



AGENDA

Thursday, February 16, 2012 - 10:00 AM
Board of County Commissioners Business Meeting

Beginning Board Order No. 2012-14

~Pledge of Allegiance~

I. APPROVAL OF ORDER OF AGENDA

II. PRESENTATION *(Following are items of interest to the citizens of the County)*

1. Recognition of the Clackamas County Gatekeeper Program (Brenda Durbin, Clackamas County Social Services)

III. DISCUSSION ITEM *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who wish to comment on a discussion item should complete a blue testimony card noting the agenda number.)*

Department of Finance

1. Resolution No. ____ Adopting a Budget Policy as to Providing Reserve for Future Expenditure and Contingency Accounts in the Annual Budget (Marc Gonzales)

IV. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the hearing. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

V. CONSENT AGENDA *(The following items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Study Session. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

1. Approval of an Agency Service Contract with the Children's Center of Clackamas County for Child Abuse Assessment Program Services - CYF

B. Elected Officials

1. Approval of Previous Business Meeting Minutes – BCC

C. Technology Services

- 5
1. Approval of a Memorandum of Understanding between Clackamas County and the City of Milwaukie for Use of City Right-of-Way for the Installation of County Broadband Facilities

VI. WATER ENVIRONMENT SERVICES

- 6
1. Approval of an Intergovernmental Agreement between Clackamas County Service District No. 1, the City of Milwaukie and Metro - Regarding the Nature in Neighborhoods Grant from the Mt. Scott Creek Restoration at North Clackamas Park
- 7
2. Approval of an Agreement between Clackamas County Service District No. 1 and CFM Strategic Communications to Conduct Ratepayer E-Panel Research

VII. COMMISSIONERS COMMUNICATION

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.

<http://www.clackamas.us/bcc/business/>

COPY

February 16, 2012

Board of Commissioners
Clackamas County

Members of the Board:

**Request for Recognition of the
Clackamas County Gatekeeper Program**

The Social Services Division of the Health, Housing and Human Services Department (H3S) requests the recognition of the Clackamas County Gatekeeper Program.

Funded by H3S as part of the broader Addiction Prevention Initiative, the Gatekeeper Program educates community members to keep their eyes and ears alert for seniors and people with disabilities who are at risk, particularly those who are isolated, living alone and potentially in need of some type of assistance in order to maintain their independence. The Gatekeeper Program trains community members who come in to regular contact with the public, such as postal workers, utility workers, bank tellers, and health care professionals.

The first Gatekeeper presentation occurred in November of 2011 and, to date, over 100 people have been trained. By October of 2012 there will be more than 350 additional trained Gatekeepers in Clackamas County.

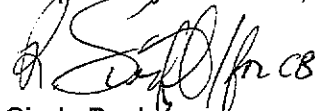
When Gatekeepers have a concern about an older individual or a person with disability, they contact the Clackamas Resource Connection at 503 650-5622 where staff specially trained in issues relating to aging and disability triage the call and direct the Gatekeeper to the appropriate resource. Sometimes this means a call to Adult Protective Services. At other times the most appropriate response involves a connection to Behavioral Health or the Family Caregiver Program.

Trained Gatekeepers help to keep our communities safer and ensure that vulnerable residents have access to the information and services they need to stay safe and independent.

Recommendation:

We recommend the approval of this request for recognition of the Clackamas County Gatekeeper Program.

Respectfully submitted,



Cindy Becker
Director

MARC GONZALES
DIRECTOR



DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

February 16, 2012

Board of County Commissioners
Clackamas County, Oregon

Members of the Board

Approval of a Resolution Adopting a Budget Policy as to Providing Reserve for Future Expenditure and Contingency Accounts in the Annual Budget

As a matter of course, the Board of County Commissioners regularly reviews and creates statements of policy, including policies governing financial and budgetary activities of Clackamas County. Examples include policies on debt management, types and proportions of investments held by the County, and methods through which the annual budget may be amended after adoption. County policies are designed to comply with and support applicable laws and other requirements.

The Board has recently reviewed a draft proposal presented by staff to further clarify and formalize the process by which budgeting for Reserve for Future Expenditure and Contingency Accounts will be estimated and included in the annual County budget. Under this policy, amounts to be placed in the Contingency account in the General County Fund will be targeted to constitute a maximum of five (5) percent of the total General Fund budget, excluding amounts restricted for special uses. Likewise, amounts to be included in the Reserve for Future Expenditure account in the General Fund will constitute no more than ten (10) percent of the General Fund budget excluding amounts restricted for special uses. The General Fund is the repository for funds which are primarily discretionary in nature.

The policy provides that in funds other than the General County Fund, Reserve for Future Expenditure accounts may be budgeted for amounts restricted as to use through law, by source or by commitment by the Board of Commissioners. Funds other than the General Fund may also budget Contingency accounts where needed and appropriate, with the exception of funds created solely for debt service.

The attached policy and procedure will apply to annual budgets prepared by the County in the future, beginning with the budget for the 2012-13 fiscal year.

This resolution has been reviewed and approved by County Counsel.

RECOMMENDATION

County staff respectfully recommends the Board of County Commissioners approve this Budget Policy as to Providing Reserve for Future Expenditure and Contingency Accounts.

Sincerely,


Marc Gonzales
Finance Director

For information on this issue or attachments please contact Marc Gonzales at (503) 742-5405

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

A Resolution Adopting A Budget Policy
As to Providing Reserve for Future
Expenditure and Contingency Accounts
In the Annual Budget



RESOLUTION NO.

