

INTERGOVERNMENTAL AGREEMENT

This agreement for services (Agreement) is between the Bureau of Police, City of Portland, Oregon (**Provider**), 1111 SW Second Avenue, Portland, Oregon 97204, and the Oregon Liquor Control Commission (OLCC) (**Receiver**) P.O. BOX 2297, Milwaukee, OR 97269.

RECITALS:

The Provider and the Receiver desire to enter into this agreement by the terms of which the Provider, through its Bureau of Police, will provide access to its Portland Police Data System (PPDS), a law enforcement information system, to the Receiver, on the terms set forth in this agreement.

AGREEMENT:

1. SCOPE OF PROVIDER SERVICES

- a. Provide access via computer terminal for inquiry only into the computerized data base files of the PPDS system.
- b. Provide access via computer terminal to related criminal justice services as mutually agreed.
- c. Provide manuals and training to Receiver staff regarding utilization of the computer terminals and procedures for access to information.
- d. Perform services related to PPDS access such as liaison with vendors for maintenance service calls, etc.

2. SCOPE OF RECEIVER RESPONSIBILITY

- a. The Receiver agrees that all its personnel will perform only those PPDS functions authorized, and that it, or its personnel, will not attempt any programming, program modifications, or similar activities within the PPDS system unless specifically authorized in writing by the Portland Police Bureau.
- b. The Receiver agency agrees, pursuant to the directions of the State of Oregon Law Enforcement Data System (LEDS) and Part IV of the National Crime Information Center (NCIC) Computerized Criminal History, Program Concepts and Policy that the Portland Police Bureau shall establish policy and exercise management control over all operations of the PPDS system.
- c. In the event of violation of the provisions of this agreement, or violation of the security policy by personnel of the Receiver, the Provider shall have the authority to restrict or prohibit access to the PPDS system by the Receiver agency terminals until resolution of the problem to the satisfaction of the Provider. The Receiver shall be notified in writing of such action, given 30 days in which to cure the violation before access is restricted or prohibited, and there shall be no charge for access during any time that access is prohibited.

3. COMPENSATION

The Receiver, as an "inquiry only" user of PPDS shall pay to the Provider the amount as set out in Exhibit A: Schedule of Costs.

4. BILLING AND PAYMENT PROCEDURE

The Provider shall invoice the Receiver quarterly. The Receiver shall submit payment within 30 days of receipt of the invoice from the Provider.

5. EFFECTIVE AND TERMINATION DATES

This agreement shall be effective as of July 1, 2002, and shall terminate upon proper notice by the parties as provided in this agreement.

6. PROVIDER CONTACT PERSON

For information concerning PPDS services provided under this Agreement, contact should be made with Bill Wesslund, Data Processing Division Manager, Data Processing Division, Portland Bureau of Police, 1111 SW Second Avenue, Room 1156, Portland, Oregon 97204, 503-823-0300 Fax (503) 823-0304.

7. RECEIVER CONTACT PERSON

For information concerning PPDS usage by the Receiver, contact should be made with: Deborah Wright, Oregon Liquor Control Commission (OLCC) P.O. Box 2297 Milwaukee, OR 97269, 872-5186 or 872-5128 Fax 503-872-5126

8. NOTICE

Any notice provided for under this agreement shall be sufficient if in writing and delivered personally to the following address or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to the Provider:

Rita Drake
Bureau of Police
Fiscal Services
1111 SW Second Avenue, Room
Portland, Oregon 97204-3232

1202

If to the Receiver:

Field Operations
Oregon Liquor Control Commission
P.O. BOX 2297

Gary McGrew, Director Regulatory

Portland, OR 97269
(503) 872-5186 Fax (503) 872-5128

9. AMENDMENTS

The Provider and the Receiver may amend this agreement at any time only by written amendment executed by the Provider and the Receiver. Any change in Number 1, SCOPE OF PROVIDER SERVICES, or in EXHIBIT A, SCHEDULE OF CHARGES, shall be deemed an amendment subject to this section.

