of the Oversight Committee shall have one vote of equal weight.
- 6.3.9. The Chairpersons of each TechShare Project and TechShare Resource Stakeholder Committee serve on the Oversight Committee as ex-officio, non-voting members.
- 6.3.10. The Chairman of the Board of Directors shall select one appointed member of the Oversight Committee, who must be a member of the commissioners court of a county that is a member of Urban Counties, to serve as the Chairman of the Oversight Committee for a two-year term coincident with the term of appointed Oversight Committee members. A Chairman of the TechShare Oversight Committee may serve consecutive terms as Chairman.
- 6.3.11. Oversight Committee members are charged with making decisions they reasonably believe are in the best interests of the collective Participants in TechShare and of Urban Counties.
- 6.3.12. A majority of the members of an Oversight Committee shall constitute a quorum.
- 6.3.13. Proxies will be recognized for voting purposes at Oversight Committee meetings, but will not be counted for quorum purposes.
- 6.3.14. The Oversight Committee will:
 - 6.3.14.1. make recommendations to the Board of Directors regarding the selection and retention of the TechShare Division Director, who shall serve at the pleasure of the Board of Directors;
 - 6.3.14.2. oversee TechShare operations through the TechShare Division Director, who shall report to the Committee;

- 6.3.14.3. ensure compliance of Projects and Resources with applicable policies of the Board of Directors and with approved contracts;
- 6.3.14.4. review the appropriateness of scope, operation, budget, work plan, staffing, and contracting for Projects and Resources as recommended by Stakeholder Committees;
- 6.3.14.5. review financial information related to Projects and Resources to ensure compliance with the adopted budget; and
- 6.3.14.6. ensure a common "vision" regarding integration and functionality is realized across Projects and Resources.
- 6.3.15. In performing their duties under this Section, the Oversight Committee may:
 - 6.3.15.1. appoint one or more advisory committees to assist the Oversight Committee as it deems necessary;
 - 6.3.15.2. develop rules, policies, procedures and other standards for use of a Resource;
 - 6.3.15.3. develop policies for the oversight of a Project or Resource using effective risk management strategies;
 - 6.3.15.4. recommend to the Board of Directors for approval RFPs, vendor selection and vendor contracts;
 - 6.3.15.5. recommend to the Board of Directors actions relating to termination, modification, and enforcement of contracts with vendors and suppliers; and
 - 6.3.15.6. establish standards that promote the ability of information resources systems to operate and integrate with each other.
- 6.3.16. Any member of the Oversight Committee appointed by the Chairman of the Board of Directors who fails to attend more than two (2) consecutive meetings of the Oversight Committee, or who fails to attend more than 25% of the meetings of the Oversight Committee in any 12-month period, automatically vacates their position on the Oversight Committee. In such case, the Chairman of the Board of Directors will appoint a replacement Oversight Committee member.
- 6.4. Stakeholder Committees: Each Project and Resource shall have a Stakeholder Committee to make recommendations to the Oversight Committee regarding the Project or Resource.
 - 6.4.1. Each Stakeholder Committee will consist of the Representatives from all Participants participating in the respective Project or Resource.
 - 6.4.2. The Chairman of each Stakeholder Committee will be appointed by the Chairman of the Oversight Committee, in consultation with the Oversight Committee.
 - 6.4.3. Each Stakeholder Committee will:

