

**MEMORANDUM OF UNDERSTANDING BETWEEN  
GEORGE MASON UNIVERSITY  
AND  
FAIRFAX COUNTY**

This Memorandum of Understanding (“MOU”) dated this 12 day of July, 2021, is entered into by and between George Mason University, an educational institution and agency of the Commonwealth of Virginia (“Mason”) and Fairfax County, a political subdivision of the Commonwealth of Virginia (the “County”) (together, the “Parties”).

**RECITALS**

**R-1.** The County and Mason seek mutually beneficial civic research opportunities among County data to address Fairfax County challenges, respond to business questions, build capacity in the County’s analytical capabilities, conduct policy research and analysis, and improve services.

**R-2.** The purpose of this MOU is to accelerate efficient and effective data analytics practices in the County through data management and analytic tools that will leverage data assets to better inform decisions, provide actionable information, and support current and future planning efforts.

**R-3.** The County intends to use these data insights for all proper purposes authorized by law, including: (i) streamline administrative processes to improve the efficiency and efficacy of services, access to services, eligibility determinations for services, and service delivery; (ii) reduce paperwork and administrative burdens on applicants for and recipients of public services; (iii) improve the efficiency and efficacy of the management of public programs; (iv) prevent fraud and improve auditing capabilities; (v) conduct outcomes-related research; (vi) develop quantifiable data to aid in policy development and decision making to promote the most efficient and effective use of resources, including to help decrease inequities in outcomes and increase the amount of intelligence to identify targeted solutions to improve results, whenever possible, based on geographic location and demographic factors inclusive of race, ethnicity, age, and gender; and (vii) perform data analytics regarding any of the purposes. *See* Va. Code § 2.2-3801.

**R-4.** This MOU outlines the policies and procedures that will govern the Parties in conducting specific Projects.

**NOW, THEREFORE**, in consideration of mutual interests, the Parties agree to the following:

**A. DEFINITIONS**

“Applicable Law”: all applicable federal, state, and local laws, regulations, and policies.

“County Data”: Data generated, maintained, or owned by the County, County clients’ or employees’ data, data derived or developed from County client or employee data, data collected for use in the Project outlined in the Statement of Work (SOW), or data developed as a result of conducting the Project. County Data includes deidentified data. County Data is limited to the data that is being used for the Project or developed as a result of the Project, as identified in the

SOW. County data does not include publicly available data or data created and owned by third parties.

## **B. PROCESS**

- a. When the Parties have identified a mutually agreeable research, analytical, educational, or scholarly Project, the Parties will complete specifications outlined in a SOW described in Appendix (A). Each SOW shall be considered an attachment to this MOU. The SOW will be executed by a Project representative for each party.
- b. Upon completion of the SOW, the Parties will identify whether additional written Agreements are required to implement the Project, including, but not limited to:
  - i. Business Associate Agreement if the SOW requires the sharing of Protected Health Information and Mason meets the definition of a Business Associate under 45 C.F.R. § 160.103;
  - ii. Data Use Agreement if the SOW requires the sharing of a Limited Data Set as defined by 45 C.F.R. § 164.514(e);
  - iii. Confidentiality Agreement if the SOW requires the sharing of County Data governed by laws that require specific additional terms not provided for by this Agreement;
  - iv. Any Agreements required to use George Mason University's Institutional Review Board/Human Research Review Committee/Privacy Board if the SOW involves research involving human subjects and is required by law or regulation, including 45 C.F.R. Part 46, Subpart A, 21 C.F.R. Parts 50 and 56, 45 C.F.R. § 164.512(i) and Virginia Code §§ 32.1-162.18 and 63.2-218.
- c. The Parties will enter into any such supplemental written Agreements as attachments to the SOW for each Project. If required under Applicable Law, supplemental Agreements will be executed at the same level of formality as this MOU. Each such supplemental Agreement shall only remain in effect for the duration of each Project.

## **C. RESPONSIBILITIES**

- a. **County Responsibilities:**
  - i. Prepare a written SOW for each Project under this MOU, in consultation with the relevant Mason Department or Center.
  - ii. Assign County staff to carry out the activities defined in the SOW.