Page 1 of 2

WHEREAS, the annual budget for Clackamas County will exceed half a billion dollars, and the full breadth of programs and activities overseen by the Board of County Commissioners brings their total budgetary responsibilities to more than eight hundred million dollars; and

WHEREAS, the responsible allocation of those sums requires that the budget reflect an annual financial and operational plan that clearly reflects County priorities as established by the County Commissioners; and

WHEREAS, the budget shall be a balanced budget for each fund, requiring that budgeted expenditures plus contingencies and reserves be met by an equal amount of budgeted resources; and

WHEREAS, the budget is a measure of the performance of departments, with accountability determined in the context of performance within the budget;

NOW, THEREFORE, BE IT RESOLVED that in order to best attain the Vision, Mission, Principles, and Areas of Focus of the annual budget, and to articulate the budget according to a strategic plan and budget priorities, the Board of County Commissioners declares its Policy as to the Reserve for Future Expenditure and Contingency accounts to be as follows:

**Clackamas County Policy on
Reserve for Future Expenditure and Contingency Accounts**

I. Budgeted Reserves as defined in this policy will be the sum of two types of budgeted accounts:

1. **Contingency** – a nonspendable account which under Local Budget Law may be accessed during the fiscal year to transfer appropriations to a spendable account, when the need for such appropriations is approved by the Board of County Commissioners;
2. **Reserve for Future Expenditure** – an unappropriated nonspendable account from which under Oregon Local Budget Law no appropriation can be transferred. The amount budgeted at adoption of the annual budget will be maintained for the fiscal year period.

Reserve for Future Expenditure accounts exist for a twelve month fiscal year period and then are subject to reconsideration during the annual budget process by the Budget Committee and Board of Commissioners. If sufficient resources exist for funding the reserve in the succeeding fiscal year, amounts may be reallocated through the budget process to a spendable category account in whole or in part.

Budgeted Reserves in a fund may include amounts for Contingency, Reserve for Future Expenditure, or both.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

A Resolution Adopting A Budget Policy
As to Providing Reserve for Future
Expenditure and Contingency Accounts
In the Annual Budget



RESOLUTION NO.

Page 2 of 2

II. Budgeted Reserves Policy for the County General Fund:

Clackamas County will maintain adequate budgeted reserves in the General Fund in order to:

- provide for future resource needs,
- protect program budgets from periodic resource fluctuations, and
- maintain cash flow levels in amounts sufficient to bridge months in each year during which inflows of revenues are slower.

The amount to be budgeted in the account titled "**Contingency**" in the General Fund should be targeted each year to measure 5% of the overall County General Fund budget.

The amount to be identified in the account titled "**Reserve for Future Expenditure**" in the General Fund should be targeted each year to measure 10% of the overall County General Fund budget, less resources in the General Fund that are dedicated to particular identified uses by law or source. *[Example: Secure Rural Schools and Community Self-Determination Act dollars dedicated to specific purposes.]*

In no year will the General Fund **Budgeted Reserves** exceed 15% of the total General Fund budget.

III. Other Funds Budgeted Reserves Policy:

Funds other than the General Fund may budget **Reserve for Future Expenditure** accounts when the reserves are composed of dollars dedicated to particular identified uses, either:

- by law,
- by source, or
- by commitment of the Board of County Commissioners.

These other funds may also budget **Contingency** accounts, composed of amounts which may be reappropriated to other spendable accounts during the budget year by approval of the Board of County Commissioners. Per Local Budget Law, Contingency and Reserve accounts should not be budgeted in Debt Service Funds.

BE IT FURTHER RESOLVED that any budget policy contrary to the aforesaid declaration shall be replaced by this statement of the County's Policy on Reserve for Future Expenditure and Contingency accounts.

Dated this 16th day of February, 2012.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

COPY

Cindy Becker, Director

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February 16, 2012

Board of Commissioners
Clackamas County

Members of the Board:

**Approval of an Agency Service Contract with Children's Center of Clackamas County
For Child Abuse Assessment Program Services**

The Children, Youth & Families Division of the Health, Housing and Human Services Department requests the approval of an *Agency Services Contract with Children's Center of Clackamas County for Comprehensive Assessment and Support services*.

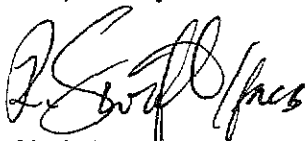
Services to be provided under this contract include: Comprehensive assessment services, (i.e. medical, forensic, psychosocial history), to 500 children suspected to be victims of abuse; Support services (i.e. crisis counseling, behavior therapy, family therapy, crime victims assistance services, medical care), to 500 children and their families; Timely response to 100% of child abuse referrals from Clackamas County agencies, mandatory reports and families.

Total amount of this agreement is \$175,000. Funds are budgeted in the Abuse and Family Violence Prevention "bridge funding" grant stream for fiscal year 2011-2012 to cover this agreement. This contract is funded with County General Funds. This agreement is effective upon acceptance by all parties and will terminate December 31, 2012. This contract is in the format approved by County Counsel as part of the H3S contract standardization project.

Recommendation:

We recommend the approval of this contract and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,



Cindy Becker
Director

AGENCY SERVICE CONTRACT
(Regular Services or Community Development)
(FY 11-12)

This contract is between Clackamas County, acting by and through its Health, Housing and Human Services Department, Children, Youth & Families Division, hereinafter called "COUNTY," and Children's Center of Clackamas County hereinafter called "AGENCY."

I. SCOPE OF SERVICES

A. AGENCY agrees to accomplish the following work under this contract as described in Work Plan exhibit 1 attached hereto;

1. Timely response to 100% of child abuse referrals from Clackamas County agencies, mandatory reporters and families.
2. At minimum, provide comprehensive assessment services, (medical, forensic, psycho-social history), to 500 children suspected to be victims of abuse.
3. At minimum, provide support services, (i.e. crisis counseling, behavior therapy, family therapy, crime victims assistance services, medical care), to 500 children and their families.

