



BOARD OF COMMISSIONERS
Agenda Item Summary

Agenda Category:	Item No:
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Meeting Date: August 6th, 2019

Originating Department: Aaron Hartman, Community Corrections

Issue: In the matter of approval and signature of Intergovernmental Agreement DCJ-IGA-R-11351-2020 between Multnomah County and Klamath County.

Background: Multnomah developed and maintains one or more dashboards (the “Dashboard(s)”) on the Google Sites platform allowing access to, management of, and reports on information stored in DOC 400 and OMS (the “Data Sources”) on offenders monitored by Multnomah’s Department of Community Justice (DCJ). This Intergovernmental Agreement will allow Klamath County access to the Dashboards so that Klamath County’s criminal justice agencies (CJAs) can develop reports from information regarding offenders it monitors that is stored in the Data Sources. Multnomah is willing to provide access to the Dashboard(s) as SaaS for information in the Data Sources, subject to the terms and conditions set forth herein. Multnomah will host and backup Partner data inputted into the Dashboard(s) to create report(s).

Contract DCJ-IGA-R-11351-2020 begins on the Effective Date and continues for two years. The contract may be renewed by the Parties by mutually executing an amendment describing the term of such renewal and any other changes to the Contract’s terms.

Fiscal Impact: \$2,582.19 expenditure from Community Corrections operating funds.

Recommended Motion: Motion to approve and allow Aaron Hartman to sign Intergovernmental Agreement DCJ-IGA-R-11351-2020 between Multnomah County and Klamath County for access and sharing of the Dashboards. Fiscal Impact: \$2,582.19 expenditure from Community Corrections operating funds.

DONE AND DATED this 6th day of August, 2019.

Chair

Vice-Chair

Commissioner

Approved
Denied

Approved
Denied

Approved
Denied



INTERGOVERNMENTAL AGREEMENT Contract Number: DCJ-IGA-R-11351-2020

This INTERGOVERNMENTAL AGREEMENT (“Contract”) is between MULTNOMAH COUNTY (“Multnomah”) and Klamath COUNTY (“Partner”), each of whom is a “Party” and collectively they are the “Parties.” The effective date of the Contract will be July 1, 2019 (“Effective Date”). Unless earlier terminated as provided below, the termination date will be June 30, 2021. Capitalized terms are defined in Schedule A.

KLAMATH COUNTY

Representative: Aaron Hartman
Address: 3203 Vandenberg Road #2
City, State, Zip: Klamath Falls OR 97603
Email: ahartman@co.klamath.or.us
Phone: (541) 880-5500

MULTNOMAH COUNTY

Representative: Theresa Marchetti
Address: 501 SE Hawthorne Blvd., Suite 250
City, State, Zip: Portland, OR 97214
Email: theresa.marchetti@multco.us
Phone: (503) 988-8103

The Contract governs the rights and responsibilities between the Parties with regard to the transaction described in Exhibit 1. The Contract includes this cover page (“Cover Page”), the Standard Terms and Conditions, below, and the terms and conditions contained in the following schedules and exhibits:

SCHEDULES		EXHIBITS	
SCHEDULE	DESCRIPTION	EXHIBIT	DESCRIPTION
A	<i>Definitions</i>	1	<i>Statement of Deliverables and Technical Statement of Work</i>
B	<i>Consulting and Implementation</i>	2	Reserved
C	<i>Ownership, Subscription, and Licensing</i>	3	Reserved
D	<i>Maintenance, Support, and Service Levels</i>	3a	Reserved
E	Reserved	4	Reserved
F	<i>Confidentiality, Privacy, and Security</i>	5	<i>Accounts Payable Electronic Payment Authorization</i>
G	<i>Compliance</i>	6	<i>Criminal History Record Check Authorization</i>
H	Reserved	7	Reserved
I	Reserved	8	Reserved

The information contained in the following attachments are not incorporated into the Contract but are offered as guidance relevant to the Parties standards and expectations regarding performances under the Contract.

ATTACHMENTS	
ATTACHMENT	DESCRIPTION
I	<i>Invoice/Budget forms</i>
II	Reserved
III	Reserved
IV	Reserved

Order of Precedence. In the event of any inconsistency between any of the documents constituting the Contract, the following order of precedence will apply: (a) Cover Page; (b) Standard Terms and Conditions and Schedule A; (c) Exhibit 1; (d) Schedules B through G and I, and Exhibit 3; (e) Schedule H; and (g) the terms and conditions of all other exhibits and documents incorporated into the Contract. No additional or conflicting terms stated on any order form, invoice, packing slip or similar documentation, website, or published or provided materials will apply unless expressly agreed to in writing. The Contract may only be amended or supplemented by a writing that: is signed by a duly authorized representative of each Party; clearly recites the Parties’ understanding and intent to amend the Contract; and clearly and with specificity describes the terms to be amended or supplemented.

Notice. The contact information provided above will be used for any notice or other communication required or permitted in the Contract, except as otherwise provided. Such notices will be in writing and deemed received immediately, if sent by fax or email, or within three days of the date sent, if by mail.

INTERGOVERNMENTAL AGREEMENT
Contract Number: DCJ-IGA-R-11351-2020

The Contract may be executed in multiple counterparts and may be electronically signed. Any verified electronic signatures appearing on the Contract are the same as handwritten signatures for the purposes of validity, admissibility, and enforceability. Any reproduction of the Contract made by reliable means is considered an original.

KLAMATH COUNTY SIGNATURE

I have read this Contract including the attached schedules and exhibits. I understand the Contract and agree to be bound by its terms.

Signature: _____ Title: _____

Name (print): _____ Date: _____

MULTNOMAH COUNTY SIGNATURE

This Contract is not binding on the Multnomah until signed by the Chair or the Chair's designee.

Multnomah County Chair or Designee: _____ N/A _____ Date: _____

Department Director Review (optional):

Director or Designee: Jim Tom for Gina Pevitt Date: 7/17/19

Multnomah County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: /s/William Glasson Date: 7/8/19

INTERGOVERNMENTAL AGREEMENT

STANDARD TERMS AND CONDITIONS

These STANDARD TERMS AND CONDITIONS (“T&Cs”) set forth the general terms between the Parties to the Intergovernmental Agreement (“Contract”).

