

# AGENDA

**Thursday, February 14, 2019 - 10:00 AM**  
**BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2019-06

**CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

**I. 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 meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

**II. PUBLIC HEARINGS** *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. Board Order No. \_\_\_\_\_ for Boundary Change Proposal CL 18-010, Annexation to Tri-City County Service District (Nate Boderman, County Counsel & Ken Martin, Boundary Change Consultant)
2. Board Order No. \_\_\_\_\_ for Boundary Change Proposal CL 18-015, Annexation to Tri-City County Service District (Nate Boderman, County Counsel & Ken Martin, Boundary Change Consultant)
3. Board Order No. \_\_\_\_\_ for Boundary Change Proposal CL 18-016, Annexation to Clackamas County Service District 1 (Nate Boderman, County Counsel & Ken Martin, Boundary Change Consultant)
4. Board Order No. \_\_\_\_\_ for Boundary Change Proposal CL 18-017, Annexation to Sunrise Water Authority (Nate Boderman, County Counsel & Ken Martin, Boundary Change Consultant)

**III. BOARD DISCUSSION ITEM** *(The following items will be individually discussed by the Board only, followed by Board action.)*

**Public & Government Affairs**

1. Resolution No. \_\_\_\_\_ Confirming Commitment to Build a New Clackamas County Courthouse (Gary Schmidt, PGA Director)

**IV. 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 Work Sessions. 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 a Revenue Professional Services Agreement with Health Share of Oregon for Point of Contact Provider Services – *Public Health*
2. Approval of an Agency Service Agreement with Impact NW for Shelter Plus Care Supportive Service – *Social Services*
3. Approval to Apply for Funding to Improve Criminal Justice Response to Domestic Violence, Dating Violence, Stalking and Sexual Assault through the US Department of Justice Office on Violence Against Women – *Children, Youth & Families*

**B. Department of Transportation & Development**

1. Approval of a Contract with Northwest Code Professionals to Provide On-Call Third Party Services for Assistance with Plan Review and Inspections - *Procurement*
2. Approval of a Contract with Clair Company to Provide On-Call Third Party Services for Assistance with Plan Review and Inspections - *Procurement*

**C. Elected Officials**

1. Approval of Previous Business Meeting Minutes – *BCC*

**V. DEVELOPMENT AGENCY**

1. Approval of the 4<sup>th</sup> Amendment to the Disposition Agreement with Oregon Beverage Recycling Cooperative

**VI. COUNTY ADMINISTRATOR UPDATE**

**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. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. <https://www.clackamas.us/meetings/bcc/business>**



**OFFICE OF COUNTY COUNSEL**

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

February 14, 2019

Board of County Commissioners  
 Clackamas County

Members of the Board:

**Stephen L. Madkour**  
 County Counsel

**Kathleen Rastetter**  
**Scott C. Ciecko**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
 Assistants

Approval of a Board Order for Boundary Change Proposal CL 18-010  
Annexation to Tri-City County Service District

<b>Purpose/Outcomes</b>	Conduct Public Hearing/Approve Order
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	Not Applicable
<b>Duration</b>	Permanent
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
<b>Contact Person</b>	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel
<b>Contract No.</b>	Not Applicable

**BACKGROUND:**

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Tri-City County Service District is such a district.

Proposal No. CL 18-010 is a proposed annexation to Tri-City County Service District (“District”).

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the West Linn Tidings; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Additionally, the City of West Linn has approved this petition as required by statute (ORS 198.720(1)).

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the eastern part of the District. The territory contains 2.36 acres, 1 single family dwelling and is valued at \$785,643.

## **REASON FOR ANNEXATION**

The property owners desire sewer service to permit development consistent with the R-7 zoning.

## **CRITERIA**

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of West Linn do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party<sup>1</sup>; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

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<sup>1</sup> A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
  - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
  - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
  - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
  - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
  - (E) Any applicable comprehensive plan;
  - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
  - (A) Promote the timely, orderly and economic provision of public facilities and services;
  - (B) Affect the quality and quantity of urban services; and
  - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served (major transmission and treatment) by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with Clackamas County Service District # 1 and the Surface Water Management Agency of Clackamas County, as amended from time to time.

**RECOMMENDATION:**

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL 18-010, annexation to Tri-City County Service District.

Respectfully submitted,



Nate Boderman  
Assistant County Counsel

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

In the Matter of Approving  
Boundary Change Proposal No.  
CL 18-010



Board Order No. \_\_\_\_\_

**Whereas**, this matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Tri-City County Service District; and

**Whereas**, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

**Whereas**, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

**Whereas**, it further appearing that this matter came before the Board for public hearing on February 14, 2019 and that a decision of approval was made on February 14, 2019;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 18-010 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Tri-City County Service District as of February 14, 2019.

**DATED** this 14<sup>th</sup> day of February, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 2.36 acres, 1 single family dwelling and is valued at \$785,643.
2. The property owners desire sewer service to permit residential development consistent with the R-7 zoning.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Tri-City County Service District and the City of West Linn do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership (“WES”) as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

4. Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:
  1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
  2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party<sup>1</sup>; and
  3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

5. To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

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<sup>1</sup> A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (1) Find that the change is consistent with expressly applicable provisions in:
  - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
  - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
  - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
  - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
  - (E) Any applicable comprehensive plan;
  - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
  - (A) Promote the timely, orderly and economic provision of public facilities and services;
  - (B) Affect the quality and quantity of urban services; and
  - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the Findings 7 and 8 below. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.

6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall ". . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195." ORS 197.015 says "Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.



There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the County Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

\* \* \*

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The territory is designated Low Density Residential on the City Comprehensive Plan and is zoned R-7 (7,000 square foot minimum lot size).

According to Section 1 of the Public Services and facilities Chapter of the West Linn Comprehensive Plan:

*The Water Environment Services Department of Clackamas County is responsible for providing wastewater treatment services for the cities of West Linn, Oregon City and Gladstone.*

9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. The City has an 8-inch sewer line in Satter Street on the east edge of the site. WES, as the service provider for the District, will provide major transmission and treatment of the sewerage.
11. The City has an 8-inch water line in Weatherhill Road on the north edge of the territory to be annexed.
12. The area receives police service from the City of West Linn.
13. The City is provided fire protection by Tualatin Valley Fire & Rescue.

14. The area to be annexed receives parks and recreation service from the City of West Linn.

### **CONCLUSIONS AND REASONS FOR DECISION**

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 5 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the City and the District have agreed which entity will provide which aspects of sewer service to the area.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the West Linn Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

EXHIBIT 'B'




**SECTION 1: LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED**

A TRACT OF LAND IN THE NORTH 1/2 OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING SITUATED IN LOTS 22 AND 23, "BLAND ACRES", A PLAT OF RECORD IN CLACKAMAS COUNTY, OREGON AND BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN STATUTORY WARRANTY DEED TO HSIAO CHUN CHIANG RECORDED AS DOCUMENT NUMBER 2017-082194, CLACKAMAS COUNTY DEED RECORDS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, "WEATHERHILL ESTATES", A PLAT RECORDED IN BOOK 147, PAGE 009, CLACKAMAS COUNTY PLAT RECORDS; THENCE ALONG THE WEST LINE OF SAID "WEATHERHILL ESTATES" SOUTH 01°47'40" WEST 476.53 FEET TO THE SOUTHWEST CORNER OF LOT 6, "WEATHERHILL ESTATES"; THENCE ALONG THE NORTH LINE OF LOT 12, "FLORENDO'S HIDEAWAY", A PLAT RECORDED IN BOOK 124, PAGE 022, CLACKAMAS COUNTY PLAT RECORDS, SOUTH 84°55'10" WEST 35.46 FEET TO THE MOST WESTERLY CORNER OF SAID LOT 12; THENCE ALONG THE NORTH LINE OF "SUNBREAK", A PLAT RECORDED IN BOOK 144, PAGE 019, CLACKAMAS COUNTY PLAT RECORDS, SOUTH 84°58'45" WEST 214.55 FEET TO THE SOUTHWEST CORNER OF LOT 22, "BLAND ACRES"; THENCE ALONG THE WESTERLY LINE OF SAID LOT 22, NORTH 27°54'54" EAST 63.86 FEET TO THE MOST EASTERLY CORNER OF LOT 83, "RIDGE VIEW ESTATES PHASE 2", A PLAT RECORDED IN BOOK 114, PAGE 21, CLACKAMAS COUNTY PLAT RECORDS; THENCE ALONG THE EASTERLY LINE OF LOT 83 AND LOT 82, "RIDGE VIEW ESTATES PHASE 2" NORTH 63°03'41" WEST 85.00 FEET TO AN ANGLE POINT IN THE EASTERLY LINE OF SAID LOT 82; THENCE ALONG THE NORTHWESTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN PARCEL II OF THE AFOREMENTIONED TRACT OF LAND DESCRIBED IN STATUTORY WARRANTY DEED TO HSIAO CHUN CHIANG RECORDED AS DOCUMENT NUMBER 2017-082194, CLACKAMAS COUNTY DEED RECORDS, NORTH 27°54'54" EAST 500.00 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF WEATHERHILL ROAD (BLAND CIRCLE); THENCE ALONG SAID RIGHT OF WAY LINE SOUTH 63°02'00" EAST 85.00 FEET TO THE POINT OF BEGINNING.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

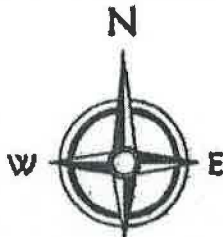
  
OREGON  
JULY 14, 1978  
DON DEVLAE MINCK  
1834

DATE OF SIGNATURE:   
EXPIRES 12/31/2019

BASIS OF BEARINGS: SN 2015-064.

TD 8/7/18

EXHIBIT 'C'



Scale: 1" = 80'



POINT OF BEGINNING  
NORTHWEST CORNER OF LOT 1,  
"WEATHERHILL ESTATES"

NORTHWESTERLY LINE OF  
PARCEL II AS DESCRIBED  
IN DOC NO. 2017-082194

TAX LOT  
401 & 403  
2 1E 35B  
(DOC. NO.  
2017-082194)

TAX LOT 405  
2 1E 35B

LOT 23 "BLAND ACRES"  
LOT 22 "BLAND ACRES"

TAX LOT 8500  
2 1E 35AB  
(DOC. 2017-082194)

ANGLE POINT IN  
EASTERLY LINE OF  
LOT 82, "RIDGE VIEW  
ESTATES PHASE 2"

THIS PORTION OF TAX  
LOT 403 WAS PREVIOUSLY  
ANNEXED INTO THE CITY  
OF WEST LINN

SATTER STREET

SOUTHWEST CORNER OF  
LOT 6, "WEATHERHILL  
ESTATES"

SOUTHWEST CORNER OF  
LOT 22, "BLAND ACRES"

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JULY 14, 1978  
DON DEVLAMINCK  
1634

DATE OF SIGNATURE: *7/14/18*  
EXPIRES 12/31/2019

8005 Exh.dwg

ANNEXATION EXHIBIT MAP

COMPASS Land Surveyors

NORTH 1/2 OF SECTION 35, T. 2 S., R. 1 E., W.M.



**OFFICE OF COUNTY COUNSEL**

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

February 14, 2019

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-015  
Annexation to Tri-City County Service District

**Stephen L. Madkour**  
 County Counsel

**Kathleen Rastetter**  
**Scott C. Ciecko**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
 Assistants

<b>Purpose/Outcomes</b>	Conduct Public Hearing/Approve Order
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	Not Applicable
<b>Duration</b>	Permanent
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
<b>Contact Person</b>	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel
<b>Contract No.</b>	Not Applicable

**BACKGROUND:**

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Tri-City County Service District is such a district.

Proposal No. CL 18-015 is a proposed annexation to Tri-City County Service District (“District”).

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the West Linn Tidings; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Additionally, the City of West Linn has approved this petition as required by statute (ORS 198.720(1)).

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the eastern part of the District. The territory contains 2.57 acres, 1 single family dwelling and is valued at \$706,000.

## **REASON FOR ANNEXATION**

The property owners desire sewer service to permit development consistent with the R-7 zoning.

## **CRITERIA**

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of West Linn do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party<sup>1</sup>; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

---

<sup>1</sup> A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
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  - (E) Any applicable comprehensive plan;
  - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
  - (A) Promote the timely, orderly and economic provision of public facilities and services;
  - (B) Affect the quality and quantity of urban services; and
  - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served (major transmission and treatment) by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with Clackamas County Service District # 1 and the Surface Water Management Agency of Clackamas County, as amended from time to time.

**RECOMMENDATION:**

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL 18-015, annexation to Tri-City County Service District.

Respectfully submitted,



Nate Boderman  
Assistant County Counsel

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

In the Matter of Approving  
Boundary Change Proposal No.  
CL 18-015



Board Order No. \_\_\_\_\_

**Whereas**, this matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Tri-City County Service District; and

**Whereas**, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

**Whereas**, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

**Whereas**, it further appearing that this matter came before the Board for public hearing on February 14, 2019 and that a decision of approval was made on February 14, 2019;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 18-015 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Tri-City County Service District as of February 14, 2019.

**DATED** this 14<sup>th</sup> day of February, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



## FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 2.57 acres, 1 single family dwelling and is valued at \$706,000.
2. The property owners desire sewer service to permit residential development consistent with the R-7 zoning.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Tri-City County Service District and the City of West Linn do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership (“WES”) as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

4. Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:
  1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
  2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party<sup>1</sup>; and
  3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

5. To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

---

<sup>1</sup> A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (1) Find that the change is consistent with expressly applicable provisions in:
  - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
  - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
  - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
  - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
  - (E) Any applicable comprehensive plan;
  - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
  - (A) Promote the timely, orderly and economic provision of public facilities and services;
  - (B) Affect the quality and quantity of urban services; and
  - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the Findings 7 and 8 below. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.

6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the County Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

\* \* \*

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The territory is designated Low Density Residential on the City Comprehensive Plan and is zoned R-7 (7,000 square foot minimum lot size).

According to Section 1 of the Public Services and facilities Chapter of the West Linn Comprehensive Plan:

*The Water Environment Services Department of Clackamas County is responsible for providing wastewater treatment services for the cities of West Linn, Oregon City and Gladstone.*

9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. The City has an 8-inch sewer line in Crestview Drive just to the south of the site. WES, as the service provider for the District, will provide major transmission and treatment of the sewerage.
11. The City has an 8-inch water line in Weatherhill Road on the north edge of the territory to be annexed.
12. The area receives police service from the City of West Linn.
13. The City is provided fire protection by Tualatin Valley Fire & Rescue.

14. The area to be annexed receives parks and recreation service from the City of West Linn.

### **CONCLUSIONS AND REASONS FOR DECISION**

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 5 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the City and the District have agreed which entity will provide which aspects of sewer service to the area.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the West Linn Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

JOB NO. 463-003  
WEATHERHILL ROAD

APRIL 3, 2018

**EXHIBIT 8: LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED**

A TRACT OF LAND SITUATED IN THE N.W. 1/4 OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, AND BEING A PORTION OF LOT 23, "BLAND ACRES", A PLAT OF RECORD IN CLACKAMAS COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

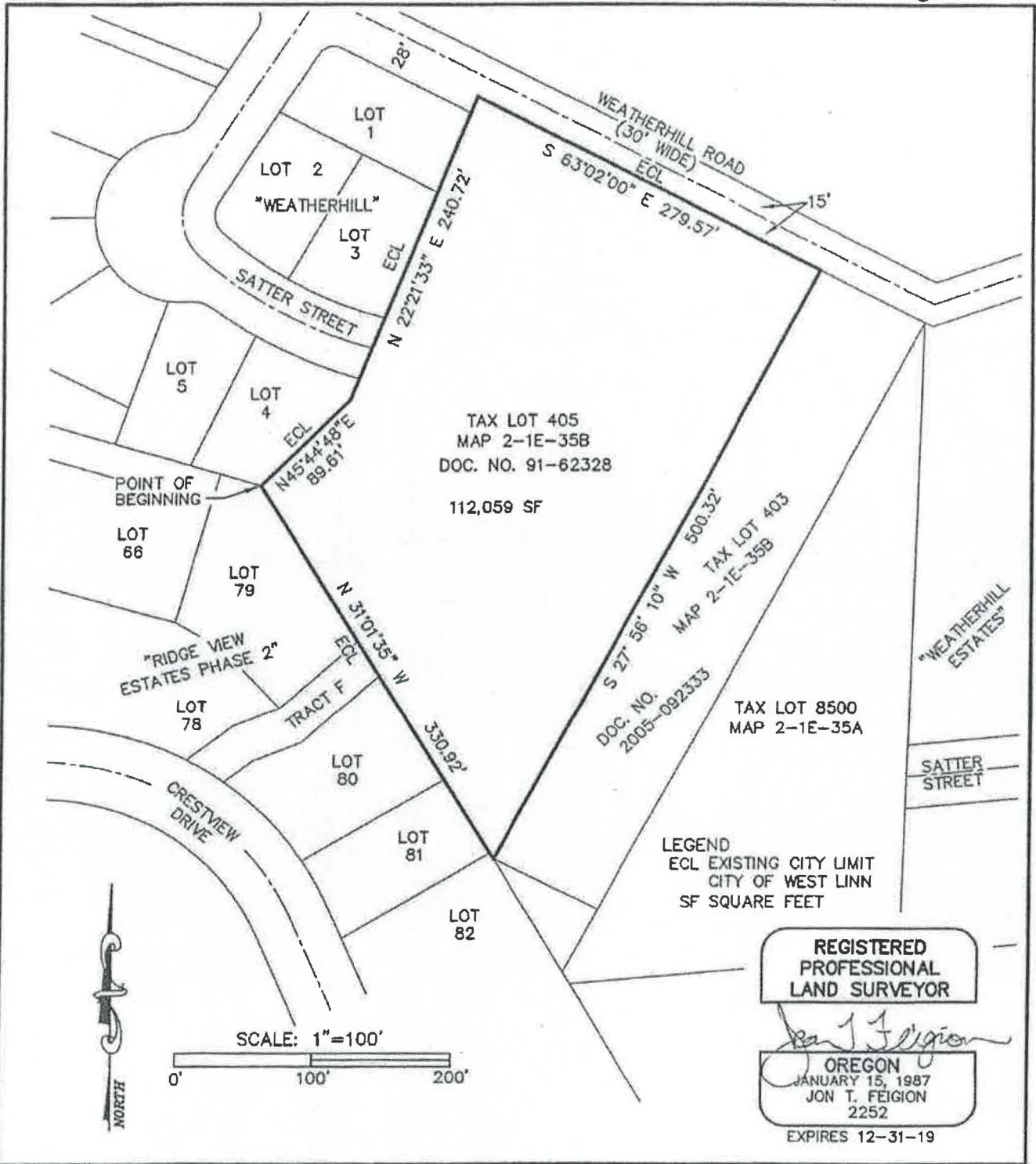
BEGINNING AT THE SOUTHEAST CORNER OF LOT 4, "WEATHERHILL", A PLAT OF RECORD IN CLACKAMAS COUNTY, OREGON, BEING ON THE EXISTING CITY LIMIT OF THE CITY OF WEST LINN; THENCE ALONG SAID CITY LIMIT AND THE EASTERLY LINE OF SAID PLAT OF "WEATHERHILL", NORTH 45°44'48" EAST, 89.61 FEET TO AN ANGLE POINT ON SAID EASTERLY PLAT LINE, THENCE CONTINUING ALONG SAID EASTERLY PLAT LINE AND SAID EXISTING CITY LIMIT, NORTH 22° 21'33" EAST, 240.72 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF WEATHERHILL ROAD (COUNTY ROAD 1637, 15.0' FROM CENTERLINE); THENCE CONTINUING ON SAID EXISTING CITY LIMIT AND SAID SOUTHERLY RIGHT OF WAY LINE, SOUTH 63°02'00" EAST, 279.57 FEET TO THE NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO LI WEI AND LI LI WEI BY DEED RECORDED AS DOCUMENT NO. 2005-092333, CLACKAMAS COUNTY DEED RECORDS; THENCE LEAVING SAID CITY LIMIT, ALONG THE WESTERLY LINE OF SAID WEI TRACT, SOUTH 27°56'10" WEST, 500.32 FEET TO SAID EXISTING CITY LIMIT ON THE NORTHEASTERLY LINE OF THE PLAT OF "RIDGE VIEW ESTATES PHASE 2", A PLAT OF RECORD IN CLACKAMAS COUNTY, OREGON, THENCE ALONG SAID EXISTING CITY LIMIT ON SAID NORTHEASTERLY PLAT LINE, NORTH 31°01'35" WEST, 330.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 112,059 SQUARE FEET, MORE OR LESS.