B. Services required under the terms of this agreement shall commence when this contract is signed by all necessary parties, but not prior to January 1, 2012. This agreement shall terminate December 31, 2012.

II. COMPENSATION AND RECORDS

A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I as follows:

The COUNTY shall make 4 quarterly payments up to a maximum compensation of \$175,000 in the amount of \$43,750.

The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage and incidentals necessary to perform the work and services.

B. Method of Payment. To receive payment, the AGENCY shall submit invoices and accompanying performance reports as follows:

AGENCY shall be paid on a cost reimbursement basis and shall submit invoices and accompanying performance reports as described in Exhibits 2 and 3 attached hereto.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should the AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, the COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until the AGENCY submits required reports, performs required services, or establishes to the COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of the AGENCY.

AGENCY SERVICE CONTRACT

- C. **Record and Fiscal Control System.** All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract and all other pending matters are closed.
- D. **Access to Records.** The COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the AGENCY which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts, and transcripts.

If an audit discloses that payments to the AGENCY were in excess of the amount to which the AGENCY was entitled, then the AGENCY shall repay the amount of the excess to the COUNTY.

III. MANNER OF PERFORMANCE

- A. **Compliance with Applicable Laws and Regulations.** The AGENCY shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this contract.

When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.

- B. **Special Federal Requirements - Common rule restricts lobbying** (Volume 55, NO38 of Fed. Register, Feb. 1990).
- C. **AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from the COUNTY.**
- D. **AGENCY certifies that it is an independent AGENCY and not an employee or agent of the COUNTY, State, or Federal government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of the AGENCY.**

IV. GENERAL CONDITIONS

- A. **Indemnity.** The AGENCY agrees to indemnify, defend and hold harmless the County and its officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands attributable in whole or in part to the acts or omissions of Agency, and Agency's officers, agents and employees, in performance of this contract

- B. **INSURANCE** During the term of this contract AGENCY shall maintain in force at its own expense, each insurance noted below:

- 1. **Commercial General Liability Insurance**

Required by COUNTY **Not required by COUNTY**

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1 Million per occurrence/\$2 Million general aggregate for the protection of the County, its officers,

AGENCY SERVICE CONTRACT

commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract.

2. Commercial Automobile Insurance

Required by COUNTY Not required by COUNTY

AGENCY shall also obtain, at AGENCY's expense, and keep in effect during the term of the contract, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1 Million.

3. Professional Liability Insurance

Required by COUNTY Not required by COUNTY

AGENCY agrees to furnish the County evidence of Professional Liability Insurance in the amount of not less than \$1 Million combined single limit per occurrence/\$2 Million general annual aggregate for malpractice or errors and omissions coverage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this contract. The County, at its option, may require a complete copy of the above policy.

4. Additional Insurance Provision

The insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured.

Such insurance shall provide sixty (60) day written notice to the COUNTY in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by the COUNTY shall be excess and shall not contribute to it.

5. Notice of Cancellation.

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to the Clackamas County Purchasing Division. Any failure to comply with this provision will not affect the insurance coverage provided to the County. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

6. Insurance Carrier Rating.

Coverages provided by the AGENCY must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

AGENCY SERVICE CONTRACT

7. Certificates of Insurance.

As evidence of the insurance coverage required by this contract, the AGENCY shall furnish a Certificate of Insurance to Clackamas County. No contract shall be effected until the required certificates have been received, approved and accepted by the County. The certificate will specify that all insurance-related provisions within this contract have been complied with. A renewal certificate will be sent to the Clackamas County Purchasing Division 10 days prior to coverage expiration.

8. Independent Contractor Status.

The service or services to be rendered under this contract are those of an independent contractor. AGENCY is not an officer, employee or agent of the COUNTY as those terms are used in ORS 30.265.

9. Primary Coverage Clarification.

AGENCY's coverage will be primary in the event of a loss.

10. Cross-Liability Clause.

A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.

C. Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.

D. Termination. This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' notice, in writing and delivered by certified mail or in person.

The COUNTY may terminate this contract effective upon delivery of written notice to the AGENCY, or at such later date as may be established by the COUNTY, under any of the following conditions:

1. If COUNTY funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified to accommodate a reduction in funds.
2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this contract.
3. If any license or certificate required by law or regulation to be held by the AGENCY to provide the services required by this contract is for any reason denied, revoked, or not renewed.
4. If AGENCY fails to provide services or reports called for by this contract within the time specified herein or any extension thereof; or
5. If AGENCY fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its

AGENCY SERVICE CONTRACT

terms, and after receipt of written notice from the COUNTY, fails to correct such failures within 10 days or such longer period as the COUNTY may authorize.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

E. Oregon Public Contracting Provisions and Constitutional Limitations. Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.335, and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this contract:

1. AGENCY shall:

- (a) Make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this contract.
- (b) Pay all contributions or amounts due the Industrial Accident Fund from such AGENCY or subcontractor incurred in the performance of this agreement.
- (c) Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
- (d) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

2. If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due AGENCY by reason of this agreement.

3. No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay: (a) for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and (b) for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

In the case of contracts for personal services as defined in ORS 279A.055, employees shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC Section 201 to 209 from receiving overtime.

