

ORDINANCE NO. 44403

AN ORDINANCE approving an Interlocal Agreement between the City of Omaha and Douglas County, Nebraska, involving appropriations out of more than one year as provided by Section 5.17 of the Home Rule Charter providing for the continuation of the Douglas Omaha Technology Commission, hereinafter referred to as "DOTComm" for a term from January 1, 2018 until December 31, 2027; to provide a method for the City and County to continue to work together and cooperate with one another in an effort to obtain information technology services and support in a secure and cost efficient and effective manner; and to provide for an effective date thereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. Approval is hereby given to the attached Interlocal Agreement between the City of Omaha and Douglas County, Nebraska, involving the appropriation out of more than one year as provided by Section 5.17 of the Home Rule Charter to continue the existence of the Douglas Omaha Technology Commission, "DOTComm" from January 1, 2018 to December 31, 2027.

Section 2. That this Ordinance being administrative in character will be in full force and take effective upon its passage.

ORDINANCE NO. 41403
PAGE 2

INTRODUCED BY COUNCILMEMBER

Ben S. Gray

APPROVED BY:

ACTING Ben Gray

PASSED FEB 06 2018 7-0

MAYOR OF THE CITY OF OMAHA DATE

ATTEST:

[Signature]
CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

[Signature] 12/27/17
DEPUTY CITY ATTORNEY DATE

ORDINANCE NO. 41403

Item Submitted By: Sunny LaPuzza

Department: Law

Council Meeting Dates:

First Reading: January 23, 2018

Second Reading and Public Hearing: January 30, 2018

Third Reading: February 6, 2018

AN ORDINANCE approving an Interlocal Agreement between the City of Omaha and Douglas County, Nebraska, involving appropriations out of more than one year as provided by Section 5.17 of the Home Rule Charter providing for the continuation of the Douglas Omaha Technology Commission, hereinafter referred to as "DOTComm" for a term from January 1, 2018 until December 31, 2027; to provide a method for the City and County to continue to work together and cooperate with one another in an effort to obtain information technology services and support in a secure and cost efficient and effective manner.

✓24

PUBLICATIONS

PUBLICATION OF HEARING: _____

PUBLICATION OF PASSAGE: _____

Presented to City Council

February 6, 2018

.....
APPROVED 7-0
.....

Elizabeth Butler

.....
City Clerk



City of Omaha
Jean Stothert, Mayor

RECEIVED

2018 JAN 10 AM 9:53

CITY CLERK
OMAHA, NEBRASKA

Office of the Mayor
1819 Farnam Street, Suite 300
Omaha, Nebraska 68183-0300
(402) 444-5000
FAX: (402) 444-6059

Honorable President


and Members of the City Council,


The attached Ordinance provides for the approval of an Interlocal Agreement between the City of Omaha, Nebraska, a municipal corporation, and Douglas County, Nebraska for the continued operation of the Douglas Omaha Technology Committee (DOTComm) for an additional period from January 1, 2018 and ending on December 31, 2027.

The Interlocal Agreement provides the methodology by which the City and County will continue to work together cooperatively to provide information technology services and support in a secure and cost efficient and effective manner. It keeps in place the Oversight Committee that was established in 2012. The Oversight Committee is made up of three City representatives, three County representatives and one nonemployee resident of Douglas County. The Agreement relies heavily on the involvement of IT Coordinators for the City and County who operate at a department director level and work with the CIO of DOTComm to provide and prioritize its services.

This Agreement streamlines some of the significant changes that were made to DOTComm in 2012.

Sincerely,


Jean Stothert, Mayor
City of Omaha
Date 1/9/2018


Stephen Curtiss
Finance Director
Date 1/8/18

PLAW - CITY COUNCIL DOCUMENTS\2017\20135sel

RW 1/4/2018

INTERLOCAL AGREEMENT

This Agreement made and entered into as of the dates indicated below, by and between the City of Omaha, Nebraska, a Municipal Corporation of the State of Nebraska hereinafter referred to as "CITY" and County of Douglas, Nebraska, a political subdivision of the State of Nebraska, hereinafter referred to as "COUNTY".

