



July 24, 2014

Mayor Greg Fischer  
Louisville/Jefferson County Metro Government  
611 West Jefferson Street  
Louisville, Kentucky 40202

Thomas B. Wine  
Commonwealth's Attorney  
Office of Commonwealth's Attorney  
514 W. Liberty Street  
Louisville, Kentucky 40202

Dear Mayor Fischer & Thomas Wine:

It is my pleasure to inform you that the Directors of the Laura and John Arnold Foundation (the "*Foundation*") have authorized a grant to Louisville/Jefferson County Metro Government ("*Metro Government*") and Office of the Commonwealth's Attorney ("*Commonwealth's Attorney*") (herein referred to collectively as "*Grantees*") in the amount of \$339,750.00 (three hundred thirty-nine thousand seven hundred fifty dollars) (the "*Grant*"), payable in installments as set forth below, subject to Grantees' acceptance of, compliance with or the making of, as the case may be, the terms, conditions, agreements, warranties, representations, and other provisions set forth in this agreement (this "*Agreement*").

The Grant shall be used for the sole purpose of supporting a two-year pilot project (the "*Pilot*") to reduce felony case processing times by assigning two prosecutors and a paralegal from the Commonwealth's Attorney's Office to handle felony charges in two District Courts in Jefferson County, Kentucky (the "*Purpose*").

Grantees and the Foundation acknowledge, agree, and consent to the following terms, conditions, agreements, warranties, representations, and other provisions, which either relate to or are attached to the Grant:

1. **Purpose.** Grantees agree that the Grant will only be used for charitable purposes as such purposes are generally defined by those authorities interpreting the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 (as amended, including any corresponding provisions of predecessor or successor federal tax laws, "*Code*") and will not be used to carry on propaganda, influence legislation, fund any political campaign, influence the outcome of any election, carry on any voter registration drives, or violate any applicable local, state, federal, or foreign law. Grantees agree that the Grant (and all income or gains earned thereon) shall be used solely for the Purpose, unless approved otherwise by prior written consent of the Foundation.

2. **Term.** The term of this Agreement will commence on the date Grantees execute this Agreement as set forth on the signature page hereto (the “*Effective Date*”) and will expire on January 31, 2017, unless terminated earlier as provided herein (the “*Term*”).
3. **Payment of Grant Funds.** Provided Grantees are in full compliance with the terms of this Agreement, and subject to the Foundation’s right to terminate pursuant to Section 8 of this Agreement, the Foundation shall pay the Metro Government the Grant in four (4) installment payments as follows (each, an “*Installment Payment*”): (a) the first Installment Payment of \$100,000.00 (one hundred thousand dollars), within thirty (30) business days of the execution and delivery of a signed copy to the Foundation of this Agreement by Grantees; (b) the second Installment Payment of \$100,000.00 (one hundred thousand dollars), on or by January 31, 2015; (c) the third Installment Payment of \$100,000.00 (one hundred thousand dollars), on or by January 31, 2016; and (d) the fourth Installment Payment of \$39,750.00 (thirty-nine thousand seven hundred fifty dollars), on or by January 15, 2017. The Foundation shall not be obligated to make any Installment Payment if the Foundation determines in its sole discretion that Grantees are not in full compliance with the terms of this Agreement or are not in full compliance with the budget and milestones set forth in Exhibits A and B, attached hereto and incorporated herein (the “*Budget and Milestones*”).
4. **Fiscal Sponsorship.** The Metro Government shall receive and administer all Grant funds that the Commonwealth’s Attorney will use to carry out its obligations under this Agreement. The Metro Government will maintain Grant funds in one or more bank accounts, which may include other Metro Government funds, and agrees that such Grant funds will be used exclusively for the Purpose. Any authorized representative of the Office of the Commonwealth’s Attorney may request a payment or withdrawal of Grant funds consistent with Metro Government procedures. The Metro Government will promptly make payments or withdrawals upon receipt of proper authorization and documentation. The Metro Government will keep and maintain accurate, complete, and separate Grant records in accordance with generally accepted accounting principles, showing all Grant assets, liabilities, income, and expenditures.
5. **Representations and Warranties.** Grantees make the following representations and warranties:
  - a. Grantees are governmental units duly formed, validly existing, and in good standing in the Commonwealth of Kentucky, with all governmental power, authority, and permits necessary to carry on their activities, including the Purpose of the Grant.
  - b. Grantees are currently, and at all times during the Term shall be, Qualifying Grantees. For purposes of this Agreement, a “*Qualifying Grantee*” is an