4. AGENCY shall promptly, as due, make payment to any person or partnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury, to the employees of AGENCY, of all sums which AGENCY collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

AGENCY SERVICE CONTRACT

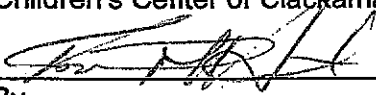
5. Agency, if it is an employer of one or more workers subject to workers' compensation coverage under ORS Chapter 656, shall qualify as an insured employer under ORS 656.017 or as an exempt employer under ORS 656.126. Agency shall maintain employer liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.
 6. This contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- F. AGENCY shall comply with Section 504 of the Rehabilitation Act of 1973, and Title VI of the Civil Rights Act of 1964.
- "The contractor will not discriminate against any employee or applicant for employment because of race, color, or national origin."
- "The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified."
- G. Future Support. The COUNTY makes no commitment of future support and assumes no obligation for future support of the activity contracted herein except as set forth in this contract.
 - H. Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of the COUNTY.
 - I. Integration. This contract contains the entire agreement between the COUNTY and the AGENCY and supersedes all prior written or oral discussions or agreements.

AGENCY SERVICE CONTRACT

This contract consists of three sections plus the following attachments which by this reference are incorporated herein:

- Exhibit 1 Scope of Work, Performance Standards, and Work Plan
- Exhibit 2 Reporting Requirements
- Exhibit 3 Budget

AGENCY
Children's Center of Clackamas County


By _____

Tonia Hunt
Name (Typed) _____

Executive Director
Title _____

2/2/2012
Date _____

1713 Penn Lane
Street Address _____


Oregon City 97045
City/Zip _____

503-655-7725
Phone Number _____

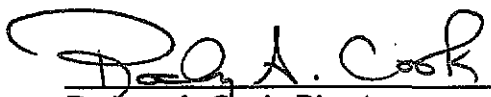
75-3027143
TIN, FIN or S.S.# _____

CLACKAMAS COUNTY
Commissioner Charlotte Lehan, Chair
Commissioner Jim Bernard
Commissioner Jamie Damon
Commissioner Ann Liningier
Commissioner Paul Savas

Signing on Behalf of the Board:


Cindy Becker, Director
Health, Housing and Human Services

Date


Rodney A. Cook, Director
Children, Youth & Families Division

2-2-12
Date _____

AGENCY SERVICE CONTRACT

EXHIBIT 1
SCOPE OF WORK AND PERFORMANCE STANDARDS

- I. AGENCY shall meet all performance outcomes as outlined in attached Work Plan, *Exhibit B*,
- II. Performance Standards:
 1. **Community Based, Holistic Approach**
 - AGENCY programs and services shall be community-focused, incorporating the greatest level of input from multiple stakeholders, including clients, families, and other agencies.
 - AGENCY programs and services shall have ongoing community investment and involvement.
 2. **Family-Centered Programs**
 - AGENCY programs and services shall involve families in all aspects, recognizing that they are the most important teachers, caregivers, and role models for their children.
 - AGENCY programs and services shall support and strengthen families in providing the foundation for the physical, social, emotional, and intellectual development for their children.
 3. **Establish/Maintain Effective Partnerships**
 - AGENCY, in order to enable data linkages, information sharing, and ongoing collaboration between partners to most effectively meet and address needs, shall ensure that appropriate staff attend CYF contractor's meetings, and training sessions, and participate in other activities as required by COUNTY.
 - AGENCY shall develop and promote continuous communications with similar organizations.
 4. **Utilize a Balanced SWOT (Strengths, Weaknesses, Opportunities, Threats) Approach**
 - AGENCY programs and services shall address both the risks/deficiencies, challenges and the strengths/assets/opportunities in their communities.
 5. **Implement Research Based Accountability**
 - AGENCY, in order to ensure programs and services are based on research-based, proven practices, shall complete and submit the Best Practices Assessment as required by CYF. In areas where proven practices are not available, AGENCY is encouraged to develop innovative strategies based on research principles.
 - AGENCY programs and services shall include research-based measurements of success to enable tracking of effectiveness toward meeting planned outcomes. These data shall be monitored by CYF on the Quarterly Work Plan. Quarterly Work Plans are to be submitted on or before date due.
 - 1st Quarter, Jul 1 – Sep 30: due on Oct 17, 2012
 - 2nd Quarter, Oct 1 – Dec 31: due on Jan 16, 2013
 - 3rd Quarter, Jan 1 – Mar 31: due on Apr 16, 2012
 - 4th Quarter, Apr 1 – Jun 30: due on Jul 16, 2012
 6. **Reflect and Incorporate Diversity**
 - AGENCY, in order to provide programs and services that meet the needs of diverse cultures and people with disabilities, shall complete and submit the Cultural Competency Assessment and Action Plan as required by CYF.

AGENCY SERVICE CONTRACT

- AGENCY, in order to provide programs and services that meet the needs of girls, shall complete and submit the Gender Specific Services Assessment and Action Plan as required by CYF.
7. **Internal Controls**
- AGENCY shall submit a completed Annual Fiscal Capability Assessment to CYF on or before April 30, 2012.
8. **Funder Recognition**
- AGENCY shall demonstrate good faith efforts to acknowledge the COUNTY's Commission on Children & Families when communicating with media representatives and when creating and distributing flyers describing services, workshops and other contract related details.
9. **Resource Expansion**
- AGENCY shall demonstrate good faith effort to secure other funding to increase program capacity, enter into collaborative efforts and initiatives, and/or decrease dependence on long-term Commission on Children and Families funding.
10. **Use of Grant Funds**
- No grant funds shall be used, directly or indirectly, to promote or oppose any political committee, or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder.
11. **HIPAA Compliance**
- If the work performed under this Contract is covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), AGENCY agrees to perform the work in compliance with HIPAA. Without limiting the generality of the foregoing, if the work performed under this Contract is covered by HIPAA, AGENCY shall comply with the following:
 - i. Privacy and Security of Individually Identifiable Health Information. On or after April 14, 2003, AGENCY, its agents, employees and subcontractors shall protect individually identifiable health information obtained or maintained about Department's clients from unauthorized use or disclosure, consistent with the requirements of HIPAA. This Contract may be amended to include additional terms and conditions related to the privacy and security of individually identifiable health information.
 - ii. Data Transaction Systems. Any electronic exchange of information on or after October 16, 2002, between AGENCY and COUNTY to carry out financial or administrative activities related to health care will be in compliance with HIPAA standards for electronic transactions published in 65 Fed. Reg. 50312 (August 17, 2000). The following types of information exchanges are included: Health care claims or equivalent encounter information; health care payments and remittance advice; coordination of benefits; health claim status; enrollment and disenrollment in a health plan; eligibility for a health plan; health plan premium payments; referral certification and authorization; first report of injury; and health claims attachments. This Contract may be amended to include additional terms and conditions related to data transactions.