*Jon T. Feigion*  
OREGON  
JANUARY 15, 1987  
JON T. FEIGION  
2252

EXPIRES 12-31-19



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Jon T. Feigion*

OREGON  
JANUARY 15, 1987  
JON T. FEIGION  
2252

EXPIRES 12-31-19

	ANNEXATION EXHIBIT MAP	<b>EMERIO</b>
DRAWN BY: JTF		<i>Design</i>
SCALE: 1" = 100'	N.W. 1/4 SECTION 35, T.2S., R.1E., W.M.	6445 SW FALLBROOK PLACE, STE. 100
DATE: 4-3-18	CLACKAMAS COUNTY, OREGON	BEAVERTON, OREGON 97008
463-003 ANNEX.DWG		TEL: (503) 746-8812 FAX: (503) 639-9592 www.emeriodesign.com



**OFFICE OF COUNTY COUNSEL**

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

February 14, 2019

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-016  
Annexation to Clackamas County Service District No. 1

**Stephen L. Madkour**  
 County Counsel

**Kathleen Rastetter**  
**Scott C. Ciecko**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
 Assistants

<b>Purpose/Outcomes</b>	Conduct Public Hearing/Approve Order
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	Not Applicable
<b>Duration</b>	Permanent
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
<b>Contact Person</b>	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel
<b>Contract No.</b>	Not Applicable

**BACKGROUND:**

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 18-016 is a proposed annexation to Clackamas County Service District No. 1 (“District”).

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Additionally, the City of Happy Valley has approved this petition as required by statute (ORS 198.720(1)).

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the central part of the District. The territory contains 8.88 acres, two single family dwellings and is valued at \$556,644.

### **REASON FOR ANNEXATION**

The property owners desire sewer service for a 39-lot Planned Unit Development which has been approved for the site by the City of Happy Valley.

### **CRITERIA**

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party<sup>1</sup>; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the

---

<sup>1</sup> A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.



following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
  - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
  - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
  - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
  - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
  - (E) Any applicable comprehensive plan;
  - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
  - (A) Promote the timely, orderly and economic provision of public facilities and services;
  - (B) Affect the quality and quantity of urban services; and
  - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District and the Surface Water Management Agency of Clackamas County, as amended from time to time.

**RECOMMENDATION:**

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-18-016, annexation to Clackamas County Service District No. 1.

Respectfully submitted,



Nate Boderman  
Assistant County Counsel

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

In the Matter of Approving  
Boundary Change Proposal No.  
CL 18-016



Board Order No. \_\_\_\_\_

**Whereas**, this matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Clackamas County Service District No. 1; and

**Whereas**, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

**Whereas**, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

**Whereas**, it further appearing that this matter came before the Board for public hearing on February 14, 2019 and that a decision of approval was made February 14, 2019;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 18-016 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of February 14, 2019.

**DATED** this 14<sup>th</sup> day of February, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 8.88 acres, two single family dwellings and is valued at \$556,644.
2. The property owners desire sewer service for a 39-lot Planned Unit Development (PUD) which has been approved by the City of Happy Valley.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership (“WES”) as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

4. Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:
  1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
  2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party<sup>1</sup>; and
  3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

5. To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

---

<sup>1</sup> A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (1) Find that the change is consistent with expressly applicable provisions in:
  - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
  - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
  - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
  - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
  - (E) Any applicable comprehensive plan;
  - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
  - (A) Promote the timely, orderly and economic provision of public facilities and services;
  - (B) Affect the quality and quantity of urban services; and
  - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Findings 7 and 8 below. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.

6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the County Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

\* \* \*

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.
8. The territory is inside the City of Happy Valley and has a zoning designation of R-5 and R-7. The property owner has received City approval for a 39-lot PUD for the site.
  9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
  10. WES, as the service provider for the District, has a sewer line SE 172<sup>nd</sup> Avenue which can be extended onto the site.
  11. The Sunrise Water Authority has a water line in SE 172<sup>nd</sup> which will be available to serve the property once the property has been annexed into the Authority. Annexation to the Authority is being processed (CL-18-017) at the same time as this current annexation to CCSD # 1.
  12. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
  13. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
  14. The area to be annexed receives parks and recreation service from either the City of Happy Valley or North Clackamas Parks and Recreation District.

## CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 5 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Happy Valley Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

## EXHIBIT B

### Clackamas County Service District No. 1 (CCSD#1) Annexation Description

A tract of land and a portion of right-of-way, located in the Southeast One-Quarter of Section 30 and the Northeast One-Quarter of Section 31, Township 1 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the north one-quarter corner of said Section 31, also being the intersection of SE 172nd Avenue and SE Hemrich Road; thence along the north line of said Section 31, South 88°57'05" East 30.00 feet to the CCSD#1 line and the Point of Beginning; thence along said CCSD#1 line, North 01°22'52" East 30.00 feet to the intersection of the easterly right-of-way line of SE 172nd Avenue (30.00 feet from centerline) and the northerly right-of-way line of SE Hemrich Road (30.00 feet from centerline); thence leaving said CCSD#1 line along said northerly right-of-way line, South 88°57'05" East 436.74 feet to the northerly extension of the easterly line of Document Number 98-054398; thence along said northerly extension and the easterly line of said deed and the easterly line of Document Number 2008-018538, South 01°38'04" West 886.05 feet to the southeasterly corner of said Document Number 2008-018538; thence along the southerly line of said deed, North 88°59'43" West 436.07 feet to the easterly right-of-way line of SE 172nd Avenue (30.00 feet from centerline) and the CCSD#1 line; thence along said easterly right-of-way line and said CCSD#1 line, North 01°35'53" East 856.38 feet to the Point of Beginning.

The above described tract of land contains 8.88 acres, more or less.

9/5/2018

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR



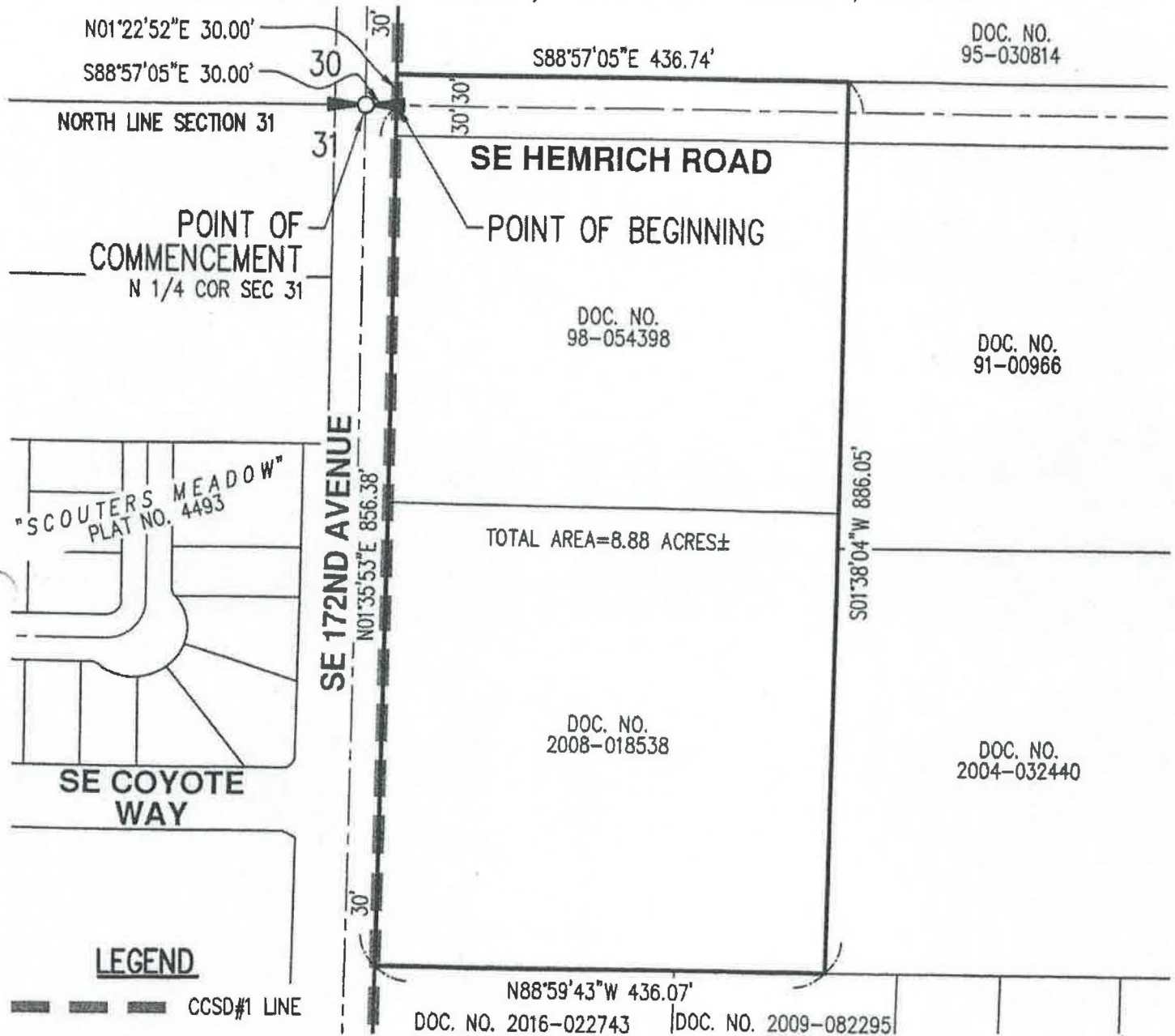
OREGON  
JANUARY 11, 2005  
ROBERT D. RETTIG  
60124LS

RENEWS: 12/31/18



# EXHIBIT C

A TRACT OF LAND AND A PORTION OF RIGHT-OF-WAY, LOCATED IN THE SOUTHEAST 1/4 OF SECTION 30 AND THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



DOC. NO.  
95-030814

DOC. NO.  
98-054398

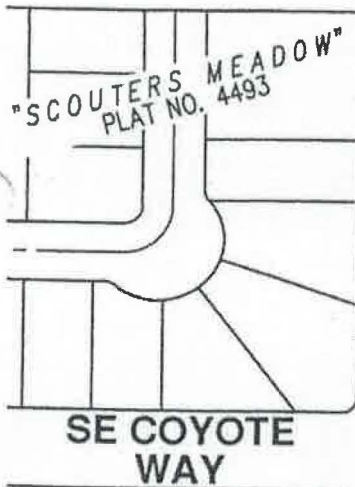
DOC. NO.  
91-00966

DOC. NO.  
2008-018538

DOC. NO.  
2004-032440

TOTAL AREA=8.88 ACRES±

DOC. NO. 2016-022743 | DOC. NO. 2009-082295



## LEGEND

--- CCSD#1 LINE

9/5/2018

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

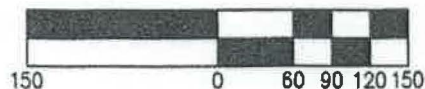
OREGON  
JANUARY 11, 2005  
ROBERT D. RETTIG  
60124LS

RENEWS: 12/31/18

## PREPARED FOR

STONECREEK DEVELOPMENT, LLC  
P. O. BOX 88  
WEST LINN, OR 97068

SCALE: 1"=150 FEET



CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 (CCSD#1)  
ANNEXATION MAP

AKS ENGINEERING & FORESTRY, LLC  
12965 SW HERMAN RD, STE 100  
TUALATIN, OR 97062  
P: 503.563.6151 F: 503.563.6152 aks-eng.com

**AKS**

EXHIBIT  
**B**

DRWN: WCE  
CHKD: RDR  
AKS JOB:  
6095





**OFFICE OF COUNTY COUNSEL**

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

February 14, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-017  
Annexation to Sunrise Water Authority

**Stephen L. Madkour**  
County Counsel

**Kathleen Rastetter**  
**Scott C. Ciecko**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
Assistants

<b>Purpose/Outcomes</b>	Conduct Public Hearing/Approve Order
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	Not Applicable
<b>Duration</b>	Permanent
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
<b>Contact Person</b>	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel
<b>Contract No.</b>	Not Applicable

**BACKGROUND:**

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a water authority and Sunrise Water Authority is such a district.

Proposal No. CL 18-017 is a proposed annexation to Sunrise Water Authority (“District”).

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Additionally, the City of Happy Valley has approved this petition as required by statute (ORS 198.720(1)).

This proposal was initiated by a consent petition of the owners of all the property to be annexed. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the central part of the District. The territory contains 8.88 acres, two single family dwellings and is valued at \$556,644.

## **REASON FOR ANNEXATION**

The property owners desire water service for a 39-lot Planned Unit Development which has been approved for the site by the City of Happy Valley.

## **CRITERIA**

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party<sup>1</sup>; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
  - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;

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<sup>1</sup> A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
  - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
  - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
  - (E) Any applicable comprehensive plan;
  - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
  - (B) Affect the quality and quantity of urban services; and
  - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration.

**RECOMMENDATION:**

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-18-017, annexation to Sunrise Water Authority.

Respectfully submitted,



Nate Bodeman  
Assistant County Counsel

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

In the Matter of Approving  
Boundary Change Proposal No.  
CL 18-017



Board Order No. \_\_\_\_\_

**Whereas**, this matter coming before the Board at this time, and it appearing that all of the owners of the land in the territory to be annexed have petitioned to annex the territory to Sunrise Water Authority; and

**Whereas**, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

**Whereas**, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

**Whereas**, it further appearing that this matter came before the Board for public hearing on February 14, 2019 and that a decision of approval was made on February 14, 2019;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 18-017 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Sunrise Water Authority as of February 14, 2019.

**DATED** this 14<sup>th</sup> day of February, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## FINDINGS

Based on the study and the public hearing the Board found:

1. Proposal No. CL 18-017 is a proposed annexation to Sunrise Water Authority.
2. If the Board approves the proposal the boundary change will become effective immediately.
3. The territory to be annexed contains 8.88 acres, two single family dwellings, a population of 4 and is valued at \$556,664.
4. The property owners desire water service for a 39-unit Planned Unit Development (PUD) which has been approved for the site by the City of Happy Valley.
5. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”
6. Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:
  1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
  2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party<sup>1</sup>; and
  3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted in Finding 2.

7. To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
  - (A) Any applicable urban service agreement adopted pursuant to

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<sup>1</sup> A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- ORS 195.205;
- (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
  - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
  - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
  - (E) Any applicable comprehensive plan;
  - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
  - (B) Affect the quality and quantity of urban services; and
  - (C) Eliminate or avoid unnecessary duplication of facilities and services

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Findings 9 and 10 below. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.

8. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management

Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

9. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Water

\* \* \*

- 15.0 Require water purveyors in urban areas to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers, and storm drainage facilities, necessary to serve additional lands.
10. The territory is inside the City of Happy Valley and has zoning designations of R-5 and R-7. The City has approved a 39-lot PUD for the site.
11. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to water service in this area of Clackamas County.
12. This property is being concurrently annexed to Clackamas County Service District # 1 (CL-18-016). WES, as the service provider for that district, has a sewer line in SE 172<sup>nd</sup> Avenue which can be extended onto the site.
13. The Sunrise Water Authority has a water line in SE 172<sup>nd</sup> Avenue which will be available to serve the property once the site has been annexed to the Authority.
14. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
15. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the Water Authority.
16. The area to be annexed receives parks and recreation service from either the City of Happy Valley or North Clackamas Parks and Recreation District.

## CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 7 & 11 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The area is served by the Sunrise Water Authority and no other entity has the capability of serving this site.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plan (Clackamas County's Comprehensive Plan) and concludes this proposal complies with it. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District has service available to the area to be annexed as noted in Finding No. 13. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.





AKS ENGINEERING & FORESTRY, LLC  
 12965 SW Herman Road, Suite 100, Tualatin, OR 97062  
 P: (503) 563-6151 F: (503) 563-6152

AKS Job #6095

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - KEIZER, OR - BEND, OR

## EXHIBIT B

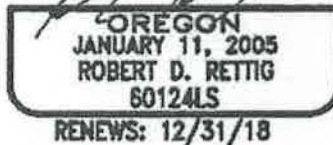
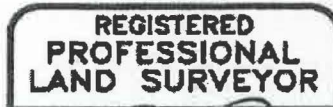
### Sunrise Water Authority (SWA) Annexation Description

A tract of land and a portion of right-of-way, located in the Southeast One-Quarter of Section 30 and the Northeast One-Quarter of Section 31, Township 1 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the north one-quarter corner of said Section 31, also being the intersection of SE 172nd Avenue and SE Hemrich Road; thence along the north line of said Section 31, South 88°57'05" East 30.00 feet to the SWA line and the Point of Beginning; thence along said SWA line, North 01°22'52" East 30.00 feet to the intersection of the easterly right-of-way line of SE 172nd Avenue (30.00 feet from centerline) and the northerly right-of-way line of SE Hemrich Road (30.00 feet from centerline); thence leaving said SWA line along said northerly right-of-way line, South 88°57'05" East 436.74 feet to the northerly extension of the easterly line of Document Number 98-054398; thence along said northerly extension and the easterly line of said deed and the easterly line of Document Number 2008-018538, South 01°38'04" West 886.05 feet to the southeasterly corner of said Document Number 2008-018538; thence along the southerly line of said deed, North 88°59'43" West 436.07 feet to the easterly right-of-way line of SE 172nd Avenue (30.00 feet from centerline) and the SWA line; thence along said easterly right-of-way line and said SWA line, North 01°35'53" East 856.38 feet to the Point of Beginning.

The above described tract of land contains 8.88 acres, more or less.