- 6.4.3.1. manage functionality and scope of the Project or Resource, as applicable, within budget;
- 6.4.3.2. implement technical standards as may be necessary or desirable; and
- 6.4.3.3. develop annual work plans and corresponding budgets and recommend those to the Oversight Committee.
- 6.4.4. The voting strength for Stakeholder Committee members shall be determined using the funding formula in the respective Project or Resource Addendum. In the case of Resources, the funding formula used to determine voting strength shall be the formula for allocating Capital Costs of the Resource. As additional Participants join a Project or Resource, the voting strength of each Stakeholder Committee member will be adjusted in accordance with that formula.
- 6.5. Technical Committees: Each Stakeholder Committee may appoint, in its discretion, one or more advisory committees for the applicable Project or Resource to provide technical advice or to aid in the development, acquisition, management, or oversight of the Project or Resource.
- 6.6. Project and Resource Sponsors. Each Participant must designate a member of its governing body to serve as its Sponsor for each Project and Resource in which the Participant participates.
 - 6.6.1. The Sponsor may also serve as the Participant's Stakeholder Committee member or as a member of the Oversight Committee.
 - 6.6.2. The Sponsor is to serve as a point of contact in the event of disputes or disagreements.
 - 6.6.3. Each Sponsor will be provided by Urban Counties periodic updates on the status of respective Projects and Resources.
- 6.7. Oversight Committee members, Stakeholder Committee members, Technical Committee members, and members of other committees shall serve without compensation. Travel expenses may be paid for if included within the applicable Project or Resource budget.

7. Budget and Funding

- 7.1. Projects: The budget for each Project will be set forth in the Project Addendum. Each Participant's portion of the budget shall be set forth in the Project Addendum or determined as set forth in the formula in the Project Addendum.
 - 7.1.1. The Stakeholder Committee for the Project or the Oversight Committee may recommend the budget or funding formula be adjusted, subject to approval of the Board of Directors.
 - 7.1.2. A change in the budget or the funding formula that does not require a Participant to pay more than the total dollar amount as previously approved by the Participant shall not require additional approval of the Participant. *In no event will a Participant be obligated to pay more than the amount set forth in the original Project Addendum without formal approval of the Participant's governing body.*

7.2. Resources: Each Resource will have a periodic budget, such as for each Fiscal Year.

7.2.1. The Stakeholder Committee will formulate a proposed budget and submit it to the Oversight Committee for approval. The Oversight Committee may modify the proposed budget, but should endeavor to reach consensus with the Stakeholder Committee. The Oversight Committee will recommend the periodic budget to the Board of Directors for approval. The Board of Directors may modify the recommended budget as it deems appropriate.

7.2.2. Each periodic budget will include amounts intended to meet the objective of continual technical and functional refreshing of the Resource.

7.2.3. The Board of Directors shall set the costs or the method of determining the costs for Participants to share a Resource. The method of determining costs for Participants to share a Resource shall be set forth in the Resource Sharing Addendum.

7.2.3.1. Costs may vary by Participant.

7.2.3.2. Costs for a Participant may change as Participants change.

7.2.3.3. A change in a cost that does not require a Participant to pay more than the total dollar amount as previously approved by the Participant shall not require additional approval of the Participant. *In no event will a Participant be obligated to pay more than the amount previously approved by the Participant without formal approval of the governing body of the Participant.*

7.3. The timing of each Participant's funding obligations shall be set forth in the applicable Project Addendum or Resource Sharing Addendum.

7.3.1 Project costs, Capital Costs and O&M Costs will be charged, and must be paid, in advance of the start of a Project or the applicable budget term for a Resource.

7.4. The budget for each Project and Resource shall be in accordance with the chart of accounts as established by Urban Counties.

7.5. If a Participant uses grant or other funds subject to compliance with specific terms or conditions to pay any portion of its costs, that Participant is solely responsible for compliance with the applicable terms and conditions. To the extent permitted by law without establishing a sinking fund, the Participant shall hold harmless the other Participants from the use of such funds. Payments made using such funds will not be refunded in the event such payments are found to violate applicable terms or conditions.

8. Funding of Projects for Development or Acquisition of a TechShare Resource

8.1 Urban Counties may obtain funding for a Project in any manner permitted by law, including, for example, using its own reserves, borrowing from a financial institution, or collecting Capital Costs from Participants in advance of the development, acquisition or enhancement of a Resource (i.e., Pre-Paid Costs).