AGENCY SERVICE CONTRACT

- iii. Consultation and Testing. If AGENCY reasonably believes that the AGENCY's or COUNTY's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, AGENCY shall promptly consult the COUNTY's HIPAA officer. AGENCY or COUNTY may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the COUNTY's testing schedule.

III. Performance Standards-County:

County shall:

1. Administer this contract in compliance with the Commission on Children and Families Act (Oregon laws 1993), and the Oregon Administrative Rules for the Commission on Children and Families, Chapter 423.
2. Communicate with service providers about contract performance and about Children, Youth & Families Division' operations, standards and objectives.
3. Provide technical assistance to the AGENCY in developing activities to address the needs of minority youth, program contract amendments, wellness referrals, collaborative services, community development projects and resources.

EXHIBIT 2

PAYMENT PROCEDURES AND REPORTING REQUIREMENTS

1. PAYMENT PROCEDURES

The compensation authorized in this agreement shall include reimbursable expenses as prescribed in the COUNTY-approved budget in Exhibit 3 and in accordance with OMB Circulars A-87 if agency is a local government, A-122 if non-profit, A-133 if college. This amount does not include expenses for unusual and special activities or materials not included in the scope of services. Such unusual and special expenses will not be incurred without prior COUNTY approval. In addition, expense totaling an amount greater than the total budget for this project shall not be incurred without prior written consent of the COUNTY.

a) Payment Options:

AGENCY shall submit a monthly Request for Funds and Fiscal Report within 15 days of the end of each month. COUNTY reserves the right to reduce monthly payment by the amount of unexpended funds during the previous month. The monthly fiscal report shall be in accordance with the approved budget in Exhibit 3.

OR

AGENCY shall submit a quarterly Request for Funds and Fiscal Report within 15 days of the end of each quarter. COUNTY reserves the right to reduce quarter payment by the amount of unexpended funds during the previous quarter. The quarterly fiscal report shall be in accordance with the approved budget in Exhibit 3.

The COUNTY shall make payment to AGENCY within 30 days of receipt and approval of each funds request and fiscal report submittal. AGENCY shall submit a quarterly "Program Performance Progress Report" in accordance with Exhibit 1, and section 3 of Exhibit 2 of this contract.

Reimbursement request required to be prepared and submitted by AGENCY to the COUNTY shall be accurate and correct in all respects, supported by attached documentation and traceable to source documents through AGENCY's accounting records. Should inaccurate reports be submitted to the COUNTY, the COUNTY may elect to have AGENCY secure the services of a certified accounting firm. Cost of such accounting services are to be borne by AGENCY and not reimbursed from funds authorized by the agreement unless specifically agreed to between AGENCY and COUNTY in writing.

AGENCY shall submit a financial statement covering all expenditures within 30 days following the end of the contract. When the total fund advanced does not equal the AGENCY's total actual expenditures and the total budget, the financial statement shall include either:

- A. A request for reimbursement of program expenditures. Such request shall not bring the total of funds received by the AGENCY in an amount in excess of the budget; or
- B. Contract amendment suitable to both the COUNTY and AGENCY.
- C. The return of all unexpended funds to the COUNTY.

AGENCY SERVICE CONTRACT

AGENCY shall return all unexpended funds to the COUNTY within 10 days of the contract's termination when such termination is due to the AGENCY's failure to provide services in accordance with the contract.

Withholding of Contract Payments: Notwithstanding any other payment provision of this contract, should the AGENCY fail to submit required reports when due or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, the COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until the AGENCY submits required reports, performs required services, or establishes to the COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of the AGENCY.

2. RECORDKEEPING

AGENCY shall keep detailed records of time and expenditures incurred and funded by this contract. Such records shall adequately identify the source and application of funds for activities within this contract in accordance with the provisions of OMB Circular (A-110 for non-profits, A-102 for local governments). These records shall allow accurate statements pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income in accordance with generally accepted accounting practices.

AGENCY shall maintain a system of internal control comprising a documented plan of all coordinating procedures adopted to account for and safeguard its assets, check the adequacy and reliability of its accounting data, promote operating efficiency, and assure adherence to applicable regulations.

Expenditures shall be supported by properly executed payrolls, time records, invoices, vouchers, or other source documentation evidencing in proper detail the nature and propriety of charges. All accounting documents shall be clearly identified and readily accessible.

Financial records and supporting documents pertinent to this agreement shall be retained by AGENCY for a period of three years from the date of completion of the contract except as follows:

- Records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.

3. PROGRAM REPORTS

AGENCY shall submit program performance reports for each quarter of the fiscal year. These quarterly reports are to include: 1) Demographic report; 2) work plan outcomes, services and development activities performance report. The quarterly reports are due to the COUNTY within 30 days of the end of each fiscal year quarter.

AGENCY shall complete and submit other reports as required and supplied by the COUNTY.