9/5/2018



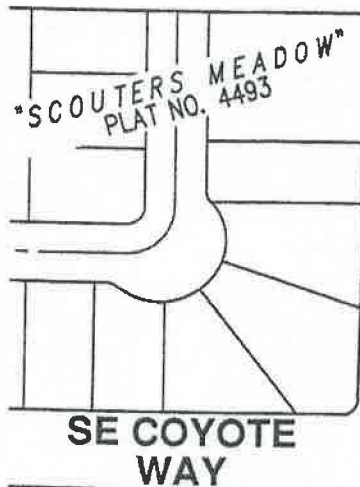
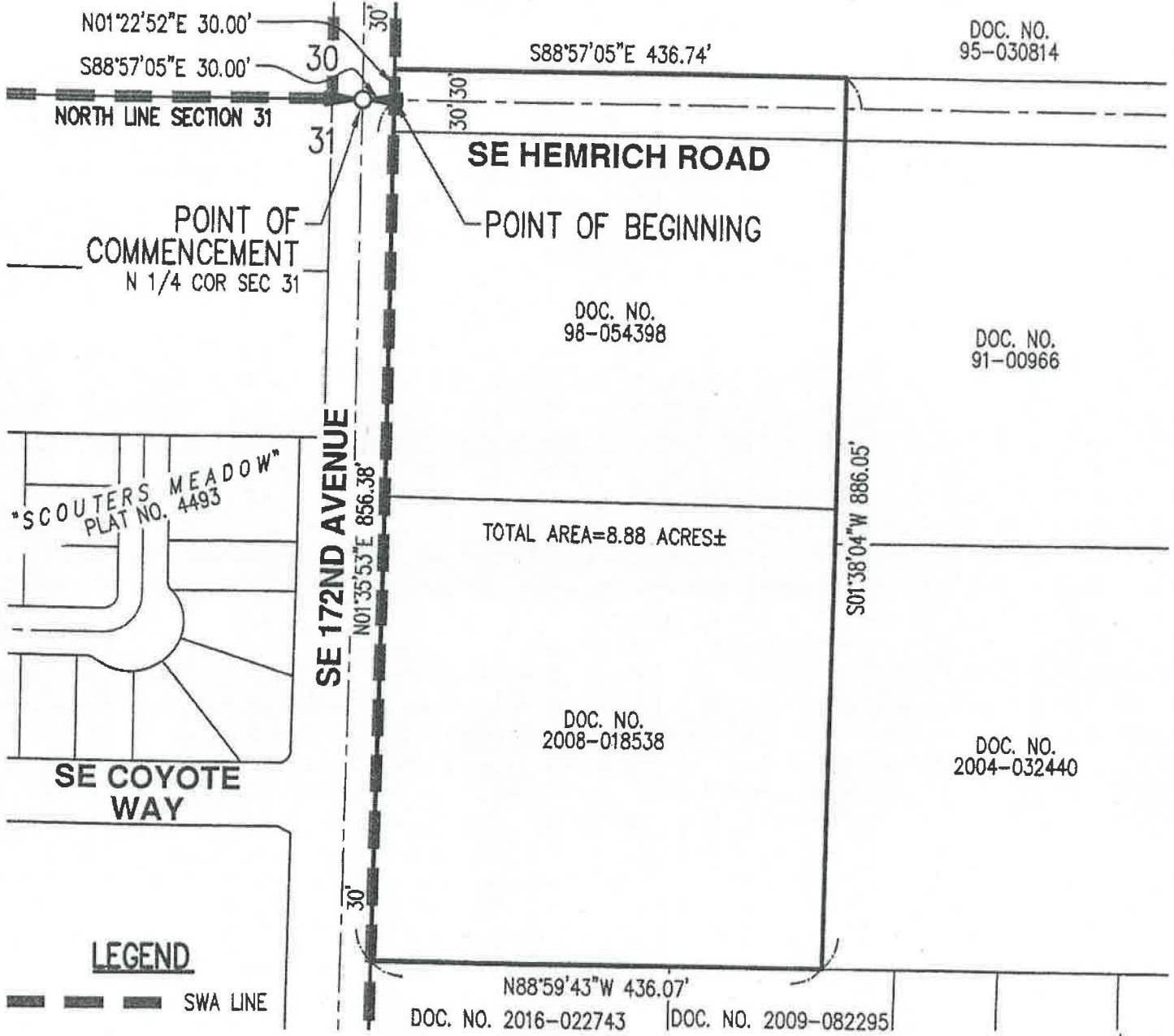
MW

10.03.18



# EXHIBIT C

A TRACT OF LAND AND A PORTION OF RIGHT-OF-WAY, LOCATED IN THE SOUTHEAST 1/4 OF SECTION 30 AND THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



### LEGEND

--- SWA LINE

9/5/2018

REGISTERED PROFESSIONAL LAND SURVEYOR

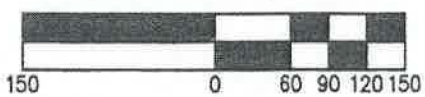
*[Signature]*

OREGON  
JANUARY 11, 2005  
ROBERT D. RETTIG  
60124LS  
RENEWS: 12/31/18

### PREPARED FOR

STONECREEK DEVELOPMENT, LLC  
P. O. BOX 88  
WEST LINN, OR 97068

SCALE: 1" = 150 FEET



<b>SUNRISE WATER AUTHORITY (SWA) ANNEXATION MAP</b>		EXHIBIT <b>B</b>
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 P: 503.563.6151 F: 503.563.6152 aks-eng.com		DRWN: WCB CHKD: RDR AKS JOB: 6095





February 14, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Board Resolution  
Confirming Commitment to Build a New County Courthouse

<b>Purpose/Outcome</b>	Define boards commitment to building a new Clackamas County Courthouse
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	N/A
<b>Duration</b>	N/A
<b>Previous Board Action/Review</b>	The Board of County Commissioners requested a resolution to affirm Clackamas County's commitment to building a new courthouse.
<b>Strategic Plan Alignment</b>	This project aligns with three of the Board's five Strategic Priorities: <ul style="list-style-type: none"> <li>•Ensure safe, healthy and secure communities – the new courthouse will be large enough to accommodate the number of judges available and needed for this community and eliminate overcrowding that cause intermixing of jurors, the public, and offenders providing adequate circulation.</li> <li>•Build a strong infrastructure – the project will replace the outdated county courthouse in downtown Oregon City, which is too small to accommodate the number of judges needed for the community and is not seismically sound.</li> <li>•Build public trust through good government – the project will improve access to justice for all residents of Clackamas County.</li> </ul>
<b>Contact Person</b>	Laurel Butman, Deputy County Administrator , 503-655-8893

**BACKGROUND:**

Clackamas County's courthouse was built in 1936 in the heart of downtown Oregon City. While it continues to serve hundreds – sometimes thousands – of residents daily, courthouse needs have outgrown the facility's ability to adequately meet the demands of our increasing population leading to long delays in criminal proceedings, civil cases, divorce and custody cases and other important legal matters.

Factoring in population growth, the significant safety risks, and functional impediments associated with the existing courthouse including a lack of adequate jury assembly space and secured access for defendants and witnesses, replacement of the courthouse is a necessary and wise investment.

In July 2017, the Oregon Legislature provided Clackamas County with \$1.2 million for planning costs associated with the project. Through the Oregon Courthouse Capital Construction and Improvement Fund, the state may allocate matching funds to go toward the replacement of county courthouses. In the case of the Clackamas County courthouse, what this means is the state would be able to provide 50 percent of the funds to cover the estimated project cost.

In addition to the Legislature's continued involvement in this process, the project also includes participation from the courts, the Clackamas County District Attorney's Office, the Clackamas County Sheriff's Office, the Oregon Department of Human Services, the Association of Oregon Counties' (AOC) Court Facilities Task Force, the city of Oregon City, and additional stakeholders.

The resolution presented to the Board today demonstrates and articulates the county's commitment to securing state funding to build a new courthouse in Clackamas County.

**RECOMMENDATION:**

Staff respectfully recommends the Board approve the resolution confirming commitment to build a new courthouse in Clackamas County.

Respectfully submitted,

Gary Schmidt  
Director, Public and Government Affairs

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

In the Matter of Affirming  
Clackamas County's Commitment  
to Building a New Courthouse



Resolution No. \_\_\_\_\_

*Page 1 of 2*

**Whereas**, the Clackamas County Courthouse was completed in 1937 at a time when Clackamas County's population was approximately 50,000 residents, and originally housed only 3 courtrooms and the offices of County Clerk, the Sheriff, the County Jail, and the District Attorney, all of whom have vacated except the last; and

**Whereas**, the courthouse configuration has not changed in the 82 years since and cannot adequately handle the services required by a population of more than 410,000 residents, which leads to delays of trials, civil and divorce proceedings, and incarcerations with real and lasting negative results; and

**Whereas**, the courthouse is old and obsolete to the point that it cannot be retrofitted to operate by modern standards, that certain parts are inaccessible to people with disabilities, and that equipment in use is well beyond its useful life and costly to maintain; and

**Whereas**, the courthouse's cramped areas result in overcrowding and close quarters, intermingling of victims, witnesses, jurors, prisoners, and defendants leading to potential safety concerns and causing undue emotional duress to victims and witnesses; and

**Whereas**, this region is at significant risk of earthquakes and tests indicate a high likelihood of soil liquefaction under the courthouse during such an event, which could lead to a potential slide of the building into the Willamette River and present a risk of death and serious injury to occupants; and

**Whereas**, Clackamas County has invested millions of dollars in preparation for this project, including owning the land for the proposed site on the Red Soils campus, having infrastructure in place, and dedicating personnel to the construction project; and

**Whereas**, Clackamas County has assembled a growing coalition that is supportive of a new courthouse, including elected county officers, judges, state senators and representatives, and city officials; and

**Whereas**, Clackamas County is seeking matching funds for construction of a new courthouse from the state of Oregon to cover approximately half of the costs of construction.

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

In the Matter of Affirming  
Clackamas County's  
Commitment to Building a New  
Courthouse



Resolution No. \_\_\_\_\_

*Page 2 of 2*

**Whereas**, Clackamas County is committed to applying principled sustainability and livability practices in its construction projects including, wherever feasible, energy efficiency and LEED standards, use of efficient and durable products such as cross laminated timber, and consideration of trauma informed design in public safety projects; and

**Whereas**, delayed trials are contributing to jail overcrowding and leading to the early releases of alleged offenders back into the community.

**NOW THEREFORE, the Clackamas County Board of Commissioners do hereby resolve and affirm that:**

Clackamas County is committed to funding and building a new county courthouse. The County will ask voters if they are willing to fund the courthouse, as well as seek other funding opportunities. If voters are not willing to fund the courthouse, the county may have to make significant cuts to current programs and services in order to fund the courthouse. We will do that if we need to. Clackamas County is committed to funding and building a new county courthouse.

And hereby Clackamas County reaffirms its unequivocal commitment to partner with the State of Oregon and explore viable financing options to save taxpayers money in the construction of a new county courthouse for the benefit of all residents.

**DATED** this 14<sup>th</sup> day of February, 2019

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

February 14, 2019

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval of a revenue Professional Services Agreement with Health Share of Oregon, for point of contact provider services.

<b>Purpose/Outcomes</b>	This Agreement will allow Clackamas County Public Health Division (CCPHD) to get reimbursed for medical services provided to Health Share of Oregon Members.
<b>Dollar Amount and Fiscal Impact</b>	Contract maximum value to \$1.6 Million
<b>Funding Source</b>	Fee for Service - No County General Funds are involved.
<b>Duration</b>	Effective July 01, 2018 and terminates on June 30, 2019
<b>Previous Board Action</b>	No previous board action
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
<b>Contact Person</b>	Dawn Emerick, Public Health Director – 503-655-8479
<b>Contract No.</b>	9126

**BACKGROUND:**

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of revenue Professional Services Agreement with Health Share of Oregon, for point of contact provider services.

CCPHD provides screening and treatment for Tuberculosis Control, Sexually Transmitted Infections, and Immunization administration and tracking. The tri-counties have worked with Health Share of Oregon to receive reimbursement for services provided to Health Share members enrolled in OHP. Health Share has agreed to pay retroactively to July 1, 2018. Over the term of the Agreement the collective billings for the tri-counties cannot exceed the \$1.6 million contract value.

This Agreement is effective July 1, 2018 and continues through June 30, 2019. This Amendment has been reviewed by County Counsel on January 31, 2018.

**RECOMMENDATION:**

Staff recommends the Board approval of this Agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,



Richard Swift, Director  
Health, Housing, and Human Services

*Healthy Families. Strong Communities.*

2051 Kaen Road, Oregon City, OR 97045 • Phone: (503) 742-5300 • Fax: (503) 742-5352

[www.clackamas.us/community\\_health](http://www.clackamas.us/community_health)





## HEALTH SHARE OF OREGON

### SERVICES AGREEMENT

This Services Agreement (“Agreement”) is made and entered into as of 7/1/2018 (“Effective Date”), by and between **Health Share of Oregon**, an Oregon nonprofit corporation (“Health Share”), and **Clackamas County Health Department** (“Contractor”).

#### RECITALS

A. Health Share is a nonprofit organization that operates as a coordinated care organization as such term is defined under Oregon law (“CCO”), and as such, Health Share coordinates health care coverage for enrollees of the Oregon Health Plan (“OHP”) or otherwise;

B. As a CCO, Health Share desires to make advantageous use of the system of public health care and services available through local health departments and other publically supported programs and to ensure access to public health care and services pursuant to ORS 414.153.

C. Contractor offers public health care and services and is willing to provide such services to Health Share Members; and

D. Health Share desires, in support of improving Member health, to contract with Contractor to provide public health care and services to Health Share Members; and Contractor wishes to provide public health care and services to Health Share Members in support of Health Share’s goals, all in accordance with the terms and conditions set forth in this Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants and promises contained herein, Health Share and Contractor agree as follows:

#### ARTICLE I DEFINITIONS

“**Contractor Qualifications**” has the meaning given to that term in Section 2.7.

“**Contracted Services**” has the meaning given to that term in Section 2.1.

“**Medically Necessary**” means services and medical supplies required for prevention, diagnosis or treatment of a health condition that encompasses physical or mental conditions, or injuries and are (a) consistent with the symptoms of a health condition or treatment of a health condition; (b) appropriate with regard to standards of good medical practice and generally recognized by the relevant scientific community and professional standards of care as effective; (c) not solely for the convenience of a Member or a provider of the service or medical supplies, and; (d) the most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to a Member.

“**Member**” means a person who is enrolled in a Plan with Health Share, generally identifiable through a Health Share identification card issued to the person, and who is eligible to receive Contracted Services.

“**PHI**” has the meaning given to that term in Section 2.12.

“**Plan**” means the contract or arrangement that has been established with Health Share, including contracts or arrangements established by federal and state governmental programs, that entitles Members to receive specific Contracted Services through Health Share.

“**Practitioners**” has the meaning given to that term in Section 2.2.

“**Records**” has the meaning given to that term in Section 2.11.

“**Risk Accepting Entity**” or “**RAE**” means the individual entities that have entered into a Risk Accepting Entity Participation Agreement with Health Share in exchange for a per member per-month payment described in the same agreement. The entities defined as RAEs, which may change from time-to-time, are listed in Exhibit A. Health Share Members will be assigned to a particular RAE.

## **ARTICLE II OBLIGATIONS AND REPRESENTATIONS OF CONTRACTOR**

**2.1 Contracted Services.** Contractor will accept Members as patients (as that term may apply) and will provide to Members the Contracted Services listed in the attached and incorporated Statement of Work and Compensation Addendums of this Agreement that are Medically Necessary (the “Contracted Services”). Contractor will provide those Contracted Services to Members in an amount, duration and scope that is not less than the amount, duration and scope for the same services provided by Contractor to other individuals who receive services equivalent to those Contracted Services. Contractor will ensure that Contracted Services rendered by Contractor: (i) are within the scope of, and in accord with, as applicable, the Contractor’s and Practitioner’s license and certifications, (ii) are within the scope of privileges granted by Health Share or the applicable RAE, and (iii) meet the community professional standards relevant to the services provided. Contractor acknowledges that the rights of Members to receive particular services is governed by the terms of the relevant Plan covering the Members. This Agreement is a stand-alone agreement only for those services described in this Agreement, and does not supersede or affect Contractor’s other contracts for services outside the scope of this Agreement.

**2.2 Practitioners.** Contractor will ensure that all of Contractor’s employed and contracted providers who provide Contracted Services to Members (the “Practitioners”) under this agreement: (i) comply with all of the terms and conditions of this Agreement (unless the context requires otherwise), (ii) if licensed, are credentialed by Contractor prior to providing services to Members and meet Health Share’s credentialing and recredentialing requirements, as applicable, and if non-licensed, have received appropriate training and supervision for the work, and (iii) comply with all requests for information from Health Share related to Practitioners’ qualifications. Contractor will not bill for or be entitled to receive any compensation for providing any services that are inconsistent with this

Agreement or, if applicable, the privileges granted to a particular Practitioner. Contractor will be solely responsible for payment of all wages, salary, compensation, payroll and withholding taxes, unemployment insurance, workers' compensation coverage and all other compensation, insurance and benefits with respect to Practitioners.

**2.3 Hours of Operation.** Contractor will arrange for provision of Contracted Services during its normal business hours that are not less than the hours of operation offered to Contractor's other patients.

**2.4 Equipment and Supplies.** At Contractor's own cost and expense, Contractor will supply the required personnel, equipment, instruments and supplies required to perform the Contracted Services. Contractor will ensure that all equipment, including without limitation medical equipment, used by Contractor in rendering Contracted Services: (i) meets the community standards as the appropriate equipment to be used for the services provided, (ii) is in good working order, (iii) is maintained in accord with the equipment manufacturer's schedule for service and maintenance, and (iv) is utilized or operated only by individuals or technicians with appropriate training and qualifications to operate such equipment. Contractor will not bill for or be entitled to receive any compensation for providing any services if the Contractor's use of the equipment does not meet the requirements of this Section.

**2.5 Compliance with Policies and Procedures.** Health Share will make available to Contractor any applicable policies and procedures electronically or, by request, on paper that apply to the services offered by Contractor. Contractor agrees to comply with Health Share's policies and procedures and that compliance is necessary to meet the obligations under this Agreement. Health Share may revise and update the policies and procedures from time to time with thirty (30) days' notice to Contractor. Contractor agrees that such revisions will become binding on Contractor at the end of the thirty (30) days' notice period. Notwithstanding the foregoing, the parties understand that if there are any conflicts between the policies and procedures and the Agreement, this Agreement will prevail.

**2.6 Reporting Responsibilities.** Contractor agrees to promptly provide any reports, information, or documents reasonably requested by Health Share in the form and format requested by Health Share. Such reports may include without limitation, reports regarding utilization, performance measures, quality metrics, Member satisfaction, coordination, expenses and savings. Contractor represents and warrants that any reports and data provided pursuant to this Section 2.6 will be accurate and complete.

**2.7 Qualifications.** At all times during the term of this Agreement, Contractor will meet each of the following qualifications ("**Contractor Qualifications**") and ensure that all Practitioners meet those qualifications, as applicable:

**2.7.1** Has and maintains in good standing all required or appropriate state and federal licenses, permits, registrations, certifications, approvals and authorizations if applicable, to provide Contracted Services under this Agreement consistent with state licensure requirements, Medicaid certification and other professional qualifications as applicable. Contractor will furnish evidence of the same to Health Share on request;

**2.7.2** Has never been, and is not currently, suspended, debarred, or excluded from any federal or state funded health care program or from participating in any government procurement or non-procurement contract;

**2.7.3** Contractor will comply, as applicable, with Health Share's credentialing or recredentialing criteria then in effect. Contractor will promptly provide information required by Health Share to conduct credentialing or recredentialing.

**2.7.4** Contractor will, if applicable, ensure that each Practitioner: (i) meets all requirements for, obtain, and maintain a medical staff appointment and appropriate clinical privileges at a hospital affiliated with Health Share in accordance with such hospital's medical staff bylaws, if applicable; and (ii) complies with such hospital's credentialing policies and procedures and provides all credentials and other necessary information and documents required thereunder to Health Share or its designated agent upon request.

**2.7.5** If compliance with any provision of this Agreement would result in the Contractor's or Practitioner's loss of license, Contractor agrees to notify Health Share within thirty (30) days of discovery of such conflict. Contractor will promptly notify Health Share of any action against Contractor's or any Practitioner's professional license to practice, including but not limited to suspension, revocation or probation. Contractor will also promptly notify Health Share if he or she is convicted of a felony or expelled or suspended from the Medicaid program.