- 8.2 One or more Participants may become a Funding Entity by funding the initial development, acquisition, or enhancement of a Resource through the payment of Pre-Paid Costs.
- 8.2.1. Capital Costs of the Resource funded with Pre-Paid Costs will include, but may not be limited to:
- 8.2.1.1. Pre-Paid Costs;
- 8.2.1.2. interest at the rate of $\frac{1}{2}$ of the Prime Rate of Interest; and
- 8.2.1.3. a risk premium of 10% of Pre-Paid Costs and interest.
- 8.2.2. Interest will be applied to cash contributions to a Project from the date of the contribution.
- 8.2.3. Interest will be applied to direct expenditures made by a Participant as part of a Project if provided for in the Project Addendum, with interest accruing as specified in the Project Addendum.
- 8.2.4. A risk premium will be applied to:
- 8.2.4.1. cash contributions to a Project and direct expenditures made by a Participant as part of a Project, plus any interest as provided in section 8.2.2 or section 8.2.3;
- 8.2.4.2. in-kind contributions, with value established at the start of a Project; and
- 8.2.4.3. assets developed outside of a TechShare Project and transferred to Urban Counties for use in TechShare, with value established at the start of a Project.
- 8.2.5. Interest will be compounded annually on the average daily positive balance of Pre-Paid Costs.
- 8.2.6. Funding Entities will receive credit for interest and risk premium accrued on their respective Pre-Paid Costs and included in the Capital Costs of the Resource in the same proportion as Capital Costs are allocated to Funding Entities.
- 8.2.7. Interest on a Funding Entity's balance of Pre-Paid Costs will accrue until the balance of Pre-Paid Costs is retired either by (1) credits granted for Capital Costs associated with the use of the Resource and otherwise owed by the Funding Entity; (2) credits granted for Capital Costs paid by other Participants; or (3) revenue received from non-participants to access the Resource.
- 8.3. If Urban Counties funds a Project using its own reserves or through borrowing, the Capital Costs of the Resource will include, but may not be limited to:
- 8.3.1. cash contributions;
- 8.3.2. interest (1) at the rate and in the amount paid by Urban Counties on borrowed funds; or (2) at the rate of $\frac{1}{2}$ of the Prime Rate of Interest from the date of expenditure/contribution to the date all funds expended by Urban Counties have been repaid by Participants for non-borrowed funds; and

8.3.3. risk premium of 10% of cash contributions and interest.

9. Sharing of Costs of a Resource

- 9.1. The Board of Directors will set the Participants' shared costs for Resource use and include those costs in the applicable Resource Sharing Addendum for approval by Participants.
- 9.2. The costs shared by Participants using a software Resource shall consist of Capital Costs and recurring Operations and Maintenance Costs.
 - 9.2.1. The Capital Costs of each Resource shall be the costs incurred by Urban Counties to acquire, develop, or otherwise establish the Resource so that it can be shared by Participants.
 - 9.2.2. Each Participant's proportionate share of the Capital Costs of the Resource shall be determined using population, number of end users, or some other metric as established for the Resource by the Board of Directors and set forth in the applicable Resource Sharing Addendum.
 - 9.2.2.1. Allocation of Capital Costs will be done using the appropriate metric (e.g., population, number of users, etc.) as of the date the Resource is first placed in use.
 - 9.2.2.2. Once established, the allocation of Capital Costs will not change except as may be adjusted to account for additional Participants.
 - 9.2.2.3. Funding Entities may agree to allocate their total allocated Capital Costs among themselves differently, and that allocation will be contained in the Resource Sharing Addendum.
 - 9.2.2.4. Participants may pay their respective Capital Costs for a Resource in three equal annual installments. Interest at the rate of $\frac{1}{2}$ of the Prime Rate of Interest, compounded annually on the average daily positive balance of unpaid Capital Costs, will accrue.
 - 9.2.3. When paid, interest that accrues on unpaid Capital Costs will be distributed proportionality to those Participants who received a portion of the paying Participant's first payment of Capital Costs. The O&M Costs for each Participant shall be the Participant's proportionate share of the Total Annual Operations and Maintenance Cost of a Resource as determined using population, number of end users, or some other metric as established for the Resource by the Board of Directors and set forth in the applicable Resource Sharing Addendum.
 - 9.2.3.1. If population is used to allocate costs, decennial census figures or annual census estimates as published by the Texas State Data Center, whichever is most recent, will be used.
 - 9.2.3.2. Allocation of Total Annual Operations and Maintenance Costs will be done using the appropriate metric (e.g., population, number of users, etc.) as of the first day of the applicable term of the Total Annual Operations and Maintenance Costs. Once established for a term, unless additional Participants join in sharing the Resource, the allocation of Total Annual Operations and Maintenance Costs will

