

# AGENDA

**Thursday, May 16, 2019 - 10:00 AM**  
**BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2019-53

**CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

**I. HOUSING AUTHORITY CONSENT AGENDA**

1. Approval to Execute an Intergovernmental Agreement between the Housing Authority of Clackamas County and Health, Housing & Human Services
2. Approval of an Intergovernmental Agreement between the Housing Authority and Home Forward for Case Management for Families Living in Public Housing
3. Approval of a Service Contract between the Housing Authority and Mental Health Association of Oregon for Peer Support Services for Families Living in Housing
4. Approval of an Intergovernmental Agreement between the Housing Authority and Social Services for Case Management for Housing our Families Program

**II. 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.)*

**III. 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. First Reading of Ordinance No. \_\_\_\_\_ Amending Chapter 6.06, Parks Rules of the Clackamas County Code (Rick Gruen, County Parks)
2. Board Order No. \_\_\_\_\_ for a Transfer of Jurisdiction from Clackamas County to the City of Wilsonville for a Portion of Stafford Rd. (Market Rd. 12, County Rd. 1208) (Mike Bayes, DTD)

**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 an Intergovernmental Subrecipient Agreement, Amendment No. 2 with Senior Citizen Council of Clackamas County to Provide Social Services for Clackamas County Residents – *Social Services*

2. Approval of an Intergovernmental Subrecipient Agreement with City of Sandy/Sandy Senior & Community Center to Provide Social Services for Clackamas County Residents – *Social Services*
3. Approval for Amendment No. 2 to a Revenue Agreement with CareOregon for the Integrated Behavioral Health Program - Per Member Per Month (PMPM) Incentive Program – *Health Centers*
4. Approval of Intergovernmental Agreement with Multnomah and Washington Counties for the Get Trained to Help Regional Collaborative – *Behavioral Health*
5. Approval of Contract with Bateman Community Living to Provide Food Service for Older Adult Community Nutrition Programs - *Procurement*

**B. Department of Transportation & Development**

1. Approval of a Contract with David Evans and Associates, Inc. for Engineering and Design Improvements for the South End Road at Milepost 3.8 Project - *Procurement*

**C. Finance Department**

1. Approval of an Amendment to the Assessor's CAFFA Grant Application for FY 2019-20

**D. Elected Officials**

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

**E. Business & Community Services**

1. Approval of a Contract with GreenWorks PC for the Master Plan for Barton Park - *Procurement*

**F. Department of Disaster Management**

1. Approval to Apply for FT 2019 Emergency Management Performance Grant between Clackamas County and the State of Oregon
2. Approval of a Subrecipient Grant Agreement between the City of Portland and Clackamas County for Purchase and Reimbursement Activities Related to the use of the FY 2018 US Department of Homeland Security's Urban Area Security Initiative Grant Program
3. Approval of a Grant Application for Hazard Mitigation Grant Program Funds - Voluntary Residential Acquisition in the Cannel Migration Zone of the Sandy River

**V. DEVELOPMENT AGENCY**

1. Granting of a Permanent Right of Way Easement for Road Purposes and a Permanent Slope, Wall, and Public Easement.

**VI. WATER ENVIRONMENT SERVICES**

1. Approval of a Contract with CH2M Hill Engineers, Inc. for the Tri-City Water Resource Recovery Facility (WRRF) Willamette River Outfall - *Procurement*

**VII. COUNTY ADMINISTRATOR UPDATE**

**VIII. COMMISSIONERS COMMUNICATION**

May 16, 2019

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

Approval to execute an Intergovernmental Agreement between the Housing Authority of  
Clackamas County and Health, Housing and Human Services

<b>Purpose/Outcomes</b>	Approval to execute an Intergovernmental Agreement between the Housing Authority of Clackamas County and Health, Housing and Human Services for the funding of 4 contracts awarded through the Affordable Housing & Services Fund.
<b>Dollar Amount and Fiscal Impact</b>	Not to exceed \$1,074,717.02 over three years, as funds are approved by the Board of Commissioners'
<b>Funding Source(s)</b>	County General Funds through Policy Level Proposal – Affordable Housing & Services Fund
<b>Duration</b>	May 16, 2019 – May 15, 2023
<b>Previous Board Action</b>	none
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Sustainable and affordable housing</li> <li>2. Individuals and families in need are healthy &amp; safe</li> <li>3. Ensure safe, healthy and secure communities</li> </ol>
<b>Counsel Review</b>	May 2, 2019
<b>Contact Person</b>	Jill Smith, HACC Executive Director (503) 742-5336
<b>Contract Number</b>	Contract No. 9244

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval to enter into an Intergovernmental Agreement (IGA) with Clackamas County, to enable the funding of four (4) contracts to be executed following a competitive RFP process. One priority of the Affordable Housing and Services Fund was to bring additional nonprofit providers into Clackamas County to help us address the housing crisis. Providing multiyear funding is an essential component of that goal which is represented in the outline of contracts below.