organization which at all times meets the following criteria: (i) it is an organization described in Code Section 501(c)(3) or a governmental unit defined in Code Section 170(c)(1), (ii) it is not a “private foundation” within the meaning of Code Section 509(a), (iii) it is not a Type III Supporting Organization within the meaning of Code Section 509(a)(3), and (iv) it is an organization pursuant to which the acceptance of the provisions of this Agreement or of the Grant will not adversely affect Grantee’s status under subsections (i) – (iii) above. Grantees are not aware of any threat or challenge to their statuses as Qualifying Grantees. Furthermore, if either Grantee is a publicly supported charity within the meaning of Code Section 170(b)(1)(A)(iv) or (vi) or Section 509(a)(2), each Grantee represents that the Grant will not cause Grantee to lose such status.

- c. The Purpose of the Grant is charitable as such purposes are generally defined by those authorities interpreting the provisions of Code Section 501(c)(3), and the Grant will only be used for such charitable purposes and will not be used to carry on propaganda, influence legislation, fund any political campaign, influence the outcome of any election, carry on any voter registration drives, or violate any applicable local, state, federal, or foreign law.

#### 6. *Reporting and Records.*

- a. Grantees shall each promptly provide the Foundation with (i) a copy of Grantees’ current, valid determination letter from the Internal Revenue Service recognizing their status as a Qualifying Grantee and (ii) copies of their respective financial statements, with respect to their fiscal years ending on June 30, 2014, June 30, 2015, June 30, 2016, and June 30, 2017, as such documents become available.
- b. The Commonwealth’s Attorney shall provide the Foundation with interim reports due December 31, 2014, and December 31, 2015, and a final report to be submitted to the Foundation no later than December 15, 2016 (each a “*Grant Report*” and collectively the “*Grant Reports*”). Each Grant Report will include a detailed account of expenditures of Grant funds and a narrative of what was accomplished by the use of such funds during the term (including a description of progress made in fulfilling the Purpose of the Grant and a confirmation of Grantees’ compliance with the terms of this Agreement). If the Grant funds are not fully expended by the Commonwealth’s Attorney during the Term, the Commonwealth Attorney’s shall disclose this in the Grant Reports so that the Foundation can make a determination about such funds. The Grant Reports will also include any other information requested by the Foundation reasonably in advance of the due date of the relevant Grant Reports.

- c. Upon Foundation's request, the Commonwealth's Attorney shall provide periodic updates to the Foundation detailing the project's status, activities, and preliminary results. These updates will be conducted by telephone or in a format selected by the Foundation.
- d. Grantees will immediately furnish the Foundation with any information concerning a threatened, proposed, or actual change in their status as Qualifying Grantees.
- e. Grantees will provide the Foundation prompt written notice of each and every event which could reasonably be expected to trigger any of the provisions of Section 8 of this Agreement.

During the Term and for at least three (3) years thereafter, Grantees will maintain accurate and complete records of receipts of and expenditures made from Grant funds and, upon the request of the Foundation, shall make such records available for inspection by the Foundation and its representatives.

- 7. **Grant Publicity.** The Foundation shall maintain sole control over the timing and contents of any public statements or release of information regarding this Agreement and/or Grant, including the Purpose, Budget, and Milestones. Grantees may release information regarding the Grant provided that at the time of such release Grantees are in compliance with the provisions of this Agreement and provided that Grantees have received *prior written approval* from the Foundation's President, Vice President of Criminal Justice, or its Director of Communications. Grantees will advise the Foundation immediately if there is any unauthorized release of information. Notwithstanding the foregoing, however, Grantees may release any information about the Agreement and/or Grant that is required to be disclosed under applicable laws or regulations. Without further notice to or consent from Grantees, the Foundation may include information about this Agreement and/or Grant and any materials provided by Grantees to the Foundation in the Foundation's published reports, website, news releases, and other external communications related to the Foundation.
- 8. **Termination.** This Agreement may be terminated by the Foundation if any of the following has occurred, it being understood and agreed that the determination of whether any such condition or event has occurred will be made by the Foundation in its sole discretion:
  - a. Any of the warranties or representations made by either of the Grantees in this Agreement is or becomes untrue in any respect;
  - b. Either of the Grantees has materially misrepresented to the Foundation its activities or financial condition;

