

**INTERGOVERNMENTAL AGREEMENT BETWEEN
MULTNOMAH EDUCATION SERVICE DISTRICT
AND
THE CITY OF PORTLAND**

This Intergovernmental Agreement (“Agreement”) is made between the Multnomah Education Service District, referred to as "MESD", and the City of Portland, referred to as "the City". Both entities are collectively known as "the Parties". This Agreement is in accordance with the authority provided by ORS Chapter 190.

This agreement replaces the agreement between MESD and the City of Portland, Office of Management and Finance, Community Safety Office dated September 2022.

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

Purpose. MESD aims to promptly obtain crucial information for planning and reacting to significant safety events that could affect students, staff, and their families. They wish to foster and maintain collaboration regarding emergency response. MESD is looking for information from the City's resources. Though they currently access information during standard business hours, having a designated School Liaison, as detailed in this Agreement and specifically in Attachment 1 (Scope of Work), would enhance communication and collaboration for safety measures. This improved access supports MESD's ongoing mission to establish a collaborative, prompt, fair, and safe educational setting that prioritizes student and staff safety and wellness.

Term of Agreement. The Agreement shall begin on the date it has been fully executed by the Parties or on September 30, 2023, whichever is later. Unless extended or terminated, this Agreement shall expire on September 30, 2024.

Total Compensation. Total compensation for the Term shall be \$185,000.

TERMS AND CONDITIONS

1. **Relationship.** This Agreement does not establish an agency or an employment relationship between the Parties. The Parties affirm that each is an independent contractor. There is no third-party beneficiary to this Agreement.
2. **Governing Law.** This Agreement and all rights, obligations, and disputes arising out of it shall be governed by Oregon law. All disputes and litigation arising out of this Agreement shall be brought and conducted in Multnomah County Circuit Court. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the State of Oregon. THE PARTIES AGREE TO THIS CHOICE OF LAW AND THE JURISDICTION OF THESE COURTS.

3. **Early Termination.** Termination shall not prejudice any right or obligation of the Parties already accrued prior to the effective date of termination. This Agreement may be terminated as follows, unless otherwise specified herein:
 - a. Mutual. The Parties may terminate this Agreement at any time by written mutual agreement.
 - b. 30 Days' Written Notice. Either party may terminate this Agreement upon 30 calendar days' written notice.
4. **Time Is of the Essence.** Time is of the essence in all terms, provisions, covenants, and conditions contained in this Agreement and its Attachment(s).
5. **Compliance with Applicable Law.** Each Party shall comply with all federal, state, and local laws, all regulations and administrative rules established pursuant to those laws, and all MESD policies that are applicable to the work done under this Agreement.
6. **Confidentiality.** This Agreement is subject to state and federal laws regarding disclosure of public records. Unless mandated by the Oregon Public Records law, neither Party will share reports, information, or data created or exchanged under this Agreement with third parties without the other party's written permission. The Parties will adhere to all relevant privacy laws, including but not limited to the Oregon Public Records Law (ORS Chapter 192), Oregon Juvenile Code (ORS Chapter 419A-419C), CJIS guidelines, FERPA, and HIPAA. This Agreement acknowledges and respects state and federal laws related to the disclosure of public records.
7. **Insurance.** Each party shall maintain existing self-insurance programs to cover any liability that may arise in this Agreement, including general liability, automobile liability and worker's compensation.
8. **Successors, Subcontracts, and Assignment.** The provisions of this Agreement are binding and inure to the benefit of the Parties, their respective successors, and validly permitted assigns, if any. Neither party shall subcontract or assign any part of this Agreement without the prior written approval of the other party. Any attempted subcontract or assignment of this Agreement without prior written approval shall be void.
9. **Licenses.** At all times during the term of this Agreement, the Parties represent and warrant that those who are assigned to perform services have any and all required licenses, certifications, or other evidence of the necessary skills, abilities, and professional knowledge needed to carry out the terms of this Agreement.
10. **Responsibility for Employees; Indemnity and Hold Harmless.** Each Party will solely manage and be accountable for its officers, employees, and agents. They will also ensure their staff receive all employment-related benefits and legally required deductions, such as federal and state income tax, workers' compensation, and contributions to the Public Employees Retirement System/Oregon Public Service Retirement Plan. Within the constraints of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260–30.300), each Party agrees to protect, defend, and shield the other from any claims, lawsuits, losses, damages, costs, and any other liabilities (including reasonable attorney fees). These protections apply when the liabilities result from the actions or neglect of one Party's own officers, employees, subcontractors, or agents while fulfilling this Agreement.