1. **Statement of Performance.** Multnomah will provide the Deliverables described in Exhibit 1.

2. **Performance Terms; Default.** Time is of the essence in the performance of the Contract. The failure of either Party to enforce any Contract provision will not constitute a waiver by that Party of that or any other provision. Waiver of any default under this Contract by either Party will not be deemed to be a waiver of any subsequent default or a Contract modification. Unless a Material Default, a Party has 15 business days after receiving written notice thereof to cure a Contract breach.

3. **Payment and Taxes.** Except as otherwise provided in the Contract, Partner agrees to pay Multnomah all sums set forth in Exhibit 1. Multnomah will invoice Partner for all sums owed not less than 60 days prior to the due date. Partner will make payment on undisputed, sufficiently detailed invoices by check or EFT. Late payments on undisputed and invoiced amounts accrue interest at 1% per year.

4. **Term and Termination.** The Contract’s Term will be as described in Exhibit 1. The Contract may be terminated: (a) at any time by mutual written agreement the Parties; (b) at any time after a Party has failed to cure a breach of the Contract after receiving 15 days written notice from the non-breaching Party; (c) by a Party immediately after providing written notice to the other of a Material Default by the other Party; and (d) by either Party after providing 30 days written notice to the other.

5. **Effect of Termination, Remedies.** Upon termination pursuant to Section 4, Partner will pay Multnomah such amounts owed under Exhibit 1 for performance rendered prior to the termination date if such performance was in accordance with the Contract. Termination will not result in a waiver of any remedy, legal or equitable, to which a Party may be entitled, or any claim a Party may have against the other.

6. **Limitation of Liability.** Except as otherwise provided, neither Party will be liable for special, incidental, indirect or consequential damages arising under the Contract.

7. **Authority to Contract, Perform.** Each Party represents and warrants that: (a) it has the power and authority to enter into and perform the Contract; and (b) the Contract, when executed

and delivered, will be a valid and binding obligation, enforceable in accordance with its terms. A breach of this Section 8 is a Material Default.

8. **No Assignment, Third-Party Beneficiaries.** Neither Party may assign its interest in the Contract to a third-party without the other’s prior written consent. The Contract binds and inures to the benefit of the Parties and their successors and assigns. Nothing in this Contract gives or provides any benefit or right to any non-party unless such third-persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.

9. **Public Records Law.** The Contract and all disclosures under its terms are Records and subject to application of the Public Records Law.

10. **Parties’ Relationship; Non-exclusivity.** The Parties agree that each is an independent entity, and Multnomah is an independent contractor of Partner. This Contract does not create any form of legal association that would impose liability upon one Party for any act or omission of the other, nor does it preclude either Party from conducting similar business with other parties.

11. **Access to Records.** The Parties will retain, maintain, and keep accessible all Records for a minimum of seven years following Contract termination, unless a longer period of time is required under law. The Parties will maintain financial Records in accordance with generally accepted accounting principles.

12. **Governing Law, Venue.** The Contract will be interpreted and enforced according to the laws of the State of Oregon and the ordinances of Multnomah County, Oregon. Any Proceeding arising under the Contract must be brought in Multnomah County, Oregon.

13. **General.** The Contract sets forth the entire agreement of the Parties, and supersedes all prior communications, oral or written. The invalidity of any term or provision will not affect the validity of any other provision. The doctrine of *contra proferentem* may not be applied to the Contract. All provisions that by their nature should survive Contract termination or expiration of the Term will so survive.

INTERGOVERNMENTAL AGREEMENT

Schedule A: Definitions

This SCHEDULE 1: DEFINITIONS is attached and made a part of the Intergovernmental Agreement (“Contract”), and unless otherwise expressly provided will take precedence over all other documents in the event of conflicting terms.

1. “Authorized Representatives” are employees designated by each Party as their respective authorized agents for communications under the Contract.
2. “Business Associate” is defined under 45 CFR 160.103.
3. “Contract” means the Cover Page, the Standard Terms and Conditions, and all schedules and exhibits incorporated by reference.
4. “Covered Entity” is defined under 45 CFR 160.103.
5. “Deliverables” refers, collectively, to the Goods, SaaS, Services, and Works to be provided under the Contract.
6. “Effective Date” is the date on which the Contract is enforceable.
7. “Exhibit 1” refers to each Exhibit 1 and Change Order, as described in Schedule B, signed by the Parties.
8. “Good” means the tangible or intangible assets to which Partner will receive certain rights, title, and interest from Multnomah, and that Multnomah will otherwise sell or license to Partner under the Contract and as set forth in Exhibit 1.
9. “Information System” is an electronic system for storing, processing, and exchanging information. Information System includes, without limitation, smartphones, computers, servers, and the software, services, and data existing thereon.
10. “Malicious Code” is code introduced into an Information System that is intended to alter, harm, or damage, or otherwise cause undesired changes to the system. Examples of Malicious Code include computer viruses, worms, Trojan horses, time bombs, time locks, trap door devices, or any other similar harmful, malicious, or hidden procedures, routines, or mechanisms.
11. “Material Default” means a breach of a Contract provision for which the Contract provides no right to cure. A Material Default vests in the non-breaching Party the right to immediately terminate the Contract and seek any remedies and relief available as a result of the breach.
12. “Personally Identifiable Information” or “PII” is defined in ORS 646A.602.
13. “Proceeding” means any actual, threatened, pending or completed dispute, investigation, or inquiry, whether civil, criminal, administrative or investigative, implicating a matter arising under or related to the Contract.
14. “Protected Data” is information whose use, exchange, transmission, and storage, is restricted under state or federal law, administrative rule, or policy. Protected Data includes, without limitation, PII, PHI, criminal history record information (defined in 28 CFR 20.3(d)), and financial information.
15. “Protected Health Information” or “PHI” is defined in 45 CFR 160.103 and applies to the original data and to any health data derived or extracted from the original data that has not been de-identified. PHI does not include information of an individual that has been deceased for more than 50 years.
16. “Public Records Law” means the Oregon Public Records Law, including ORS 192.311 to 192.478, the provisions for the Custody and Maintenance of Public Records, ORS 192.005 to 192.710, and laws incorporated by reference.
17. “Record” means information prepared, owned, used, or retained by either Party, and pertaining to a Party’s operations and business, that is inscribed on a tangible medium, commonly a document, or that is stored in an electronic or other medium and is retrievable in perceivable form.
18. “SaaS” means software-as-a-service and refers to the software services, including data storage, hosted on Information Systems controlled by Multnomah that Partner accesses via rights granted by Multnomah, and otherwise set forth in Exhibit 1.
19. “Services” means the professional, technical, creative, technology and/or other services that Multnomah will provide to Partner under the Contract as set forth in Exhibit 1.
20. “Taxes” means taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever.
21. “Term” begins on the Effective Date and means the period of time during which the Contract is in effect and as set forth in the Contract at Exhibit 1.
22. “Users” are individuals or entities authorized by Partner to access and use a Good, Service, or Work. The classes of Users under the Contract are:
 - a. “End-Users” are Users who employ a Good, Service, or Work’s functionality for Partner’s benefit and not for further distribution.
 - b. “IT-Users” are Users responsible for providing technical services related to the Good(s), Service(s), or Work(s), and otherwise supporting End-Users.
23. “Works” means the bespoke tangible or intangible deliverables that Multnomah will develop for and provide to Partner under the Contract and as set forth in Exhibit 1.