not change, but may change in subsequent terms if there are changes in the appropriate metric.

9.2.3.3. O&M Costs will be prorated for Participants joining mid-budget.

- 9.3 In addition to Capital Costs and O&M Costs, Participants may be required to pay Implementation Costs for a Resource. Implementation Costs will be unique to each Participant and will not be shared with other Participants.

10. Capital Improvements to Resources

- 10.1. Events may require significant changes not capable of being completed under the normal annual O&M budget.
- 10.2. Additional Capital will be derived in one of the following manners:
- 10.2.1. Creation of a separate TechShare Project (preferred)
 - 10.2.1.1. The separate Project will result in separate optional module or component of the Resource available to Participants that pay their proportionate share of Capital Costs for the module.
 - 10.2.1.2. Funding for the Project could come from any source of funding permitted for Projects generally.
 - 10.2.1.3. The sharing of Capital Costs for the module will be in the same manner as for the sharing of Capital Costs of Resources.
 - 10.2.2. Capital call upon all Participants sharing the Resource (not preferred)
 - 10.2.2.1. If there is a capital call, total Capital Costs of the Resource will be increased, as will Capital Costs for all Participants, both current and future.

11. Refunds with Additional Participation

- 11.1. As additional Participants join to share a Resource, a Participant then sharing the Resource is eligible to receive a partial refund of its Capital Costs and Operations and Maintenance Costs previously paid. The amount of any such refund shall be determined by calculating the effect of each additional Participant joining to share the Resource in accordance with the formulas for allocation of Capital Costs and Total Annual Operations and Maintenance Costs as set forth in the Resource Sharing Addendum.
- 11.2. Refunds resulting from additional Participants joining to share a Resource shall be calculated at the end of the annual period used to calculate the Total Annual Operations and Maintenance Costs.
- 11.3. At the direction of each Participant, its applicable refunds of either Capital Costs and Operations and Maintenance Costs may be made in the form of credits against future Operations and Maintenance Costs.
- 11.4. A Participant that withdraws from sharing a Resource is not eligible to receive refunds of Capital Costs or Operations and Maintenance Costs.
- 11.4.1. Because the former Participant is not receiving refunds of its Capital Costs during the period the former Participant does not share the Resource, the

former Participant's balance of Capital Costs will not be reduced during that period.

- 11.4.2. The former Participant becomes eligible for prospective refunds if it returns to sharing the Resource.
- 11.4.3. Any refund of Capital Costs and O&M Costs that would be distributed to the former Participant if it were a Participant will be distributed proportionately among active Participants, including those Participants whose payment of Capital Costs resulted in the refund to active Participants.