10. EARLY TERMINATION OF AGREEMENT

Either party may withdraw and cancel this agreement by providing notice on fiscal year in advance. Either party may terminate this agreement for default upon 60 days notice, provided that party gives the other a 30-day period in which to cure the default.

11. COMPLIANCE WITH LAWS

In connection with its activities under this agreement, the Provider shall comply with all applicable federal, state, and local laws and regulations.

Specifically, the Receiver agrees to comply with the PPDS Security Policy (Exhibit B) with regard to security and privacy regulations affecting usage and dissemination of criminal history and investigative information.

12. OREGON LAW AND FORUM

- a. This agreement shall be construed according to the law of the State of Oregon.
- b. Any litigation between Receiver and the Provider arising under this agreement or out of work performed under this agreement shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States court for the District of Oregon.

13. INDEMNIFICATION

Subject to the limitation 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.

14. NOTICE OF CLAIM

Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party which may result in litigation in any way related to this Agreement.

15. INSURANCE

Each party agrees to maintain insurance levels, or self-insurance in accordance with ORS30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.270.

16. ASSIGNMENT

The Provider shall not assign or transfer this agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of Receiver.

17. ARBITRATION

- a. Any dispute under this agreement which is not settled by mutual agreement of Receiver and the Provider within sixty (60) days of notification in writing by either party shall be submitted to an arbitration panel. The panel shall be composed of three (3) persons, one of whom shall be appointed by the Provider, one of whom shall be appointed by the Receiver and the Provider. In the event the two cannot agree on the third arbitrator, then the third shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrators shall be selected within thirty (30) days of the expiration of the sixty (60) day period. The arbitration shall be conducted in Portland, Oregon, and shall be as speedy as reasonably possible. Receiver and the Provider shall agree on the rules governing the arbitration (including appropriation of costs), or, if Receiver and the Provider cannot agree on the rules, the arbitrators shall adopt rules consistent with this section. The arbitrators shall render their decision within forty-five (45) days of their first meeting with Receiver and the Provider. Insofar as Receiver and the Provider legally may do so, they shall be bound by the decision of the panel.

b. Notwithstanding any dispute under this agreement, whether before or during arbitration, the Provider shall continue to perform its work pending resolution of the dispute and Receiver shall made payments as required by the agreement for undisputed portions of the work.

18. INDEPENDENT CONTRACTOR

Each party is an independent contractor with regard to each other party(s) and agrees that the performing party has no control over the work and the manner in which it is performed. No party is an agent or employee of any other. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.

19. INTEGRATION

This agreement contains the entire agreement between Receiver and the Provider and supersedes all prior written or oral discussions or agreements.

PROVIDER: City of Portland

By: _____
Name: Vera Katz
Title: Mayor
Date: _____

By: _____
Name: Gary Blackmer
Title: _____
Date: _____

APPROVED AS TO FORM:

City Attorney, City of Portland
Date: _____

RECEIVER, Oregon Liquor Control Commission

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: Auditor
Date: _____

APPROVED AS TO FORM:

Date: _____

EXHIBIT A
Schedule of Costs

Oregon Liquor Control Commission (OLCC) (Receiver), as an "inquiry only" user of the Portland Police Data System (PPDS), shall pay to the City of Portland (Provider) the following monthly amount for PPDS services. Unless other arrangements are made, the Receiver will be billed quarterly.

OnGoing Costs

PPDS System Access and Usage	\$600.00 per month
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Services Included in the Above Monthly

- Access to PPDS for up to twenty five (25) devices.
- PPDS currently includes all cases processed by Portland Police Bureau, Beaverton PD, Tigard PD, Multnomah County Sheriff, and St. Helens PD.

Exhibit B

**Portland Police Data System
Security Policy**

I. PURPOSE

It is the purpose of this policy to assure that criminal history information, wherever it appears is collected, stored, accessed, and disseminated in a manner to insure the completeness, integrity, accuracy, and security of such information, and to protect individual privacy.