4. MONITORING

COUNTY shall evaluate the services provided under this contract primarily by quarterly work plan progress reports. The COUNTY may also conduct on-site monitoring of services. These site visits usually include on-site monitoring of client case files, client/parent/staff interviews, and review of program and agency policies, procedures and files. COUNTY shall give written

AGENCY SERVICE CONTRACT

notification of problem areas related to performance under this contract, including requirements and time lines for corrective action.

The AGENCY will gather data necessary to complete quarterly work plan performance and budget, and any other reports required by the COUNTY.

The AGENCY will provide the client confidentiality releases necessary to facilitate site visits by the COUNTY.

At any time during normal business hours and as often as the COUNTY, or other appropriate state or federal representatives may deem necessary, the AGENCY shall make available to the COUNTY for examination all its records with respect to matters covered by this contract for the purpose of making surveys, audits, examinations, excerpts and transcripts.

Should any records not meet the minimum standards of grant administration of the COUNTY, the COUNTY reserves the right to withhold any or all of its funding to AGENCY until such time as the standards are met. The COUNTY may require AGENCY to use any or all of the COUNTY's accounting and administrative procedures used in planning, controlling, monitoring and reporting all fiscal matters relating to this contract.

The COUNTY reserves the right to dispatch auditors of its choosing to any site where any phase of the project is being conducted or controlled in any way. If any audit or examination determines the AGENCY has expended funds which are questionable or disallowed, the AGENCY shall be given the opportunity to justify questioned and disallowed expenditures prior to the COUNTY's final determination. Any disallowed costs resulting from the final determination shall be remitted to COUNTY from AGENCY's non COUNTY-administered funds, payable by check within 30 days of final determination.

5. AUDIT

AGENCY shall have an annual audit performed of projects funded by this agreement unless specifically waived in writing by COUNTY. Audits shall be performed by an independent certified accountant in accordance with GAO Audit Standards, OMB Circulars (A-133 and A-110 for non-profits, A-128 for local government agencies), and generally accepted auditing standards. Audit schedules shall clearly show statement of COUNTY-funded assets, liabilities, fund balance, revenues, and expenditures separately from non COUNTY-funded assets, liabilities, fund balance, revenues and expenditures.

Auditor shall be selected competitively and AGENCY should contract with auditor to assure proper scope, reports and timelines are maintained.

Audits are not required for cost reimbursement contracts under \$25,000.

Audits are due 120 days after the end of the contract period.

6. CAPITAL PURCHASES

Capital purchases through children and youth services grants are subject to Oregon Administrative Rule 436-010-0036 which indicates capital purchases to be the property of the COUNTY unless the COUNTY determines otherwise.

Capital purchases through children and families services grants are defined according to State of Oregon purchasing rules; initial value of more than \$5,000.

AGENCY SERVICE CONTRACT

EXHIBIT 3

BUDGET

1. AGENCY shall submit for COUNTY approval a budget indicating the amount of COUNTY funds allocated for project performance as described in the scope of services. Budget shall be in sufficient detail to provide a sound basis for the COUNTY to effectively monitor compliance with the contract.

Any allocations of budgeted costs not directly allocable to the project shall be made in accordance with OMB Circular A-87, A-122 and A-133, and shall be properly documented by budget attachments.

2. Program income defined as amounts generated by the use of COUNTY funds shall be used to expand the program. AGENCY shall keep records to accurately record and report the use of program income.
3. AGENCY and the COUNTY shall administer budget adjustments and balances through the following processes:

ADJUSTMENTS

AGENCY shall not make major budget adjustments without prior written approval of the COUNTY. AGENCY is to notify the COUNTY of minor budget changes.

Major budget adjustments are defined as:

- those changes that move funds between the major budget categories of Personal Services, Materials and Services, Capital Outlay or Equipment, or
- those changes that exceed 10% within a major budget category.

Minor budget adjustments are those changes where less than 10% of the funds within a budget category (Personal Services, Materials and Services, Capital Outlay or Equipment) are moved between expenditure line items.

The COUNTY, working with the Commission on Children & Families and staff of the Children, Youth & Families Division, will work with the AGENCY to manage budget adjustments.

BALANCES

The AGENCY is to forecast any expected grant balance and notify the Children, Youth & Families Division by April 30 of each fiscal year. See also Payment Procedures in Exhibit 2.

4. Line item budget (COUNTY provided form attached).

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports, of this meeting can be viewed at <http://www.clackamas.us/bcc/business/>

Thursday, January 26, 2012 – 10:00 AM

Public Services Building - 2051 Kaen Road, Oregon City, OR 97045

PRESENT: Commissioner Charlotte Lehan
 Commissioner Ann Lininger
 Commissioner Paul Savas
 Commissioner Jamie Damon

EXCUSED: Commissioner Jim Bernard

~Pledge of Allegiance~

Chair Lehan announced that Commissioner Bernard is attend a Public Safety Symposium and will not be in attendance today.

I. PRESENTATIONS

1. Congressional Update from Congressman Kurt Schrader.

Chair Lehan welcomes Congressman Kurt Schrader to our meeting today.

Congressman Schrader represents Oregon's 5th Congressional District, which includes a large portion of Clackamas County. He will give us an update on what is happening in Congress, and then Commissioners will have an opportunity to ask him questions. She said on behalf of Clackamas County, thank you for all that you do for Clackamas County. You helped bring federal dollars to the County for our broadband fiber project, interagency poly-drug enforcement effort, and to keep the Willamette Falls Locks operating. You are always available and open to meeting with the Commissioners, County staff, and our mutual constituents.

Congressman Kurt Schrader gave a brief update.

<http://www.clackamas.us/bcc/business/>

The Board thanked Congressman Schrader for coming today.