WHEREAS, the Interlocal Cooperation Act, NEB.REV.STAT. §13-801, *et seq.* (Reissue 2007), permits local governmental units to make the most efficient use of their taxing authority and other powers by enabling them to cooperate with other local governments on a basis of mutual advantage through the use of Interlocal Agreements; and,

WHEREAS, the CITY and COUNTY have entered into Interlocal Agreements for the purpose of creating an entity to provide information technology services and support to both entities in a secure, cost-efficient and effective manner;

WHEREAS, the CITY and COUNTY desire to enter into this Interlocal Agreement to further clarify the terms, provisions and conditions of mutual cooperation and extend the life of the entity that was created, the Douglas Omaha Technology Commission, and hereinafter refer to it as "DOTComm" instead of "DOT.Comm"; and,

WHEREAS, the most recent Interlocal Agreement expired on December 31, 2016 and was automatically extended for one full year with a current expiration date of December 31, 2017; and,

WHEREAS, the CITY and COUNTY desire to continue to work together and cooperate with one another in an effort to obtain information technology services and support in a secure, cost-efficient and effective manner on new terms, provisions and conditions as set forth in this Interlocal Agreement.

NOW, THEREFORE, based on the mutual covenants and consideration expressed herein, the City and County do hereby enter into this Interlocal Agreement subject to and conditioned upon the following terms, provisions and conditions:

SECTION 1. GENERAL PURPOSE. The purpose of this Agreement is to clearly define the manner in which the CITY and COUNTY will, pursuant to and as authorized by the provisions of the Interlocal Cooperation Act, cooperate to their mutual advantage in an effort to provide and/or obtain information technology services and support that matches their individual and joint information technology needs, interests and budgetary constraints through the use of one or more technology vendors, including without limitation DOTComm.

SECTION 2. TERM. This Agreement shall be for a period of ten (10) years commencing from January 1, 2018 and ending December 31, 2027 unless either the CITY or COUNTY desires to terminate the Agreement. Should CITY or COUNTY desire to terminate the Agreement, they shall provide one (1) year advance written notice of the intention to terminate.

This Agreement may be revised or renewed by the CITY and COUNTY at any time. In the event that the parties fail to express their intent to terminate this Agreement and absent any formal action to renew or revise same, the term of this Agreement shall be automatically extended for periods of one year at a time during which time the City and County shall either renew or revise this Agreement, or alternatively, terminate this Agreement and, if applicable, initiate the process of dissolving DOTComm and distributing its assets in accordance with Section 14 hereinafter below.

SECTION 3. DOTCOMM IN GENERAL. The entity known as DOTComm as was established under the original Interlocal Agreement and reconstituted under a second Interlocal Agreement shall continue to exist, and shall function under the terms, provisions, and conditions of this Interlocal Agreement and shall have all powers granted hereunder.

SECTION 4. CITY AND COUNTY IT COORDINATORS. The City and County will both have an IT Coordinator. The City IT Coordinator will function at the cabinet level and report directly to the Mayor. The County IT Coordinator will be at the Director level and report directly to the County Board with regular interaction with the County's Chief Administrative Officer.

In addition to the duties, responsibilities, roles and functions as may be set forth in their respective position descriptions, the IT Coordinators shall have the duties, responsibilities, roles and functions as set forth herein and the IT Coordinators are hereby authorized to carry out those duties, responsibilities, roles and functions on behalf of their respective governmental entity.

The IT Coordinators shall be responsible for championing IT causes within their respective organizations. They shall make sure their respective administrations are aware of the particular technology needs and work to secure the necessary funding to accomplish those needs. They shall review all department-based IT initiatives to ensure that any such initiative is consistent with the existing infrastructure as well as the technology strategic plans. They shall assess the technology needs of the departments within their respective governmental unit and determine if the department's business application needs require its own IT support staff and then assesses how that support can best be delivered (for example, using departmental staff, outsourcing, or using DOTComm) and advocate for funding as may be necessary for that purpose. The IT Coordinators shall prioritize technology projects within their own structure.