- iii. Identify whether any additional written security or confidentiality requirements beyond this MOU apply to data designated to be shared outlined in the SOW (such as a Business Associate Agreement) and provide the necessary accompanying draft supplemental Agreement(s).
- iv. Remain in compliance with all federal and state laws and regulations that may affect the Project and ensure training of personnel involved in the Project accordingly. County staff will sign confidentiality agreements or waivers if identified and required by the SOW.
- v. Disclose known risks associated with participation in the Project.
- vi. Cooperate with Mason's Institutional Review Board if such review is required.
- vii. Obtain Fairfax County Data Analytics Governance Council review or approval if required by internal County policies and procedures.

**b. Mason Responsibilities:**

- i. Remain in compliance with all federal and state laws and regulations that may affect the Project.
- ii. Assign faculty, staff, students, other supports (Mason personnel), to perform the activities consistent with the requirements defined in the SOW and ensure such personnel assigned to the Project are trained to perform such activities.
- iii. Mason personnel will sign confidentiality agreements or waivers if identified and required by the SOW. Mason will remove from the Project any Mason personnel who fail to comply with this MOU, the SOW, and any other supplemental Agreements entered into for the Project.
- iv. Supervise and grade any students or fellows assigned to a Project.
- v. Confirm SOW with County staff.
- vi. Review and sign any required additional Agreement(s) as identified by the SOW.
- vii. Coordinate any steps necessary to submit and seek approval by Mason's Institutional Review Board if required by Applicable Law.

- viii. Maintain County Data in compliance with this Agreement and Applicable Law.
- ix. Disclose known risks associated with participation in the Project. Ensure the privacy and rights of research participants as required under Applicable Law.

#### D. COUNTY DATA

- a. **Scope of Data.** The County will only transfer or share County Data identified in the SOW as permitted by Applicable Law. Publicly accessible data is not governed by this MOU.
- b. **Permitted Purpose.** The Parties will only transfer, use, and maintain County Data in accordance with Applicable Law, including the Government Data and Dissemination Practices Act (GDCDPA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act, and their implementing regulations, including the Privacy and Security Rules (45 C.F.R. Parts 160 and 164), and the regulations governing the Confidentiality of Substance Use Disorder Patient Records (42 CFR Part 2), the Privacy Act of 1974, as applicable. The Parties will ensure adequate training of Applicable Law and enforce such requirements with its users, students, research fellows, employees, vendors and any other person or entity that receives, sends, or has access to data pursuant to this MOU.
- c. **Use of Data.** The Parties will only use or disclose County Data for the purposes for which the data was made available under the business purposes outlined in the SOW; Mason will not disclose County Data to any third parties or personnel not identified in the SOW. Unless otherwise agreed by the Parties in writing, to the extent Mason includes County Data in research reports, such information may only be published in aggregate form such that the information cannot be re-identified.
- d. **Data Security.** The Parties will ensure the secure transfer, maintenance, and storage of County Data in compliance Applicable Law and the County's Security Policy Procedural Memorandum 70-05. Mason will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality and integrity of County Data, and that prevent the use or disclose of County Data other than as provided for by this MOU. Neither party will permit direct access to the other's internal data systems, software, hardware, applications unless necessary for transfer of data as outlined in the SOW.

- e. **Breach.** Mason will give immediate notice to the County of any actual or suspected unauthorized disclosure of, access to, or other breach of County Data. In the event of actual or suspected unauthorized disclosure of, access to, or other breach of the Data, Mason will comply with Applicable Law related to such breach. The Parties will cooperate with one another in fulfilling any legal obligations and communications related to such breach.
- f. **Permitted Future Uses.** The Parties will retain data in compliance with Applicable Law. Upon any termination of the Project outlined in the SOW, or upon termination or breach of this MOU, the SOW, or any written Agreement attached to the SOW, Mason will return or destroy any County Data that Mason, its agents, or subcontractors then maintains in any form. The Parties will not disclose products or deliverables resulting from the SOW to any outside entity or person, including subcontractors, without the written permission of the other party.