2. Overview of Partnership Agreements between Non-Profits Partners and Clackamas County Service District No. 1

Carol Murdock and Gail Shaloum, Water Environment Services, presented the staff report including a PowerPoint presentation. Gail Shaloum said we want to showcase one of our partners, the North Clackamas Watershed Council. She introduced Susan Shawn, Chair of the Communications Committee of the North Clackamas Urban Watershed Council. Susan spoke about the Council and the project they have been involved with over the past year. She also spoke about their mission.

II. DISCUSSION ITEM

WATER ENVIRONMENT SERVICES

Chair Lehan announced the Board will be sitting as the Service District No. 1 and the Tri-City Service District for this item.

1. Approval of an Agreement to Jointly Purchase Real Property
 Mike Kuenzi, Water Environment Services and Chris Storey, County Counsel presented the staff report. Mike Kuenzi stated that staff is seeking approval of a potential acquisition of real property located in West Linn, currently owned by the Blue Heron bankruptcy estate. The Districts will hold the property jointly for their shared benefit and utilization in addressing long term growth and regulatory needs.

This real property matter was discussed with the Board in executive session on May 17, 2011, October 11, 2011 and Dec. 13, 2011. At the Oct. 11th meeting staff was authorized to negotiate a proposed agreement. Mike stated the Board will need to make two motions on this item one motion as the Service District No. 1 Board and one motion as the Tri-City Service District Board.

~Board Discussion~

Chair Lehan announced this is a discussion item and said there are some folks signed up to speak.

Alice Richmond, West Linn spoke in favor of this item.

Chris Jordan, West Linn City Manager, spoke in favor.

Kim Parker, Clackamas County Business Alliance spoke in support.

~Board Discussion~

Chair Lehan asked for a motion as Service District No. 1 Board.

MOTION:

Commissioner Lininger: Acting as the Service District No. Board, I move approve the agreement to jointly purchase real property as presented by staff.

Commissioner Savas: Second.

Chair Lehan – all those in favor:

Commissioner Damon: Aye.

Commissioner Savas: Aye.

Commissioner Lininger: Aye.

Chair Lehan: Aye.

Chair Lehan – all those opposed: - The Ayes have it and the motion is approved. She then asked for a motion to approve this agreement as the Tri-City Service District Board.

MOTION:

Commissioner Savas: I move approve the agreement to jointly purchase real property as presented by staff.

Commissioner Damon: Second.

~Board Discussion~

Chair Lehan – all those in favor:

Commissioner Damon: Aye.

Commissioner Savas: Aye.

Commissioner Lininger: Aye.

Chair Lehan: Aye.

Chair Lehan – all those opposed: - The Ayes have it and the motion is approved.

III. CITIZEN COMMUNICATION

1. Craig Wilcox, 18299 S. Ramsby Road, Molalla – issues with neighbors cutting his trees.

Stephan Madkour, County Counsel is looking into this issue and is meeting with Mr. Wilcox after the meeting.

2. John Ludlow, Wilsonville – Candidate for Clackamas County Commission Chair.
3. Maryanna Moore, Gladstone – Gladstone Library.
4. Yavonne Lazarus, Milwaukie – Milwaukie light rail.
5. Mack Woods, Canby – right to vote.

-
6. Lori Freeman Johnson, 14708 Macksberg Rd., Molalla – supports the Canby Ferry.

IV. CONSENT AGENDA

Chair Lehan asked the Clerk to read the Consent Agenda by title.

MOTION:

Commissioner Damon: I move we approve the Consent Agenda.

Commissioner Savas: Second.

Chair Lehan – all those in favor:

Commissioner Damon: Aye.

Commissioner Savas: Aye.

Commissioner Lininger: Aye.

Chair Lehan: Aye.

Chair Lehan – all those opposed: - The Ayes have it and the motion is approved.

A. Health, Housing & Human Services

1. Approval of a Revenue Agreement with Central City Concern for Funding of Mental Health Services - BH

B. Elected Officials

1. Approval of Previous Business Meeting Minutes – BCC

V. COMMISSIONERS COMMUNICATION

MEETING ADJOURNED – 12:20 PM

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.

<http://www.clackamas.us/bcc/business/>



5
Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

February 8, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

Approve a Memorandum of Understanding between Clackamas County and the City of Milwaukie for use of City Rights-of-Way for the Installation of County Broadband Facilities

Background: In 2009 the Board of County Commissioners authorized Technology Services to apply for a \$7.8 million ARRA Recovery Act grant to construct and operate a broadband system throughout the County. The U.S. Department of Commerce awarded the grant to the County in 2010. The predominant construction method for the system is to place fiber optic cables and broadband facilities on existing utility poles in city, County and Oregon Department of Transportation rights-of-way. In order to do that, the County frequently needs approvals from the managers of the rights-of-way in cities. This Memorandum of Understanding sets out the terms and conditions by which the County can place broadband facilities in the City of Milwaukie's rights-of-way. The Milwaukie City Council approved this MOU and a companion Resolution that waives any fees for County use of its rights-of-way during their regular City Council Session of February 7, 2012.

Financial and Resource impact: The MOU establishes a fee for County use of the right-of-way at \$2.00 per linear foot per year; Milwaukie's companion Resolution waives that fee for 20 years. The waiver of the fee represents approximately \$1.8 million of in-kind match that is required under the terms of the federal grant. The remainder of the terms and conditions of the MOU relate to ordinary right-of-way management issues and do not create any financial or resource impacts.

Legal Review: The MOU has been reviewed and approved by County Counsel.

Public Involvement: Not applicable.

Attachments: A copy of the Memorandum of Understanding and the City of Milwaukie's Resolution waiving fees for County use of its rights-of-way are attached.

RECOMMENDATION:

Staff respectfully recommends the Board authorize the County Chair to execute the Memorandum of Understanding. Your favorable consideration is requested.