The IT Coordinators shall regularly collaborate with each other to ensure that the IT initiatives and priorities of their respective organizations are consistent with the infrastructure and technology strategic plans and that the technology initiatives are coordinated whenever and to the extent possible.

The IT Coordinators shall provide advice and guidance to DOTComm's CIO. Further, they shall draft any service level agreements for the entity they represent with DOTComm. Once any such service level agreements have been approved by the Oversight Committee, the IT Coordinators shall ensure the service levels required by those agreements are adhered to.

The IT Coordinators shall have the following roles and responsibilities and are authorized to carry out the following duties and functions for their respective governmental entity:

- Be the primary DOTComm contact for all technology related items;
- Gain an understanding of the technology needs of the organization;
- Develop long-term technology goals and strategic objectives for the organization;
- Direct and coordinate the development of the City-County enterprise's strategic plan with the DOTComm CIO;
- Direct and coordinate the development of the City-County enterprise's capital improvement plan with the DOTComm CIO;
- Assist in building business cases to support technology projects;
- Coordinate and prioritize the technology projects for the organization;
- Help resolve issues related to compliance with the duly-adopted IT standards;
- Work with the DOTComm CIO to annually develop a proposed Cost Model, Usage Reports and/or propose amendments to existing Service Level Agreements (SLAs);
- Approve IT and enterprise technology standards, policies and processes;
- Assist in gaining the proper capital and operational funding necessary to support the technology needs of their governmental entity;
- Hold DOTComm accountable for meeting the commitments and service levels by notifying the DOTComm CIO and Oversight Committee of any alleged breach or violation thereof;
- Evaluate and give input to the DOTComm CIO on DOTComm's performance;
- Communicate technology matters to their respective organization;
- Review Cost Model and Usage Reports to ensure the costs are allocated appropriately and in accordance with the allocations and budget as approved by the Oversight Committee;
- Provide advice and guidance to their respective entities for the development of budgets to support their IT projects and initiatives;
- Coordinate the escalation of issues with DOTComm;
- Work with department leadership to identify technological solutions to business problems or inefficiencies;
- Give advice with respect to, approve and coordinate departmental usage of, non-DOTComm resources;
- Present and respond to the City Council or County Board on matters related to technology;
- Advise and participate in the IT budgeting process for their respective entities; and,
- Maintain an up-to-date understanding of technology direction and applications.

SECTION 5. DOTCOMM GOVERNANCE. DOTComm shall be governed by the DOTComm Oversight Committee as more specifically described hereinafter below.

a) Membership and Composition. The DOTComm Oversight Committee shall consist of seven (7) members, comprised as follows:

- o The City Finance Director;
- o The County Finance Director;
- o Two City employees appointed by the Mayor and confirmed by the City Council to two (2) year staggered terms. These employees must have a demonstrated interest in and knowledge of information technology and must be considered to be cognizant of and in alignment with the interests and needs of the City's technology stakeholders. The two City employees may be removed from the Committee by the Mayor, subject to City Council approval, if the Mayor determines that the employees are not performing the duties prescribed to them by this Agreement;
- o Two County employees appointed by the Douglas County Board of Commissioners to two (2) year staggered terms with one being a county elected official or their designee and one being from the office of a non-elected county department. These employees must have a demonstrated interest in and knowledge of information technology and must be considered to be cognizant of and in alignment with the interests and needs of the County's technology stakeholders. The two County employees may be removed from the Committee by the County Board if the Board determines that the employees are not performing the duties prescribed to them by this Agreement;
- o One resident of Douglas County who shall not be an employee of the City, nor County, nor shall said resident-member be employed by nor in any way affiliated with DOTComm nor other entity to which DOTComm provides services, if any. Said resident-member must be highly knowledgeable of and have significant experience in information technology preferably in one or more of the following areas: IT budgeting; working with managed service contracts and/or service level agreements; providing IT services to an enterprise comprised of two or more distinct operating units with both shared and distinct IT needs; IT strategic planning; and/or local government-focused ERP systems. The resident-member shall be appointed by a majority vote of the other members of the DOTComm Oversight Committee to a two (2) year term.

