

INTERGOVERNMENTAL AGREEMENT

This Agreement ("Agreement") is made by and between Washington County, a political subdivision of the State of Oregon ("County"), acting through the Washington County Sheriff's Office ("WCSO"), the Washington County District Attorney's Office ("WCDA"), and Washington County Community Corrections ("WCCC"); the City of Beaverton, acting through its Beaverton Police Department; City of Forest Grove, acting through its Forest Grove Police Department; City of Hillsboro, acting through its Hillsboro Police Department; City of King City, acting through its King City Police Department; City of Sherwood, acting through its Sherwood Police Department; City of Tigard, acting through its Tigard Police Department, and City of Tualatin, acting through its Tualatin Police Department, collectively the "Parties".

RECITALS

WHEREAS, the Parties through a joint and cooperative effort developed a jointly operated Washington County Digital Forensics Laboratory ("WCDFL") program that focuses on helping police officers and prosecutors gather computer and digital evidence in criminal investigations and ultimately help the community obtain more timely justice, obtain evidence more quickly and develop stronger cases;

WHEREAS, the Parties will provide significant assistance in investigations of crimes against vulnerable victims and crimes that threaten community safety, including child abuse, elder abuse, financial fraud and identity theft, domestic violence, home burglaries, and sexual assault cases;

WHEREAS, the WCDA and WCSO seek for a Digital Forensics Investigator ("DFI") to serve as a key staff member in the WCDFL with expertise in examining and analyzing mobile devices, such as cell phones and tablets, and computers, including desktops and laptops. Those specialists will be an asset to investigations concerning a wide variety of offenses. The DFI will also be available to collect and preserve digital evidence from crime scenes and provide investigators across Washington County with expert knowledge and analysis; and

WHEREAS, ORS 190.010 authorizes the parties to enter into this Agreement for the performance of any or all functions and activities that a party to the Agreement has authority to perform.

Therefore, the Parties agree, as follows:

TERMS AND CONDITIONS

1. START AND END DATES.

The **effective date** of this Agreement is as of July 1, 2021 or at the date of execution by a party. This Agreement shall continue until June 30, 2026. The Agreement may be terminated earlier or may be extended, as provided in this Agreement.

2. AGREEMENT DOCUMENTS.

This Agreement consists of these Terms and Conditions and the documents (“Exhibits”) listed below in descending order of precedence. A conflict in these documents shall be resolved in the priority listed below with these Terms and Conditions taking precedence. The Exhibits to this contract are:

- **Exhibit A:** Scope of Work
- **Exhibit B:** Funding & Finance Details

3. RESPONSIBILITIES OF THE PARTIES.

3.1 The County shall provide a 1.0 FTE Digital Forensics Investigator ("DFI").

3.2 Subject to the limitation in Exhibit B for Subscribers, Subscribers agree to pay a subscription price based on a pro-rata share by a population of the cost of a Digital Forensic Investigator (DFI), within net 30 days of receipt of the invoice from WCDA for each year of the Agreement as set forth in Exhibit B. Subscribers must provide six (6) months advanced notice prior to becoming a non-subscribing user of DFL services. If non-subscriber status is declared in writing to the contract administrator within 10 days of execution of this agreement, the six (6) month advanced notice under this section is waived. A non-subscribing user of DFL services may become a subscriber without advanced notice and will be billed by WCDA for a prorated amount of the subscription price for the remainder of the year.

3.3 Subscribers and non-subscribers agree to pay for WCDFL services at the rates specified in Exhibit B.

3.4 Washington County Sheriff's office will be responsible for the annual subscription price for their contract cities.

3.5 Washington County Community Corrections will pay a subscription price based on the percentage of devices submitted to the DFI. The amount will be reviewed annually and adjusted based on use.

3.6 If insufficient subscription funds are available for the cost and benefits of the DFI, the remaining shortage shall be applied from the WCDA's Budget. If the budget shortage is 50% or greater of the cost of 1.0 FTE DFI, WCDA reserves the right to terminate this Agreement and/or reduce services. Jurisdictions not utilizing the subscription can use the DFL services on a fee basis. Fees collected may be used to help cover any shortages.