INTERGOVERNMENTAL AGREEMENT

Contract Number: DCJ-IGA-R-11351-2020

Schedule B: Consulting and Implementation

This SCHEDULE B: CONSULTING AND IMPLEMENTATION is attached and incorporated into the Intergovernmental Agreement (“Contract”).

1. **Deliverables.** Multnomah will provide Partner with access to the Deliverables according to the schedule outlined in Exhibit 1. Except as otherwise provided in Exhibit 1, Multnomah will furnish all labor, equipment, and tangible and intangible materials necessary for delivery of the Deliverables. Terms governing ownership and use of the Deliverables are set forth in Schedule C.

2. **Representatives.** Communications between the Parties will be channeled through the Authorized Representatives.

3. **Change Control.** The Deliverables to be provided pursuant to Exhibit 1 may be amended from time to time, as mutually agreed by the Parties. Any such amendment will use the change control procedures set forth in Exhibit 1; or, in the event no change control procedure is specified, the change control procedure outlined below.

a. When a Party desires a change to Exhibit 1, that Party will prepare a written document (a “Change Order”) describing in reasonable detail its proposed changes, to include, at a minimum, any changes in cost, schedule, and impact, if any, to the project, and will submit the proposed Change Order to the other Party for approval.

b. A Change Order will only become effective, thereby amending Exhibit 1, when signed by the Parties.

4. **Reserved.**

5. **Periodic Meetings, Reports.** The Parties’ respective Authorized Representative or their delegates shall periodically review Exhibit 1, their performance relative to milestones or benchmarks provided in Exhibit 1, the project scope, and Multnomah’s progress on the project. Partner may request that Multnomah provide a report, no more than once per month, describing its progress relative to milestones or benchmarks in Exhibit 1.

6. **Parties’ Collaboration.** Partner understands and agrees that Multnomah’s ability to provide certain Deliverables may rely on collaboration with Partner personnel. Exhibit 1 will describe such collaboration.

7. **Completion of Services; Delivery of Works.** Exhibit 1 will set forth the criteria agreed between the Parties for evaluating whether the Services and Works provided are acceptable to Partner.

8. **Ability to Perform.** Each Party represents to the other that no other commitment prevents or restricts it from fulfilling its obligations under the Contract.

INTERGOVERNMENTAL AGREEMENT

Contract Number: DCJ-IGA-R-11351-2020

Schedule C: Ownership, Subscription, and Licensing

This SCHEDULE C: OWNERSHIP, SUBSCRIPTION, AND LICENSING is attached and incorporated into the Intergovernmental Agreement (“Contract”).

1. **Ownership of Deliverables.** Unless otherwise provided in Exhibit 1, the ownership of Deliverables is as follows.

a. **SaaS.** Deliverables that are SaaS are licensed, not sold, by Multnomah to Partner. Multnomah retains ownership of the copyright, title and ownership of such SaaS software and any accompanying written materials, including all intellectual property (IP) rights therein, regardless of the form or media in or on which the original and other copies may exist.

b. **Reserved.**

c. **Reserved.**

2. **Subscription to SaaS.** This Section 2 of Schedule C sets forth the general terms under which Multnomah licenses SaaS to Partner. Partner’s access to SaaS will continue through the Term.

a. **Access.** Partner is solely responsible for any other charges or expenses it incurs to access or use the SaaS, including without limitation, carrier line and equipment charges, and fees charged by vendors of third-party products.

b. **License(s).** Unless otherwise provided in Exhibit 1, Multnomah grants Partner a renewable, nonexclusive, and worldwide right for Users to access and use the SaaS. Other than those limitations described in Exhibit 1, Users will have unrestricted access to and use of the SaaS. The number of permitted Users is described in Exhibit 1.