II. DEFINITION OF TERMS

As used in this statement of policy:

Access means the authority to review or receive information from files, records, and information systems, whether manual or automated.

Criminal history record information means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any dispositions arising therefrom, including sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

Criminal justice administration means the performance of any of the following activities: detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

Criminal justice information means information collected by criminal justice agencies that is needed for their legally authorized and required functions. This is the broadest information term and includes criminal history record information and investigative and intelligence information. It does not include agency personnel or administrative records used for agency operations or management.

Disposition means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor, or that a prosecutor has elected not to commence criminal proceedings, and also disclosing the nature of the termination in the proceedings, or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Disposition shall include, but not be limited to, acquittal by reason of mental incompetence, case continues without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetence, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, dismissal - civil action, defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision.

Person means an individual of any age, concerning whom criminal history record information is contained in Portland Police Data System (PPDS), or a person's attorney or authorized representative.

Attorney means an attorney at law empowered by a person to assert the confidentiality of right to access the criminal history record information under this policy.

Authorized representative means a parent, or a guardian or conservator, other than an attorney, appointed to act on behalf of a person and empowered by such a person to assert the confidentiality of or right of access to personal data under this policy.

Dissemination means the transmission of information, whether orally, in writing, or electronically, to anyone outside the agency that maintains the information, except reports to an authorized repository.

Intelligence and investigative information means information compiled in an effort to anticipate, prevent, or monitor possible criminal activity, or compiled in a course of investigation of known or suspected crimes.

PPDS is an automated criminal justice information system that is operated by the Portland Police Bureau. Through electronic communication devices, PPDS provides for storage and retrieval of criminal justice information stored in local computer data bases and to criminal justice information which are accessible through the Oregon Law Enforcement Data System (LEDS).

III. LIMITS ON ACCESS

Access to PPDS criminal justice information shall be limited to criminal justice agencies that have executed formal written agreements with Portland Police Bureau, which commit the agencies to abide by the Security Policy herein described.

IV. LIMITS ON DISSEMINATION

Criminal justice agencies, which are authorized, access to PPDS criminal justice information may disseminate any PPDS criminal justice information directly under the following conditions:

- 1.) the intended recipient of the information is a criminal justice agency or agent under the definition contained herein: or
- 2.) The intended recipient of the information is legally authorized access to the specific information pursuant to statute, government regulation, or court order. Any liability that may arise from improper dissemination of PPDS criminal justice information shall rest entirely with the criminal justice agency and individuals that disseminated the information improperly.

Dissemination of juvenile criminal justice information shall be restricted as follows:

- 1.) Information related to warrants, verified suspects, runaways, missing persons, witnesses, or complainants may be disseminated to criminal justice agencies.
- 2.) All other information about juveniles shall not be disseminated.

Notwithstanding any other provisions herein contained, intelligence and investigative information shall not be publicly disclosed so long as there is a clear need in a particular case to delay disclosure in the course of an investigation in accordance with ORS 192.501 et seq.

V. ACCURACY AND COMPLETENESS

Each criminal justice agency which stores, collects, or disseminates PPDS criminal history record information shall establish procedures to ensure the accuracy and completeness of criminal history record information. No criminal justice history information shall be disseminated until the information has been verified against Computerized Criminal History (CCH) records of the Oregon Law Enforcement Data System (LEDS). All dispositions by a PPDS user agency should be reported to LEDS-CCH within sixty (60) days of their occurrence. No information shall be added to a person's criminal history record in PPDS unless the data is based upon a readily identifiable numbered source document and upon assurance that the information pertains to the individual whose criminal history record is affected.

VI. RIGHT TO ACCESS AND CHALLENGE

Any individual shall have the right of access to their own criminal history record information that is contained in the PPDS files for the purpose of review and challenge.