**2.8 Representations and Warranties.** Contractor represents and warrants to Health Share the following, which warranties are in addition to, and not in lieu of, any other warranties provided herein:

**2.8.1** Contractor has the power and authority to enter into and perform the obligations described in this Agreement;

**2.8.2** This Agreement, when executed and delivered, will be a valid and binding obligation of Contractor enforceable in accordance with the Agreement's terms;

**2.8.3** Contractor has the skill and knowledge possessed by well-informed members of Contractor's industry, trade or profession, as applicable, and Contractor will apply that skill and knowledge with care and diligence to perform the Contracted Services in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession, as applicable;

**2.8.4** Contractor will, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed, if applicable, to perform the Contracted Services.

**2.8.5** If Contractor is a business entity (including, by way of example and not limitation, a corporation or limited liability company), Contractor is duly organized, validly existing, and in good standing as a corporation or other entity as represented in this Agreement under the applicable law of such entity's jurisdiction of incorporation, organization, or chartering.

**2.8.6** The Contracted Services will be in conformity in all respects with the requirements or specifications stated in this Agreement and the attached and incorporated Statement of Work and Compensation Addendums of this Agreement

**2.9 External Quality Review; Access to Records and Facilities.** Contractor will cooperate by providing access to records, and if applicable, facilities for the purpose of an annual external, independent professional review of the quality outcomes and timeliness of, and access to, Contracted Services provided under this Agreement. If copies of such records are required, Contractor will provide those copies at no charge. Contractor will provide timely access to records, and, if applicable, facilities, and cooperate with Health Share in the collection of information through consumer surveys, on-site reviews, medical chart reviews, financial reporting and financial record reviews, interviews with staff, and other information for the purposes of monitoring compliance with this Agreement, including but not limited to verification of services actually provided, and for developing and monitoring performance and outcomes. Contractor and Health Share agree to cooperate to ensure that the confidentiality restrictions in 42 C.F.R. Part 2-Confidentiality of Alcohol and Drug Abuse Patient Records, as may be amended from time to time ("42 C.F.R. Part 2"), are complied with prior to any review. The requirements described in this Section 2.9 will survive termination of the Agreement.

**2.10 Medical Records.** Contractor will develop and maintain a record keeping system that includes without limitation medical records, if applicable, that:

**2.10.1** Includes sufficient detail and clarity to permit internal and external review to validate encounter submissions and to assure Medically Necessary services are provided consistent with the documented needs of the Member;

**2.10.2** Conforms to accepted professional practice; and

**2.10.3** Allows Health Share to ensure that data received from Contractor is accurate and complete by: (i) verifying the accuracy and timeliness of reported data; (ii) screening the data for completeness, logic, and consistency; and (iii) collecting service information in standardized formats to the extent feasible and appropriate.

**2.11 Record Retention.**

**2.11.1** Contractor will retain, and will cause Contractor's personnel to retain, clinical records for the longer of ten (10) years after the date of service for which claims are made, or for the period required by applicable law. If an audit, litigation, research and evaluation, or other action involving the records is started before the end of the retention period, Contractor will retain, and will cause Contractor's personnel to retain, the clinical records until all issues arising out of the action are resolved.

**2.11.2** Contractor will maintain all financial records related to this Agreement in accordance with generally accepted accounting principles. In addition, Contractor will maintain any other records, books, documents, papers, plans, records of shipment and payments and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner to clearly document Contractor's performance. All financial records, other records, books,

documents, papers, plans, records of shipments and payments and writings of Contractor whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as “**Records.**” Contractor acknowledges and agrees that Oregon Health Authority, the Secretary of State’s Office, CMS, the Comptroller General of the United States, the Oregon Department of Justice Medicaid Fraud Control Unit and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Contractor will retain and keep accessible all Records for the longer of: (i) ten (10) years following final payment and termination of this Agreement; (ii) the retention period specified in this Agreement for certain kinds of records; (iii) the period required by applicable law, including the records retention schedules set forth in OAR Chapters 410 and 166; or (iv) until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.

**2.12 Business Associate Agreement; Consent to Disclose, Redisclose.** Contractor acknowledges and agrees that protected health information (“PHI”) disclosed by Contractor to Health Share may be used by or disclosed to RAE pursuant to a business associate agreement between those parties when permissible by law or pursuant to a written consent in compliance with 42 C.F.R. Part 2, as may be amended from time to time. Notwithstanding the foregoing, Health Share and Contractor agree to comply with any and all applicable privacy laws including without limitation, 42 C.F.R. Part 2, if applicable.

**2.12.1** Contractor will obtain Member’s written consent, as required by 42 C.F.R. Part 2 and as may be specified by Health Share, to allow Member’s patient identifying information to be disclosed by Contractor to the RAEs and redisclosed by the RAEs to Health Share and the State of Oregon, only as such disclosure and redisclosure is required by this Agreement, federal and Oregon law, and at Health Share’s reasonable request.

**2.13 Subrogation.** Contractor will subrogate to Health Share any and all claims Contractor has or may have against any third parties related to the Contracted Services provided to Members, including manufacturers, wholesale or retail suppliers, sales representatives, testing laboratories, or other providers in the design, manufacture, marketing, pricing, or quality of drugs, pharmaceuticals, medical supplies, medical devices, durable medical equipment, or other products.

**2.14 Compliance with Applicable Law.** Contractor will comply and cause all of Contractor’s personnel to comply with all Federal, State and local laws, regulations, executive orders and ordinances.

**2.15 Informed Consent; Dignity and Respect.** Contractor will inform Members about available treatment options and alternatives in a manner appropriate to the Member’s condition and ability to understand. Contractor will ensure that Contractor’s personnel treat Members with respect and with due consideration for their dignity and privacy to the same extent as all of Contractor’s other patients who receive services equivalent to Contracted Services.

**2.16 Grievances.** Contractor and Contractor’s Practitioners will comply with the grievance policies and procedures, as applicable.

**2.17 Non-Covered Services.** Contractor will advise a Member of any service, treatment, or test that that is recommended as medically appropriate for the Member in accord with the community

standards of the medical profession, even if the service, treatment, or test is not covered under the Plan. This Agreement, and the fact of whether the Plan happens to provide coverage of any particular service, treatment or test, does not alter a Contractor's duty to exercise professional skill and judgment in accord with the prevailing community standards applicable to Contractor in advising and treating Members relative to that service, treatment, or test. Contractor acknowledges that this Agreement may not be interpreted to require Contractor to deny care to a Member for services that are not covered under the Plan. Contractor will not bill a Member for any service, treatment, or test not covered by the Plan unless all of the following conditions have been met: (i) Contractor has provided a clear written disclosure in advance to the Member indicating that the service, treatment or test is not covered by the Plan; (ii) Contractor has obtained a written consent from the Member acknowledging that the service, treatment or test is not covered and consenting to the service; (iii) such billing is permitted under the Plan; and (iv) such billing is not prohibited by law.

**2.18 Nondiscrimination.** Contractor will not discriminate in the provision of services to Members on the basis of enrollment in the Plan, race, color, national origin, ethnicity, ancestry, religion, sex, marital status, sexual orientation, mental or physical disability, medical condition or history, age or any other category protected under state or federal law.

**2.19 Compliance with Health Care Programs.** Contractor acknowledges that Contractor is subject to, and will comply with utilization management, quality assurance, and fraud and abuse programs of Health Share. Contractor and Contractor's Practitioners agree to cooperate with the Medical Directors of Health Share in the Medical Directors' review of, and in the establishment of programs, policies and procedures to, improve the quality of care delivered to Members.

**2.20 Oregon Health Plan Addendum.** The terms and conditions set forth in the attached Oregon Health Plan Addendum are incorporated and made a part of this Agreement.

**2.21 Equal Employment Opportunity.** In addition to the Equal Employment Opportunities in the Oregon Health Plan Addendum, Contractor agrees that if, at any time during the term of this Agreement, Contractor has employees and will earn more than \$75,000 as a result of this Agreement, Contractor will not:

**2.21.1** Discriminate against any employees or applicants on the basis of race, color, religion, sex, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, or source of income;

**2.21.2** Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics;

**2.21.3** Coerce the political activity of any person;

**2.21.4** Deceive or willfully obstruct anyone from competing for employment;

**2.21.5** Influence anyone to withdraw from competition for any position so as to improve or injure the employment prospects of another person;

**2.21.6** Give improper preference or advantage to anyone so as to improve or injure the employment prospects of that person or any other employee or applicant.

### **ARTICLE III COMPENSATION AND BILLING**

**3.1 Compensation.** Health Share will compensate Contractor for the Contracted Services that Contractor provides under this Agreement, which is set forth in the Statement of Work and Compensation Addendums attached to and incorporated to this Agreement. Contractor will be entitled to the amounts and types of compensation described in that Addendum for furnishing Contracted Services to Members in accordance with the terms and conditions of this Agreement. Contractor agrees to accept as payment in full for Contracted Services furnished to Members the compensation described in this Agreement.

**3.2 Billing.** In order to receive funds, Contractor must prepare and submit monthly invoices to Health Share that document the expenses that Contractor incurred during the previous month in its performance of the activities described in the Statement of Work. The first invoice will cover services rendered between July 1, 2018 and December 31, 2018 and will be provided to Health Share within 30 days of that date. With the exception of the first invoice, Health Share will not reimburse Contractor for any expenses included in an invoice in which the services provided are more than sixty (60) days from the date of service. Invoices must be submitted to one of the following addresses:

[vendorinvoice@healthshareoregon.org](mailto:vendorinvoice@healthshareoregon.org)

Health Share of Oregon  
Attn: Larry Soderberg, Chief Financial Officer  
2121 SW Broadway, Suite 200  
Portland, Oregon 97201

Health Share shall disburse funds to cover expenses shown on an invoice within thirty (30) calendar days of receiving the invoice, assuming continued compliance with the terms and conditions of the forthcoming agreement, including any benchmarks established in the Statement of Work, and provided that Contractor has submitted the invoice in accordance with forthcoming agreement and Health Share has determined that the amounts shown on the invoice represent amounts that should be properly incurred in the performance of the activities described in the Statement of Work.

### **ARTICLE IV RELATIONSHIP OF THE PARTIES**

**4.1 Independent Parties.** The parties to this Agreement are independent parties, and nothing in this Agreement will be construed or be deemed to create between them any relationship of principal and agent, partnership, joint venture, or any relationship other than that of independent



parties. No party to this Agreement, nor the respective agents or employees of either party, will be required to assume or bear any responsibility for the acts or omissions, or any consequences thereof of the other party under this Agreement. No party to this Agreement, nor the respective agents or employees of either party, will be liable to other persons for any act or omission of the other party in performance of their respective responsibilities under this Agreement.

**4.2 Tax Obligations.** Contractor will be responsible for appropriate management of all federal and state obligations applicable to compensation or payments paid to Contractor under this Agreement.

## **ARTICLE V TERM AND TERMINATION**

**5.1 Term of Agreement.** When executed by both parties, this Agreement will become effective as of the Effective Date and will continue in effect for one (1) year from that date unless otherwise terminated pursuant to this Agreement.

**5.1.1** Both parties agree to reassess the terms of this agreement not less than three (3) months before the end of the term and determine whether the parties desire to renew the Agreement for additional terms.

**5.2 Termination on Default.** In the event Health Share or Contractor should materially default in the performance of any obligation imposed by this Agreement, the non-defaulting party may elect to provide the defaulting party with written notice describing the facts and circumstances of the default. After providing such notice, the non-defaulting party may elect, by written notice to the defaulting party, to terminate this Agreement if the defaulting party has not cured any default within thirty (30) days following the defaulting party's receipt of the applicable default notice; provided, however that with respect to any default covered by this subsection which reasonably requires additional time to cure, such failure will not result in a termination of the Agreement so long as the defaulting party has commenced performance of a cure within the stated cure period and diligently pursues such cure to completion.

**5.3 Immediate Termination by Health Share.** Notwithstanding any other term in this Agreement to the contrary, Health Share may immediately terminate this Agreement or the participation of any individual health care provider providing services for Contractor pursuant to this Agreement on delivery of written notice to Contractor if any of the following occurs:

**5.3.1** Contractor does not fully meet all Contractor Qualifications set forth in Section 2.7 of this Agreement;

**5.3.2** Any of Contractor's contracted, employed, leased, owned or controlled personnel providing or assisting in the provision of Contracted Services is excluded, debarred, suspended or declared ineligible to participate in any federal health care program, or in any federal procurement or non-procurement program;

**5.3.3** Contractor receives a criminal conviction of any kind.

**5.3.4** The dissolution, reorganization or sale of or change in control of Contractor.

**5.3.5** If Contractor: (i) voluntarily files a petition in or for bankruptcy or reorganization; (ii) makes a general assignment or another arrangement for the benefit of creditors; (iii) is adjudged bankrupt; (iv) has a trustee, receiver or other custodian appointed on its behalf; or (v) has any other case or proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding commenced against it.

**5.3.6** Contractor fails or refuses to provide or arrange for the provision of Contracted Services to Members in a professionally acceptable manner.

**5.3.7** Professional liability or other liability insurance covering Contractor, as required by this Agreement, is terminated without replacement coverage being obtained in amounts required by this Agreement.

**5.3.8** Contractor's knowing or deliberate submission of false or misleading billing information to Health Share or any RAE.

**5.3.9** Health Share determines in Health Share's sole discretion that Contractor is in violation of or has failed to comply with any of the requirements of this Agreement that are not curable by Contractor due to their nature.

**5.4 Termination without Cause.** The parties agree that they are contracting at will. Either Health Share or Contractor may terminate this Agreement without cause upon ninety (90) days' advance written notice to the other party. However, such termination will not relieve either party of any contractual obligation(s) incurred prior to the Effective Date of the termination.

**5.5 Change in Law.** In the event state or federal laws are enacted, or state or federal regulations are promulgated which, in the opinion of Health Share, make this Agreement illegal under such laws or regulations, or this Agreement is otherwise deemed by appropriate state or federal governmental authorities to violate such laws or regulations, this Agreement will immediately be amended to comply with such laws or regulations or be terminated.

**5.5.1** This Agreement shall immediately terminate as appropriate in the event the State of Oregon changes the requirements under ORS 414.153 to no longer require funding by CCOs or these services are determined to be funded through a new revenue source.

**5.6 Continuity of Care.** In the event of termination of this Agreement, the following provisions will apply to ensure continuity of the Contracted Services to Members. Contractor will ensure:

**5.6.1** Continuation of Contracted Services to Member for the period during which RAE has paid Compensation to Contractor, including inpatient admissions up until discharge;

**5.6.2** Orderly and reasonable transfer of Member care in progress, whether or not those Members are hospitalized;

**5.6.3** Timely submission of information, reports and records, including encounter data, required to be provided to Health Share and RAEs during the term of this Agreement;

**5.6.4** Timely payment of valid claims for services to Members for dates of service included within the term of the Agreement; and

**5.6.5** If Contractor continues to provide services to a Member after the date of termination of this Agreement, Health Share will have no responsibility to (i) pay for such services; (ii) notify Members of the termination of this Agreement; and (iii) direct Members to other participating providers or contractors.

## **ARTICLE VI INDEMNIFICATION**

**6.1 Indemnification by Health Share.** Health Share hereby covenants and agrees to indemnify, protect, defend and hold Contractor and its officers, directors, shareholders and employees (collectively, "Contractor Parties") harmless from and against all direct and indirect losses, damages, costs, expenses, attorneys' fees, fines, judgments, liens and other sums incurred by Contractor Parties resulting from Health Share's gross negligence, willful misconduct or violation of applicable law. Such amount will be payable by Health Share upon demand of Contractor. However, the foregoing indemnity will not apply if and to the extent that any such loss, damage, cost, expense, fines, judgments, liens, liability, and other sums, including without limitation attorneys' fees, were incurred by Contractor as a result of Contractor's, Practitioner's, gross negligence, willful misconduct, or violation of applicable law or breach of any of their representations, warranties, or obligations under this Agreement.

**6.2 Indemnification by Contractor.** Contractor hereby covenants and agrees to indemnify, protect, defend and hold harmless, subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution: (i) Health Share, (ii) the RAEs, and (iii) Health Share's and the RAEs' officers, directors, shareholders and employees, from and against all direct and indirect losses, damages, costs, expenses, attorneys' fees, fines, judgments, liens and other sums incurred by Health Share or the RAEs resulting from or in any way connected to: (i) the Contractor's, Practitioners', or gross negligence, willful misconduct, violation of applicable law, or breach of this Agreement, or (ii) malpractice or other errors and omissions by Contractor's, , or Practitioners' provision of medical or health care goods and/or services. Such amount will be payable by Contractor upon demand of Health Share or any RAE, or within a reasonable period of time. The foregoing indemnities will not apply if and to the extent that any such loss, damage, cost, expense, fines, judgments, liens, liability, and other sums, including without limitation attorneys' fees, were incurred by Health Share or the RAE as a result of Health Share's or the RAE's gross negligence, willful misconduct, or violation of applicable law or violation of Health Share's the RAE's obligations under this Agreement.

## **ARTICLE VII INSURANCE**

**7.1 Insurance.** Contractor will procure and maintain, at Contractor's sole expense, and keep in force, at least the types and amounts of insurance coverage as set forth in the attached and incorporated Statement of Work and Compensation Addendums of this Agreement. Evidence of

insurance coverage required under this Section 7.1 will be made available to Health Share on request. Contractor will provide Health Share at least fifteen (15) days' advance written notice of revocation, suspension, reduction, limitation, probationary or other disciplinary action taken on any of Contractor's required insurance coverage. Proof of self insurance for the required types and amounts of coverage satisfies this section.

**7.2 Claims, Incidents, Suits and Disciplinary Actions.** Contractor agrees to promptly report to Health Share any claim made, suit filed or disciplinary action commenced against Contractor or Contractor's personnel relating to the provision of Contracted Services under this Agreement.

**7.3 Workers' Compensation.** If Contractor employs subject workers, as defined in ORS § 656.027, Contractor will comply with ORS § 656.017, and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS § 656.126(2).

## **ARTICLE VIII DISPUTES AND COMPLAINTS**

**8.1 Arbitration.** Except as otherwise provided in Section 8.2, any dispute, controversy, or claim arising out of the subject matter of this Agreement will be settled by arbitration before a single arbitrator in Portland, Oregon. If the parties agree on an arbitrator, the arbitration will be held before the arbitrator selected by the parties. If the parties do not agree on an arbitrator, each party will designate an arbitrator and the arbitration will be held before a third arbitrator selected by the designated arbitrators. Each arbitrator will be an attorney knowledgeable in the area of business and healthcare law. The arbitration will be initiated by filing a claim with Arbitration Service of Portland and will be conducted in accordance with the then-current rules of Arbitration Service of Portland. The resolution of any dispute, controversy, or claim as determined by the arbitrator will be binding on the parties. Judgment on the award of the arbitrator may be entered by any party in any court having jurisdiction.

**8.2 Compelling Arbitration.** A party may seek from a court an order to compel arbitration, or any other interim relief or provisional remedies pending an arbitrator's resolution of any dispute, controversy, or claim. Any such action, suit, or proceeding will be litigated in courts located in Multnomah County, Oregon. For the purposes of the preceding sentence, each party consents and submits to the jurisdiction of any local, state, or federal court located in Multnomah County, Oregon. If a claim must be brought in a federal forum, then it will be conducted solely and exclusively within the United States District Court for the District of Oregon.

**8.3 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.

## **ARTICLE IX GENERAL PROVISIONS**

**9.1 Amendments.**

**9.1.1 Mutual Amendment.** The terms of this Agreement may be amended from time to time in a writing signed by Health Share and Contractor.

