

Novation Agreement

The [insert Contractor's name] (Transferor), a corporation duly organized and existing under the laws of [insert state] with its principal office in [insert city]; and [insert new contractor's name] (Transferee), a corporation duly organized and existing under the laws of [insert state] with its principal office in [insert city]; and State of Montana, [insert agency name] (State), enter into this Agreement as of [insert date].

THE PARTIES AGREE TO THE FOLLOWING FACTS:

- (1) The State has entered into certain contracts with the Transferor, namely: [insert contract or purchase order identifier, or remove 'namely' and insert "as shown in the attached list marked 'Exhibit A' and incorporated in this Agreement by reference"]. The term "the contracts," as used in this Agreement means the above contracts and purchase orders and all other contracts and purchase orders, including all modifications made between the State and the Transferor on or before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the State or Transferor has any remaining rights, duties or obligations under these contracts and purchase orders).
- (2) As of [insert date transfer became effective], the Transferor has transferred to the Transferee all rights and obligations to the contracts listed above by virtue of [insert term descriptive of the legal transaction involved] between the Transferor and Transferee.
- (3) The Transferee has assumed all obligations and liabilities of the Transferor under the contracts by virtue of the above transfer.
- (4) The Transferee is in a position to fully perform all obligations that may exist under the contracts.
- (5) It is consistent with the State's interest to recognize the Transferee as the successor party to the contracts.

IN CONSIDERATION OF THESE FACTS, THE PARTIES AGREE THAT BY THIS AGREEMENT:

- (1) The Transferor confirms the transfer to the Transferee and waives any claims and rights against the State that it now has or may have in the future in connection with the contracts.
- (2) The Transferee agrees to be bound by and to perform each contract in accordance with the conditions contained in the contracts. The Transferee also assumes all obligations and liabilities of, and all claims against the Transferor under the contracts as if the Transferee were the original party to the contracts.
- (3) The Transferee ratifies all previous actions taken by the Transferor with respect to the contracts, with the same force and effect as if the action had been taken by the Transferee.
- (4) The State recognizes the Transferee as the Transferor's successor in interest in and to the contracts. The Transferee by this Agreement becomes entitled to all rights, titles, and interests of the Transferor in and to the contracts as if the Transferee were the original party to the contracts.
- (5) Except as expressly provided in this Agreement, nothing in it shall be construed as a waiver of any rights of the State against the Transferor.
- (6) All payments and reimbursements previously made by the State to the Transferor, and all other previous actions by the State under the contracts, shall be considered to have discharged those parts of the State's obligations under the contracts. All payments and reimbursements made by the State after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to the Transferee and shall constitute a complete discharge of the State's obligations under the contracts, to the extent of the amounts paid or reimbursed.
- (7) The Transferor and the Transferee agree that the State is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the State in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the contracts.

- (8) The Transferor guarantees payment of all liabilities and the performance of all obligations that the Transferee (i) assumes under this Agreement or (ii) may undertake in the future should these contracts be modified under their terms and conditions. The Transferor waives notice of, and consents to, any such future modifications.
- (9) The contracts shall remain in full force and effect except as modified by this Agreement. Each party has executed this Agreement as of the day and year first above written.

STATE OF MONTANA

Agency
Address
City, State, Zip

BY:

DATE:

TRANSFEROR

Address
City, State, Zip
FEDERAL ID #

BY: _____

DATE: _____

TRANSFEEEE

Address
City, State, Zip
FEDERAL ID #

BY: _____

DATE: _____