12. Refunds from Outside Revenue

- 12.1. If revenue is derived from a Resource, from other than Participants in TechShare, such revenue will be allocated as follows:
 - 12.1.1. If there are Funding Entities, the revenue will be allocated 50% to Funding Entities in proportion to their respective Pre-Paid Costs and the remaining 50% to all eligible Participants then sharing the Resource in proportion to their respective Capital Costs until all eligible Participants have been reimbursed all of their respective Capital Costs.
 - 12.1.1.1. Once all eligible Participants then sharing have received reimbursement of their respective Capital Costs, 50% of the revenue will be allocated to the Funding Entities in proportion to their respective Pre-Paid Costs and the remaining 50% will be retained by Urban Counties.
 - 12.1.2. If there are no Funding Entities, 100% of the revenue will be allocated to all eligible Participants then sharing the Resource in proportion to their respective Capital Costs until all eligible Participants have received reimbursement of their respective Capital Costs.
 - 12.1.2.1. Once all eligible Participants then sharing have received reimbursement of their respective Capital Costs, 100% of the revenue will be retained by Urban Counties.
- 12.2 To be eligible to receive an allocation of revenue derived from other than Participants in TechShare, a Participant must (1) have shared the Resource for at least 60 consecutive months, or (2) have never stopped sharing the Resource since the date the Participant first shared the Resource.

13. Installation and Implementation of a Resource

- 13.1. If Installation or implementation is required for a Participant to share a Resource, the installation or implementation will only be done by authorized entities through TechShare as provided in the Resource Sharing Addendum.

14. Reporting Requirements of Urban Counties

- 14.1. For each Project and Resource Urban Counties will establish a secure website accessible by those Participants participating in the Project or Resource and containing current information regarding Pre-Paid Costs, Capital Cost balances of each Participant, budget and expenditures, O&M Costs, Participants, Stakeholder Committee and other committee members, Project status, copies of vendor

contracts, and such other information in the possession of Urban Counties as the Stakeholder Committee shall deem appropriate.

- 14.2. Upon request by the Oversight Committee, the Urban Counties shall report, from information in its possession, on the status, progress, benefits, efficiency gains, financial matters or other information or data related to a Project or Resource that the Oversight Committee considers necessary.
- 14.3. Each Participant shall have a right of access to information regarding a Project or Resource in which the Participant participates as specified in the respective Project Addendum or Resource Sharing Addendum. Urban Counties shall have no obligation to produce or make available information that is not specified in the respective Project Addendum or Resource Sharing Addendum.
- 14.4. Financial information will be provided by Urban Counties to Participants in accordance with the chart of accounts used by Urban Counties. If a Participant desires financial information in a form other than the established chart of accounts, the Participant will be provided a comprehensive report of all transactions so that the Participant may categorize and analyze the transactions in any way the Participant desires.
- 14.5. In performing its duties under this Section, the Urban Counties is entitled to obtain from a Participant information necessary and appropriate to prepare a report under this section.

15. Participation by Other Entities

- 15.1. Additional Texas Local Governments and agencies of the State of Texas may participate in this Agreement with the approval of the Board of Directors.
- 15.2. Additional participants will be required to approve this Agreement and provide funds in accordance with Section 7 (Budget and Funding). The participation of additional Texas Local Governments or state agencies in a Project or Resource shall not require the approval of other Participants.

16. Ownership of Work Product

16.1. Ownership.

- 16.1.1. The ownership of work product, including Intellectual Property, and the right to acquire Intellectual Property, if applicable, for all Resources developed or obtained through TechShare will vest with Urban Counties.
- 16.1.2. Each Project Addendum will include a description of the work product anticipated to be developed as part of the Project.
- 16.1.3. Each Resource Sharing Addendum will include a description of the Resource, including the Intellectual Property, if any, comprising the Resource.
- 16.1.4. Urban Counties will deposit into escrow, during appropriate times in the development of the Resource, the source code for the benefit of the Participants. The type of escrow will be described in the applicable Resource or Project Addendum.

16.2. Rights of Participants

- 16.2.1. Participants sharing a Resource possess a non-transferable, non-exclusive right to use the Resource for their own use.
- 16.2.2. Participants must agree to prohibit further distribution of a Resource to non-participants unless otherwise clearly provided for in the Resource Sharing Addendum.
- 16.2.3. The sale of a Resource by Urban Counties to any entity requires the approval of Participants then sharing the Resource which, in total, have paid at least 50.1% of the Capital Costs of the Resource.
- 16.2.4. Any sale of a software Resource must be subject to each Participant's continued right to use the version of the Resource in use at the time of sale.
- 16.2.5. Before a Resource may be licensed for use by any entity outside of this Agreement and the applicable Resource Sharing Addendum, the licensing fee or calculation for deriving the licensing fee must be approved by Participants then sharing the Resource which, in total, have paid at least 50.1% of the Capital Costs of the Resource.