**9.1.2 Notice Amendments.** Health Share may amend this Agreement by providing sixty (60) calendar days' written notice to Contractor of the amendment to the Agreement ("Notice Amendment"). Contractor may reject Notice Amendments by terminating this Agreement in accordance with terms for termination described above. If no notice of termination is received by Health Share, Notice Amendments will be binding upon Contractor at the end of the sixty (60) calendar-day period, and this Agreement will be deemed amended as of that date, or as of the date specified in the Notice Amendment, even if not signed by Contractor. The aforementioned notice requirements do not apply to Health Share's policies and procedures that may be updated from time to time. Such policies and procedures will be available to Contractor electronically or, by request of Contractor, on paper.

**9.1.3 Amendments Required by Law.** Health Share may modify this Agreement immediately to comply with changes in state or federal laws or regulations, as described in Section 5.5 of this Agreement. Such amendments do not require consent of Contractor and will be effective immediately on notice to Contractor of the effective date thereof. Health Share will provide notice to Contractor of such amendments as soon as reasonably possible.

## **9.2 Notices and Communications between the Parties.**

**9.2.1 Certain Notices Required Under This Agreement.** The following notices must be sent via overnight delivery with delivery confirmation or certified mail, return receipt requested:

- (a) All notices for termination of this Agreement; and
- (b) All requests for mediation and/or arbitration.

**9.2.2 All Other Notices and Communications.** All other notices and communications between the parties which are necessary for the proper administration of this Agreement (including notices required within this Agreement which are not included in Section 9.2.1 above) may be communicated via regular U.S. mail, confirmed facsimile or confirmed electronic mail.

**9.2.3 Confidential and Protected Health Information.** If a notice or communication includes information which is confidential or proprietary to either or both parties and/or which includes PHI as defined under HIPAA, then the following restrictions must be observed when communicating such information:

- (a) U.S. Mail/Certified Mail/Overnight Delivery: no additional requirements.
- (b) Facsimile Transmission: The information must be prefaced by a formal cover sheet noting the confidentiality of such information.
- (c) Web Site: Not a permitted method of notice or communication for confidential information and PHI, unless the Web Site is secure or the information appropriately encrypted.

(d) Electronic Mail: Not a permitted method of notice or communication for confidential information and PHI, unless the electronic mail is secured or the information is appropriately encrypted.

**9.2.4 Address for Notices.** Notices to Contractor will be sent to: (i) the facsimile or postal address of Contractor's billing service location or any other revised postal address or facsimile provided by Contractor to Health Share in writing; or (ii) the electronic mail address designated by Contractor for electronic notices. Notices to Health Share will be sent to:

Health Share of Oregon  
2121 SW Broadway, Suite 200  
Portland, Oregon 97201  
Attention: Contract Department

Or any revised address provided to Contractor in writing. The facsimile, postal address or electronic mail address for notice may be changed on prior written notice to the other party.

**9.2.5 When Made.** For notices described under Section 9.2.1 above, the notice will be deemed to have been made on the date it was delivered. For notices and communications described under Section 9.2.2, the notice or communication will be deemed to have been made when sent or emailed and confirmed.

### **9.3 Assignment of Contract, Successors in Interest, Subcontractor.**

**9.3.1** Health Share may assign or transfer Health Share's interest in this Agreement without prior consent of Contractor.

**9.3.2** Contractor will not assign or transfer Contractor's interest in this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or in any other manner, without prior written consent of Health Share. Any such assignment or transfer, if approved, is subject to such conditions and provisions as Health Share may deem necessary. No approval by Health Share of any assignment or transfer of interest will be deemed to create any obligation of Health Share in addition to those set forth in this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.

**9.3.3** Contractor will obtain Health Share's written approval prior to entering into any agreements with or otherwise engaging any persons, including all subcontractors and affiliates of Contractor other than Contractor's employees or Practitioners to provide any Contracted Services (each approved subcontractor or other third party a "Permitted Subcontractor"). Health Share's approval will not relieve Contractor of Contractor's obligations under this Agreement, and Contractor will remain fully responsible for the performance of each such Permitted Subcontractor and Permitted Subcontractor's employees and for their compliance with all the terms and conditions of this Agreement as if they were Contractor's own employees. Nothing contained in this Agreement will create any contractual relationship between Health Share and any Contractor subcontractor or supplier.

**9.4 Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

**9.5 Entire Agreement; Amendments.** This Agreement, together with all Statements of Work, Compensation Addendums, Exhibits, schedules, attachments, and any other documents incorporated into this Agreement by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms and provisions of this Agreement and those of any Statement of Work, Compensation Addendum, or Exhibit, the following order of precedence will govern: (a) first, this Agreement, exclusive of the Agreement's Exhibits; (b) second, the applicable Statement of Work; (c) third, the applicable Compensation Addendum; and (d) fourth, any Exhibit to this Agreement. This Agreement may only be amended pursuant to the provisions described in Section 9.1.

**9.6 Confidential Business Information.** Contractor agrees not to disclose to any third party any Confidential Information, as defined in this Section 9.6, that is disclosed to Contractor as a result of Contractor's participation in this Agreement. "Confidential Information" will mean all information provided by one party to this Agreement to another in connection with this Agreement, which is designated as "Confidential." Confidential Information includes, without limitation, information relating to a party's trade secrets, research and development, inventions, know-how, software (including source code and object code), procedures, purchasing, accounting, marketing, patients, customers, suppliers, financial status or employees whether designated as "Confidential" or not. Each party agrees that it will not make use of, disseminate, disclose or in any way circulate any Confidential Information supplied to or obtained by such party in writing, orally or by observation, except as expressly permitted by this Agreement or as required by law or order of a court or administrative agency having jurisdiction. Confidential Information may be used as necessary to perform the services required under this Agreement and may be disclosed by a party to this Agreement to its own employees that require access to such Confidential Information for the purposes of this Agreement. This paragraph does not prevent disclosure in connection with an audit or survey in the normal course of business by regulatory authorities, certified public accountants, accrediting institutions and the like; provided the recipient is under a duty to protect the confidentiality of the information disclosed.

**9.7 Waiver.** The waiver of any provision of this Agreement will only be effective if set forth in writing and signed by the waiving party. Any such or other waiver will not operate as, or be deemed to be, a continuing waiver of the same or of any other provision of this Agreement.

**9.8 Third-Party Rights.** The parties do not intend the benefits of this Agreement to inure to any third person not a signatory to this Agreement. The Agreement will not be construed as creating any right, claim, or cause of action against any party by any person or entity not a party to this Agreement except as otherwise described in this Agreement.

**9.9 Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all counterparts together will constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of

electronic transmission will be deemed to have the same legal effect as delivery of an original signed copy of the Agreement.

The foregoing terms are agreed to by the parties.

**Health Share of Oregon**

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

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

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

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

**Clackamas County Health Department**

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

Name: Richard Swift

Title: Director, Healthy Housing and human Services

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

TIN: 93-6002186



## **EXHIBIT A**

### **Health Share of Oregon Risk Accepting Entities**

Listed below are the Risk Accepting Entities which are contracted with Health Share, as referenced in Section 2.1. Health Share will notify Contractor if this list changes.

CareOregon, Inc.

Kaiser Foundation Health Plan

Providence Health Assurance

Tuality Health Alliance

Clackamas County

Multnomah County

Washington County

Advantage Dental

ODS Community Health, Inc.

Willamette Dental Group

## OREGON HEALTH PLAN ADDENDUM

Health Share is a party to a Health Plan Services contract (CCO Contract) with the State of Oregon, Oregon Health Authority (OHA). That contract requires certain additional provisions to be included in the agreement between Health Share and Contractor. As such, Contractor will comply with and cause any Subcontractor of Contractor to Comply with, all of the provisions in this Oregon Health Plan (OHP) Addendum to the extent they are applicable to the services provided by Contractor. If Contractor subcontracts any functions of the Agreement, Contractor will ensure that any subcontracts include all of the requirements set forth in this OHP Addendum. Capitalized terms used in this OHP Addendum that are not otherwise defined in this OHP Addendum or the Agreement have the meanings given to them in the OHP Contract. Health Share may undertake any duties under this Addendum either directly or through Health Share's arrangement with a Plan Partner. Similarly, Contractor will cooperate with and afford to any Plan Partner the same rights and obligations that the Contractor owes to Health Share under the Agreement and the OHP Addendum. Therefore, references throughout this OHP Addendum to rights and obligations that Contractor owes to Health Share should also be read to include an obligation to afford those same rights and obligations to a Plan Partner, unless the context suggests otherwise. References to "Medically Necessary" in the main body of the Agreement have the same meaning as "Medically Appropriate," as that term is defined under the statutes and regulations implementing the Oregon Health Plan.

1. **General Commitment to Comply with Terms of OHP Contract.** Contractor has been given a copy of the OHP Contract. Contractor agrees to comply with all requirements, terms, conditions, commitments, responsibilities, and obligations applicable to a "Subcontractor" or a "Participating Provider," as those terms are defined and applied in the OHP Contract, to the extent they are applicable to the services provided by Contractor under this Agreement.
2. **Compliance with Applicable Law.** Contractor will comply with all Federal, State and local laws, regulations, executive orders and ordinances applicable to the OHP Contract or to the performance of services under the Agreement as they may be adopted, amended or repealed from time to time, including but not limited to the following: (i) ORS Chapter 659A.142; (ii) OHA rules pertaining to the provision of prepaid capitated health care and services, OAR Chapter 410, Division 141; (iii) all other OHA Rules in OAR Chapter 410; (iv) all other applicable requirements of State civil rights and rehabilitation statutes, rules and regulations; (v) Title VI and VII of the Civil Rights Act of 1964, as amended; (vi) 45 CFR Part 84 which implements Title V, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (vii) the Americans with Disabilities Act of 1990, as amended; (viii) Executive Order 11246, as amended; (ix) the Health Insurance Portability and Accountability Act of 1996, as amended; (x) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (xi) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (xii) all regulations and administrative rules established pursuant to the foregoing laws; (xiii) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations; (xiv) section 1557 of the Affordable Care Act; and (xv) all federal law governing operation of CMHPs, including without limitation, all federal laws requiring reporting of Client abuse.
3. **Covered Services.** Contractor will provide Medically Appropriate health services described in ORS Chapter 414 and applicable administrative rules that are based on the Prioritized List of Health Services.

4. **Access to Records and Facilities.** Contractor will maintain all financial records related to the OHP Contract in accordance with generally accepted accounting principles or National Association of Insurance Commissioners accounting standards. In addition, Contractor will maintain any other records, books, documents, papers, plans, records of shipment and payments and writings of Contractor, whether in paper, electronic or other form, that are pertinent to the OHP Contract in such a manner to clearly document Contractor's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Contractor whether in paper, electronic or other form, that are pertinent to this Contract, are collectively referred to as "Records." Contractor acknowledges and agrees that OHA, the Secretary of State's Office, CMS, the Comptroller General of the United States, the Oregon Department of Justice Medicaid Fraud Control Unit and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all Records for the longer of: (i) Ten (10) years following final payment and termination of the OHP Contract; (ii) the retention period specified in this Agreement for certain kinds of records; (iii) The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapters 410 and 166; or (iv) until the conclusion of any audit, controversy or litigation arising out of or related to the OHP Contract or the Agreement. Contractor will, upon request and without charge, provide a suitable work area and copying capabilities to facilitate such a review or audit. The rights of access in this subsection are not limited to the required retention period, but shall last as long as the records are retained.
5. **No Billing for Non-Covered Services.** Contractor will not bill Members for services that are not covered under the OHP Contract unless there is a full written disclosure or waiver on file signed by the Member, in advance of the service being provided, in accordance with OAR 410-120-1280.
6. **Acknowledgment of Receipt of Grievance System.** Contractor acknowledges that Health Share provided to Contractor a copy of OHA's approved written procedures for Health Share's grievance system.
7. **Performance Monitoring.** Contractor will cooperate with Health Share's policies, procedures, and actions, and will comply, as requested, with a Health Share request for information, documentation, reporting and access that permit Health Share to monitor the Contractor's performance on an ongoing basis and, as necessary, to perform a formal review of Contractor's compliance with delegated responsibilities and performance, and to identify any deficiencies or areas for improvement, in accordance with 42 CFR 438.230. On identification of deficiencies or areas for improvement, Contractor will be required to develop and implement a time specific plan for the correction of identified areas of noncompliance or substandard performance.
8. **Termination for Cause.** In addition to other remedies provided in the Agreement or provided at law, Health Share may terminate the Agreement or impose other sections if the Contractor's performance is inadequate to meet the requirements of the OHP Contract.
9. **Federal Managed Care Requirements.** Contractor will comply with the requirements of 42 CFR 438.6 that are applicable to any services or supplies provided by Contractor under the Agreement.

10. **Prevention/Detection of Fraud & Abuse.** Contractor will have fraud and abuse policies and procedures and a mandatory compliance plan, in accordance with in accordance with OAR 410-120-1510, 42 CFR 433.116, 42 CFR 438.214, 438.600 to 438.610, 438.808, 42 CFR 455.20, 455.104 through 455.106 and 42 CFR 1002.3, as applicable, which enable Contractor to prevent and detect fraud and abuse activities as such activities relate to the OHP. Contractor will review Contractor's fraud and abuse policies annually. Contractor will promptly notify and refer all suspected cases of fraud and abuse, including fraud by its employees and subcontractors to Health Share, Plan Partners, OHA Provider Audit Unit (PAU) and the Medicaid Fraud Control Unit (MFCU).
11. **Cooperation with Fraud & Abuse Investigations.** Contractor will cooperate, and requires its subcontractors to cooperate, with Health Share, Plan Partners, PAU and the MFCU investigators during any investigation of fraud or abuse. Contractor will permit Health Share, Plan Partners, PAU or MFCU to inspect, evaluate, or audit books, records, documents, files, accounts, and facilities maintained by or on behalf of Contractor or by or on behalf of any subcontractor, as required to investigate an incident of fraud and abuse. Contractor will provide copies of reports or other documentation regarding the suspected fraud or abuse at no cost to Health Share, Plan Partners, PAU or MFCU during an investigation.
12. **Abuse Reporting.** Contractor will comply with all patient abuse reporting requirements and fully cooperate with the State for purposes of ORS 410.610 et seq., ORS 419B.010 et seq., ORS 430.735 et seq., ORS 433.705 et seq., ORS 441.630 et seq., and all applicable rules associated with those statutes. Furthermore, Contractor will comply with all protective services, investigation and reporting requirements described in OAR 943-045-0250 through 943-045-0370 and ORS 430.735 through 430.765.
13. **Timely Access to Care.** Contractor will meet OHP standards for timely access to care and services, taking into account the urgency of the need for services as specified in OAR 410-141-3220. This requirement includes Contractor offering hours of operation that are not less than the hours of operation offered to Contractor's commercial patients (as applicable).
14. **Reporting of Preventive Services.** If Contractor provides any Preventive Care Services, Contractor will report all services provided to Members to Health Share or Plan Partner to which the Member has been assigned for purposes of Health Share's or Plan Partner's Medical Case Management and Record Keeping responsibilities.
15. **Reporting to OHA of Admissions or Discharges.** If the services provided by the Contractor under this Agreement includes providing substance use disorder services or Mental Health Services, Contractor will provide to OHA, within 30 days of admission or discharge, with all information required by OHAs most current reporting system, currently "Measures and Outcomes Tracking System" ("MOTS").
16. **Required Background and Training for Substance Use Disorders.** If the services provided by the Contractor under this Agreement includes the evaluation of Members for access to and length of stay in substance use disorder services, Contractor will ensure that Contractor's personnel providing such services must have the training and background in substance use disorder services and working knowledge of American Society of Addiction Medicine

(“ASAM”) Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition-Revised (“PPC-2R”). Contractor shall participate with OHA in a review of data about the impact of those criteria on service quality, cost, outcome and access.

17. **Substance Use Disorder Personnel to Provide Information about Community Resources.** If the services provided by the Contractor under this Agreement includes providing substance use disorder services, Contractor will ensure that Contractor’s personnel providing such services will provide to Member, to the extent of available community resources and as clinically indicated, information and referral to community services which may include, but are not limited to: child care, elder care, housing, transportation, employment, vocational training, educational services, mental health services, financial services, and legal services.
18. **No Adverse Treatment of Members Exercising Rights.** Contractor will ensure that OHP Members are free to exercise their patient rights under Oregon law, and that the exercise of those rights will not adversely affect the way the Contractor or Contractor’s personnel treat the Member. Contractor will not discriminate in any way against Members when those Members exercise their rights under the OHP.
19. **No Marketing.** Contractor may not initiate contact or Market independently to Potential Members, directly or through any agent or independent contractor, in an attempt to influence a Client’s Enrollment with Health Share or any other entity, without the express written consent of OHA. Contractor may not conduct, directly or indirectly, door-to-door, telephonic, mail, electronic, or other Cold Call Marketing practices to entice the Client to enroll with any entity, or to not enroll with another contractor. Contractor may not seek to influence a Client’s Enrollment with Health Share or any other entity in conjunction with the sale of any other insurance.
20. **Accommodation for Disability or Limited English.** Contractor will be prepared to meet the special needs of Members who require accommodations because of a disability or limited English proficiency, including interpretation services pursuant to Section 1557 of the Affordable Care Act (ACA) of 2010.
21. **Access to Records and Cooperation with Information Collection Efforts.** Contractor will provide timely access to records and facilities and cooperate with OHA in collection of information through consumer surveys, onsite reviews, medical chart reviews, financial reporting and financial record reviews, interviews with staff, and other information for the purposes of monitoring compliance with OHP Contract, including but not limited to verification of services actually provided, and for developing and monitoring performance and outcomes.
22. **Third Party Liability Recovery.** Contractor will maintain records of any Contractors actions related to Third Party Liability recovery, and make those records available for OHA review. Contractor may not refuse to provide Covered Services, to a Member because of a Third Party potential liability for payment for the Covered Service. Contractor will comply with 42 USC 1395y(b), which gives Medicare the right to recover its benefits from employers and workers’ compensation carriers, liability insurers, automobile or no fault insurers, and employer group health plans before any other entity including Contractor. Contractor acknowledges that where Medicare and Health Share have paid for services, and the amount available from the Third Party Liability is not sufficient to satisfy the Claims of both programs to reimbursement, the

Third Party Liability must reimburse Medicare the full amount of its Claim before any other entity including Contractor may be paid. Contractor acknowledges that if the Third Party has reimbursed Health Share or Contractor, or if a Member, after receiving payment from the Third Party Liability, has reimbursed Health Share or Contractor, Health Share or Contractor must reimburse Medicare up to the full amount that Health Share or Contractor received, if Medicare is unable to recover its payment from the remainder of the Third Party Liability payment.