If Multnomah will host Partner data, Partner grants to Multnomah a limited license to collect, process, store, generate, and display Partner data only to the extent necessary to provide the SaaS. Multnomah will: (i) keep and maintain Partner data in strict confidence, using such degree of care as is appropriate and consistent with its obligations described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (ii) use and disclose Partner data solely and exclusively for

the purpose of providing the SaaS, such use and disclosure being in accordance with this Contract and applicable law; and, (iii) not use, sell, rent, transfer, distribute, or otherwise disclose or make available Partner data for Multnomah’s own purposes or for the benefit of anyone other than Partner without Partner’s prior written consent.

c. **Subscription Level.** The number of Users stated in Exhibit 1 may access the SaaS.

d. **Control and Location of SaaS.** The method and means of providing the SaaS is under Multnomah’s exclusive control, management, and supervision, giving due consideration to Partner’s requests. Except as otherwise specified in Exhibit 1, the SaaS will be provided solely from within the continental United States and on Information Systems residing therein.

e. **Backup and Storage.** The SaaS will include any applicable allocation of base data storage described in Exhibit 1.

f. **Reserved.**

g. **Reserved.**

h. **No Effect of Click-Through Terms.** Where Users are required to “click through” or otherwise accept or made subject to any online terms and conditions in accessing or using the SaaS, such terms and conditions are not binding and will have no force or effect.

i. **Reserved.**

j. **Reserved.**

3. **Reserved.**

INTERGOVERNMENTAL AGREEMENT

Contract Number: DCJ-IGA-R-11351-2020

Schedule D: Maintenance & Support and Service Levels

This SCHEDULE D: MAINTENANCE & SUPPORT AND SERVICE LEVELS is attached and incorporated into the Intergovernmental Agreement (“Contract”).

1. **Maintenance & Support.** Unless otherwise provided in Exhibit 1, all maintenance and support services provided under the Contract will be provided consistent with the terms of this Schedule D.

a. **Definitions.** As used in this Schedule D, the following capitalized terms are defined as follows.

i. “Essential Functionality” means any operational aspect of a Deliverable that is required for immediate and ongoing business continuity by one or more Users and which, if interrupted, adversely impacts Partner business.

ii. “Maintenance” refers to: (A) periodic or routine modifications Multnomah makes to a Deliverable that are intended to improve or maintain the product or service’s existing functionality, such as bug fixes and work-arounds, and compatibility with subsequent other products or services; and (B) the work product from such modifications. Maintenance includes providing installation software, instruction for use, and other installation and configuration assistance, to IT-Users. Maintenance does not include new versions of a Deliverable that contains new or significantly enhanced functions, and significantly improved performance, achieved through changes in design, coding, manufacture, materials, or delivery.

iii. “Problems” are instances caused by errors, bugs, defects, interruptions, or other deficiency with a non-Partner technology resource, where a Deliverable fails to function in an expected or prescribed manner. The classes of Problems recognized under the Contract are as follows:

A. “Minor” Problems cause only minor inconvenience that do not materially affect Partner’s ability to use a Deliverable, and do not render the product or service non-conforming with the Contract. Examples of Minor Problems include formatting errors, misspellings, and bugs affecting non-Essential Functionality for which a reasonable workaround or circumvention is immediately available.

B. “Significant” Problems repeatedly disrupt the Essential Functionality of a Deliverable, and may render the product or service non-conforming with the Contract. Significant Problems frustrate or prevent one or more Users from performing their respective Partner tasks. Examples of Significant Problems are errors causing products or services to be unavailable or available only at a reduced performance level, or the loss or corruption of non-mission-critical data.

C. “Critical” Problems repeatedly disrupt the Essential Functionality of a Deliverable, rendering the product or service non-conforming with the Contract, and causing the complete failure or unavailability of a mission-critical function or resource.

iv. “Support” services are assistance Multnomah provides to resolve issues preventing Users from realizing full use, functionality, accessibility, and benefits, from a Deliverable. The Support services offered under the Contract are as follows:

A. “Level 1” Support is provided to End-Users to address basic usability issues and questions, such as: operator errors; account creation, setup or access; and workflow questions. Level 1 Support includes issue analysis; assistance with service or product issues; issue resolution; and preventive or corrective service information.

B. “Level 2” Support is provided primarily to IT-Users to address more advanced or technical support issues, including administrator-level setup, configuration, and administration questions; efforts to identify, analyze, or reproduce Problems; and documenting issues or Problems for the purposes of escalating same for Level 3 Support response.

C. “Level 3” Support is provided exclusively to IT-Users to address technical and developer-level issues, such as Problems. This includes attempts to provide Problem correction or circumvention or notification that no correction or circumvention is available.

b. **Scope of Maintenance Services.** Unless otherwise provided in Exhibit 1, and during the Term, Multnomah will provide Maintenance to Partner at no additional charge. As reasonably possible, Multnomah will provide Partner with not less than 60 days advanced written notice if Maintenance will require Partner to install or implement software owned or licensed by a third-party.

c. **Scope of Support Services.** Multnomah will provide Support services to Partner as provided in Exhibit 1 and as follows.

i. **Level 1 Support.** During the Term, Multnomah will provide Level 1 Support to Users. Multnomah may elect to provide Level 1 Support through a limited number of “super” End-Users identified by Partner.

ii. **Level 2 Support.** During the Term, Multnomah will provide Level 2 Support to IT-Users.

iii. **Level 3 Support.** During the Term, Multnomah will provide Level 3 Support to IT-Users.

d. **Excluded Services.** Unless otherwise provided in Exhibit 1, Maintenance and Support services do not include development, consulting, or technical training. Multnomah will provide Partner with a written quote for any additional tasks derived from a Support request not specified hereunder. Partner

may request Support services in addition to those provided herein by preparing a Change Order as set forth in Exhibit 1.

e. **Multnomah Support Obligations.**

i. **Support Access and Tracking.** Consistent with the requirements of a particular Support level, Users may solicit Support services by contacting Multnomah via its Authorized Representative.

ii. **Support Level Determination.** Multnomah in its sole and reasonable discretion will determine whether a support ticket submitted by Partner raises a Level 1, Level 2, or Level 3 Support issue. Notwithstanding the foregoing, and at a minimum, reports of, and tickets describing, a Significant Problem will be supported as Level 2 Support incident, and Critical Problems will be supported as a Level 3 Support incident.

iii. **Reserved.**

iv. **Reserved.**

f. **Partner Support Obligations.**

i. **Internal Helpdesk.** Partner will establish and maintain an internal helpdesk to be the first and primary point of contact and communication for End-Users for Level 1 and Level 2 Support issues.

ii. **Training.** Partner will provide training on using the SaaS to its End-Users.

iii. **VPN Access.** Partner will allow reasonable and necessary remote access by Multnomah to Partner's servers and data via a Microsoft VPN connection or CISCO VPN client or other mutually agreeable protocol. Partner and Multnomah are jointly responsible for supporting and maintaining the VPN connection between the Dashboard and Partner's Information Systems.

iv. **Documenting Problems.** Partner will ensure Users document a Problem in writing with sufficient information to reasonably recreate the Problem or otherwise clearly and

convincingly document its occurrence; including, but not limited to, the operating environment, data set, user, or any other such pertinent information that Multnomah may reasonably request. Partner will deliver such information to Multnomah concurrently with its notification of a Problem.

v. **File Download Process.** Partner will maintain and support the file download process between the Department of Corrections ("DOC") and Partner, including resolving any issues arising during such file downloads.

vi. **Physical and Virtual Servers.** Partner will maintain and support any physical and virtual servers on which files downloaded from DOC are stored.