Sincerely,

David Cummings,
Director, Technology Services

For information on this issue or copies of attachments, please contact David Soloos at 503-722-6656.

ATTACHMENT 1

Memorandum of Understanding between Milwaukie, Oregon and Clackamas County February 7, 2012

This Memorandum of Understanding ("Agreement") is made and entered into by and between the City of Milwaukie, Oregon, an Oregon municipal corporation ("City"), and Clackamas County, Oregon, a political subdivision of the State of Oregon ("County"), for the purpose of sharing Broadband infrastructure, rights-of-way and easements in Milwaukie.

RECITALS

WHEREAS, the County received an \$11.1 million federal grant to construct an open Broadband infrastructure network throughout the County to connect about 160 public buildings on a route that is generally represented on the map attached as Exhibit A; and

WHEREAS, the County desires to invest approximately \$1 million of grant proceeds in and around Milwaukie to directly benefit Milwaukie area public agencies and institutions and, through local internet providers, Milwaukie residents and businesses; and

WHEREAS, the County desires to construct the advanced Broadband infrastructure in the form of a dark fiber optic network through the City, and to connect to over 45 public buildings in and around Milwaukie including schools, fire stations, medical facilities, social service agencies and libraries on a route that is generally represented on the map attached as Exhibit B; and

WHEREAS, the City supports the public benefit of advanced Broadband infrastructure and the consumer choice it brings in order to support its businesses, residents, economic development plans, urban renewal districts, and community plans;

NOW THEREFORE, the City and the County agree as follows:

Section 1. Rights Granted

- A. This Agreement is entered into by Clackamas County (County) and the City of Milwaukie (City). It provides for the installation by the County of high speed broadband fiber optic cables and related facilities in right-of-ways within the City of Milwaukie as part of the Clackamas Broadband Innovation Initiative (CBII).
- B. The City of Milwaukie grants to Clackamas County, permission to construct, operate, repair and maintain a fiber ring within the City as it now exists or may be extended in the future. This Agreement includes the privilege to place broadband facilities, including dark fiber and laterals, upon, over, along, under,

and across the rights-of-way. Nothing in this Agreement limits the City from granting others the right to carry on activities similar to or different from the ones described in this Agreement.

- C. All facilities in possession of the County currently located within the City right of way, and approved by the Milwaukie Engineering Director, are covered by this Agreement and are deemed lawfully placed in their current locations. The City may require relocation as further specified in Exhibit C, Section 6 of this Agreement.
- D. The County does not have regulatory authority from the Oregon Public Utility Commission to offer telecommunications services. In the event that County desires to offer such telecommunications services to third parties, County agrees to notify City and obtain any additional authority, in the form of a franchise or license, as required, and to remit to the City any associated franchise or license fees.
- E. This Agreement does not create or vest in County or any other party any right, title or interest in City easements or rights-of-way, nor does this Memorandum create or vest in City or any other party any right, title or interest in County Broadband infrastructure.

Section 2. **Term**

This Agreement shall be effective as of February 7, 2012 and shall remain effective for a period not to exceed 21 years from that date, or the useful life of the broadband facilities as long as the County's fiber remains in the City right-of-way, whichever occurs first or unless sooner terminated as provided in this Agreement. This Agreement may be amended by mutual consent of the parties in writing.

Section 3. **Payment by the County for Use of Rights of Way**

- A. The County will allow public and private entities to use its broadband facilities. The City historically charges fees for commercial use of the public rights-of-way. Therefore, in consideration for its use of rights of way and for the City's administration thereof, the County agrees to pay the City \$2.00 per linear foot per year of City right of way used.
- B. The County shall be responsible for all costs associated with its work and facilities in the right of way, except as otherwise specifically provided in this Agreement.

Section 4. **Termination for Cause.**

If the County ceases to maintain its facilities and the lack of maintenance increases the risk of personal injury or property damage, or if the County fails to comply with the terms of this Agreement, the City may terminate this Agreement after providing the County a reasonable period of time within which to cure the risk or noncompliance. The Agreement shall not be terminated if the County substantially eliminates such risk or failure to comply within 30 days of the notice.

Section 5. **Sale of Permissions**

The County shall not sell or assign the permissions granted in this Agreement without the prior written consent of the City. County shall notify the City not later than 60 days prior to any intended transfer and the City will not unreasonably withhold any consent required.

Section 6. **Removal of Facilities**

If this Agreement is terminated and is not replaced by a new agreement or similar authorization, the County and the City shall by mutual agreement decide whether the County's facilities are to be removed or remain in place. In the event that the County and the City are unable to reach agreement on the disposition of the County facilities after termination, the City Engineer may issue an order requiring removal of any of the County facilities the City Engineer reasonably determines interfere with future, planned or other City utility projects.

Section 7. **Hold Harmless**

To the extent permissible under the Oregon Tort Claims Act and the Oregon Constitution, the County shall indemnify and hold harmless the City, its public officials and employees against any and all claims, damages, costs and expenses to which they may be subjected as a result of any negligent or wrongful act or omission of the County arising from the rights, obligations and privileges granted by this Agreement. The obligations imposed by this section are intended to survive termination of this Agreement.

Section 8. **Insurance**

The County shall provide the City with an annual statement regarding its self-insurance. The County's self-insurance shall include public liability and property damage insurance that protects the County and the City, as well as the City's officers, agents, and employees from any claims resulting from the construction, operation, repair and maintenance of the fiber ring facilities within the City. The insurance shall provide coverage at all times of not less than \$1,000,000 combined single limit for bodily injury liability and property damage liability per occurrence with an annual aggregate limit of not less than \$3,000,000. The limits of the insurance shall be subject to any changes as to maximum statutory limits of liability imposed on municipalities of the State of Oregon during the