- c. Either of the Grantees uses any portion of the Grant for any purpose other than the Purpose without the prior written consent of the Foundation;
- d. Either of the Grantees fails to comply with any of the provisions of this Agreement (including Exhibits A and B);
- e. There is a material change in the purpose, character or method of operation of either of the Grantees, or a material change in the leadership of either of the Grantees;
- f. The Internal Revenue Service makes a determination, preliminary or otherwise, that the Grant does not constitute a qualifying distribution by the Foundation within the meaning of Code Section 4942(g)(1)(A) or (B); or
- g. The Grant or its Purpose does not contribute to the accomplishment of either Grantees' mission as originally anticipated.

The effective date of the Foundation's termination of this Agreement (the "*Termination Effective Date*") shall be the earlier of (a) the date notice is given by the Foundation to Grantees of the termination and (b) if so elected by the Foundation, the date on which the event triggering the right of termination occurred.

9. ***Payment Obligation; Return of Funds.*** In the event that the Foundation terminates this Agreement pursuant to the terms hereunder:
  - a. Any remaining payment obligation of the Foundation to Grantee, whether under this Grant or otherwise, shall be null and void as of the Termination Effective Date;
  - b. If the Foundation terminates this Agreement pursuant to any provision hereunder other than Section 8(a), 8(b), or 8(c) of this Agreement, the Metro Government shall promptly return to the Foundation any amounts of the Grant previously paid to the Metro Government which have not yet been expended as of the Termination Effective Date or which were not used for the Purpose; and
  - c. If the Foundation terminates this Agreement pursuant to Section 8(a), 8(b), or 8(c) of this Agreement, the Metro Government shall promptly return to the Foundation an amount equal to the amount of the Grant previously paid to the Metro Government.
10. ***Liability.*** The Foundation, its officers, directors, founders, employees and agents and each of their affiliates (collectively the "*Foundation Parties*") shall not be liable for any losses, damages, claims, or other liabilities ("*Losses*") arising out of

or related to (a) any act or omission of Grantees, their employees or agents in applying for or accepting the Grant; (b) the expending of Grant funds furnished pursuant to this Agreement; or (c) the carrying out of any programs or projects funded by the Grant, and Grantees, to the extent permitted by Kentucky law, shall defend and indemnify the Foundation Parties from and against any Losses in connection with third party claims, suits, actions, demands, or judgments arising therefrom. It is expressly understood that the Foundation, by making the Grant and entering into this Agreement, has no obligation to provide other or additional support to Grantees.

11. **Gifts.** The Foundation desires that all of Grantees' resources be dedicated to accomplishing its philanthropic and charitable purposes. Therefore, Grantees agree that they will not furnish the Foundation or its Board of Directors, officers, staff, or affiliates with any membership, commemorative items, recognition plaques or gratuities or benefits of any kind.
12. **Entire Agreement.** This Agreement supersedes any prior oral or written understanding or communications between the parties and constitutes the entire agreement of the parties with respect to the subject matter hereto. This Agreement may not be amended or modified, nor any of its provisions waived, except in a written document signed by an authorized representative of Grantees and the Foundation.
13. **Waiver.** Any waiver of any kind by either party of a breach of this Agreement shall not operate or be construed as a waiver of such breach or any subsequent breach. Either party's delay or omission in exercising any right, power, or remedy pursuant to a breach or default by the other party shall not impair any right, power, or remedy which that party may have.
14. **Severability.** If any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, this Agreement shall continue in full force and effect without such provision.
15. **Assignment.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective permitted successors, assigns, heirs and legatees; *provided, however,* Grantees cannot assign, or otherwise transfer, their rights or delegate any of their obligations, without the prior written consent of the Foundation, which consent the Foundation may withhold, condition or delay in its sole discretion.
16. **No Third Party Rights.** Except as set forth in Section 10 of this Agreement, it is the explicit intention of the parties that no person or entity other than the parties is or shall be entitled to bring any action to enforce any provision of this Agreement and that the covenants and agreements set forth herein shall be solely for the benefit of

and enforceable only by the parties or their respective successor and assigns as permitted hereunder.