4. COMPLIANCE WITH APPLICABLE LAWS.

Each party shall comply with all applicable federal, state, and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, or handicap. In addition, each party agrees to comply with all local, state, and federal ordinances, statutes, laws, and regulations that are applicable to the services provided under this Agreement.

5. RECITALS.

The recitals above are incorporated herein as if fully set forth.

6. INDEPENDENT CONTRACTOR.

Each party is an independent contractor with regard to each other party and agrees that the performing party has no control over the work or the manner in which any work under this Agreement is performed. The DFI is not an agent or employee of any non-county party. No party is an agent or employee of any other. Nothing herein is intended, nor shall it be construed, to create between the parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each party hereby specifically disclaims any such relationship.

7. TERMINATION.

7.1. Termination for convenience. Subject to any limitations in Exhibit B regarding repayment of funds, this Agreement may be terminated, with or without cause and at any time, by a party by providing 180 days' written notice of intent to the other party.

7.2. Termination for cause. Any party may terminate this Agreement, in whole or in part, immediately upon notice, or at such later date as may be established in such a notice, to the remaining parties upon the occurrence of the following events: One party commits any material breach or default of any covenant, warranty, obligation, certification or agreement under this Agreement, fails to perform the work or services under this Agreement within the time specified herein or any extension thereof, or so fails to pursue the work or services as to endanger the performance under this Agreement in accordance with its terms. Each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.

8. CHANGES.

Modifications to this Agreement are valid only if made in writing and signed by all parties.

9. INDEMNIFICATION. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party. The WCDA includes its Board of Commissioners, the individual members thereof, and its officers, agents, employees, volunteers, and representatives. All non-county Parties include their respective City Councils, the individual members thereof, and their officers, agents, and employees, volunteers, and representatives.

9.1. COVID-19 Liability. Each party understands the hazards of COVID-19 and is familiar with the Centers for Disease Control Prevention ("CDC") guidelines; and federal, state, and local orders regarding COVID-19. Each party acknowledges that it understands the circumstances regarding COVID-19 and will take all necessary reasonable precautions as provided by the CDC and federal, state, and local governments.

10. ACTION, SUITS OR CLAIMS. Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in claims or litigation in any way related to this Agreement.

11. INSURANCE. Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 to 30.274.

12. NO THIRD-PARTY BENEFICIARIES. Except as set forth herein, this Agreement is between the parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to third parties unless such third parties are expressly described as intended to be beneficiaries of its terms.

13. REMEDIES, NON-WAIVER. The remedies provided under this Agreement shall not be exclusive. The parties shall also be entitled to any other equitable and legal remedies that are available. No waiver, consent, modification or change of terms of this Agreement shall bind the parties unless in writing and signed by all parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of a party to enforce any provision of this Agreement shall not constitute a waiver by a party of that or any other provision.

14. OREGON LAW, DISPUTE RESOLUTION AND FORUM. This Agreement shall be construed according to the laws of the State of Oregon. The parties shall negotiate in good faith to resolve any dispute arising out of this Agreement. If the parties are unable to resolve any dispute within fourteen (14) calendar days, the parties are free to pursue any legal remedies that may be available. Any litigation between the parties arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Washington County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon located in Portland, Oregon.

15. ASSIGNMENT. No party shall assign its rights or obligations under this Agreement, in whole or in part, without the prior written approval of the other party or parties.

16. SEVERABILITY/SURVIVAL OF TERMS. If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken. All provisions concerning indemnity survive the termination of this Agreement for any cause.

17. FORCE MAJEURE. In addition to the specific provisions of this Agreement, the performance by any Party shall not be in default where delay or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the Party to be excused.

18. INTERPRETATION OF AGREEMENT. This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any

provision. The Section headings contained in this Agreement are for ease of reference only and shall not be used in construing or interpreting this Agreement.

19. INTEGRATION. This document constitutes the entire agreement between the parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject.

20. OTHER NECESSARY ACTS. The Parties shall execute and deliver to each other any and all further instruments and documents as may be reasonably necessary to carry out this Agreement.

