

018 - 2021

ePROSECUTOR CONTRACT 2020-12

Yakima County, WA

**YAKIMA COUNTY and CITY OF YAKIMA Interlocal Agreement
for purchase and on-going use of Journal Technologies, Inc. eProsecutor**

THIS AGREEMENT is entered into between Yakima County, Washington (hereafter "County") and the City of Yakima, (hereinafter "City"), a municipal corporation, pursuant to RCW 39.34.

WHEREAS, the parties currently share a prosecution case management system, JustWare, that is terminating and will no longer be supported 2021; and,

WHEREAS, the eProsecutor case management system is a next generation case management system that will meet the needs of the parties; and,

WHEREAS, it is in the best interest of the County, the City and the citizens who rely upon their services to retain a joint records system; and,

NOW, THEREFORE, it is hereby agreed as follows:

1. PARTIES

This Agreement is made by and between Yakima County (hereinafter referred to as **the County**) whose address is 128 North Second Street, County Courthouse, Room 329, Yakima, Washington 98901, and **the City of Yakima** (hereinafter referred to as **the City**) whose address is 129 N 2nd Street, Yakima, WA 98901. Notices between the parties shall be made where and as provided for on Page 7, Section 22, NOTICES.

2. PURPOSE

The purpose of this Agreement (hereinafter referred to as **the project**) is to establish and recognize the joint partnership to purchase, develop the infrastructure, provide maintenance, and jointly fund, the prosecution criminal case management software known as "eProsecutor", a product of Journal Technologies, Inc. (hereinafter referred to as **eProsecutor**, See Appendix A).

3. TERM

This Agreement shall become effective upon execution hereof by the authorized representatives of both parties and continues in effect until terminated as provided for in Section 7, SUSPENSION, TERMINATION, AND CLOSEOUT, or until the end of life of eProsecutor. Provided, that the City's funding and payment obligations set forth in Section 4 A and B shall survive termination of this Agreement unless or until other specific repayment arrangements are agreed upon by the parties in writing.

4. FUNDING AND MUTUAL CONSIDERATION

The Parties make this Contract based on and in recognition of certain relevant facts and circumstances including:

A. It has been agreed that the cost share responsibility to Journal Technologies will

be split between the City of Yakima (25%) and Yakima County (75%).

- B. Yakima County agree to house and maintain the servers and software for eProsecutor and will meet the conditions to receive support as required in the Journal Technologies Software, Maintenance and Support Agreement. The cost for this service will be determined by the YAKCORP consortium of which Yakima County and the City of Yakima are members. If problems arise in the performance of the software, Yakima County will work with the City of Yakima to correct the problems.
- C. Journal Technologies has negotiated the price for the one-time implementation cost at \$170,000, with the City of Yakima responsible for 25% or \$42,500 and Yakima County responsible for 75% or \$127,500.

This one-time cost will be made payable in full upon "go-live" with the exception of a down payment in the amount of \$40,000 to be paid in early 2021 upon signing the contract with Journal Technologies Inc.

The down payment will be broken down as such:

The City of Yakima will pay Yakima County \$10,000 no later than March 31, 2021. Yakima County will be responsible for \$30,000.

- D. After Go-Live, anticipated to be late 2021 or early 2022, the annual license and maintenance fees total \$64,000. Yakima County shall receive monthly compensation as follows from the City of Yakima:

The City of Yakima should pay 25% or \$16,000 dollars annually, made payable to Yakima County in monthly increments of \$1,333.33 no later than the 10th day of each month **OR**, the City may choose to pay annually in a lump sum payment at the beginning of each year.

The balance of the maintenance fees totaling \$48,000, will be made payable by the Yakima County Prosecuting Attorney's Office, in monthly increments of \$4,000.00.

- E. The City of Yakima and Yakima County will agree that these funds can be expended for no purpose other than paying for costs as they relate to the infrastructure, maintenance, upgrades, technical support, and financial responsibilities of eProsecutor and will be jointly funded and paid for as long as eProsecutor is viable.
- F. The parties agree that if future ongoing increases to license and maintenance fees are imposed by Journal Technologies Inc, that the parties will continue the split at the 75 percent County, 25 percent City split.
- G. RCW 39.34 authorizes interlocal agreements whereby municipal governments may jointly exercise the powers granted to each.