b) Duties and responsibilities. The DOTComm Oversight Committee shall:

- o Hire, fire, set the compensation plan (including salary and benefits) for, and review the performance of the DOTComm CIO;
- o Prepare and execute written contracts for the employment of the CIO, setting forth the terms, provisions and conditions of said employment. The term of any such employment agreement shall not extend beyond the date of the then-current Interlocal Agreement.

- Provide input on the performance of the City and County IT Coordinators to the Coordinators themselves and their superiors;
- Review and approve DOTComm's Budget, Cost Model, Usage Reports, Capital Improvement Funding, and Service Level Agreements (SLAs);
- Review and approve proposed technology billing allocations and unit costs not within the budget;
- Resolve disagreements pertaining to IT issues between any one or more of the following: the City and County IT Coordinators and the DOTComm CIO; including, without limitation: issues pertaining to enterprise standards or policies, prioritization of projects, and decisions to use outside vendors.
- After receiving the recommendation of both the City and County Finance Directors the DOTComm Oversight Committee shall review and approve DOTComm's annual budget. The City and County Finance Director shall ensure that the proposed DOTComm annual budget is consistent with their respective entities' budgets, policies, and strategic plans. The proposed budget, as approved, shall be submitted to the City and County for consideration.
- Review bylaws if it is deemed necessary or desirable. The bylaws and any amendments to the bylaws shall be approved by majority vote, reduced to writing and a copy of same shall be delivered to, kept current and remain on file in the office of the CITY CLERK and the COUNTY CLERK.
- Conduct its business pursuant to the provisions of the Nebraska open meetings laws, NEB. REV.STAT § 84-1401, *et seq.* or as may be hereafter amended.

SECTION 6. DOTCOMM CHIEF INFORMATION OFFICER (CIO). The operational and day-to-day administrative head of DOTComm shall be the DOTComm Chief Information Officer (CIO). The Oversight Committee shall appoint the CIO to manage the daily operations and provide for the implementation of any and all directives of the Oversight Committee. In addition to those duties and functions set forth under Section 5(b) the Oversight Committee shall provide general administrative oversight and shall provide policy directives to the CIO for all matters relating to the provision of information technology related services. The CIO shall be subject to performance review and shall serve at the pleasure of the Oversight Committee.

- The CIO shall be directly accountable to the DOTComm Oversight Committee for meeting the requirements of the Service Level Agreements (SLAs). The IT Oversight Committee shall hire and have the authority to terminate the CIO at any time for any reason notwithstanding any language in any employment agreement to the contrary.
- The CIO shall fulfill the following roles:
 - Coordinates and consults with the IT Coordinators regarding the information technology systems, communications and technology initiatives;
 - Recommend strategic and tactical plans to the IT Coordinators;
 - Work with the IT Coordinators and make recommendations for the development of the City-County-DOTComm enterprise's strategic plan;