The Portland Police Bureau shall establish procedures that:

- 1.) Inform an individual in writing, upon written request, the PPDS criminal history record information concerning her/him;
- 2.) Make available to a person, upon written request, the PPDS criminal history report information concerning her/him;
- 3.) Allow a person to contest the accuracy, completeness, or relevancy of her/his PPDS criminal history record information;
- 4.) Allow PPDS criminal history record information to be corrected upon written request of a person

- when Portland Police Bureau concurs in the proposed correction;
- 5.) Allow a person who believes that PPDS maintains inaccurate or incomplete criminal history record information concerning herself/himself to submit a written statement to the Portland Police Bureau setting forth what she/he believes to be an accurate or complete version of that criminal history record information. If, after a review of the statement, the Portland Police Bureau does not concur and does not make the corrections requested in the statement, the statement shall be filed in a manual file in the Portland Police Bureau Records Division under the appropriate PPDS identification number and any subsequent response to a request for PPDS criminal history record information shall disclose the existence of the statement challenging the accuracy or completeness of the PPDS criminal history record information.

VII. INFORMATION CONTROL AND RESPONSIBILITY

Additions, modifications, and deletions of information stored in the PPDS databases shall be restricted to specifically authorized individuals and electronic devices. Each PPDS user agency will provide the Portland Police Bureau with a list of the persons and the devices within the agency that will be permitted to access the PPDS files.

VIII. SECURITY

- A. Physical Security** - Each PPDS user agency shall be responsible for maintaining the physical security of all electronic devices that are capable of accessing PPDS, as well as any printed output or system documentation which might permit unauthorized access to or use of PPDS from within the agency.
- B. On-Line Security** - The PPDS system provides software to ensure that only authorized individuals and electronic devices can access the PPDS databases or the information available through LEDS. This software may require PPDS users to enter special identification codes and passwords before being allowed to make any inquiry into PPDS files.
- C. Personnel Security** - Any persons having authorized access to PPDS criminal history record information shall be required to complete a personal history statement. After completion of the form, the person will be fingerprinted and a background investigation will be conducted by the user agency. That investigation shall include, but not be limited to, verification of information provided by the person and to public record information, including a check of the PPDS persons file, the Oregon LEDS files, the National Crime Information Center files, and FBI Criminal Identification files. Upon investigation, any person found to have provided intentionally false information in their personal statements, or who are shown to have been arrested and convicted for committing an offense which, under Oregon law, can result in a sentence to a state penal institution for adults, or who are shown to have been arrested and convicted of committing a Class A or B felony as a juvenile in the State of Oregon within the past five (5) years shall be immediately denied all access to PPDS criminal history record information and shall be notified by the investigating agency, in writing, of this action. The person denied access may challenge the denial. If not successfully challenged within thirty (30) days of receipt of notice, the employer of the person shall provide the Portland Police Bureau with written notice that said person is denied access to all devices with access to PPDS files. Portland Police Bureau shall have the right to remove any individual from the list authorized to access criminal history record information. By itself, denial of access to PPDS shall not constitute grounds for dismissal of any employee from her/his employment.

IX. POLICY ENFORCEMENT

The Portland Police Bureau shall be responsible for the enforcement of this Security Policy. The Portland Police Bureau may delegate certain responsibilities to the Bureau of Information Technology. If the Portland Police Bureau determines that there has been a violation of this Security Policy it may take, but not limited to the following actions:

- 1.) It may remove individuals from the list of authorized users;
- 2.) It may restrict an agency's access to PPDS information;

- 3.) It may temporarily suspend an agency as a PPDS user;
- 4.) It may terminate all PPDS access by an individual or agency.

Willful violation of the provisions contained in paragraphs III and IV of this Security Policy with regard to the dissemination and use of criminal history record information contained in or obtained through PPDS by any employee or agent of the City or any PPDS user agency may result in sanctions by the employer against the individual or individuals who committed the violation.