2. **Service Levels.** Unless otherwise provided in Exhibit 1, Multnomah will ensure Maintenance and Support services meet the following service levels with regard to the Deliverables.

a. **Services Uptime.** SaaS will be available to Users for normal use of their full scope of functions and resources not less than 90% of Partner's regular business hours during the Term.

b. **Availability.**

i. **Maintenance.** Maintenance will be available to Partner within five business days of the date on which Multnomah releases a routine modification for use by any of its users or customers.

ii. **Support Services.** During the Term, the availability of Support levels will be as follows.

A. **Level 1 Support and Minor Problems.** Level 1 Support will be available during Multnomah's regular business hours.

B. **Level 2 Support and Significant Problems.** Level 2 Support will be available during Multnomah's regular business hours.

C. **Level 3 Support and Critical Problems.** Level 3 Support will be available during Multnomah's regular business hours.



INTERGOVERNMENTAL AGREEMENT

Contract Number: DCJ-IGA-R-11351-2020

Schedule F: Confidentiality, Privacy, and Security

This SCHEDULE F: CONFIDENTIALITY, PRIVACY, AND SECURITY is attached and incorporated into the Intergovernmental Agreement (“Contract”). A breach of this Schedule F is a Material Default.

1. **Public Records Law.** As custodians of Records under ORS 192.311(2), and public bodies responsible under ORS 192.318(2) and ORS 192.411(2) with responding to public records requests, the Parties must respond to public records requests concerning Records – which includes the Contract and related documentation. If either Party asserts that any Records, including some or all of the Contract, disclosed hereunder meets the statutory requirements under the Public Records Law for one or more exemptions and wishes that an exemption be asserted to prevent public disclosure of any Record, it will: (i) notify the other of its assertion; (ii) identify with adequate specificity the Records to which it asserts an exemption applies and the basis for such assertion; and (iii) as commercially practical, mark with the words “DISCLOSURE EXEMPT” all Records containing information that it desires not be publicly disclosed. Any disclosure by either Party of a Record, in whole or in part, will not be a breach of the Contract if such disclosure was pursuant to a request under the Public Records Law that is required based on court order, reasonable interpretation of the Public Records Law, related case law, public record orders of the Oregon Attorney General, or the Attorney General’s then current edition of the Public Records and Meetings Manual.

2. Confidentiality.

a. “Confidential Information” means the non-public information of either Party relating to its business activities, operations, financial affairs, technology, marketing or sales plans, or other information marked “PROPRIETARY” or “CONFIDENTIAL” or “DISCLOSURE EXEMPT”, that is disclosed to, and received by, the other Party under this Contract. “Confidential Information” does not include Protected Data.

b. The Parties acknowledge and agree: (i) to exercise the same degree of care and protection, but no less than a reasonable degree of care and protection, over the other Party’s Confidential Information and Protected Data as each Party exercises with respect to its own similar information; (ii) that all Confidential Information disclosed pursuant to the Contract should be considered confidential and proprietary; (iii) not to use any Confidential Information or Protected Data during the Term and for two years thereafter for any purpose other than as permitted under the Contract; (iv) not to disclose or provide any Confidential Information or Protected Data to any third-party, except as expressly authorized in writing or required by law; (v) not to remove or destroy any proprietary markings on the Confidential Information; and (vi) to return or destroy all of the other Party’s Confidential Information on the expiration or termination of the Contract, unless prohibited by law.

c. The Contract does not require the Parties to protect information that: (i) was known or readily ascertainable by proper means before being disclosed; (ii) is or becomes available to the general public without fault or action of either Party; (iii) is disclosed to either Party by a third-party that breaches no confidentiality obligation through that disclosure; (iv) is developed independently by either Party without reference to or use of Confidential Information; or (v) is required to be disclosed by law or to a government authority.

d. Disclosure by either Party of Confidential Information or Protected Data to its professional advisors, employees, agents, affiliates, subsidiaries, subcontractors, and consultants is authorized only to the extent: (i) such disclosure is necessary to enable the performance of its obligations under the Contract; and (ii) such parties receiving Confidential Information are comparably bound to safeguard and keep confidential such information.

3. **Data Sharing.** Except as otherwise provided in Exhibit 1 at Section 3, the following terms govern the Parties’ use of data exchanged under the Contract.

a. **Data to be Shared.** The Parties agree to share the data identified in Exhibit 1 at Section 3, subject to the terms and conditions in the Contract.

b. **Data Controls.** Unless otherwise provided in the Contract, the Parties agree to disclose to the other only the minimum data necessary to accomplish the receiving Party’s identified purpose, and only as permitted under the Contract and relevant laws.

c. Data License and Ownership.

i. **License.** Except for Confidential Information and Protected Data and as otherwise provided in the Contract, each Party grants to the other a license to access the data identified in Exhibit 1 at Section 3 for the purposes described in Exhibit 1. Use of Confidential Information is addressed in this Schedule F at Section 2, as applicable. Use of Protected Data is addressed in Exhibit 1, as applicable.

ii. **Ownership.** All data exchanged hereunder will remain the property of the disclosing Party. Except for the uses expressly permitted herein, nothing contained in this Contract will be construed as a grant of any right or license or an offer to grant any right or license by either Party to the other with respect to the data exchanged hereunder, or any derivative works thereof.