23. **Subrogation.** Contractor agrees to subrogate to OHA any and all claims Contractor has or may have against manufacturers, wholesale or retail suppliers, sales representatives, testing laboratories, or other providers in the design, manufacture, marketing, pricing, or quality of drugs, pharmaceuticals, medical supplies, medical devices, durable medical equipment, or other products.
24. **External Quality Review.** In conformance with 42 CFR 438 Subpart E, Contractor will cooperate with OHA by providing access to records and facilities for the purpose of an annual external, independent professional review of the quality outcomes and timeliness of, and access to, the services provided under this Agreement and releasing its right to subrogation in a particular case.
25. **Sterilization and Hysterectomy Records.** If applicable, Contractor will, within 60 days of a request from OHA or Health Share, provide Health Share with a list of all Members who received sterilizations or hysterectomies, from Contractor and copies of the informed consent form or certification. OHA and Health Share will be permitted to review the Medical Records of these individuals selected by OHA for purposes of determining compliance with OAR 410-130-0580.
26. **Produce Alternate Forms of Communication.** In compliance with the Americans with Disabilities Act, any written material that is generated and provided by Contractor to be reproduced in alternate formats of communication, to include Braille, large print, audiotape, oral presentation, and electronic format.
27. **Access to OHA Computer Systems.** If the services performed under this Agreement requires Contractor to have access to or use of any OHA computer system or other OHA Information Asset for which OHA imposes security requirements, and OHA grants Contractor access to such OHA Information Assets or Network and Information Systems, Contractor will comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
28. **Equal Employment Opportunity.** Contractor will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). Those regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, those regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance

in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

29. **Clean Air, Clean Water, EPA Regulations.** Contractor will comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 USC 1251 to 1387), specifically including, but not limited to Section 508 (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, DHHS and the appropriate Regional Office of the Environmental Protection Agency.
30. **Energy Efficiency.** Contractor will comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 USC 6201 et seq. (Pub. L. 94-163).
31. **Truth in Lobbying.** Contractor certifies, to the best of the Contractor's knowledge and belief that: (i) no federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement; (ii) if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, Contractor will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions; (iii) Contractor will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and Subcontractors shall certify and disclose accordingly; (iv) this certification is a material representation of fact upon which reliance was placed when this Agreement and the OHP Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
32. **HIPAA.** The parties acknowledge and agree that each of OHA, Health Share, and the Contractor is a "covered entity" for purposes of privacy and security provisions of the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA). Contractor will comply with HIPAA to the extent that any of its activities arising under the Agreement are covered by HIPAA. Contractor will develop and implement such policies and procedures for maintaining the privacy and security of records and authorizing the use and disclosure of records required to comply with this Agreement and the OHP Contract and with HIPAA. Contractor will comply with HIPAA and the following: (i)

Individually Identifiable Health Information about specific individuals is protected from unauthorized use or disclosure consistent with the requirements of HIPAA. Contractor will not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate HIPAA, Privacy Rules in 45 CFR Parts 160 and 164, OHA Privacy Rules, OAR 407-014-0000 et. seq., or either the OHA or Health Share Notice of Privacy Practices, if done by OHA. A copy of the most recent OHA Notice of Privacy Practices is posted on the OHA web site at: <https://apps.state.or.us/Forms/Served/DE2090.pdf>, or may be obtained from OHA. A copy of Health Share's Notice of Privacy Practices is posted on the web site at: <http://healthshareoregon.org/notice-of-privacy-practice/>; (ii) Contractor will adopt and employ reasonable administrative, technical and physical safeguards consistent with the Security Rules in 45 CFR Part 164 to ensure that Member Information shall be used by or disclosed only to the extent necessary for the permitted use or disclosure and consistent with applicable State and federal laws and the terms and conditions of this Contract. Security incidents involving Member Information must be immediately reported to Health Share's Compliance Officer; (iii) Contractor will comply with the HIPAA standards for electronic transactions published in 45 CFR Part 162 and the DHS EDT Rules and OAR 407-014-000 through 407-014-0205. In order for Contractor to exchange electronic data transactions with OHA in connection with Claims or encounter data, eligibility or Enrollment information, authorizations or other electronic transaction, Contractor shall execute an EDT Trading Partner Agreement with OHA and shall comply with the OHA EDT Rules; and (iv) If Contractor reasonably believes that the Contractor's or OHA's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Contractor will promptly consult the Health Share Privacy officer. Contractor, Health Share, or OHA may initiate a request for testing of HIPAA transaction requirements, subject to available resources and OHA testing schedule.

33. **Resource Conservation and Recovery.** Contractor will comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
34. **Audits.** Contractor will comply with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations."
35. **Debarment and Suspension.** Contractor represents and warrants that it is not, and that none of Contractor's employees, contractors, service providers, personnel or workforce members is not, listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension." (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549.
36. **Drug-Free Workplace.** Contractor will comply with the following provisions to maintain a drug-free workplace: (i) Contractor certifies that it will provide a drug-free workplace by



publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the counter medications, is prohibited in Contractor's workplace or while providing services to Clients. Contractor's notice will specify the actions that will be taken by Contractor against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in Paragraph (i) above; (iv) Notify each employee in the statement required by Paragraph (i) above, that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction; (v) Notify Health Share within 10 days after receiving notice under Paragraph (iv) above, from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of Paragraphs (i) through (vi) above; (viii) Require any Subcontractor to comply with Paragraphs (i) through (vii) above; (ix) Neither Contractor, or any of Contractor's employees, officers, agents or Subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent or Subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or Subcontractor's performance of essential job function or creates a direct threat to Clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Agreement.

37. **Pro-Children Act.** Contractor will comply with the Pro-Children Act of 1994 (codified at 20 USC §6081 et seq.).
38. **Additional Medicaid and CHIP Requirements.** Contractor will comply with all applicable federal and State laws and regulations pertaining to the provision of OHP Services under the Medicaid Act, Title XIX, 42 USC §1396 et seq., and CHIP benefits established by Title XXI of the Social Security Act, including without limitation the following: (i) Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving OHP assistance and shall furnish such information to any State or federal agency responsible for administering the OHP program regarding any payments claimed by such person or institution for providing OHP Services as the State or federal agency may from time to time request. 42 USC §1396a(a)(27); 42 CFR 431.107(b)(1) & (2); and 42 CFR 457.950(a)(3). (ii) Comply with all disclosure requirements of 42 CFR 1002.3(a); 42 CFR 455 Subpart (B); and 42 CFR 457.900(a)(2). (iii) Maintain written notices and procedures respecting Advance Directives in compliance with 42 USC Section 1396(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 489

Subpart I. (iv) Certify when submitting any Claim for the provision of OHP Services that the information submitted is true, accurate and complete. Contractor will acknowledge Contractor's understanding that payment of the Claim will be from federal and State funds and that any falsification or concealment of a material fact may be prosecuted under federal and State laws. (v) Entities receiving \$5 million or more annually (under this Contract and any other OHP contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 USC § 1396a(a)(68).

39. **Agency-based Voter Registration.** If applicable, Contractor will comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
40. **Clinical Laboratory Improvements.** Contractor will ensure that any Laboratories use by Contractor shall comply with the Clinical Laboratory Improvement Amendments (CLIA 1988), 42 CFR Part 493 Laboratory Requirements and ORS 438 (Clinical Laboratories, which require that all laboratory testing sites providing services under the OHP Contract shall have either a Clinical Laboratory Improvement Amendments ("CLIA") certificate of waiver or a certificate of registration along with a CLIA identification number. Those Laboratories with certificates of waiver will provide only the eight types of tests permitted under the terms of their waiver. Laboratories with certificates of registration may perform a full range of laboratory tests.
41. **Advance Directives.** Contractor will comply, if applicable, with 42 CFR Part 422.128 for maintaining written policies and procedures for Advance Directives. This includes compliance with 42 CFR 489, Subpart I "Advance Directives" and OAR 410-120-1380, which establishes, among other requirements the requirements for compliance with Section 4751 of the Omnibus Budget Reconciliation Act of 1991 ("OBRA") and ORS 127.649, Patient Self- Determination Act. Contractor will maintain written policies and procedures concerning Advance Directives with respect to all adult Members receiving medical care by Contractor. Contractor will provide adult Members with written information on Advance Directive policies and include a description of Oregon law. The written information provided by Contractor must reflect changes in Oregon law as soon as possible, but no later than 90 days after the effective date of any change to Oregon law. Contractor must also provide written information to adult Members with respect to the following: (i) Their rights under Oregon law; and (ii) Contractor's policies respecting the implementation of those rights, including a statement of any limitation regarding the implementation of Advance Directives as a matter of conscience. (iii) Contractor must inform Members that complaints concerning noncompliance with the Advance Directive requirements may be filed with OHA.
42. **Office of Minority, Women and Emerging Small Businesses.** If Contractor lets any subcontracts, Contractor will take affirmative steps to: include qualified small and minority and women's businesses on solicitation lists, assure that small and minority and women's businesses are solicited whenever they are potential sources, divide total requirements into smaller tasks or quantities when economically feasible so as to permit maximum small and minority and women's business participation, establish delivery schedules when requirements permit which will encourage participation by small and minority and women's businesses, and

use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

43. **Practitioner Incentive Plans (“PIP”).** Contractor may operate a Practitioner Incentive Plan only if no specific payment is made directly or indirectly under the plan to a Contractor as inducement to reduce or limit Medically Appropriate Covered Services provided to a Member. Contractor shall comply with all requirements of Exhibit H of the OHP Contract, Practitioner Incentive Plan Regulation Guidance, to ensure compliance with Sections 4204(a) and 4731 of the Omnibus Budget Reconciliation Act of 1990 that concern Practitioner Incentive Plans.
44. **Conflict of Interest Safeguards.** Contractor will not recruit, promise future employment, or hire any DHS or OHA employee (or their relative or member of their household) who has participated personally and substantially in the procurement or administration of the OHP Contract as a DHS or OHA employee. Contractor will not offer to any DHS or OHA employee (or any relative or member of their household) any gift or gifts with an aggregate value in excess of \$50 during a calendar year or any gift or payment of expenses for entertainment. “Gift” for this purpose has the meaning defined in ORS 244.020(6) and OAR 199-005-0001 to 199-005-0035. Contractor will not retain a former DHS or OHA employee to make any communication with or appearance before OHA on behalf of Health Share in connection with the OHP Contract if that person participated personally and substantially in the procurement or administration of the OHP Contract as a DHS or OHA employee. If a former DHS or OHA employee authorized or had a significant role in the OHP Contract, Contractor will not hire such a person in a position having a direct, beneficial, financial interest in the OHP Contract during the two-year period following that person’s termination from DHS or OHA. Contractor will develop appropriate policies and procedures to avoid actual or potential conflict of interest involving Members, DHS or OHA employees, and sub-contractors.
45. **Non-Discrimination.** Contractor will comply with all federal and State laws and regulations including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities) the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (“ADA”) of 1990, and all amendments to those acts and all regulations promulgated thereunder. Contractor will also comply with all applicable requirements of State civil rights and rehabilitation statutes and rules. Contractor will comply with, the integration mandate in 28 CFR 35.130(d), Title II of the Americans with Disabilities Act and its implementing regulations published in the Code of Federal Regulations.
46. **Electronic Data Systems.** To the extent applicable, Contractor will comply with the Outcome and Assessment Information Set (“OASIS”) reporting requirements and patient notice requirements for skilled services provided by Home Health Agencies, pursuant to CMS requirements published in 64 FR 3764, 64 FR 3748, 64 FR 23846, and 64 FR 32984, and such subsequent regulations as CMS may issue in relation to the OASIS program. Contractor will also comply, as applicable, with all current requirements of OHA’s electronic data system to include OWITS Behavioral Electronic Health Records, enhanced data capture through OWITS EHR, Electronic Data Interchange/Transfer from existing EHR or the MOTS Client Data Entry, and the OHA Contracts and Payments System, or any successor data systems to the foregoing.

47. **Patient Rights Condition of Participation.** To the extent applicable, Contractor will comply with, the Patient Rights Condition of Participation (“COP”) that hospitals must meet to continue participation in the Medicaid program, pursuant to 42 CFR Part 482. For purposes of this Contract, hospitals include short-term, psychiatric, rehabilitation, long-term, and children’s hospitals.
48. **Federal Grant Requirements.** The federal Medicaid rules establish that OHA is a recipient of federal financial assistance, and therefore is subject to federal grant requirements pursuant to 42 CFR 430.2(b). To the extent applicable to Contractor or to the extent OHA requires Contractor to supply information or comply with procedures to permit OHA to satisfy its obligations federal grant obligations or both, Contractor must comply with the following parts of 45 CFR: (i) Part 74, including Appendix A (uniform federal grant administration requirements); (ii) Part 80 (nondiscrimination under Title VI of the Civil Rights Act); (iii) Part 84 (nondiscrimination on the basis of handicap); (iv) Part 91 (nondiscrimination on the basis of age); (v) Part 95 (Medicaid and CHIP federal grant administration requirements); and (vi) Contractor will not expend any of the funds paid under this Contract for roads, bridges, stadiums, or any other item or service not covered under the OHP.
49. **Workers’ Compensation Coverage.** Contractor will comply with ORS 656.017, and will provide worker’s compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).
50. **Conflicts.** Conflicts between the main body of the Agreement and this OHP Addendum will be resolved and controlled by this OHP Addendum.

## Statement of Work Addendum

### I. Purpose:

In order to make advantageous use of the system of public health care and services available through local health departments and other publicly supported programs and to ensure access to public health care and services through contract under ORS 414.153, Coordinated Care Organizations (CCOs) shall have agreements with publicly funded providers for authorization of payment for point of contact services in the following categories:

- (a) Immunizations;
- (b) Sexually transmitted diseases; and
- (c) Other communicable diseases;

The purpose of this Agreement is to address these contractual obligations to pay local public health authorities (LPHAs) for screening and treatment of active and latent tuberculosis (TB) for Health Share members as well as direct point-of-contact routine services provided by LPHAs for sexually transmitted infection screening not otherwise covered by any of Contractor's other contracts, as described in the Agreement.

### II. Terms:

- A. Health Share members are eligible for inclusion in payment under this Agreement.
- B. Provider will submit monthly invoice reports to Health Share for members receiving: screening for TB, treatment for active or latent TB, immunizations for communicable diseases, and STI screening (including screening for HIV and HCV)
  - a. The invoice will be in Excel format and include the following elements:
    - i. Member Name
    - ii. Member Medicaid ID #
    - iii. ICD-10 Diagnosis Code
    - iv. Service provided (screening, Tier 1 case management or Tier 2 case management)
    - v. Disposition (if providing Tier 1 or 2 case management), such as active treatment, suspended treatment, completed treatment
  - b. For members receiving treatment for active or latent TB the monthly invoice will only include members who were actively receiving treatment as of the 15<sup>th</sup> of the month
  - c. For members receiving STI or TB screening the monthly invoice will include a unit of service for TB screenings, and STI screenings performed. A unit of service is a single screening encounter for a single person on a single day, regardless of how many tests are done.
- C. Services covered under the Agreement include:
  - a. Treatment for active and latent TB including:
    - i. Directly observed therapy
    - ii. Sputum collection
    - iii. Home and community visits related to TB treatment
    - iv. Services associated with ensuring compliance of treatment plan and medication adherence
    - v. Services related to TB treatment provided by, but not limited to, Community Health Workers, Intervention Specialists, Licensed Practical Nurses, Registered Nurses, and Physicians

- b. Screening for STI, including HIV and HCV, for each member with symptoms or high risk
  - c. Screening for tuberculosis for each member with symptoms or high risk
- D. Services that are excluded from this Agreement include:
- a. Pharmaceutical costs including vaccines
  - b. Costs covered by state grants to support public health activities
  - c. Point of care lab test costs
  - d. Services provided and billed under any of Contractor's existing contracts.
- E. Health Share shall be entitled to audit Provider with respect to Provider's performance of its duties and obligations hereunder and with respect to compliance issues, including Provider's compliance programs. Provider is required to address compliance issues through education, counseling or corrective action plans. Provider shall cooperate with Health Share with respect to any such audit, including providing Health Share with Records and site access within such time frames as requested by Health Share.

### III. Payment:

- A. As outlined in Exhibit A, Health Share agrees to pay Provider the corresponding tiered monthly case rate for the treatment of latent and active TB and fee-for-service rates for TB screening and STI screenings.
- B. For the TB treatment case rates, Provider will only invoice Health Share for the eligible members actively receiving TB treatment as of the 15<sup>th</sup> day of each month. Provider will not invoice for members who may have been in active treatment for a portion of the month outside of the 15<sup>th</sup> day. This methodology ensures ease of administration and is not expected to be materially financially impactful to either Health Share or Provider.
- C. For the TB screening and STI screening, Provider will invoice Health Share for each unit of service performed on eligible members during the invoice month.
- D. Initial invoice for services rendered between July 1, 2018 and December 31, 2018 shall be submitted to Health Share no later than February 28, 2019.
- E. Provider shall prepare and submit monthly invoices to Health Share within sixty (60) days of the date of service or the invoices may be ineligible for payment.
- F. Health Share shall review the monthly invoice and pay the provider no later than 30 days after receipt of the monthly invoice. Payment shall be based on the case rates and fee-for-service rates in Exhibit A for the number of unique members and services billed on the invoice.
- G. The Provider agrees this payment is for the time period outlined above and does not imply or guarantee ongoing funding.
- H. Total payment under this Agreement will not exceed \$1.6 million over the 12-month term for Health Share members across the three counties of Multnomah, Washington and Clackamas. The three counties bear responsibility for communicating with each other about regional progress toward the cap.

## Compensation Addendum

### Case Rate Schedule of Payment for Health Share Members:

This schedule establishes payment for services rendered Health Share members who are actively receiving latent or active TB treatment from Contractor where reimbursement for services will be made through payment of an agreed upon monthly case rate. The parties acknowledge this Agreement and its associated rates will be evaluated periodically. The parties have agreed on the monthly case rate set forth below.

Tier Level – Monthly Case Rate	Eligible Benefit Plan	Services Included in Monthly Case Rate	Diagnosis Code (ICD-10)	Case Rate Paid Per Member Per Month*
Tier 1 – Latent TB Treatment	Health Share Member	<ul style="list-style-type: none"> <li>• Home and community visits related to latent TB treatment</li> <li>• Services associated with ensuring compliance of treatment plan and medication adherence</li> <li>• Services provided by, but not limited to, Community Health Workers, Disease Intervention Specialists, Licensed Practical Nurses, Registered Nurses, and Physicians</li> </ul>	R76.11 or R76.12†	\$250
Tier 2 – Active TB Treatment	Health Share Member	<ul style="list-style-type: none"> <li>• Home and community visits related to active TB treatment</li> <li>• Services associated with ensuring compliance of treatment plan and medication adherence</li> <li>• Services related to TB treatment provided by, but not limited to, Community Health Workers, Intervention Specialists, Licensed Practical Nurses, Registered Nurses, and Physicians</li> </ul>	A15.x, A17.xx, A18.xx, or A19.x†	\$500

\*Members paid per monthly invoice submitted by Contractor.

†ICD-10 codes must be as specific as possible, including all decimal point extensions.

**Fee-for-Service Schedule of Payment for Health Share Members:**

This schedule establishes payment for services rendered to Health Share members who receive TB screening or STI/HIV/HCV screening for which reimbursement for services will be made per the fee schedule below. The parties acknowledge this Agreement and its associated rates will be evaluated periodically. The parties have agreed upon the fee-for-service rates set forth below.

<b>Service</b>	<b>Eligible Benefit Plan</b>	<b>Services Included in Fee-for-Service Rate</b>	<b>CPT Code</b>	<b>Fee-for-Service Rate*</b>
STI or TB Screening	Health Share members	<ul style="list-style-type: none"><li>• STI screening service (includes HIV/HCV screening)</li><li>• Tuberculosis screening service</li><li>• Services provided by, but not limited to, Community Health Workers, Disease Intervention Specialists, Licensed Practical Nurses, Registered Nurses, and Physicians</li></ul>	99212	\$33.64

\*Members paid per service provided per monthly invoice.