5. RECORDS, REPORTS AND AUDITS

The County agrees to maintain such records, make such reports, and follow such procedures as may be required by the State or City, pertaining to this Contract. All records pertaining to this

Contract and work undertaken hereunder shall be retained by the County for a period of seven years after final audit unless a longer period is required to resolve audit findings or litigation. The County and other authorized representatives of the State and Federal government shall have access to any books, documents, papers, and records of the City, which pertain to this Contract or work undertaken hereunder for the purpose of making audit, examination, excerpts, and transcriptions.

6. RELATIONSHIP OF PARTIES AND AGENTS

- A. The relationship of the City to the County, with regard to the development of and payment for eProsecutor, shall be that of a joint and binding partnership as determined by the contractual agreement with Journal Technologies (Appendix A). The City shall have no authority to execute contracts or to make commitments on behalf of the County and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the County and the City.
- B. All services required hereunder will be performed by the City and County jointly, and under the supervision of the City Attorney and the County Prosecutor and all personnel engaged in the work shall be fully qualified and shall be authorized, permitted and by mutual agreement by the City of Yakima and Yakima County.

7. SUSPENSION, TERMINATION, AND CLOSEOUT

- A. If either party fails to comply with the terms and conditions of this Contract, the aggrieved party may pursue such remedies as are legally available.
- B. **TERMINATION FOR CAUSE**—If the City fails to comply with the terms and conditions of this Contract and any of the following conditions exist:
 - I. The lack of compliance with the provisions of this Contract were of such scope and nature that the County deems continuation of this Contract to be substantially detrimental to the interests of the County;
 - II. The City has failed to take satisfactory action as directed by the County or its authorized representative within the time period specified by same;
 - III. The City has failed within the time specified by the County or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this Contract; then,
 - IV. Either the City of Yakima or Yakima County may terminate this Contract in whole or in part, and thereupon shall notify either party of termination, the reasons therefore, and the effective date, provided that six (6) months-notice is given. After this effective date, no charges incurred under any terminated portions outlined in the application for funding are allowable.
- C. **TERMINATION FOR OTHER GROUNDS**—This Contract may also be terminated in whole or in part by mutual consent and written agreement setting forth the conditions of termination, including effective date and, in case of termination in part, that portion to be terminated provided six (6) months-notice is given to either the City of Yakima or Yakima County.

8. COMPLIANCE WITH LAWS

The County and the City shall comply with all applicable laws, ordinances, and codes of the Federal, State, and local governments with regard to the performance of this Contract.

9. NO THIRD PARTY RIGHTS

This Agreement is entered into for the sole benefit of the County and the City. It shall confer no benefits or rights, direct or indirect, on any third parties. No person or entity other than the County and the City may rely upon or enforce any provision of this Agreement.

10. NONDISCRIMINATION & TITLE VI OF THE CIVIL RIGHT ACT OF 1964

The Contractor agrees that it shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, sexual orientation, veteran status, pregnancy, age, marital status, political affiliation or belief, or the presence of any sensory, mental or physical handicap in violation of the Washington State Law Against Discrimination (RCW chapter 49.60) or the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) or any other applicable state, federal or local law, rule or regulation.

The Contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, creed, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

11. HOLD HARMLESS AND INDEMNITY

The City shall indemnify and hold harmless the County, its officers, agents, and employees, from all liability, loss or damage, including costs of defense they may suffer as a result of claims, demands, actions costs, or judgments which result from the activities to be performed by the City, its agents, employees, or subcontractors pursuant to this Agreement.

The City intends that its indemnification, defense, and hold harmless obligations set forth in this Agreement shall operate with full effect regardless of any provision to the contrary in Title 51 RCW, Washington's Industrial Insurance Act. Accordingly, with respect to any action brought by any employee of the City against the County and its officers, employees, agents, and volunteers, the City specifically and to the fullest extent allowed by law waives any immunity granted under Title 51 RCW. The parties have mutually negotiated this waiver. The City shall similarly require that its subcontractors, and anyone directly or indirectly employed or hired by the City, and anyone for whose acts the City may be liable in connection with its performance of this Agreement to comply with the terms of this paragraph, waive any immunity granted under Title 51 RCW, respect to any action brought by any employee of the subcontractor against the County

or any of its officers, employees, agents, and volunteers. The provisions of this section shall survive the expiration or termination of this Agreement.