- Work with the IT Coordinators and make recommendations for the City-County-DOTComm enterprise's Capital Improvement Projects (CIP);
- Ensure that all IT assets and licenses, irrespective of ownership, are inventoried, tracked and monitored;
- Recommend the long-term systems needs and hardware/software acquisitions needed to deliver in accordance with the Cost Model, and/or Service Level Agreements (SLAs);
- Responsible for the daily IT operation at (or better than) market competitive rates;
- Identify and communicate to the IT Coordinators opportunities to coordinate technology needs between the City & County to generate efficiencies to the extent possible;
- Attract, retain and develop highly skilled and talented staff to enable effective business partnerships with the customers of DOTComm;
- Serve and participate proactively with the IT Coordinators in developing and executing strategic plans to optimize the use of information technology in support of the needs of the City of Omaha and Douglas County;
- Ensure that DOTComm performs and delivers according to Service Level Agreements (SLAs);
- Recommends, maintains, make available, and enforce approved policies, standards, practices and security measures related to the infrastructure to ensure effective and consistent information processing operations and to safeguard the information resources;
- Direct the preparation of DOTComm budgets (by service level) and financial reporting, internal audits, progress reports and other responsibilities as may be requested by the City and County;
- Ensure that all billing is done in accordance with the approved Cost Model, schedules and rates and that all expenses are appropriately distributed amongst the user departments;
- Monitor the progress of major projects, paying particular attention to any developing problems;
- Annually present the proposed DOTComm budget to the Oversight Committee;
- Negotiate and manage technology vendor contracts in conjunction with the City County Purchasing Department;
- Ensure that the skills and expertise necessary for governmental IT systems excellence are found within its personnel or business partners. Training, career enhancement and performance evaluation tools shall be used to ensure compliance with this provision;
- Prepare draft policies, procedure manuals and other operational plans as deemed necessary or desirable. The Oversight Committee shall be provided an opportunity to review, comment, and receive feedback from the IT Coordinators on same before implementation. The Oversight Committee shall have the authority to reject any such proposed policies, procedures and/or plans;

- Ensure that DOTComm conducts its business in compliance with Nebraska statutes relative to public bidding procedures for the procurement of equipment necessary to fulfill its obligations; and
- other responsibilities as may be requested by the City or the County of the DOTComm Oversight Committee.

SECTION 7. DUTIES OF THE CITY. The CITY shall retain an IT Coordinator as described herein. The CITY shall appoint representatives to the DOTComm Oversight Committee. The City shall consider for appropriation in its budget process the funding to DOTComm as recommended by the Oversight Committee.

SECTION 8. DUTIES OF THE COUNTY. The COUNTY shall retain an IT Coordinator as described herein. The COUNTY shall appoint representatives to the DOTComm Oversight Committee. The County shall consider for appropriation in its budget process the funding to DOTComm as recommended by the Oversight Committee.

SECTION 9. DUTIES OF CITY AND COUNTY DEPARTMENTS. CITY and COUNTY Departments shall:

- Work with their respective IT Coordinator to develop departmental technology plans, SLAs, and objectives;
- Review and give input on the applicable City or County technology plans and priorities;
- Escalate technology issues to the IT Coordinator when they are not resolved through normal processes;
- Work with DOTComm and the IT Coordinators on the annual IT budget;
- Deliver functional application support if needed;
- Give input to IT Coordinators on the performance of DOTComm;
- Approve payment for services directly related to their department;
- Follow approved technology policies, standards and processes to ensure the continued integrity of the enterprise;
- Work with DOTComm on projects, giving functional specifications, testing requirements and functional testing support; and,
- Work with their respective IT Coordinators to establish a process for the request and approval for the use of outside vendors to provide, without limitation, technology services, equipment, or software. In deciding to use an outside vendors, the IT Coordinator shall ensure that said services, equipment, and/or software is compatible with the enterprise network architecture and standards; or alternatively, shall develop an alternative method of deploying same in a manner that does not adversely affect the network.

SECTION 10. DUTIES OF DOTCOMM. DOTComm, under the direction of the CIO and, as necessary, the Oversight Committee, shall:

- Present a report of activity, services delivered and costs of operations annually to the Douglas County Board of Commissioners and the City Council of the