February 14, 2019

Board of Commissioners  
Clackamas County

Members of the Board:

Approval of an Agency Service Agreement with  
Impact NW for Shelter Plus Care Supportive Services

<b>Purpose/Outcomes</b>	Agency will provide Shelter Plus Care Supportive Services to hard to serve homeless individuals with disabilities and their families.
<b>Dollar Amount and Fiscal Impact</b>	Up to \$100,000 per year not to exceed \$300,000. Subject to continuing Board of Commissioners' approval.
<b>Funding Source</b>	County General Funds via the PLP – Affordable Housing & Services Fund
<b>Duration</b>	January 1, 2019 through December 31, 2021
<b>Previous Board Action</b>	None.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. This funding aligns with the Social Services Division's strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing.</li> <li>2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.</li> </ol>
<b>Contact Person</b>	Brenda Durbin, Director – Social Services Division – (503) 655-8641
<b>Contract No.</b>	9133

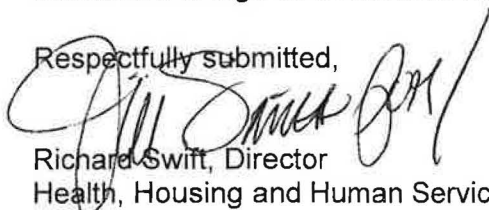
**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services Department requests approval of an Agency Service Agreement with Impact NW. Impact NW responded to a Request for Interest issued July 25, 2018 to provide Shelter Plus Care Supportive Services, and was selected to be awarded funding. County Counsel approved the agreement on January 30, 2019. The agreement provides funding of up to \$100,000 per year (not to exceed \$300,000) to assist hard to serve homeless individuals with disabilities and their families ensuring HUD rent assisted funds are fully utilized. The term of the agreement is January 1, 2019 through December 31, 2021 and is subject to continuing Board of Commissioners' approval. The funding source is County General Funds via the Affordable Housing & Services Fund established by the Board of Commissioners.

**RECOMMENDATION:**

Staff recommends the approval of this agreement, and that Richard Swift, H3S Director, be authorized to sign all documents necessary on behalf of Clackamas County.

Respectfully submitted,



Richard Swift, Director  
Health, Housing and Human Services Department

*Healthy Families. Strong Communities.*

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

[www.clackamas.us](http://www.clackamas.us)



## AGENCY SERVICE CONTRACT

### Contract # 9133

This contract is between Clackamas County, acting by and through its department of Health, Housing, & Human Services, Social Services Division, hereinafter called "COUNTY," and Impact NW, hereinafter called "AGENCY."

#### I. SCOPE OF SERVICES

- A. AGENCY agrees to accomplish the following work under this contract:

To provide Shelter + Care Supportive Services as outlined in **Exhibit A: Scope of Work & Performance Standards** attached hereto.

- B. Services required under the terms of this agreement shall commence **January 1, 2019** and shall terminate **December 31, 2021**.

#### II. COMPENSATION AND RECORDS

- A. Compensation. COUNTY shall compensate the AGENCY for satisfactorily performing the services identified in Section I: Scope of Services and completing the requirements of **Exhibit B: Reporting Requirements** attached hereto.

Total maximum compensation under this contract shall not exceed **\$300,000**.

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

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

As required in **Exhibit B: Reporting Requirements** and **Exhibit C: Budget**.

Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should 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, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for causes may continue until AGENCY submits required reports, performs required services, or establishes COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

- 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. 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 AGENCY which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

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

III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. AGENCY shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in **Exhibit D, Special Requirements**, attached hereto and incorporated herein. AGENCY must, throughout the duration of this contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this contract. Further, any violation of AGENCY'S warranty, in this contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this contract, to pursue and recover any and all damages that arise from the breach and the termination of this contract, and to pursue any or all of the remedies available under this contract, at law, or in equity, including but not limited to:
1. Termination of this contract, in whole or in part;
  2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
  3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.
- These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.
- B. Precedence. When a requirement is listed both in the main boilerplate of the contract and in an Exhibit, the Exhibit shall take precedence.
- C. Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.
- D. Independent Contractor. AGENCY certifies that it is an independent contractor and not an employee or agent of Clackamas County, State or Oregon or Federal government. AGENCY is not an officer, employee or agent of Clackamas County as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.
- E. Tax Laws. AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:
1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
  2. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;

3. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

IV. GENERAL CONDITIONS

- A. Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY and its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of 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.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

- B. Insurance.

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 \$1,000,000 per occurrence/\$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

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 \$1,000,000.

3. Professional Liability Insurance

Required by COUNTY       Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/ \$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of 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. COUNTY, at its option, may require a complete copy of the above policy.

**Impact NW**

Agency Service Contract # 9133

Page 4 of 54

4. Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the AGENCY's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this contract.
  5. Additional Insured 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.
  6. 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days' notice of cancellation provision shall be physically endorsed on to the policy.
  7. Insurance Carrier Rating. Coverages provided by AGENCY must be underwritten by an insurance company deemed acceptable by 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. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
  8. Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to county. No contract shall be in effect until the required certificates have been received, approved and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
  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. Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personam jurisdiction of said courts.
- D. 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.
- E. Severability. If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected, and the rights and obligations of the parties shall be construed

- and enforced as if the agreement did not contain the particular term or provision held to be invalid.
- F. Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.
- G. Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.
- H. Oregon Constitutional Limitations. 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 provision herein, which would conflict with such law, is deemed inoperative to that extent.
- I. Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 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 performance of this contract.
    - c. not permit any lien or claim to be filed or prosecuted against 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 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 contract.
  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;
    - b. 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
    - c. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

4. AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.
5. As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.
6. Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126. AGENCY shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.
- J. Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.
- K. Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.
- L. Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

V. TERMINATION

- A. Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) business days' notice, in writing and delivered by certified mail or in person.
- B. Termination With Cause. COUNTY, by written notice of default (including breach of contract) to AGENCY, may terminate this agreement effective upon delivery of written notice to AGENCY, or at such later date as may be established by 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 agreement.
  3. If any license or certificate required by law or regulation to be held by AGENCY to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
  4. If AGENCY fails to provide services, outcomes, reports as specified by COUNTY in this agreement.




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

This contract consists of five (5) sections plus the following attachments which by this reference are incorporated herein:

- Exhibit A: Scope of Work and Performance Standards
- Exhibit B: Reporting Requirements
- Exhibit C: Budget
- Exhibit D: Special Requirements
- Exhibit E: Request for Interest
- Exhibit F: Letter of Interest
- Attachment 1: Invoice Template

**AGENCY**

By:   
\_\_\_\_\_  
Jeff Cogen, Executive Director

\_\_\_\_\_  
Date  
PO Box 33530  
\_\_\_\_\_  
Mailing Address  
Portland OR 97232  
\_\_\_\_\_  
City / State / Zip  
(503)721-1740 /  
\_\_\_\_\_  
Phone / Fax

EIN: 34-1607734  
State of Oregon Registry Number: 078955-19

**CLACKAMAS COUNTY**

Commissioner: Jim Bernard, Chair  
Commissioner: Sonya Fischer  
Commissioner: Ken Humberston  
Commissioner: Paul Savas  
Commissioner: Martha Schrader

**Signing on Behalf of the Board:**

\_\_\_\_\_  
Richard Swift, Director  
Health, Housing and Human Service Department

\_\_\_\_\_  
Date

COPY

February 14, 2019

Board of Commissioners  
Clackamas County

Members of the Board:

Approval to apply for funding to Improve Criminal Justice Response to  
Domestic Violence, Dating Violence, Stalking and Sexual Assault through the  
US Department of Justice Office on Violence Against Women

<b>Purpose/Outcomes</b>	A three year grant to address criminal justice response to violence against women. Funded activities include video court, legal advocacy, domestic violence investigator, system training and education, and translation and interpretation services.
<b>Dollar Amount and Fiscal Impact</b>	\$750,000 (approximately \$250,000 per year through 2022) Catalogue of Federal Domestic Assistance (CFDA) #16.590 No County General Funds are involved and no match is required.
<b>Funding Source</b>	US Department of Justice Office on Violence Against Women
<b>Duration</b>	October 1, 2019 through September 30, 2022
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Individuals and families in need are healthy and safe</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Rodney A. Cook x 5677
<b>Contract No.</b>	N/A

**BACKGROUND:**

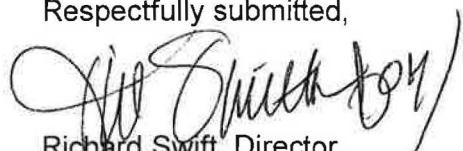
The Children, Family and Community Services of the Health, Housing and Human Services Department requests the approval to apply for a grant from the US Department of Justice Office on Violence against Women. Funding on this opportunity spans three years and activities will include video court, legal advocacy for victims, education and training for system partners, domestic violence investigator, and translation services.

The funding involved is federal (CFDA #16.590) and there is no match requirement.

**RECOMMENDATION:**

Staff recommends Board approval to apply and authorization for Richard Swift, H3S Director to sign all documents necessary to accomplish this action on behalf of the Board of Commissioners.

Respectfully submitted,



Richard Swift, Director  
Health, Housing & Human Services

Use this form to track your potential grant from conception to submission.  
Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

**\*\* CONCEPTION \*\***

Note: The processes outlined in this form are not applicable to disaster recovery grants.

**Section I: Funding Opportunity Information - To be completed by Requester**

Application for:  Subrecipient funds  Direct Grant  
Lead Department: H3S-CFCC Grant Renewal?  Yes  No  
**If renewal, complete sections 1, 2, & 4 only**  
Name of Funding Opportunity: OVW FY 2019 Improving Criminal Justice Responses to Domestic Violence, Dating Violence, Sexual Assault, and Stalking Grant Program  
Funding Source:  Federal  State  Local: \_\_\_\_\_  
Requestor Information (Name of staff person initiating form): Rodney Cook  
Requestor Contact Information: rodcoo@clackamas.us 503-653-8060  
Department Fiscal Representative: Scott Vandecoevering  
Program Name or Number (please specify): OVW Criminal Justice Response to DV...  
Brief Description of Project:

The intent of this project is to continue operation of activities funded for the past three years through an OVW award to Clackamas Women's Services. This current solicitation requires a governmental applicant. The activities proposed for this solicitation may include: 1) continuation of the High Risk Response Team, a collaborative group that meets regularly to review status of abusers who have been flagged as especially dangerous; 2) continuation of video court services, and adding contested hearings; 3) continued legal advocacy; 4) adding an abuse in later life investigator; 5) maintaining and sustaining the strangulation response effort; 6) expanding systems training and education; 7) promotion of legislative efforts for statute changes; 8) address sexual assault issues.

Name of Funding (Granting) Agency: US Department of Justice Office on Violence Against Women  
Agency's Web Address for Grant Guidelines and Contact Information:

<https://www.justice.gov/ovw>

**OR**

Application Packet Attached:  Yes  No  
Completed By: Korene Mather 1/28/2019  
Date

**\*\* NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE \*\***

**Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep**

Competitive Grant  Non-Competing Grant  Other Funding Agency Award Notification Date: 10/1/2019  
CFDA(s), if applicable: 16.590  
Announcement Date: 1/15/2019 Announcement/Opportunity #: OVW-2019-15743  
Grant Category/Title: Improving Criminal Justice Responses to Domestic Violence, Dating Violence, Max Award Value: \$750,000  
Allows Indirect/Rate: 10.00% Match Requirement: no match required  
Application Deadline: 2/26/2019 Other Deadlines: \_\_\_\_\_  
Grant Start Date: 10/1/2019 Other Deadline Description: \_\_\_\_\_  
Grant End Date: 9/30/2022  
Completed By: Korene Mather Program Income Requirement: no  
Pre-Application Meeting Schedule: February 6, 2019, 1:00-2:30pm ET

**Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff**

**Mission/Purpose:**

1. *How does the grant support the Department and/or Division's Mission/Purpose/Goals?*

CFCC has led efforts to improve coordination of the system to address domestic violence in Clackamas County - the DV Systems Coordinator position has been situated in CFCC for more than 10 years. The work to be accomplished through this grant aligns with the missions/purposes/goals of both CFCC and H3S.

2. *What, if any, are the community partners who might be better suited to perform this work?*

Lead grant applicants must be governmental organizations, but may not be law enforcement or district attorney's offices, sheriff's offices, probation/parole departments, or universities.

3. *What are the objectives of this grant? How will we meet these objectives?*

This grant will continue work started by CWS to improve criminal justice response to domestic violence, dating violence, sexual assault, and stalking. The foundation for this has already been laid, and continued funding will solidify and expand the effort.

4. *Does the grant proposal fund an existing program? If yes, which program? If no, what is the purpose of the program?*

OVW awarded the original (3-year) grant to CWS - activities funded included development of the High Risk Response Team, a collaborative group that meets regularly to review status of abusers who have been flagged as especially dangerous; funded video court services, provided legal advocacy to victims; promoted the strangulation response effort; developed a training and education program for system partners; promoted legislative efforts for statute changes; addressed sexual assault issues. The current grant will continue and build these efforts and add additional activities.

**Organizational Capacity:**

1. *Does the organization have adequate and qualified staff? If no, can staff be hired within the grant timeframe?*

Both County staff and partner staff are well qualified to do this work.

2. *Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?*

Partnerships with all sectors of the DV response system are required. All are fully prepared to strengthen and expand their efforts to better respond to DV.

3. *If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?*

If funding is not awarded, system partners will continue the efforts, although not at the same intensity. County staff will only be partially funded through this grant - the majority of funds will be contracted out to system partners.

4. *If funded, this grant would create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?*

The activities and services proposed for funding are critical to improvement of system response to DV and will be maintained/sustained through grant applications to OVW and/or other funders once the current award ends.

**Collaboration**

1. List **County** departments that will collaborate on this award, if any.

Collaborators on this award include CFCC, H3S, Sheriff's Office, District Attorney's Office, Courts, CWS, El Programa Hispano-Latina Advocate

**Reporting Requirements**

1. What are the program reporting requirements for this grant?

Reporting will be required semi-annually.

2. How will grant performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

Program will be evaluated through existing data sources housed at the Family Justice Center, Courts, and Clackamas Women's Services, as well as work plans and monthly activity reports of contracted agencies.

3. What are the fiscal reporting requirements for this grant?

Fiscal reporting on this award is also semi-annual.

**Fiscal**

1. Will we realize more benefit than this grant will cost to administer?

Yes - this grant will cover administrative costs, as well as program staffing.

2. Are other revenue sources required? Have they already been secured?

There is no match required on this solicitation.

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

N/A

4. Does this grant cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

This grant allows a de minimus rate of 10% of modified program costs.

Program Approval:

Korene Mather

Name (Typed/Printed)

1/29/2019

Date

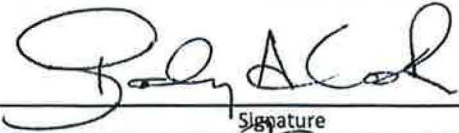
Korene Mather

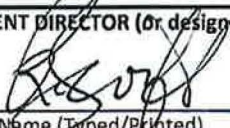
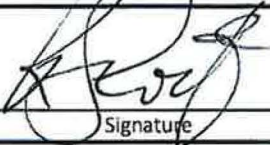
Signature


**\*\* NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR \*\***

**\*\*ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.\*\***

**Section IV: Approvals**

<b>DIVISION DIRECTOR (or designee, if applicable)</b>		
ROONEY A. COOK	1-29-19	
Name (Typed/Printed)	Date	Signature

<b>DEPARTMENT DIRECTOR (or designee, if applicable)</b>		
	1.31.19	
Name (Typed/Printed)	Date	Signature

<b>FINANCE GRANT MANAGER (or designee, if applicable; FOR FEDERALLY-FUNDED APPLICATIONS ONLY)</b>		
JEFF M... ..	2-4-19	
Name (Typed/Printed)	Date	Signature

**Section V: Board of County Commissioners/County Administration**

*(Required for all grant applications. If your grant is awarded, all grant awards must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

**For applications less than \$150,000:**

<b>COUNTY ADMINISTRATOR</b>	Approved: <input checked="" type="checkbox"/>	Denied: <input type="checkbox"/>
	1/31/19	
Name (Typed/Printed)	Date	Signature

**For applications greater than \$150,000 or which otherwise require BCC approval:**

BCC Agenda item #:  Date:

OR

Policy Session Date:

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County Administration Attestation

County Administration: re-route to department contact when fully approved.  
 Department: keep original with your grant file.



**DAN JOHNSON**  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Contract with Northwest Code Professionals, to Provide On-Call Third Party Services for Assistance with Plans Review and Inspections**

<b>Purpose/Outcomes</b>	This contract will provide on-call third party assistance with plan review and inspection services.
<b>Fiscal Impact</b>	Two companies to be awarded contracts, with the total contract amount for each company not-to-exceed \$300,000. The Building Codes Division will manage the contracts and balance the work between the contractors, so the total not-to-exceed amount for both contracts is \$300,000.
<b>Funding Source</b>	Permit fees – no County general funds are involved.
<b>Duration</b>	Contract signing through October 31, 2021
<b>Strategic Plan Alignment</b>	4) Ensure safe, healthy and secure communities.
<b>Previous Action</b>	N/A
<b>Contact Person</b>	Matt Rozzell, Building Codes Administrator, Transportation & Development, 503-742-4748

**BACKGROUND:**

In order for the Building Codes Division (BCD) to meet their business goal of providing high quality services in a timely manner, in 2015 the BCD established a third party on-call services contract to provide flexible consultant services when their work volume exceeds their staffing levels, or to provide a temporary replacement workforce when staff are out of the office due to vacation or illness. This option for service delivery has served the Division and customers well, and has become a key tool in how the Building Codes Division meets the demands of their fluid work load and staffing.

In renewing the contracts for these services, Clackamas County's Building Codes Division would like to contract with Northwest Code Professionals for the purpose of conducting these on-call third party services.

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on September 19, 2018. Proposals were closed on October 10, 2018 at 2:00PM. The County received 4 proposals:

Chazen Companies, Clair Company, Northwest Code Professionals, Townzen & Associates. Final evaluations determined that Clair Company and Northwest Code Professionals were the highest ranking proposers and could meet the needs of the County.

The Building Codes Division is proposing to contract with the top two high ranking companies in order to maintain options if one company is unavailable to service this on-call contract. The total contract amount for each company is not to exceed \$300,000, but the Buildings Codes Division will manage the contracts and balance the work between the contractors, so the total not-to-exceed amount for both contacts is \$300,000. Having the contracts written with this not-to-exceed amount allows the BCD to work with whichever company can meet their needs, and does not require a strict balance of work between the firms. With this being an on-call contract, the BCD is not guaranteeing work for either consultant.

**County Counsel has reviewed this contract.**

**RECOMMENDATION:**

Staff recommends that the Board of County Commissioners, acting as the governing body of the County, approve and execute the Contract between Clackamas County and Northwest Code Professionals, for third party on-call services.

Respectfully submitted,

Dan Johnson, Director, Department of Transportation and Development

Placed on the Agenda of \_\_\_\_\_ by the Procurement Division





CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this "Contract") is entered into between The Building Department, LLC dba, Northwest Code Professionals ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of Transportation and Development, Building Codes Division.

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on October 31, 2021, with the option for one (1) additional year renewal. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

2. Scope of Work. Contractor will provide the following personal/professional services: Provide on call third party services for assistance with plan review and inspection services. ("Work"), further described in Exhibit A.

3. Consideration. The County agrees to pay Contractor, from available and authorized funds, an annual sum not to exceed One Hundred Thousand dollars (\$100,000.00), for a total contract value not to exceed Three Hundred Thousand dollars (\$300,000.00), for accomplishing the Work required by this Contract. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [X] Yes [ ] No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: http://www.clackamas.us/bids/terms.html. Travel expense reimbursement is not in excess of the not to exceed consideration.

5. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibits A, B, C, D, E and F

6. Contractor Data.

The Building Department, LLC dba, Northwest Code Professionals

Address: 144 E 14th Avenue, Eugene, Oregon 97401

Contractor Contract Administrator: Jack Applegate

Phone No.: 541-484-9043

Email: JackA@nwcodepros.com

MWESB Certification: [ ] DBE # [ ] MBE # [ ] WBE # [ ] ESB #

Payment information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to backup withholding.

## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or

suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
- 9. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Exhibit C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit B**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. 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.
- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us), or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other

addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of County. County and Contractor intend that such Work Product be deemed “work made for hire” of which County shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County’s consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County

to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any Work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

**20. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor 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 terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

**21. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated

pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the 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 to the Contractor by reason of this Contract.
- (C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- (D) The Contractor shall promptly, as due, make payment to any person or co-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 the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor

collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

**28. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

The Building Department, LLC dba, Northwest Code Professionals

Clackamas County Board of County Commissioners

\_\_\_\_\_  
Authorized Signature Date

\_\_\_\_\_  
Chair Date

\_\_\_\_\_  
Name / Title (Printed)

\_\_\_\_\_  
Recording Secretary Date

723822-87  
Oregon Business Registry #

Approved as to Form:

DLLC/Oregon  
Entity Type / State of Formation

\_\_\_\_\_  
County Counsel Date

**EXHIBIT A  
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

**SCOPE OF WORK**

Contractor shall complete work as outlined in the Request for Proposal # 2018-82, issued September 19, 2018, hereby included as **Exhibit D**, and the vendor's response, hereby included as **Exhibit E**.

The services under this Contract are on an "on-call" or "as-needed basis," no Work may be performed until a detailed task scope of work is developed and agreed to by the parties for a specific project. Each task scope of work must minimally include: a detailed description of services to be provided, a schedule of key milestones for completion of the task, the maximum fee for completion of the task, and any obligations of the County to complete the task. No task scope of work may commence until an amendment is made to this Contract or an official County Purchase Order is issued and that specifically incorporates by reference this Contract and the agreed upon task scope of work. No task scope of work may modify this Contract and its terms and conditions unless an amendment is made to this Contract.

The County Contract administrator for this Contract is: Cheryl Bell.

**CONSIDERATION**

- a. Consideration Rates – Time and Material as listed within Exhibit F.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the total annual sum of \$100,000.00 and shall not exceed the total maximum sum of \$300,000.00. Invoices shall be submitted to: Cheryl Bell at 150 Beaver Creek Rd, Oregon City, OR 97045 or via email at [cbell@clackamas.us](mailto:cbell@clackamas.us)
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made to Contractor following the County's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.



**EXHIBIT B  
INSURANCE**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

**1. Required by County of Contractor with one or more workers, as defined by ORS 656.027.**

**Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.**

**2.  Required by County     Not required by County**

**Professional Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

**3.  Required by County     Not required by County**

**General Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract.

**4.  Required by County     Not required by County**

**Automobile Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**5. Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. The insurance for general liability and automobile liability must include an endorsement naming the County, its officers, elected officials, agents, and employees as additional insureds with respect to the Work under this Contract. Insuring companies or entities are subject to County acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

**6. Notice of cancellation or change.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).

**EXHIBIT C**  
**CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR**

(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result; **AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- \_\_\_\_\_ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- \_\_\_\_\_ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- \_\_\_\_\_ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- \_\_\_\_\_ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- \_\_\_\_\_ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature \_\_\_\_\_ Date \_\_\_\_\_

**EXHIBIT D**  
**RFP #2018-82**  
**On-Call Third Party Services for Plan Review and Inspection Services**  
**Issued September 19, 2018**

**EXHIBIT E**  
**VENDOR'S RESPONSE**

**EXHIBIT F  
FEE SCHEDULE**



**DAN JOHNSON**  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Contract with Clair Company, to Provide On-Call Third Party  
Services for Assistance with Plans Review and Inspections**

<b>Purpose/Outcomes</b>	This contract will provide on-call third party assistance with plan review and inspection services.
<b>Fiscal Impact</b>	Two companies to be awarded contracts, with the total contract amount for each company not-to-exceed \$300,000. The Building Codes Division will manage the contracts and balance the work between the contractors, so the total not-to-exceed amount for both contracts is \$300,000.
<b>Funding Source</b>	Permit fees – no County general funds are involved.
<b>Duration</b>	Contract signing through October 31, 2021
<b>Strategic Plan Alignment</b>	4) Ensure safe, healthy and secure communities.
<b>Previous Action</b>	N/A
<b>Contact Person</b>	Matt Rozzell, Building Codes Administrator, Transportation & Development, 503-742-4748

**BACKGROUND:**

In order for the Building Codes Division (BCD) to meet their business goal of providing high quality services in a timely manner, in 2015 the BCD established a third party on-call services contract to provide flexible consultant services when their work volume exceeds their staffing levels, or to provide a temporary replacement workforce when staff are out of the office due to vacation or illness. This option for service delivery has served the Division and customers well, and has become a key tool in how the Building Codes Division meets the demands of their fluid work load and staffing.

In renewing the contracts for these services, Clackamas County's Building Codes Division would like to contract with Clair Company for the purpose of conducting these on-call third party services.

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on September 19, 2018. Proposals were closed on October 10, 2018 at 2:00PM. The County received 4 proposals:

Chazen Companies, Clair Company, Northwest Code Professionals, Townzen & Associates. Final evaluations determined that Clair Company and Northwest Code Professionals were the highest ranking proposers and could meet the needs of the County.

The Building Codes Division is proposing to contract with the top two high ranking companies in order to maintain options if one company is unavailable to service this on-call contract. The total contract amount for each company is not to exceed \$300,000, but the Buildings Codes Division will manage the contracts and balance the work between the contractors, so the total not-to-exceed amount for both contacts is \$300,000. Having the contracts written wwith this not-to-exceed amount allows the BCD to work with whichever company can meet their needs, and does not require a strict balance of work between the firms. With this being an on-call contract, the BCD is not guaranteeing work for either consultant.

**County Counsel has reviewed this contract.**

**RECOMMENDATION:**

Staff recommends that the Board of County Commissioners, acting as the governing body of the County, approve and execute the Contract between Clackamas County and Clair Company, for third party on-call services.

Respectfully submitted,

Dan Johnson, Director, Department of Transportation and Development

Placed on the Agenda of \_\_\_\_\_ by the Procurement Division



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this "Contract") is entered into between Clair Company, Inc. ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of Transportation and Development, Building Codes Division.

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on October 31, 2021, with the option for one (1) additional year renewal. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

2. Scope of Work. Contractor will provide the following personal/professional services: Provide on call third party services for assistance with plan review and inspection services. ("Work"), further described in Exhibit A.

3. Consideration. The County agrees to pay Contractor, from available and authorized funds, an annual sum not to exceed One Hundred Thousand dollars (\$100,000.00), for a total contract value not to exceed Three Hundred Thousand dollars (\$300,000.00), for accomplishing the Work required by this Contract. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [X] Yes [ ] No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: http://www.clackamas.us/bids/terms.html. Travel expense reimbursement is not in excess of the not to exceed consideration.

5. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibits A, B, C, D, E and F

6. Contractor Data.

Clair Company, Inc.

Address: 525 NW Second Street, Corvallis, Oregon 97330

Contractor Contract Administrator: Millie Hicks

Phone No.: 541-758-1302

Email: mhicks@claircompany.com

MWESB Certification: [ ] DBE # [ ] MBE # [ ] WBE # [ ] ESB #

Payment information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to backup withholding.



## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or

suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
- 9. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Exhibit C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit B**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. 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.
- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us), or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other

addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of County. County and Contractor intend that such Work Product be deemed “work made for hire” of which County shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County’s consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County

to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any Work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

**20. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor 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 terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

**21. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated

pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the 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 to the Contractor by reason of this Contract.
- (C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- (D) The Contractor shall promptly, as due, make payment to any person or co-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 the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor

collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

**28. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Clair Company, Inc.

Clackamas County Board of County  
Commissioners

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name / Title (Printed)

\_\_\_\_\_  
188014-80

\_\_\_\_\_  
Oregon Business Registry #

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Date

\_\_\_\_\_  
Approved as to Form:

\_\_\_\_\_  
DBC/Oregon

\_\_\_\_\_  
Entity Type / State of Formation

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Date

**EXHIBIT A**  
**PERSONAL/PROFESSIONAL SERVICES CONTRACT**

**SCOPE OF WORK**

Contractor shall complete work as outlined in the Request for Proposal # 2018-82, issued September 19, 2018, hereby included as **Exhibit D**, and the vendor's response, hereby included as **Exhibit E**.

The services under this Contract are on an "on-call" or "as-needed basis," no Work may be performed until a detailed task scope of work is developed and agreed to by the parties for a specific project. Each task scope of work must minimally include: a detailed description of services to be provided, a schedule of key milestones for completion of the task, the maximum fee for completion of the task, and any obligations of the County to complete the task. No task scope of work may commence until an amendment is made to this Contract or an official County Purchase Order is issued and that specifically incorporates by reference this Contract and the agreed upon task scope of work. No task scope of work may modify this Contract and its terms and conditions unless an amendment is made to this Contract.

The County Contract administrator for this Contract is: Cheryl Bell.

**CONSIDERATION**

- a. Consideration Rates – Time and Material as listed within Exhibit F.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the total annual sum of \$100,000.00 and shall not exceed the total maximum sum of \$300,000.00. Invoices shall be submitted to: Cheryl Bell at 150 Beaver Creek Rd, Oregon City, OR 97045 or via email at [cbell@clackamas.us](mailto:cbell@clackamas.us)
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made to Contractor following the County's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.

**EXHIBIT B  
INSURANCE**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

**1. Required by County of Contractor with one or more workers, as defined by ORS 656.027.**

**Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.**

**2.  Required by County     Not required by County**

**Professional Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

**3.  Required by County     Not required by County**

**General Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract.

**4.  Required by County     Not required by County**

**Automobile Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**5. Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. The insurance for general liability and automobile liability must include an endorsement naming the County, its officers, elected officials, agents, and employees as additional insureds with respect to the Work under this Contract. Insuring companies or entities are subject to County acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

**6. Notice of cancellation or change.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).



**EXHIBIT C**  
**CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR**

(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result; **AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- \_\_\_\_\_ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- \_\_\_\_\_ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- \_\_\_\_\_ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- \_\_\_\_\_ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- \_\_\_\_\_ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature \_\_\_\_\_ Date \_\_\_\_\_

**EXHIBIT D**  
**RFP #2018-82**  
**On-Call Third Party Services for Plan Review and Inspection Services**  
**Issued September 19, 2018**

**EXHIBIT E**  
**VENDOR'S RESPONSE**

**EXHIBIT F  
FEE SCHEDULE**

DRAFT

Approval of Previous Business Meeting Minutes:  
January 24, 2019

## **BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES**

*A complete video copy and packet including staff reports of this meeting can be viewed at*

<https://www.clackamas.us/meetings/bcc/business>

**Thursday, January 24, 2019 – 10:00 AM**

**Public Services Building**

**2051 Kaen Rd., Oregon City, OR 97045**

**PRESENT: Commissioner Jim Bernard, Chair  
Commissioner Sonya Fischer  
Commissioner Ken Humberston  
Commissioner Martha Schrader**

**EXCUSED: Commissioner Paul Savas**

### **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

Chair Bernard announced that Commissioner Savas is volunteering with the Homeless Count and will not be in attendance today.

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

1. Presentation on the Status of the Carli Creek Water Quality Project  
Ron Wierenga, Water Environment Services presented the staff report and introduced a video. He invited the Board to a ceremony for the project on March 22<sup>nd</sup>.

### **II. CITIZEN COMMUNICATION**

<https://www.clackamas.us/meetings/bcc/business>

1. Mark Struloeff, Oregon City – Concerns about marijuana issues and urged the Board to vote in favor of staff recommendations for ZDO-271.
2. Lorraine Hubbard, Oregon City – Concerns about marijuana grow operations
3. Arlene Kantor, Lake Oswego – Supportive of the County pursuing a tobacco retail license ordinance
4. Gretchen Groves, Clackamas – Supportive of tobacco retail license ordinance

Chair Bernard spoke and thanked employees for all the service they provide on a daily basis to the residents and the Commissioners.

5. Bob Escedero, Sandy – Representing the Clackamas County Employee Association read a letter into the record regarding contract bargaining.
6. Les Poole, Gladstone – Evening business meetings, housing and how the public needs to be aware of what is happening at the legislature in Salem

*~Board Discussion~*

### **III. CONSENT AGENDA**

Chair Bernard asked the Clerk to read the consent agenda by title, then asked for a motion.

#### **MOTION:**

Commissioner Humberston: I move we approve the consent agenda.  
Commissioner Schrader: Second.  
all those in favor/opposed:  
Commissioner Fischer: Aye.  
Commissioner Humberston: Aye.  
Commissioner Schrader: Aye.  
Chair Bernard: Aye – the Ayes have it, the motion carries 4-0.

**A. Health, Housing & Human Services**

1. Approval to Apply for a Continuation Grant from Oregon Department of Transportation 5310 Enhanced Mobility Funds through Tri-County Metropolitan Transportation District of Oregon (TriMet) for Preventative Maintenance, Bus Purchase and Operations Funding for Mt Hood Express, Transportation Reaching People and Transportation Services to Boring – *Social Services*
2. Approval of Amendment No. 15 for the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority, for Operation as the Local Public Health Authority for Clackamas County – *Public Health*
3. Approval of a Professional Services Contract with Cascadia Behavioral Healthcare, Inc. to Provide Peer Support Services - *Procurement*
4. Approval of a Professional, Technical, and Personal Services Contract with the Mental Health Association of Oregon for Peer Support Services for Opioid Overdose Survivors - *Procurement*
5. Approval of a Professional Services Contract with Oregon Family Support Network for Peer Delivered Services for Families in Crisis in Emergency Departments - *Procurement*
6. Approval of a Professional Services Contract with the Living Room for Youth/Young Adult Peer Support Services - *Procurement*

**B. Department of Transportation & Development**

1. Approval of an Intergovernmental Agreement with the City of Canby to Transfer Permitting Authority and Maintenance Responsibility for a Portion of Township Road (County Road No 47, DTD No 31021) to the City of Canby
2. **Board Order No. 2019-02** Adopting the Vacation of a Portion of Nixon Avenue
3. **Board Order No. 2019-03** Adopting the Vacation of a Non-Maintained Local Access Road
4. Approval of a Supplemental Project Agreement No. 32756 with Oregon Department of Transportation for the S. Ivy Street (Canby) Project
5. Approval of an Intergovernmental Agreement with the City of Canby Related to the South Ivy Street Sidewalk Improvement Project
6. Approval of Contract with Bell & Associates Inc. to Provide Solid Waste Annual Financial Review Services - *Procurement*

**C. Technology Services**

1. Approval for a Service Level Agreement Amendment No. 1 between Clackamas Broadband eXchange and the City of Wilsonville for Exchanging Dark Fiber Connections

**IV. BOARD OF HEALTH**

1. **Resolution No. 2019-04** Supporting a Clackamas County Countywide Tobacco Retail License – *H3S, Public Health*

**V. DEVELOPMENT AGENCY**

1. Approval of the Second Amendment to Disposition Agreement with Bottling Group, LLC

**VI. COUNTY ADMINISTRATOR UPDATE**

<https://www.clackamas.us/meetings/bcc/business>

**VII. COMMISSIONERS COMMUNICATION**

<https://www.clackamas.us/meetings/bcc/business>

**MEETING ADJOURNED 11:01 AM**

**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. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. <https://www.clackamas.us/meetings/bcc/business>**





**DAN JOHNSON**  
MANAGER

**DEVELOPMENT AGENCY**

**DEVELOPMENT SERVICES BUILDING**  
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

February 14, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of the Fourth Amendment to the Disposition Agreement with Oregon Beverage  
Recycling Cooperative**

<b>Purpose/Outcome</b>	To amend the existing Disposition Agreement with Oregon Beverage Recycling Cooperative
<b>Dollar Amount and Fiscal Impact</b>	No change
<b>Funding Source</b>	N/A.
<b>Duration</b>	The amendment will extend the date by which closing must occur by 30 days and authorize David Queener to execute any further extensions that are necessary in order to complete repairs to the on-site storm facilities prior to closing.
<b>Previous Board Action/Review</b>	Discussed prior amendments with the Board at Executive Session on December 18, 2018
<b>Strategic Plan Alignment</b>	Build public trust through good government
<b>Contact Person</b>	David Queener, Development Agency Program Supervisor, 503-742-4322

The Agency has a Disposition Agreement with Oregon Beverage Recycling Cooperative (OBRC) associated with the purchase of a portion of the Clackamas Industrial Area Opportunity (CIAO) site. As part of their due diligence and the Agency's obligation to finalize as-built construction drawings for the on-site storm system installed by the Agency, it was discovered that some minor repairs were required on the system. While plans for those repairs are underway, they are not complete

Therefore, OBRC has requested the date by which they are required to close be extended in order to allow for the repairs to be completed prior to closing. This fourth amendment will extend closing by 30 days and authorize David Queener to execute future amendments for reasonable extensions if

necessary to complete repairs to the storm water system prior to closing.

County Counsel has reviewed and approved the proposed amendment to the agreement.

## **RECOMMENDATION**

Staff respectfully recommends that the Board, as the governing body of the Clackamas County Development Agency, execute this Fourth Amendment to the Disposition Agreement with Oregon Beverage Recycling Cooperative.

Respectfully submitted,

David Queener, Program Supervisor  
Development Agency

## FORTH AMENDMENT TO DISPOSITION AGREEMENT

THIS FORTH AMENDMENT TO DISPOSITION AGREEMENT (“**Amendment**”) is entered into effective as of \_\_\_\_\_, 2019, between **CLACKAMAS COUNTY DEVELOPMENT AGENCY**, the Urban Renewal Agency of Clackamas County, a corporate body politic (“**Agency**”), and **OREGON BEVERAGE RECYLCING COOPERATIVE**, an Oregon domestic cooperative (“**Developer**”).

### RECITALS

A. Agency and Developer are parties to that certain Disposition Agreement dated effective as of November 22, 2017, as amended by that First Amendment dated May 3, 2018, that Second Amendment dated November 20, 2018, and that Third Amendment dated January 10, 2019 (collectively, the “**Disposition Agreement**”), concerning approximately 12.68 acres of land located east of SE 120<sup>th</sup> Avenue and south of Capps Road, Clackamas County, Oregon, as more particularly described in the Disposition Agreement (the “**Property**”).

B. The parties desire to modify the Disposition Agreement on the terms and conditions set forth herein. All capitalized terms used in this Amendment and not otherwise defined herein shall have their meanings as set forth in the Disposition Agreement.

### AGREEMENT

1. **Closing.** Section 3.3 of the Disposition Agreement is hereby amended such that the transaction shall close on a date to be selected by Developer and reasonably acceptable to Agency that is on or before one hundred ninety five (195) days after the expiration of the Due Diligence Period.

2. **Further Extensions.** In the event that further extensions to the Closing Date are necessary in order to complete repairs to the Storm Facilities described in the Easement prior to close, the Agency hereby authorizes David Queener, Clackamas County Development Agency Program Supervisor, to execute reasonable extensions on behalf of the Agency.

3. **Counterpart; Email.** This Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Amendment. Facsimile or email transmission of any signed original of this Amendment, and retransmission of any signed facsimile or email transmission, shall be the same as delivery of an original. At the request of either party, the parties shall confirm transmitted signatures by signing an original document.

4. **Confirmation.** The Disposition Agreement is hereby amended and modified in accordance with the terms of this Amendment. Except as expressly modified by this Amendment, the Disposition Agreement and all its terms and provisions are hereby acknowledged, approved, ratified and confirmed and shall be and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment effective as of the date first written above.

**AGENCY:**

**CLACKAMAS COUNTY DEVELOPMENT AGENCY,**  
a corporate body politic

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**DEVELOPER:**

**OREGON BEVERAGE RECYCLING COOPERATIVE,**  
an Oregon domestic cooperative

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_