16.3. When a Resource is No Longer Offered through TechShare

- 16.3.1. When a Resource owned by Urban Counties is no longer offered for sharing through TechShare, each Participant that (1) paid its appropriate portion of the Capital Costs of the Resource and (2) has shared the Resource for at least 60 consecutive months preceding the date the Resource is no longer offered through TechShare, or has never stopped sharing the Resource since the date the Participant first shared the Resource, will be given a divided, proportionate ownership interest in the source materials for the former Resource and Urban Counties will not retain any ownership in the former Resource.
- 16.3.2. Each Participant sharing in the ownership of the former Resource will be free to use and manipulate the source materials for the former Resource for the Participant's sole use.
- 16.3.3. Any sale to or use of the source materials for the former Resource by a non-Participant requires the affirmative consent of Participants owning a collective majority interest in the former Resource.

16.4. When a Participant Withdraws from Sharing a Resource

- 16.4.1. If a Participant withdraws from sharing a Resource that is still offered through TechShare as permitted by the applicable Resource Sharing Addendum (for example, at the expiration of the Resource Sharing Addendum), the Participant will have no rights to future use of the Resource if the Participant has shared the Resource for less than 60 consecutive months.
- 16.4.2. If a Participant withdraws from sharing a Resource as permitted by the applicable Resource Sharing Addendum and has shared the Resource for at least 60 consecutive months, the Participant will be granted a non-

exclusive, perpetual license for the Resource as it exists on or about the date the Participant withdraws from sharing to use and manipulate the source materials for the Resource for the Participant's sole use.

- 16.4.3. If a Funding Entity withdraws from sharing a Resource and the Funding Entity has shared the Resource for less than 60 consecutive months, the Funding Entity will be granted a non-exclusive, perpetual license for the Resource as it exists on or about the date the Funding Entity withdraws from sharing to use and manipulate the source materials for the Resource for the Funding Entity's sole use; except, however, the Funding Entity shall not be granted a license and shall not have any further right to use the Resource if, prior to withdrawing from sharing, the Funding Entity has received refunds from revenue derived from other than Participants in TechShare in an amount equal to or greater than the Funding Entity's Pre-Paid Costs.

16.5. When a Participant Transfers a Resource to TechShare

- 16.5.1. If a Participant transfers ownership of a Resource to Urban Counties for sharing through TechShare and the Participant withdraws from sharing the Resource at any time, the Participant will be given a non-exclusive, perpetual license for the Resource as it exists on or about the date the Participant withdraws from sharing to use and manipulate the source materials for the Resource for the Participant's sole use.

16.6. When a Participant Withdraws from a Project

- 16.6.1. If a Participant withdraws from a Project as permitted by the Project Addendum, the Participant will be given a non-exclusive, perpetual license to use and manipulate for the Participant's sole use the Project work product as it exists on or about the date the Participant withdraws.

16.7. Liability for Use of Former Resource

- 16.7.1. Urban Counties and other Participants will not be liable to a Participant or former Participant, or any party claiming through a Participant or former Participant, for any claims arising from the use of a former Resource or the use of a Resource outside of a Resource Sharing Addendum.
- 16.7.2. No implementation assistance or end user training will be provided by Urban Counties or through TechShare for a former Resource or for the use of a Resource outside of a Resource Sharing Addendum unless a separate agreement is entered into for those services.

17. Ownership of Data

- 17.1. When a Project or Resource involves the shared storage of data or the shared access to data of the Participants and other entities, the data remains the property of the Participant or entity that created or submitted the data, unless otherwise provided in the applicable Project Addendum or Resource Sharing Addendum.
- 17.2. Information or other data of a Participant shall not be used by the other Participants other than in connection with the performance of this Agreement or as

contemplated by the applicable Project Addendum or Resource Sharing Addendum.