- City of Omaha as a part of their respective budgeting process;
- Submit a proposed annual budget to the City Finance Director and the County Finance Director for review and consideration. Said proposed budget shall include, without limitation, all proposed user charges for IT Services and a projection of expenditures necessary to support the user department and organization needs. The proposed budget shall be considered and approved by the Oversight Committee in accordance with Section 5 hereinabove.
 - In coordination with the IT Coordinators, prepare and submit an annual recommended appropriation for Capital Improvement Projects taking into account the need to periodically replace and upgrade technology infrastructure and other needed elements whose scope is beyond annual appropriations cycle of the operating budget;
 - Promote and assist in the development and updating of an Enterprise Technology Strategic Plan; elements of this plan should reflect the best practices in industry and government;
 - Assist the IT Coordinators in analyzing any existing "islands" of technology and work with the IT Coordinators to develop a proposed strategy to address same. The parties understand that some technology functions should properly remain separate;
 - Promote and assist in the development of a citizen-centric strategies that can improve internal efficiencies while reducing delays and satisfy citizen concerns;
 - Promote and assist in the development of enterprise standards that support the inter-operability of software applications and programs throughout the enterprise while maintaining enterprise security and integrity;
 - Provide explanations and details on technology issues to users, the general public and the political leadership as needed; and,
 - May submit its proposal to provide services to Departments when the Department through its respective IT Coordinator issues an invitation to bid or request for proposals for technology services or support within its area of competence; however, nothing herein shall require the Department to select DOTComm as the vendor to provide such services merely because DOTComm submitted a proposal.

SECTION 11. GENERAL PRINCIPLES. In construing this document, deriving and effectuating its purpose and intent and carrying out its provisions, the following over-arching principles shall apply:

1. The development of a Cost Model to equitably allocate the cost of services that is tied to services used. The Oversight Committee shall establish the list of IT services after receiving input from the IT Coordinators.
2. The City and County shall only be charged for such other services as may be requested and received on a time and materials basis.
3. The costs of DOTComm services should be compared with current market rates to ensure the rates being charged are competitive.

4. All IT projects and IT support should be analyzed to determine which support model should be used (DOTComm, in-house or outsourced). Decisions to outsource IT support or allow departments to provide business application specific IT support "in-house" are made by the IT Coordinators in conjunction with the Department heads after considering the recommendations of the CIO.
5. The City and County are making no commitments to fund future projects. The City and County are willing to consider parameters under which year-end fund balances (if any) or some portion thereof may be used for specific IT capital improvement projects. To the extent that same may be authorized by the City and County, they shall be reflected in DOTComm's budget.
6. The specific duties to be performed and performance standards to be met by DOTComm are to be clearly defined in the Cost Model and/or Service Level Agreements (SLAs).
7. All purchasing and request for proposals shall be coordinated through City-County Purchasing to maximize volume pricing.
8. All non-budgeted IT expenditures in excess of \$50,000 require prior approval of the appropriate City and/or County Finance Director.
9. All actions should be guided by best practices within the government sector of the IT world as well as adaptable practices from outside that realm.
10. All projects should be designed with the public in mind.
11. IT should be refreshed in accordance with a strategic plan and capital improvement plan which are to be guided by industry standards; provided, however, that implementing either or both plans are subject to and conditioned upon the existence of available funds for such purpose.

SECTION 12. AUDITS. DOTComm shall cause to be performed an annual comprehensive financial audit by an external auditing firm. The auditor's findings and report shall be provided to the Oversight Committee, the Mayor, and the County Board. DOTComm shall be subject to such additional audits, financial or otherwise, [for example a Service Organization Controls ("SOC") audit] as may be requested by either the CITY or COUNTY which shall be funded at the expense of the requesting entity. The auditor's findings and report shall be provided to the Oversight Committee and such other parties as may be appropriate.

The CIO shall perform, or cause to be performed, internal management audits to cover security, Cost Model adherence, SLA adherence and fiscal conditions on such interval as deemed appropriate unless requested to do so sooner by the Oversight Committee.

SECTION 13. COST MODEL AND CHARGEBACKS. The CIO, with the approval of the DOTComm Oversight Committee, and the IT Coordinators shall annually update the DOTComm Cost Model. The Cost Model will allocate DOTComm's Operating Budget to the information technology services it provides and will not include profit. These technology service costs will then be allocated to the users of these services across the City and County. Any proposed changes to the annual budget, services, and/or allocation method and metrics must be reviewed and approved by the Oversight Committee. If so approved, proposed changes to the annual budget, services, and/or allocation method and metrics must then be reviewed and approved by the City and County prior to implementation.