11. **Remedies.** In case of either Party's breach and in addition to the provisions of Indemnity and Hold Harmless, and Attorney Fees paragraphs in this Agreement, either Party's remedy shall be limited to termination of this Agreement and receipt of any payments to which either party is entitled for services performed prior to the effective termination date. Notwithstanding remedies and rights of action provided under this Agreement, the parties agree to attempt to resolve any dispute at the staff level, and if disputes remain unresolved, they will be elevated to the next level of supervision or leadership of the parties.
12. **Attorney Fees.** If any suit or action at law, in equity, or through arbitration is filed to enforce any of the terms of this Agreement, the prevailing Party shall be entitled to recover from the other Party its reasonable attorney fees, costs, and disbursements, in addition to any other relief to which that Party may be entitled. If the prevailing Party is represented by in-house counsel, it shall nevertheless be entitled to recover reasonable attorney fees based upon the reasonable time, rates, and charges generally accepted for the type of legal services performed in the Portland, Oregon metropolitan area as outlined in the most recent Oregon State Bar Economic Survey. https://www.osbar.org/surveys_research.
13. **Nonwaiver.** Failure by either Party to enforce any provision of this Agreement at any time, or to require performance by the other Party at any time of any provision hereof, shall in no way be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof, or the right of any Party thereafter to enforce each and every provision in accordance with the terms of this Agreement. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the Parties
14. **Force Majeure.** Neither Party shall be held responsible for delay or default caused by any contingency beyond its control, including, but not limited to: war or insurrection; strikes, lockouts, or walkouts by the party's own employees; fires; natural calamities; riots; or demands or requirements of governmental agencies other than the Parties to this Agreement.
15. **Severability.** If any part of this Agreement becomes illegal, unworkable, or unenforceable due to current or future laws during its duration, the rest of the Agreement should remain unaffected. Should any clause become illegal, invalid, impossible, or unenforceable, the Parties agree to replace it with a similar, legal, and enforceable clause.
16. **Entire Agreement.** This Agreement and its Attachment(s) together constitute the final and exclusive understanding of the Parties. There are no other warranties, promises, representations, agreements, conditions, or understandings between the Parties, either oral or written, other than those expressly set forth in this Agreement and its Attachment(s).
17. **Modifications and Amendments.** This Agreement shall not be modified or amended except by an express writing containing the terms of the modification or amendment that has been signed by both Parties.
18. **Joint Authorship.** The Parties reviewed this Agreement and negotiated for change to any language that either party found vague. Accordingly, anyone constructing and/or interpreting this Agreement shall not construe any of its terms strictly against either Party.

19. **Headings.** The headings of this Agreement are provided for convenience only and are not intended to be used as tools of construction.

20. **Singular and Plural.** Words used in the plural shall also be interpreted to include the singular, and words used in the singular shall also be interpreted to include the plural.

21. **Notices and Contact Information.** Any kind of notice or demand required or desired to be given by either party must be made in writing, and shall be deemed delivered upon depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the respective party at its address listed below. These party representatives are authorized to resolve conflicts related to specific tasks, performance and deliverables.

MESD Contact Address

Multnomah Education Service District
Attn.: Christine Otto
11611 NE Ainsworth Circle
Portland, OR 97220-9017
Phone: (503) 257-1759

City of Portland Contact Address

Portland Police Bureau
Attn.: Commander Chris Gjovik
126 SW Morrison St,
Portland, OR 97205
Portland, Oregon 97204
Phone: (503) 823-4106

THIS AGREEMENT IS NOT VALID UNTIL ALL SIGNATORY APPROVALS ARE COMPLETED

The undersigned representatives of the Parties have read this Agreement, including any Attachment(s). The undersigned representatives are authorized to sign and enter into this Agreement and bind their respective entities by its terms.

Dr. Paul Coakley
Superintendent
Multnomah Education Service District

Robert Day, Chief of Police
Portland Police Bureau
City of Portland

Date

Date

Approval as to Form

City Attorney

Multnomah Education Service District prohibits discrimination and harassment on any basis protected by law, including but not limited to race, color, religion, sex, national or ethnic origin, sexual orientation, mental or physical disability or perceived disability, pregnancy, familial status, economic status, veterans' status, parental or marital status or age. For more information and detail on MESD's non-discrimination policies, including procedures and contact information for reporting discrimination, please visit the MESD Non-Discrimination, Harassment & Bullying Notice page at <https://www.multnomahesd.org/nondiscrimination.html>.