- 17.3. Information or other data of a Participant shall not be disclosed, sold, assigned, leased or otherwise provided to third parties, or commercially exploited by or on behalf of the other Participants, their employees, officers, agents, subcontractors, invitees, or assigns in any respect.
- 17.4. In the event a Participant receives a request for information or other data belonging to another Participant or entity, the Participant receiving the request must promptly notify the requestor that the Participant receiving the request is not the custodian of the requested information or data.
 - 17.4.1. A copy of the request must be forwarded to the Urban Counties within 24 hours of receipt.
- 17.5. Each Participant shall contractually bind other entities with access to information or data through the Participant to observe the same restrictions on the use and disclosure of information and data belonging to other Participants or entities, and the requirement to send requests for information and data belonging to other Participants or entities to the Urban Counties.
- 17.6. It is the intention of the Participants that the custodian(s) of data in the event such custodian(s) did not participate in a Project or Resource will remain the custodian(s) of such information and data, unless an applicable Project or Resource Addendum provides otherwise.

18. Warranties

- 18.1. **NO PARTY TO THIS AGREEMENT WARRANTS THE AVAILABILITY, ACCURACY, QUALITY, RELIABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY PROJECT OR RESOURCE MADE AVAILABLE THROUGH ANY PROJECT ADDENDUM OR RESOURCE SHARING ADDENDUM.**
- 18.2. **THIRD PARTY WARRANTIES OR GUARANTEES MAY INURE TO THE BENEFIT OF THE PARTICIPANTS TO A PARTICULAR PROJECT OR RESOURCE IF SUCH ARE CONTRACTUALLY SECURED AS PART OF SUCH PROJECT OR RESOURCE, AS SET FORTH IN THE APPROPRIATE ADDENDUM. NO PARTY TO THIS AGREEMENT SHALL BE HELD LIABLE FOR A WARRANTY OR GUARANTEE OFFERED BY A THIRD PARTY.**
- 18.3. **ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED BY ALL PARTIES TO THIS AGREEMENT TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.**

19. Notice

- 19.1. Any and all notices to be given under this Agreement by a Participant or Urban Counties shall be deemed to have been given if reduced to writing and delivered in person or mailed by overnight or certified mail, return receipt requested, postage pre-paid, to the address set forth on the signature page of the intended recipient.

- 19.2. A Participant may change its address for receiving notification under this Agreement by providing written notice of the change of address to Urban Counties. Urban Counties shall update the Participant's address on the secure website for the applicable Project or Resource.
- 19.3. Urban Counties may change its address for receiving notification under this Agreement by providing written notice of the change of address to all Participants.
- 19.4. Any notice required hereunder shall be deemed to have been given three (3) days subsequent to the date it was placed in the United States mail, postage pre-paid.

20. Amendment

- 20.1. This Agreement may not be amended except in a written instrument specifically referring to this Agreement and signed by all Participants and Urban Counties.
- 20.2. Any modification, alteration, addition or deletion to the terms of this Agreement which are required by changes in federal or state law are automatically incorporated herein without written amendment to this Agreement and shall be effective on the date designated by said law.

21. Current Revenue

- 21.1. The Parties warrant that all payments, expenditures, contributions, fees, costs, and disbursements, if any, required of it hereunder or required by any other agreements, contracts and documents executed, adopted, or approved pursuant to this Agreement, which shall include any exhibit, attachment, addendum or associated document, shall be paid from current revenues available to the paying Party.
- 21.2. The Parties warrant that no debt is created by this Agreement.

22. Binding Agreement, Authority, Parties Bound

- 22.1. This Agreement has been duly executed and delivered to all parties and constitutes a legal, valid and binding obligation of the Parties.
- 22.2. This Agreement may be executed in multiple counterparts. Each person executing this Agreement on behalf of each Party represents and warrants that they have full right and authority to enter into this Agreement.