#### **E. PROPRIETARY INFORMATION**

The parties acknowledge that each party is a public body under Virginia Law, subject to the Virginia Freedom of Information Act (FOIA). Either party may designate information as Confidential, Trade Secrets, or Proprietary (Proprietary Information) as authorized under Applicable Law, and the other party agrees to use reasonable efforts to maintain the confidentiality of information designated and clearly marked proprietary. Proprietary Information does not include information or records subject to disclosure under Virginia law, including FOIA.

#### **F. INTELLECTUAL PROPERTY AND DELIVERABLES**

- a. The parties will outline the deliverables to be produced for the Project and any specifications as to the ownership of such deliverables in the SOW.
- b. Unless otherwise specified in the SOW, Intellectual Property that is jointly conceived or developed by the County and Mason for a Project shall be jointly owned.
- c. Preexisting intellectual property or intellectual property developed outside of the activities under a SOW shall not be affected by this MOU unless separately agreed in writing by the parties. Any preexisting intellectual property that will be used to complete a new SOW will be explicitly identified in the SOW or an amendment to the original SOW.

**G. NOTICES**

Notices and communications of a routine nature hereunder shall be sent to:

<b>MASON</b>	<b>THE COUNTY</b>
Kamaljeet Sanghera, PhD Interim Executive Director, Institute for Digital InnovAtion George Mason University 4400 University Drive, MSN 6D5 Fairfax, VA 22030 Phone: (703) 993-6617 Email: <a href="mailto:ksangher@gmu.edu">ksangher@gmu.edu</a>	Michelle Gregory Countywide Data Analytics Coordinator Department of Management and Budget Fairfax County Government 12000 Government Center Parkway, Suite 561 Fairfax, VA 22035 Tele: 703-324-9410 Email: <a href="mailto:michelle.gregory@fairfaxcounty.gov">michelle.gregory@fairfaxcounty.gov</a>

In the event that the technical point of contact for a party changes, such party shall notify the other party in writing.

Notices and communications of an administrative or contractual nature hereunder shall be sent to:

<b>MASON</b>	<b>THE COUNTY</b>
Eileen Gallagher Director of Contracts Office of Sponsored Programs George Mason University 4400 University Drive, MSN 4C6 Fairfax, VA 22030 Tele: 703-993-2292 FAX: 703-993-2296 Email: <a href="mailto:egallagh@gmu.edu">egallagh@gmu.edu</a>	Cathy Muse Director of Procurement & Material Management Fairfax County Government 12000 Government Center Parkway, Suite 427 Fairfax, VA 22035 Tele: 703-324-3203 Email: <a href="mailto:cathy.muse@fairfaxcounty.gov">cathy.muse@fairfaxcounty.gov</a>

In the event that the contractual point of contact for a party changes, such party shall notify the other party in writing.

## H. GENERAL

- a. **Term.** This MOU shall be effective upon last signature and shall continue for a period of three years. It may be extended or modified only upon written, mutual agreement of the Parties.
- b. **Termination.** This MOU may be terminated by either party by giving the other party written notice not less than thirty (30) calendar days in advance of a specified date of termination.
- c. **Cost.** Each Party agrees to bear its own costs associated with this MOU. Any payment of costs must be agreed upon by the parties by separate written Agreement. The obligation of Fairfax County to pay any other payment obligations under this MOU is subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations. Fairfax County's obligations to make payments during subsequent fiscal years are dependent upon the same action. If such an appropriation is not made for any fiscal year, the MOU shall terminate effective at the end of the fiscal year for which funds were appropriated and Fairfax County will not be obligated to make any payments under the contract beyond the amount appropriated for payment obligations under the MOU. Fairfax County will provide Mason with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, Fairfax County's failure to provide such notice will not extend the MOU into a fiscal year in which sufficient funds have not been appropriated.
- d. **Notice.** Any notice required by this MOU shall be in writing and shall be deemed given when sent by United States Postal Service by certified mail, or when sent by nationally recognized overnight delivery service or personally served upon the appropriate party.
- e. **Applicable Law; Venue.** This MOU shall be construed, governed and interpreted by and in accordance with the laws of the Commonwealth of Virginia. Any litigation with respect to this MOU shall be brought in the state courts of Fairfax County, Virginia, or in the United States District Court, Eastern District of Virginia, Alexandria Division.
- f. **Non Exclusivity.** Nothing in this MOU limits either party from independently pursuing any funding opportunity. Nothing in this MOU binds departments of Mason other than that specified in this MOU.