Attachment 1

Scope of Work

I. General Understanding

- A. This Agreement is not a request for physical police presence on school district campuses. If physical police presence on school district campuses is desired, MESD and the City will do so with a separate agreement in writing.
- B. Both parties agree:
 - 1. The information service under this Agreement is not intended to circumvent or replace legal channels for access to public information (such as the use of the City's public records request process).
 - 2. During a critical and life safety event, MESD has the sole responsibility to determine how it will respond to its immediate crisis situations (such as calling 911 or engaging with MESD's own public safety professionals).
 - 3. In certain situations, the City will be unable to provide or share requested information in a specific case or event, or to promptly respond, or to provide complete information. These can be situations (illustrative, non-exhaustive, examples) where sharing may: not be possible due to SLO not being the appropriate city office that holds the information; jeopardize on-going criminal investigations or prosecutions; may violate protected health, mental health, or individual privacy interests; impair critical safety or incident planning; create unreasonable confusion to disclose incomplete or unverified information; impair pending City litigation or otherwise legal strategy or privileges in civil or administrative actions; be prohibited from sharing by judicial or administrative orders; or may impact or impair active emergency activities.
 - 4. In the City's sole discretion, the City determines the appropriate quantity, quality and content of information to provide to MESD in fulfilling the City's obligations under this Agreement.
 - 5. The City may be obligated to withhold certain public records or information in its possession due to federal, state or local laws, Binding City Policies, and/or City ordinances or resolutions, including but not limited to Oregon Public Records Law and Oregon Juvenile Code Chapters 419A, 419B and 419C.

II. Liaisons

- A. City Liaison: The City will provide School Liaison Officials (SLO) who will serve as the principal points of contact to receive MESD's requests for information services and consultation both during and "after-hours." This service will require multiple SLOs. At least one SLO shall be assigned to this role on a full time

basis, with the additional staff coverage sufficient to meet the need for “after hours” contact.

1. The SLO(s) will be identified by the parties through a separate administrative memorandum and will be updated from time to time.
 2. The City will also identify and make available a backup point of contact for MESD, in the event the primary SLO is not available during business hours and/or after hours.
 3. In recognition of the resources paid for by MESD, the Agency agrees to ensure the identified SLO’s primary duties support the purposes of this agreement and the Agency shall not assign additional duties that conflict with or infringe upon execution of the agreement services.
- B. MESD Liaison: MESD will identify MESD staff (“MESD Liaison(s)”) who will serve as the principal point(s) of contact to submit requests for information to the SLO and to receive the information provided by the SLO.
1. The MESD Liaison will be identified through administrative memorandum and will be updated from time to time. It is the responsibility of MESD Liaison to disseminate any received information within the MESD community.
 2. MESD will also identify and make available backup point(s) of contact, in the event the primary MESD Liaison is not available during business hours and / or after hours.
- C. After-hour is defined to be those hours outside of the SLO’s normal work schedule, which is generally four ten-hours shifts. After-hour will include weekends, evenings, and holidays. The SLO’s normal work schedule will be provided to the MESD Liaison, and may be updated from time to time.

III. Information Services

- A. MESD may call or text the SLO during and after the SLO’s normal work schedule (after-hours). In the event the SLO is on vacation or leave, a temporary SLO will be identified to provide information services.
- B. The SLO will respond to requests. Responses may include: providing the requested information; denying the request and providing an explanation on why information could not be provided; or directing/redirecting MESD for another source for the requested information. Information requests may include aggregate statistics and other non-individualized data.
- C. The SLO may proactively provide information to the MESD Liaison on an as needed basis.
- D. Information sharing will primarily be one directional (SLO to MESD) and subject to the clarification in this Agreement. No FERPA information will be shared or required from MESD.

IV. Consultation and Support

- A. The SLO will participate in MESD identified safety and emergency response committees and advisories, including:
 - 1. BSAT (Threat Assessment)
 - 2. Mult Co Threat Advisory Team (Threat Assessment)
 - 3. SSEP AG (Safety, Security, and Emergency Preparedness Advisory Group)
- B. The SLO will attend community forums and meetings as requested.
- C. The SLO will provide individualized consultation for matters related to safety, emergency prevention, crisis response and emergency response.
- D. The SLO will serve as the primary point of contact for handle with care situations.
- E. While each agency maintains independence in investigations, the SLO will provide consultation assistance to MESD as requested.

V. Payment

- A. Payments for services will be paid in two installments. MESD will pay the City \$95,000 on or before December 1, 2023. Then the remainder will be paid on or before July 1, 2024.
- B. No invoices will be required as a copy of this Agreement shall serve as obligation to pay.
- C. Inquiries regarding payment should be sent to: MESD Business Services, Accounts Payable, 11611 NE Ainsworth Circle, Portland, OR 97220.