23. Applicable Law

- 23.1. This Agreement shall be expressly subject to the Participants' sovereign immunity and other governmental immunity and all applicable federal and state law.
- 23.2. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

24. Severability

In the event that one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability of the Agreement shall be construed as if such invalid, illegal or unenforceable provision has never been contained herein, but shall not affect the remaining provisions of this Agreement, which shall remain in force and effect.

25. Assignment

The Urban Counties may not assign its rights and duties under this Agreement without the prior written consent of the Participants, acting by and through their respective governing bodies, even if such assignment is due to a change in ownership or affiliation. Any assignment attempted without such prior consent by the Participants shall be null and void.

26. Full Agreement

- 26.1. This Agreement, standing alone, does not grant any rights, or bind any Party, to any obligations.
- 26.2. Only upon execution of a Project Addendum or Resource Sharing Addendum will a Participant and Urban Counties have any rights or obligations pursuant to this Agreement.
- 26.3. This Agreement and any Project Addenda or Resource Sharing Addenda executed by a Participant shall contain the entire understanding of the Parties with respect to that Participant and the Urban Counties regarding participation in TechShare.
- 26.4. Each Participant acknowledges that the other Participants and Urban Counties, or anyone acting on behalf of the other Participants or Urban Counties, have made no representations, inducements, promises or agreements, orally or otherwise, unless such representations, inducements, promises or agreements are embodied in this Agreement, expressly or by incorporation.

27. Effect of this Agreement on Existing Agreements and Addenda

- 27.1. Except as set forth in 27.2, this Agreement succeeds and replaces prior Interlocal Agreements for Participation in the Urban Counties TechShare Program (the "Prior ILAs") to the extent the Prior ILAs were still in effect.
- 27.2. The Prior ILA approved by the Board of Directors on July 9, 2004 and previously approved by all participants in the TechShare Resource Sharing Addendum for the Common Integrated Justice System (CIJS) Court Administration System shall remain in effect for the purpose of governing and the CIJS Resource Sharing Addendum through FY2013. For FY2014 and subsequently, the participants in the CIJS Resource Sharing Addendum will execute this Agreement and the Prior ILA approved by the Board of Directors on July 9, 2004 will no longer be in effect.
- 27.3. As each Project Addendum and Resource Sharing Addendum executed pursuant to the Prior ILA expires, is terminated, or is amended, then the Prior ILA ceases to be in effect for that Project or Resource and this Agreement shall succeed and replace the Prior ILA in the event the Project or Resource is continued through a new or amended Project Addendum or Resource Sharing Addendum.

28. Multiple Counterparts

- 28.1. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be and shall be construed as an original, and all of which shall constitute and be construed as a single agreement.

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FORT BEND COUNTY

By: 

Robert Hebert

Title: County Judge

Date: June 3, 2014

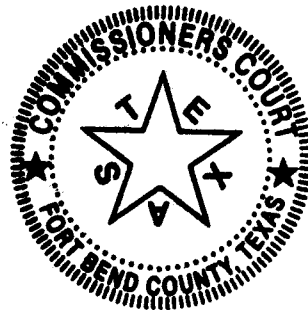
ATTEST:

By: 

Dianne Wilson

Title: County Clerk

Name and Address for Purposes of Notice:



Acknowledgement of Fort Bend County's Participation in TechShare:

TEXAS CONFERENCE OF URBAN COUNTIES, INC.

BY: 

Title: Executive Director

Date: 5.29.14

Name and Address for Purposes of Notice:

Donald Lee
Executive Director
500 W. 13th Street
Austin, Texas 78701

TEXAS CONFERENCE OF URBAN COUNTIES, INC.

BY: 

Title: Executive Director

Date: 8.29.14

Name and Address for Purposes of Notice:

Donald Lee
Executive Director
500 W. 13th Street
Austin, Texas 78701