- g. Severability.** Should any portion of this MOU be declared invalid or unenforceable for any reason, such portion is deemed severable from the MOU and the remainder of this MOU shall remain fully valid and enforceable.
- h. Waiver.** The failure of a party to enforce any provision in this MOU shall not be deemed a waiver of such right.
- i. Assignment.** Neither party shall assign or otherwise transfer its rights or delegate its obligations under this MOU without the prior written consent of the other. Any assignment, transfer or delegation without such consent shall be void. However, should assignment be permitted, the terms and provisions of this MOU shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.
- j. Independent Contractors.** The relationship of the parties to each other is solely that of independent contractors. No party shall be considered an employee, agent, partner or fiduciary of the other, nor shall anything contained in this MOU be construed to create any partnership or joint venture between the parties. Neither party sponsors, endorses, or makes any express or implied warranties for the other. Nothing in the MOU shall be construed as providing for the sharing of profits or losses arising out of the efforts of either party.
- k. Publicity.** Neither party shall use in its external advertising, marketing programs, or promotional efforts, any data, name, insignia, trademarks, pictures or other representation of the other party or its employees without specific written authorization.
- l. Image.** Neither party shall knowingly take any action or inaction which may be detrimental to the image or reputation of the other.
- m. Nondiscrimination.** Both parties to this MOU agree to not discriminate on any basis prohibited under state or federal law.
- n. Force Majeure.** Neither party shall be responsible for any delay or failure in performance resulting from any cause beyond its control, including, without limitation, war, terrorism, strikes, civil disturbances, and acts of God.
- o. Sovereign Immunity.** Nothing in this MOU shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia.
- p. Conflicts of Interest.** No employee of Mason or the County may receive compensation directly from the other party under this MOU.
- q. Third-Party Beneficiaries.** No third party is entitled to rely on any of the representations, warranties and agreements of the parties contained in this MOU.



No party assumes any liability to any third party because of any reliance on the representations, warranties and agreements of the parties contained in this MOU.

**r. Liability.**

- i. Liability.** Each Party shall be responsible for any claim, damage, liability, injury, expense, or loss, arising from the actions or omissions of their employees and agents performing under this MOU.
  - ii. Limitation of Liability.** Neither Party shall be liable to each other for incidental, consequential, indirect, or specific damages including, without limitation, lost business profits or revenue. Direct damages shall be limited to amounts otherwise permitted by Virginia law, and in any event total liability shall not exceed the value of this MOU. This limitation is a critical element of the Parties' bargained-for consideration and will be effective even in the event Mason is informed in advance of the possibility of such damages.
  - iii. Sovereign Immunity.** Nothing in this MOU shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia.
- s. Entire Agreement.** This MOU constitutes the entire understanding of the parties with respect to the subject matter herein and supersedes all prior oral or written agreements with respect to the subject matter herein. This MOU may be modified or amended only by written, mutual agreement of the parties.

The signatories below certify that they are duly authorized to sign on behalf of their Party.

**GEORGE MASON UNIVERSITY**

**FAIRFAX COUNTY**

**Eileen  
Gallagher** Digitally signed by  
Eileen Gallagher  
Date: 2021.07.01  
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Eileen Gallagher  
Director of Contracts

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July 1, 2021  
Date

DocuSigned by:  
*Cathy A. Muse*

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Cathy A. Muse  
Director/Purchasing Agent

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07/01/2021 | 16:32:30 EDT  
Date