The County shall indemnify and hold harmless the County, its officers, agents, and employees, from all liability, loss or damage, including costs of defense they may suffer as a result of claims, demands, actions costs, or judgments which result from the activities to be performed by the County, its agents, employees, or subcontractors pursuant to this Agreement.

The County intends that its indemnification, defense, and hold harmless obligations set forth in this Agreement shall operate with full effect regardless of any provision to the contrary in Title 51 RCW, Washington's Industrial Insurance Act. Accordingly, with respect to any action brought by any employee of the County against the City and its officers, employees, agents, and volunteers, the County specifically and to the fullest extent allowed by law waives any immunity granted under Title 51 RCW. The parties have mutually negotiated this waiver. The County shall similarly require that its subcontractors, and anyone directly or indirectly employed or hired by the County, and anyone for whose acts the County may be liable in connection with its performance of this Agreement to comply with the terms of this paragraph, waive any immunity granted under Title 51 RCW, respect to any action brought by any employee of the subcontractor against the City or any of its officers, employees, agents, and volunteers. The provisions of this section shall survive the expiration or termination of this Agreement.

12. PUBLIC LIABILITY

The City and the County shall maintain for the duration of work under this Contract, issued on an occurrence basis, comprehensive liability insurance with a combined single limit of not less than two (2) million dollars (\$2,000,000.00) per occurrence and five (5) million dollars (\$5,000,000.00) aggregate insurance from a company authorized to provide insurance in the State of Washington.

13. ASSIGNABILITY

The City, nor the County shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation) without prior written consent of the other party thereto, provided, however, that claims for money by the City from the County under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County by the City.

14. NON-WAIVER

The failure of either party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

15. CONTRACT MODIFICATIONS

It is mutually agreed and understood that no modification or waiver of any clause or condition of this Contract is binding upon either party unless such modification or waiver is in writing and executed by the County and the City.

16. WARRANTIES

The parties mutually understand that eProsecutor is a third party software service and that from time to time the software license and network availability may be limited, or unavailable subject to Journal Technologies ability to perform services under contract. The parties mutually agree that there are no warranties express or implied, including but not limited to the implied warranties of merchantability, and fitness for a particular purpose. Warranties with respect to the operation of any deliverable shall be as set forth in the license agreement or statement of work.

17. SEVERABILITY

If any portion of this Agreement is changed per mutual contract or any portion is held invalid, the remainder of this Contract shall remain in full force and effect.

18. NOTICES

- A. Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties to their addresses as follows:

TO CITY: Yakima City Attorney
129 North Second Street
Yakima, WA 98901

TO COUNTY: Yakima County Prosecutor
128 North Second Street, Room 329
Yakima, WA 98901

or to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

19. INTEGRATION

This Agreement contains all terms and conditions agreed to by the County and the City. There are no other oral or written agreements between the City and County as to the subjects contained herein. No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and executed by both parties.

20. GOVERNING LAW AND VENUE

All questions of the validity, construction, and application of this Agreement shall be governed by the laws of the State of Washington. Venue for any suit between the parties arising out of this Agreement shall be the Superior Court of Yakima County, Washington.

21. COMPLIANCE WITH THE LAW

The parties to this Agreement shall comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this Agreement.

22. FILING

Upon execution by the authorized representatives of the parties, a copy of this Agreement shall be promptly filed with the Yakima County Auditor pursuant to RCW 39.34.040.

* * * * *

IN WITNESS WHEREOF, the County and the City have executed this Contract as of the date and year last written below.

CITY OF YAKIMA

_____, Yakima City Manager

Approved as to Form:

Cynthia Martinez, City Attorney

Attest:

Sonya Claar Tee, City Clerk

Date

BOARD OF COUNTY COMMISSIONERS

Ron Anderson, Chairman

Amanda McKinney, Commissioner

LaDon Linde, Commissioner

Approved as to Form:

Daniel D. Clark, Deputy Prosecuting Attorney

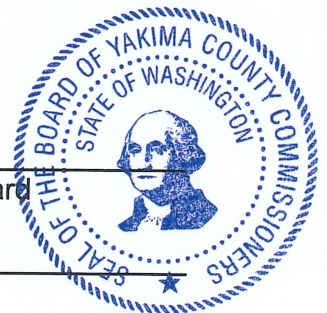
CONTRACT AUTHORIZATION

Attest:

Julie Lawrence, Clerk of the Board

FEB 02 2021

Date



APPENDIX A:

Journal Technologies, Inc. Contract with the City of Yakima and Yakima County.