In addition to the Cost Model, DOTComm shall provide services to user departments and organizations as requested by them. These additional services shall be charged on a time and materials basis. When requested, but at least every two years, DOTComm shall demonstrate to the Oversight Committee that such charges are consistent with the then-existing local market for comparable services. The cost of these additional services shall be paid by the user departments and organizations through chargebacks which shall be paid monthly.

SECTION 14. FACILITIES AND EQUIPMENT. DOTComm shall be allowed to utilize existing space in the Omaha/Douglas Civic Center, 1819 Farnam Street, and the Douglas County Information Services Center, 408 South 18th Street for housing of equipment and office space necessary for employees in the conduct of the daily business. In addition, DOTComm shall maintain facilities in the basement of the Civic Center. The City shall be responsible for paying any rent and utilities due for space in the Civic Center. The County shall be responsible for paying any rent and electric utilities due for space at 408 South 18th Street; and DOTComm shall pay for gas and water utilities for said location. DOTComm may also occupy space in other locations as approved by the City and County.

To the extent possible, ownership of assets shall be established at the time of purchase or acquisition so that the asset(s) can be properly reflected within the appropriate asset inventory. In the event that this Agreement is terminated, the government representatives on the Oversight Committee shall be responsible for dividing all assets of DOTComm, if any, for distribution to either the City or County. If no agreement can be reached on all items, the dispute shall be referred to mediation which will then assist the parties in dividing the assets. In determining the proper distribution of assets, the mediator shall consider factors such as: how they were purchased and by whom; and, who currently needs the asset for continued operations.

Any equipment or software purchased using federal, state or private funds (i.e. grants, seized assets, private foundations) shall remain the property of the entity to whom the funding was awarded. All provisions and terms regarding ownership of the equipment and/or software purchased or acquired with such funding will be recognized and adhered to.

SECTION 15. LEGAL SERVICES. DOTComm may receive legal advice and counsel from personnel designated by and reporting to the Omaha City Attorney based on an agreement to reimburse actual costs incurred. Nothing herein shall preclude DOTComm from retaining 'outside' counsel as may be necessary in situations where a conflict of interest may arise.

SECTION 16. SUPPORT SERVICES CONTRACTING. DOTComm is free to reach agreement with any entity for contracted support services for DOTComm not contemplated in this agreement; provided that such service is within the budget as approved. The contracted services may include financial, personnel, legal, custodial, maintenance, leases and goods, or anything not otherwise mentioned herein or restricted by law. Nothing herein shall be construed to authorize DOTComm to contract nor sub-contract any of its duties or obligations as set forth in this Interlocal Agreement or SLA without the prior approval of the Oversight Committee.

SECTION 17. PROVIDING SERVICES TO ENTITIES OTHER THAN THE CITY OR

COUNTY. DOTComm may provide service to other governmental entities only upon the recommendation and prior approval of the OVERSIGHT COMMITTEE. The OVERSIGHT COMMITTEE shall have the sole and exclusive authority to allow DOTComm to provide service to other entities; and it may authorize or deny same in the exercise of its sole discretion and as it deems appropriate so as to ensure that the service provided to the City and County as mandated by the MSC and SLAs is not adversely affected.

SECTION 18. CONTINGENT UPON FUNDING CLAUSE. All obligations of DOTComm as specified in this Agreement are contingent upon it being funded by the CITY and COUNTY in a manner sufficient to allow it to perform the functions contemplated herein.

SECTION 19. INSURANCE. DOTComm shall purchase and maintain during this Agreement comprehensive general liability insurance in the minimum amount of one million dollars (\$1,000,000.00) per occurrence and five million dollars (\$5,000,000.00) aggregate and Workers' Compensation Insurance as provided by statute. DOTComm shall be responsible for all of its premiums, deductibles and co-pays associated with such insurance. The above insurance shall also cover any subcontractors used by DOTComm and shall name the City of Omaha and Douglas County as additional insured.