4. **Information Security.** Each Party acknowledges and agrees it has implemented appropriate risk management techniques, including administrative, technical, and physical safeguards, to protect and ensure continuity of access to Information Systems and Records. Without limitation, the technical safeguards will incorporate industry recognized system hardening techniques. The Parties will at least annually audit their safeguards to ensure all Information Systems within their respective control and involved in storing, using, or transmitting Protected Data, are secure and protect the data from unauthorized disclosure, modification, or destruction. Where a Party, or their employees, agents, third-party processors, or permitted subcontractors, have access to the other Party's Information System(s), Records, or facilities, the Party with such access will comply with the following:

a. **Security Undertaking.** Without limiting the obligation of confidentiality described in this Schedule F at Section 2, the Parties will be responsible for establishing and maintaining an information security program that is compliant with all relevant federal and state laws and otherwise designed to: (i) ensure the security and confidentiality of the Information System(s); (ii) protect against any anticipated threats or hazards to the security or integrity of the Information System(s); (iii) protect against unauthorized access, modification, or use of the Information System(s); (iv) ensure the proper disposal of data stored or exchanged on the Information System(s); and (v) ensure that all employees, agents, permitted subcontractors of Multnomah, and third-party processors, if any, comply with all of the foregoing.

b. **Access Controls.** Each Party will take necessary and reasonable precautions to appropriately limit access by their respective employees, agents, affiliates, subcontractors, and other representatives to the other Party's Information Systems. If a Party will have access to the other's premises, that Party will employ such precautions to also limit access to such premises, including immediately notifying the Party in the event a representative assigned to a project requiring onsite access has been terminated, and assisting the other Party with the recovery of any data, access credentials, or technology in a terminated representative's possession following termination or completion of the services.

c. **Reserved.**

5. **Reserved.**

6. **Access to Protected Data.** In the event a Party will have access to the other's Protected Data, whether in electronic or paper form, the Party with access to Protected Data agrees to institute and maintain safeguards or restrictions that effectively:

a. restricts and controls access to facilities housing Information Systems or paper documents containing Protected Data, or hosting SaaS used to process Protected Data, including establishing and observing effective procedures for tracking access and chain of custody thereof;

b. limits the access, use, disclosure, and dissemination of data to authorized purposes and to those authorized individuals that need access to Protected Data;

c. requires that all individuals prior to receiving access to Protected Data submit to and pass, based on the process and criteria set forth in OAR 407-007-0030 through 407-007-0060, a criminal history records check, or a substantively similar background check, that includes a state of residency and national fingerprint based record check;

d. prevents Protected Data from being loaded onto portable computing devices or portable storage components or media unless necessary under the Contract and adequate security measures are in place to ensure the integrity and security of the data, including without limitation: (i) a policy on physical security for such devices to minimize the risks of theft and unauthorized access; (ii) a policy prohibiting viewing Protected Data in public or common areas; (iii) ensuring all such portable computing devices have anti-virus software, personal firewalls, and system password protection; (iv) ensuring the Protected Data stored on portable computing or storage device or media is encrypted while stored on such device; and (v) creating and maintaining an accurate inventory of all such devices and the individuals to whom they are assigned; and

e. ensures Protected Data is encrypted at rest and in transit as follows:

i. "At rest" Protected data stored in electronic form shall be encrypted at the file level using a symmetric cipher that is FIPS 197 certified (AES) and at least 256 bit strength. Multiple files maintained in the same unencrypted folder shall have separate and distinct passphrases. A single passphrase may be used to encrypt an entire folder or disk containing multiple files.

ii. Protected Data "in transit" shall be encrypted using a cryptographic module that is FIPS 140-2 certified and a symmetric cipher key strength of at least 128 bit strength.

If a Party must comply with the criminal history record check requirement provided in this Section 6, it shall retain for the Term and for seven years thereafter Records related to such checks. If a Party allows Protected Data access to an individual who has been convicted of one or more law violations involving acts of dishonesty or criminal behavior that could more likely than not pose a risk to the other Party, its clients, or vulnerable persons, then the Party shall confirm in writing its reasons for allowing such individual to have access to Protected Data.

7. **Security Breach.** In the event of an actual or suspected security breach involving a Party's Information System(s), the Party suspecting a system breach will immediately notify the other of the breach or suspected breach and will comply with all applicable breach notification laws.

8. **Reserved.**

9. **Response to Orders and Requests for Data.** If either Party receives a subpoena, warrant, or other legal order, demand or request (collectively, a "Request") seeking Records or any data of the other Party, the Party receiving the Request will promptly provide a copy of the Request to the other Party along with copies of Records or data in their possession that the Party believes are responsive to the Request. In the event of a Request the Parties agree to consult, cooperate, and collaborate with each other in their responses.



INTERGOVERNMENTAL AGREEMENT

Contract Number: DCJ-IGA-R-11351-2020

Schedule G: Compliance

This SCHEDULE G: COMPLIANCE is attached and incorporated into the Intergovernmental Agreement ("Contract"). A breach of this Schedule G is a Material Default.

1. **Taxes.** Each Party will pay all taxes owed to a public body, as defined in ORS 174.109, and attests to compliance with the tax laws of this state and its political subdivisions.

2. **Anti-discrimination.** Neither Party will discriminate based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, or political affiliation in programs, activities, services, benefits or employment. Neither Party will discriminate against minority-owned, women-owned or emerging small businesses. Each Party will include a provision in each subcontract requiring subcontractors to comply with the requirements of this clause.