## **EXHIBIT A**

### **Project Statement of Work:**

1. Identify scope and purpose of Project, including primary objectives, problem(s) to be resolved or question(s) to be answered;
2. Identify each party's role, expectations, tasks;
3. Identify milestones for Project or anticipated date of termination;
4. Specifically identify personnel assigned to Project, personnel who will have access to County Data, if applicable; and primary points of contact;
  - a. Identify whether personnel assigned to Project or Project participants are required by Applicable Law to sign confidentiality agreements or liability waivers;
  - b. Identify whether third party Project partners are anticipated, and if so, whether additional written Agreements are required for their involvement;
5. Identify deliverables, including ownership of deliverables;
6. Identify preexisting Intellectual Property to be used by the parties to complete the Project;
7. Identify required equipment, work space(s), resources need to accomplish Project, and identify which Project partners are responsible for the provision of such needs;
8. Identify budgetary requirements for Project, including whether additional written Agreements are required for any cost-sharing of Project.
9. Identify whether the Project involves the use of human subjects, and if so, whether additional Institutional Review Board approval is required;
10. Identify specific data sets to be used or disclosed;
  - a. Identify whether only public data will be used for Project;
  - b. Identify whether County Data will be used for Project, and if so, specify Data;
  - c. Identify method of data transfer and maintenance of data, including security measures to be taken to prevent unauthorized disclosure of data. If data transfer requires direct access to either party's internal data systems, software, hardware,

or applications, access must be approved by each party's information technology department.

- d. Identify Applicable Law governing data and authorizing use or disclosure;
- e. Identify any supplemental Agreements required to be signed by the parties for transfer of data, such as:
  - i. Business Associate Agreement if the SOW requires the sharing of Protected Health Information and Mason meets the definition of a Business Associate under 45 CFR § 160.103;
  - ii. Data Use Agreement if the SOW requires the sharing of a Limited Data Set as defined by 45 CFR 164.514(e);
  - iii. Confidentiality Agreement if the SOW requires the sharing of County Data governed by laws that require specific additional terms not provided for by this Agreement;
  - iv. Any Agreements required to use George Mason University's Institutional Review Board/ Human Research Review Committee/Privacy Board if the SOW involves research involving human subjects and is required by law or regulation, including 45 CFR Part 46, Subpart A, 21 CFR Parts 50 and 56, 45 CFR 164.512(i) and Va. Code §§ 32.1-162.18 and 63.2-218.
- f. Identify method of deidentification required for publication of data in Project deliverables in accordance with Applicable Law;
- g. Identify permissible scope of use of deidentified data by either Party upon conclusion of Project or beyond identified deliverables;
- h. Identify any additional information needed to confirm each Party's expectations and goals.

**Certificate Of Completion**

Envelope Id: 734355F7B6AD49F39DABFC573002D2C6	Status: Completed
Subject: Please DocuSign: Fairfax County--MOU--Sanghera--7-1-21 .pdf	
Source Envelope:	
Document Pages: 11	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Lee Ann Pender
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	12000 Government Center Pkwy
	Department of Information Technology
	Fairfax, VA 22035-0063
	LeeAnn.Pender@fairfaxcounty.gov
	IP Address: 166.94.14.111

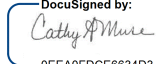
**Record Tracking**

Status: Original	Holder: Lee Ann Pender	Location: DocuSign
2021 July 1   16:08	LeeAnn.Pender@fairfaxcounty.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Fairfax County Government	Location: DocuSign

**Signer Events**

Cathy A. Muse  
 cathy.muse@fairfaxcounty.gov  
 Purchasing Agent.  
 Fairfax County Government  
 Security Level: Email, Account Authentication (None)

**Signature**

DocuSigned by:  
  
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 Signature Adoption: Uploaded Signature Image  
 Using IP Address: 165.225.8.101

**Timestamp**

Sent: 2021 July 1 | 16:12  
 Viewed: 2021 July 1 | 16:31  
 Signed: 2021 July 1 | 16:32

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	2021 July 1   16:12
Certified Delivered	Security Checked	2021 July 1   16:31
Signing Complete	Security Checked	2021 July 1   16:32
Completed	Security Checked	2021 July 1   16:32
Payment Events	Status	Timestamps