SECTION 20. NONDISCRIMINATION. Neither the CITY nor COUNTY nor DOTComm shall, in the performance of this Agreement, discriminate or permit discrimination against any employee or applicant for employment in violation of federal or state laws or local ordinances because of race, color, sex, age, disability, national origin or religious or political opinions or affiliations.

SECTION 21. APPLICABLE LAW. The parties to this Agreement shall conform to all existing and applicable city ordinances, state statutes and federal laws and existing rules and regulations; Nebraska law will govern the terms and performance under this Agreement. Venue for any non-federal legal proceeding under this Agreement shall be in the State of Nebraska, District Court of Douglas County and for any federal legal proceeding in the United States District Court for the State of Nebraska located in Omaha Nebraska.

SECTION 22. INTEREST OF CITY. Pursuant to the provisions of Section 8.05 of the Home Rule Charter of the City of Omaha, 1956, as amended, no elected official or any officer or employee of the city shall have a financial interest, direct or indirect, in any City Agreement. Any violation of that section shall render the Agreement voidable by the Mayor or City Council.

SECTION 23. MERGER OR MODIFICATION. This Agreement shall not be merged into any other oral or written agreement, lease or deed of any type. This is the complete and full agreement of the parties and no representations were made or relied upon by either party other than those that are expressly set forth. No agent, employee or representative of either party is empowered to alter any of the terms hereof unless done in writing, agreed to and signed by an authorized officer of the respective parties.

SECTION 24. ASSIGNMENT. This Agreement may not be assigned without the express

written prior consent of the parties.

SECTION 25. NEW EMPLOYEE WORK ELIGIBILITY STATUS. DOTComm shall be required to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

SECTION 26. AMENDMENTS. This Agreement may be modified only by written amendment, duly executed by authorized officials of the Parties. No alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Every amendment shall specify the date on which its provisions shall be effective.

SECTION 27. DRUG FREE POLICY. DOTComm has established and will maintain a drug free workplace policy.

SECTION 28. SEVERABILITY. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect.


SECTION 29. JOINT WORK PRODUCT. This Agreement is the joint work product of both Parties; accordingly, in the event of any ambiguity, no presumption shall be imposed against or in favor of either Party by reason of document preparation.

IN WITNESS HEREOF, THE PARTIES HAVE AGREED TO THE ABOVE AS OF THE DATES INDICATED:

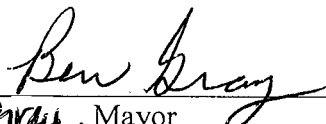
EXECUTED BY THE CITY OF OMAHA on this 8th day of February, 2018.

CITY OF OMAHA, a Municipal Corporation

ATTEST:

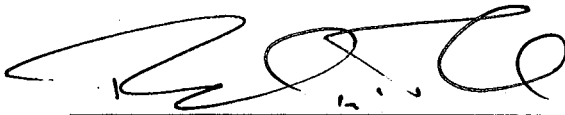


City Clerk, City of Omaha

By 

Ben Gray, Mayor **ACTING**

APPROVED AS TO FORM:

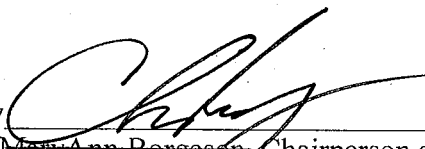
 1/10/18
Deputy City Attorney

EXECUTED BY THE COUNTY OF DOUGLAS this 9th day of January, 2018

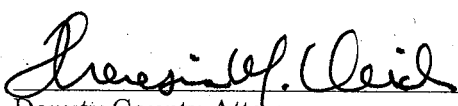
COUNTY OF DOUGLAS, a political
subdivision

ATTEST:

Daniel A. Earl
County Clerk, Douglas County

By 
MaryAnn Borgeson, Chairperson of the
Board of County Commissioners

APPROVED AS TO FORM:


Deputy County Attorney