3. **Compliance with Applicable Law.** Partner will comply with all federal, state, and local laws applicable to the Deliverables to be provided under this Contract, and all regulations and administrative rules established pursuant to those laws, including, without limitation ORS 279B.020 and, as applicable, the following:

a. Pursuant to ORS 279B.220, Partner will: (i) make payment promptly, as due, to all persons supplying to the Partner labor or material for the performance of the Work provided for in the Contract; (ii) pay all contributions or amounts due the Industrial Accident Fund from the Partner or subcontractor incurred in the performance of the Contract; (iii) not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished; and (iv) pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

b. Pursuant to ORS 279B.225, Partner will, if providing lawn and landscape maintenance services, salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.

c. In accordance with ORS 279B.230, Partner will promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the Partner, of all sums that the Partner agrees to pay for the services and all moneys and sums that the Partner collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All subject employers working under the Contract warrant they are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

d. Pursuant to ORS 279B.235, Partner will not employ any person for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it. The laborer will be paid at least time and a half pay when: (i) overtime is in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; (ii) overtime is in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and (iii) work is performed on Saturday and any legal holiday specified in a collective bargaining agreement or ORS 279B.020. The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week, will not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC sections 201 to 219 from receiving overtime.

e. **Regulatory Compliance Requirements.** The implementation and operations of the SaaS must meet the following compliance requirements at a minimum:

i. If Criminal Justice Information (CJI) is created, received, maintained or transmitted, the Parties must comply with FBI CJIS Security Policy (CJISD-ITS-DOC-08140-5.7).

ii. If PII is created, received, maintained, or transmitted, the Parties must comply with ORS 646A.600-646A.628.

The above regulatory compliance requirements must be reviewed annually by the Authorized Representatives of each Party to address any changes from the respective regulatory agency.

4. **EEO Compliance.** Partner agrees that if, at any time under the Term, it has employees and will earn more than \$75,000 as a result of this Contract, Partner will not:

a. Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics;

b. Coerce the political activity of any person;

c. Deceive or willfully obstruct anyone from competing for employment;

d. Influence anyone to withdraw from competition for any position so as to improve or injure the employment prospects of any other person;

e. Give improper preference or advantage to anyone so as to improve or injure the employment prospects of that person or any other employee or applicant.

5. **Disbarment.** Partner represents that Partner, its employees, agents, and subcontractors, are not, as of the Effective Date: (i) excluded in any fashion for any reason from participation in federally-funded programs or any other type of programs or awards relating to public entities; nor (ii) controlled by a person or entity that is so excluded. Partner will notify Multnomah within 24 hours if it receives written notice from a federal or other agency with proper authority, or otherwise becomes aware, that it or a controlling person or entity is so excluded, regardless of whether such a determination is subject to appeal by Partner or such controlling person or entity. Any such exclusion will be a Material Default.

6. **Code of Business Conduct.** Multnomah has adopted and enforces administrative procedures, personnel rules, and executive rules (hereinafter collectively referred to as the "Code") to govern the conduct of its employees, officers, and agents. The Code requires compliance with laws, avoidance of conflicts of interest, and performance of duties according to the highest ethical standards of honesty, fair dealing, and integrity. Some of the areas addressed by the Code are prohibitions against personal gain, misuse of assets, sexual harassment, discrimination against protected classes of persons, and use or possession of drugs, alcohol, or firearms on Multnomah premises or while on duty or representing Multnomah. While on Multnomah premises, Partner agrees to act, at all times, in substantial compliance with the Code.

7. **Business Associates.** The Parties agree that should Multnomah's responsibilities set forth in Exhibit 1 cause Multnomah to create, receive, maintain or transmit PHI on Partner's behalf, that in doing so Multnomah will become a Business Associate. In the event Multnomah becomes a Business Associate, Multnomah agrees to comply with the Business Associate Agreement attached to and incorporated into the Contract as Exhibit 3 so as to comply with applicable laws and regulations.

8. **Qualified Service Organization (QSO).** The Parties agree that if (a) Multnomah's responsibilities set forth in Exhibit 1 cause Multnomah to create, receive, maintain or transmit information about individuals in a program subject to 42 CFR Part 2, or (b) Multnomah operates one or more federally-funded substance abuse treatment programs subject to 42 CFR Part 2, then Multnomah is a QSO, as defined under 42 CFR 2.11. In such the event, Multnomah agrees to comply with the Qualified Services Organization rider to the attached Business Associate Agreement, which will be attached to and incorporated into the Contract as a rider to Exhibit 3a so as to comply with applicable laws and regulations.

9. **Workers' Compensation Insurance.** Partner represents and warrants that prior to the Effective Date either it: (a) procured, and for the Term will maintain workers' compensation insurance as set forth in Exhibit 2; or (b) completed and received an applicable exemption certificate as set forth in Exhibit 8.



INTERGOVERNMENTAL AGREEMENT

Contract Number: DCJ-IGA-R-11351-2020

Exhibit 1: Statement Of Deliverables

This EXHIBIT 1: STATEMENT OF DELIVERABLES is attached and incorporated into the Intergovernmental Agreement (“Contract”) and sets forth the Deliverables and other professional, technical, creative, and/or other services that Multnomah will provide to Partner under the Contract.

1. **Contract Term.** The Term begins on the Effective Date and continues for two years. The Contract may be renewed by the Parties by mutually executing an amendment describing the term of such renewal and any other changes to the Contract’s terms.

2. **Deliverables.** Multnomah will provide the following Deliverables to Partner.

a. **SaaS.** Multnomah developed and maintains one or more dashboards (the “Dashboard(s)”) on the Google Sites platform allowing access to, management of, and reports on information stored in DOC 400 and OMS (the “Data Sources”) on offenders monitored by Multnomah’s Department of Community Justice (DCJ). Partner desires for Multnomah to provide it with access to the Dashboard(s) as SaaS so that the Partner’s criminal justice agencies (CJAs) can develop reports from information regarding offenders it monitors that is stored in the Data Sources. Multnomah is willing to provide access to the Dashboard(s) as SaaS for information in the Data Sources, subject to the terms and conditions set forth herein. Multnomah will host and backup Partner data inputted into the Dashboard(s) to create report(s).

b. **Services.** Multnomah will assist Partner with the setup and configuration of the SaaS as follows.