21. NOTICE. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, electronic mailing, or mailing with postage prepaid to WCDA, the WCSO, the WCCC or the Subscribers and Non-Subscriber Jurisdictions at the address set forth below. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

For the Beaverton Police Department

Contract Administrator Name, Title: Ronda Groshong, Chief of Police
Address, District, State, and ZIP Code: 6125 SW Hall Blvd., Beaverton, OR 97008
Telephone: 503-526-2261
Email: rgroshong@beavertonoregon.gov

For the Forest Grove Police Department

Contract Administrator Name, Title: Henry Reimann, Chief of Police
Address, District, State, and ZIP Code: 2102 Pacific Ave, Forest Grove, OR 97116
Telephone: (503)992-3213
Email: hreimann@forestgrove-or.gov

For the Hillsboro Police Department

Contract Administrator Name, Title: Jim Coleman, Chief of Police
Address, District, State, and ZIP Code: 250 SE 10th Ave, Hillsboro, OR 97123
Telephone: (503) 681-6190
Email: Jim.Coleman@hillsboro-oregon.gov

For the King City Police Department

Contract Administrator Name, Title: Ernest Happala, Chief of Police
Address, District, State, and ZIP Code: 15300 SW 116th Ave, King City, OR 97224
Telephone: 503-620-8851
Email: ehappala@ci.king-city.or.us

For the Sherwood Police Department

Contract Administrator Name, Title: Ty Hanlon, Chief of Police
Address, District, State, and ZIP Code: 20495 SW Borchers Dr, Sherwood, OR 97140
Telephone: (503) 625-5523
Email: hanlont@SherwoodOregon.gov

For the Tigard Police Department

Contract Administrator Name, Title: Kathy McAlpine, Chief of Police
Address, District, State, and ZIP Code: 13125 SW Hall Blvd, Tigard, OR 97223
Telephone: (503) 718-2570
Email: kathy.mcalpine@tigard-or.gov

For the Tualatin Police Department

Contract Administrator Name, Title: Bill Steele, Chief of Police
Address, District, State, and ZIP Code: 8650 SW Tualatin Rd, Tualatin, OR 97062
Telephone: (503) 691-4800
Email: bsteele@tualatin.gov

For the Washington County District Attorney's Office

Contract Administrator Name, Title: Jessica King, Administrative Manager
Address, District, State, and ZIP Code: 150 N First Ave MS 40, Hillsboro, OR 97124
Telephone: 503-846-3423
Email: Jessica_king@co.washington.or.us

For the Washington County Sheriff's Office

Contract Administrator Name, Title: John Styer, Administrative Manager
Address, District, State and ZIP Code: 215 SW Adams Ave MS 32, Hillsboro, OR 97224
Telephone: 503-846-2530
Email: john_styer@co.washington.or.us

For the Washington County Community Corrections Office

Contract Administrator Name, Title: Timothy Ellsworth, Administrative Manager
Address, District, State and ZIP Code: 150 N First Ave MS 46, Hillsboro, OR 97124
Telephone: 503-846-3456
Email: timothy_ellsworth@co.washington.or.us

23. **COUNTERPARTS.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. All of the aforementioned is hereby agreed upon by the parties and executed by the duly authorized representatives of the parties signing on the next page.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

CITY OF BEAVERTON

Authorized Signature

Date:

Lacey Beaty
Title: Mayor
Address: P.O. Box 4755, Beaverton, OR 97076

Approved as to legal sufficiency: _____

CITY OF FOREST GROVE

Authorized Signature

Jesse VanderZanden
Title: City Manager
Address: 1924 Council St., Forest Grove, OR 97116

CITY OF HILLSBORO

Date:

Authorized Signature

Robby Hammond
Title: City Manager
Address: 150 E Main St. Hillsboro, OR. 97123

CITY OF KING CITY

Date:

Authorized Signature

Ernest Happala
Title: Chief of Police
Address: 15300 SW 116th Avenue, King City, Oregon 97224

CITY OF SHERWOOD

Date:

Authorized Signature

Keith Campbell

Title: City Manager

Address: 22560 SW Pine St. Sherwood, OR
97140

CITY OF TIGARD

Date:

Authorized Signature

Kathy McAlpine

Title: Chief of Police

Address: 13125 SW Hall Boulevard, Tigard, OR 97223

CITY OF TUALATIN

Date:

Authorized Signature

Sherilyn Lombos

Title City Manager

Address: 18880 SW Martinazzi Ave, Tualatin, OR 97062

WASHINGTON COUNTY

Date:

Authorized Signature

Erin Calvert

Title: Assistant County Administrator

Address: 155 N First Avenue, Hillsboro, Suite 300, Oregon
97124

EXHIBIT A (SCOPE OF WORK)

The scope of work includes all digital forensics services available through the Washington County Digital Forensics Laboratory including digital device examination, forensic extraction of data, review of extracted data, forensic report generation, consultation regarding digital evidence handling and preservation, after-hours digital forensics services, and digital forensics field service.

EXHIBIT B (FUNDING/FINANCE DETAILS)

Subscription Basis

Subscribers will receive all services outlined in exhibit A on an unlimited basis. Funding calculation is based on a pro-rata share by population of the cost of a Digital Forensic Investigator (DFI).

- Population per the Portland State University Certified Estimate as of July 1 posted on December 15
- DFI costs per Washington County pay plan, top of the range
- Cost will increase each July 1 by the cost of living adjustment (COLA) approved by the County each June.
- Position costing estimates may be based on the Consumer Price Index – West Region (CPI-W) annual average posted by January 15
- Upcoming fiscal year (July - June) amounts will be known by January 31

Payment to be made annually by July 31 to Washington County District Attorney's Office (WCDA).

- WCDA will send invoices annually on July 10 or within 10 working days of the effective date of the Intergovernmental Agreement (IGA) for the fiscal year beginning on July 1 of the year the invoice is sent.
- Payment for the 2021-2022 fiscal year shall be due within 30 days of the final ratification of this Agreement by the parties.
- Failure to make payment within the timelines specified in this section by a Subscriber may result in that Subscriber converting to a Fee Basis jurisdiction at the discretion of WCDA, and any work for that entity will be billed at the rates specified for Fee Basis jurisdictions.
- The WCDA has sole discretion regarding acceptance of late payments and may accept payment at a later date.
- If a Subscriber is converted to a Fee Basis jurisdiction it will lose unlimited access to services.

In-County Fee Basis

Non-Subscriber Jurisdictions are able to use the DFL services on a fee basis.

- \$150 per hour for machine time (no human interaction required)

- \$250 per hour for examiner & machine time (any examiner interaction)
- Fees will be charged in 15-minute increments

Non-Subscriber Jurisdictions will be able to use after hour services under the following terms.

- Any services involving travel time will include that time in the billable hours;
- After-hours services may be provided at the discretion of the WCDA for Major incidents including, Homicide, Measure 11 crimes, Officer-involved shootings or other cases authorized by the WCDA.
- Priority processing may be provided at the sole discretion of WCDA

Funding calculation is based on the cost of the machine and software licensing as well as the personnel costs as described in the subscription section.

- The cost will increase each July 1 by the annual cost of living adjustment (COLA) approved by the County each June.
- For estimating position costing the COLA will be based on the Consumer Price Index – West Region (CPI-W) annual average posted by January 15

Payment to be made within 30 days of invoice date to WCDA.

- WCDA will send invoices monthly within 10 working days of month-end.
- The WCDA has sole discretion regarding acceptance of late payments and may accept payment at a later date.

Out-of-County Work

At the discretion of the WCDA, the DFL services may be provided to outside county work on a case-by-case basis. The fee for that work may be waived at the discretion of the WCDA, but will otherwise be billed at the same rate and subject to the same terms as the In-County Fee Basis outlined in this exhibit.

County Agency Payment Terms

WCSO will pay the annual subscription price for their contract cities to WCDA's office.

WCCC will pay the WCDA's Office at a rate based on the yearly average number of devices submitted to the DFL. WCDA's Office will review and adjust the amount annually based on use.