17. **Remedies.** The rights and remedies provided in this Agreement are cumulative in nature and shall be in addition to any such other rights and remedies available at law or equity.
18. **Independent Parties.** Nothing in this Agreement shall constitute the naming of Grantees as agents or representatives of the Foundation for any purpose. This Agreement shall not be deemed to create any relationship of agency, partnership or joint venture between the parties hereto, and Grantees shall make no such representation to anyone.
19. **Survival.** The provisions of Sections 5, 9, and 10 shall survive any expiration or termination of this Agreement, and each party shall remain obligated under any other provisions that expressly or by their nature survive any expiration or termination of this Agreement.
20. **Multiple Counterparts.** This Agreement may be signed in multiple counterparts, which may be signed by the parties separately, but together shall constitute a single agreement.
21. **Contact Information.** For information regarding the Grant, please contact:

Laura and John Arnold Foundation  
c/o Rachele Grieco, New York Office Manager  
250 West 57<sup>th</sup> Street, Suite 1818  
New York, NY 10107  
Phone: 212.590.0101  
E-mail: RGrieco@arnoldfoundation.org

Acknowledgment of Grantees' agreements to the representations, warranties, terms, and conditions set forth in this Agreement must be made by a duly authorized officer of Grantees who should execute a copy of this Agreement and return an executed copy to the Foundation within twenty (20) business days from the date on the first page of this Agreement, and if a duly executed copy of this Agreement is not received by the Foundation within such twenty (20) business days, this Agreement and the Grant are hereby revoked.

Please do not hesitate to contact me if you have any questions regarding this Agreement. We look forward to our Grant assisting your organizations accomplish their mission and charitable goals.

Very truly yours,



Denis Calabrese  
President

ACCEPTED AND AGREED:

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT

Grantee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

OFFICE OF THE COMMONWEALTH'S ATTORNEY

Grantee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT A  
BUDGET**

Personnel Costs:

Prosecutors	
Salary of entry-level prosecutors (\$38,500 x 2 prosecutors x 2 years)	<b>\$154,000</b>
Benefits based on 37.5% of salary for Commonwealth's Attorney, Non-Hazardous Positions (\$38,500 x 2 prosecutors x 2 years)	<b>\$57,750</b>
Salary adjustment for 2 re-assigned senior prosecutors (\$10,000 x 2 prosecutors x 2 years)	<b>\$40,000</b>
Paralegal	
Salary of Paralegal (\$32,000 x 2 years)	<b>\$64,000</b>
Benefits based on 37.5% of salary for Commonwealth's Attorney, Non-Hazardous Positions	<b><u>\$24,000</u></b>
<b>Project Total</b>	<b>\$339,750</b>

**EXHIBIT B  
MILESTONES**

*The goal of the Pilot is to reduce felony case processing times to promote system efficiency and effectiveness in Jefferson County, Kentucky.*

All milestones will be completed as soon as practicable, and in no event later than the following deadlines.

The Commonwealth's Attorney shall:

<b>Milestone</b>	<b>Deadline</b>
Execute Memorandum of Understanding between the Commonwealth's Attorney's Office and the Jefferson County Attorney's Office; provide a briefing on the Pilot to key system stakeholders, including Chief Judges, Circuit Court Clerk's Office, Louisville Metro Police Department, Public Defender's Office, and Louisville Bar Association.	August 2014
Design a data collection and case tracking system, in conjunction with the Foundation, the Office of the Circuit Court Clerk, and the Administrative Office of the Courts, in order to collect the data necessary for a robust evaluation of the Pilot. The evaluation will be designed and carried out in cooperation with researchers employed by the Foundation.	August 2014
Train the prosecutors and paralegal from the Commonwealth's Attorney's Office assigned to the Pilot on the policies and procedures of District Court and the Jefferson County Attorney's Office.	October 2014
Establish a committee of criminal justice stakeholders to monitor Pilot implementation. Facilitate meetings to problem-solve implementation strategies, monitor Pilot milestones, and share information with local stakeholders.	October 2014 – November 2016
Initiate Pilot.	November 2014
Monitor performance of Pilot and make changes as needed.	November 2014 – November 2016
Submit interim Grant Report to Foundation as required by Section 5(b).	December 31, 2014
Submit interim Grant Report to Foundation as required by Section 5(b).	December 31, 2015
Submit final Grant Report to Foundation as required by Section 5(b).	December 15, 2016