- i. Assist Partner to connect the Dashboard(s) to the Data Sources and to generate reports.
- ii. Make accessible to Partner End-Users Multnomah’s report templates for generating reports from the Data Sources.
- iii. Provide secure access to reports built with the Tableau visualization suite created from information from the Data Sources. Multnomah and Partner will collaborate in the setup, configuration, user management and secure access of Partner reports.
- iv. Coordinate one or more meetings with Partner for progress reporting, Dashboard(s) sharing, and work plan development.
- v. Ensure that analysts developing Partner dashboards are managed and trained in best practices in data visualization, community corrections evidence based practices, and research ethics and guidelines.
- vi. Ensure that a quality assurance system is maintained and the quality standards are met with each data dashboard.

c. **Support and Maintenance.** In addition to the Support and Maintenance levels provided to Partner in Schedule D, to support Partner’s use of the Dashboard(s), Multnomah’s Authorized Representative will:

- i. Assist Partner with allowing its End-Users to access the Dashboard(s).
- ii. Provide Level 2 and Level 3 Support, including break/fix support for reports, database extracts, DOC extract schema changes, etc. Upon notification of issues, Multnomah will help identify and assist in correcting the issue within a period of seven (7) working days. Partner also agrees to provide a database administration resource to assist in correction of break/fix incidents within a period of seven (7) working days.

d. **Training.** Multnomah will:

- i. ensure that each dashboard configuration published by Partner has been reviewed by at least one staff person with adequate training on use of Tableau; and
- ii. offer up to 20 hours per Term of orientation and training to Partner End-Users at a facility in Multnomah County. Training objectives will include, but are limited to, introduction to web-based dashboards, accessing and navigating dashboards developed by Partner, and using filters available in the Dashboard(s) to answer common research questions.

3. **Data Sharing and Ownership of Deliverables.**

a. **Data Sharing.** Development of and Partner’s access to the Dashboard(s) was funded in part by a grant from the Arnold Foundation that supports data-informed criminal justice practices. Under the terms of that grant, Multnomah is required to provide to the Arnold Foundation certain reports showing statewide criminal justice practice trends, by region. These reports require access to Partner’s

aggregate, de-identified data, as well as the data from other Oregon counties. Partner grants to Multnomah the right to use its data for the reporting to the Arnold Foundation that is described in the Section 3(a) of Exhibit 1.

b. **Ownership of Deliverables.** Notwithstanding the terms stated in Schedule C at Section 1, upon termination of the Contract Multnomah will provide Partner with a series of packaged Tableau workbooks created from Partner data. Such workbooks will be static (i.e., no longer updating) but still functional and will include the design options originally found in Tableau, provided Partner must purchase its own license for Tableau desktop to view the workbooks.

4. **Authorized Representatives.** The Parties' respective Authorized Representatives are:

MULTNOMAH
Theresa Marchetti

PARTNER
Aaron Hartman

5. **Scope of Collaboration.** The Parties acknowledge that setup and configuration of the SaaS is a cooperative process requiring the time and resources of personnel from each of the Parties. Similarly, providing the SaaS to Partner will require ongoing cooperation. The Parties shall, and shall cause their personnel to, use all reasonable efforts to cooperate with and assist the other Party as may be reasonably required to timely implement and provide the SaaS, including, without limitation, by Partner providing reasonable information regarding its operations and data. In addition to the collaborative activities described above, Partner will assist Multnomah as follows:

- i. Establish a point person for communication and coordination.
- ii. Provide permission for DCJ's Research & Planning Unit to access and analyze administrative data.
- iii. Establish recurring meetings and communication strategies with DCJ's Research & Planning Unit to clarify local business processes that may differ from Multnomah's.
- iv. Notify Multnomah of any changes to IT that could potentially impact the scope of the data delivery.
- v. Procure, install, configure, and back up an appropriately sized Microsoft SQL Server 2012 Standard server on Windows Server 2012 in Partner's VMWare virtual environment.
- vi. Provide a secure route into the server described above via VPN. Multnomah's access to the server will be limited to SQL Server Authentication with a privilege level sufficient for full database development and support. This access will be planned and developed through Partner's System Administration team and will be coordinated with Multnomah's network team.
- vii. Provide a secure FTP-SSL location to receive data from the Oregon State Department of Corrections, which will then be processed by a SQL Server Integration Services package created by Multnomah and then provided to Partner as part of this project.
- viii. Provide, with assistance from Multnomah's Authorized Representative, Level 1 Support to Partner County Users.

6. **Payments.** Within 60 days of the Effective Date, Multnomah will invoice Partner for \$2,582.19 which is Partner's share of the costs of a grant coordinator that is dedicated to the project enabled by this Agreement. All invoices will be sent to Partner's address on the Cover Page to the attention of "Accounts Payable," identify "Klamath County" as the payor and Multnomah County as the payee, include the invoice number and invoice date, reference the Intergovernmental Agreement Number for this Contract, and include a detailed description of the SaaS. Payments from Partner will be due 30 days from the invoice date.

CATEGORY	TOTAL	YR1	YR2	PURPOSE
Personnel	\$120,820.00	\$60,410	\$60,410	.5 Grant Coordinator to coordinate grant activities, liaison between counties and the Arnold Foundation, and develop quarterly reports.

The payment amount provided for in this Section 6 of Exhibit 1 reflects the assumption that all 36 of Oregon's counties will participate in this program and sign a version of this contract. If all 36 of Oregon's counties do not participate in the program, the payment amount stated above may be higher. County will provide Partner with written notice not less than 30 days after confirmation that one or more other Oregon counties will not participate in the program.

INTERGOVERNMENTAL AGREEMENT
Contract Number: DCJ-IGA-R-11351-2020
Exhibit 1: Statement Of Deliverables

I have read and understand this Exhibit 1 and the rest of the Contract, agree to be bound by their terms, and am authorized to sign on behalf of the Party I represent.

This Exhibit 1 may be executed in multiple counterparts and may be electronically signed. Any verified electronic signatures appearing on the Contract are the same as handwritten signatures for the purposes of validity, admissibility, and enforceability. Any reproduction of the Contract made by reliable means is considered an original.

COUNTY

PARTNER

By: <u>Jesse Jones for Erika Preuitt</u>	By: _____
Name: <u>Jesse Jones for Erika Preuitt</u>	Name: _____
Title: <u>Finance Manager</u>	Title: _____
Date: <u>7/17/19</u>	Date: _____