**1. IGA between HACC and Home Forward**

The IGA provides for the case management of high barrier households living in Public Housing with a focus on resident success and housing retention. The specific scope of work to be accomplished by Home Forward is set forth in the H3S Contract No. 9241.			
<b>Budget:</b>	<b>Year 1: 2019-20</b>	<b>Year 2: 2020-21</b>	<b>Year 3: 2021-22</b>
	Salary & Fringe \$56,737	Salary & Fringe \$60,006	Salary & Fringe \$63,563
	Benefits \$29,726	Benefits \$30,902	Benefits \$31,839
	Admin Fee \$8,537	Admin Fee \$9,091	Admin Fee \$9,540
	<b>TOTAL \$95,000</b>	<b>TOTAL \$99,999</b>	<b>TOTAL \$104,942</b>
	<b>*total contract amount \$299,941</b>		

**2. Contract between HACC and Mental Health Association of Oregon**

The Contract provides Peer Support Services for households living in Public Housing with significant mental health challenges, peer services will focus on ensuring residents retain housing and successfully engage in the community. The specific scope of work to be accomplished by Mental Health Association of Oregon is set forth in the H3S Contract No. 9242.				
<b>Budget:</b>	<b>Year 1: 2019-20</b>	<b>Year 2: 2020-21</b>	<b>Year 3: 2021-22</b>	
	Salary & Fringe \$83,267.84	Salary & Fringe \$83,267.84	Salary & Fringe \$83,267.84	
	Indirect \$11657.50	Indirect \$11657.50	Indirect \$11657.50	
	<b>TOTAL \$94,925.34</b>	<b>TOTAL \$94,925.34</b>	<b>TOTAL \$94,925.34</b>	
	<b>*total contract amount \$284,776.02</b>			

**3. IGA between HACC and Social Services Division**

The IGA provides for a half-time Case Manager to provide services specifically to the highest need Public Housing residents (many just exiting Homelessness) with a goal of housing stability and retention. The work to be accomplished by Social Services Division is set forth in the H3S Contract No. 9247.				
<b>Budget:</b>	<b>Year 1: 2019-20</b>	<b>Year 2: 2020-21</b>	<b>Year 3: 2021-22</b>	
	<b>TOTAL \$0</b>	Salary & Fringe \$60,000.00	Salary & Fringe \$60,000.00	
		<b>TOTAL \$60,000.00</b>	<b>TOTAL \$60,000.00</b>	
	<b>*total contract amount \$120,000</b>			

**4. Contract between HACC and Do Good Multnomah**

The IGA will provide Resident Services to formerly homeless veterans. Resident services will focus on veterans remaining compliant with their lease and successful within their housing and the community. These services will be provided at the Pleasant Avenue veteran's housing project being developed in Oregon City on Pleasant Avenue. The work to be accomplished by Do Good is set forth in the H3S Contract No. 9252.				
<b>Budget:</b>	<b>Year 1: 2019-20</b>	<b>Year 2: 2020-21</b>	<b>Year 3: 2021-22</b>	<b>Year 4: 2022-23</b>
	<b>TOTAL \$0</b>	Staffing \$120,000	Staffing \$125,000	Staffing \$125,000
		<b>TOTAL \$120,000</b>	<b>TOTAL \$125,000</b>	<b>TOTAL \$125,000</b>
	<b>*total contract amount \$370,000</b>			

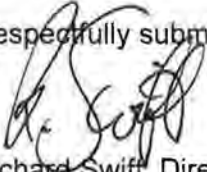
The funding source is County General Funds through the Affordable Housing & Services Fund Policy Level Proposal.

**RECOMMENDATION:**

Staff recommends the Board approve the Intergovernmental Agreement with Health, Housing and Human Services.

Staff also recommends the Board authorize Jill Smith, HACC Executive Director, to sign the IGA on behalf of the Housing Authority Board of Commissioners, and Richard Swift to sign on behalf of the Clackamas County Board of County Commissioners.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", is written over the printed name below.

Richard Swift, Director  
Health, Housing and Human Services



**INTERGOVERNMENTAL AGREEMENT  
BETWEEN HOUSING AUTHORITY OF CLACKAMAS COUNTY  
AND CLACKAMAS COUNTY**

THIS AGREEMENT (this "Agreement") is entered into between the Housing Authority of Clackamas County ("HACC") and Clackamas County, through its Health, Housing and Human Services Department, Administration Division ("County"), for the funding of Resident & Peer Services for HACC residents, collectively referred to as the "Parties" and each a "Party." HACC is a Public Corporation, established under the Federal Housing Act of 1937 and the provisions of Chapter 456 of the Oregon Revised Statutes.

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**TERMS**

1. **Term.** This Agreement shall be effective upon execution, and shall expire after one (1) year following the execution date. There are two (2) one (1) year options to renew, if funds are available and authorized.
2. **Scope of Work.** The County will pay HACC for the costs of the personal service contracts described in Exhibit A and incorporated herein ("Work").
3. **Consideration.** The County agrees to pay HACC, from available and authorized funds, a sum not to exceed one million seventy-four thousand seven hundred seventeen dollars and two cents (\$1,074,717.02) to pay for services described in Exhibit A. Payment shall be made on an Annual Basis, as funding is available.
4. **Payment.** Unless otherwise specified, HACC shall submit annual invoices for Work to be performed for the upcoming year. Payments shall be made to HACC following the County's review and approval of invoices submitted by HACC. HACC shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
  - A. *HACC Representations and Warranties:* HACC represents and warrants to County that HACC has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of HACC enforceable in accordance with its terms.
  - B. *County Representations and Warranties:* County represents and warrants to HACC that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
  - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
6. **Termination.**

- A. Either the County or HACC may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- B. Either the County or HACC may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. The County or HACC shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Either Party may terminate this Agreement in the event that Party fails to receive expenditure authority sufficient to allow it, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Agreement is prohibited or a Party is prohibited from paying for such work from the planned funding source.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

**Indemnification.** Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend HACC, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, HACC agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of HACC or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which HACC has a right to control.

- 7. **Insurance.** The County is self-insured and HACC is insured by the Housing Authority Risk Retention Pool (HARRP). The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.



8. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

Jaymi Stark or their designee will act as liaison for the County.

**Contact Information:**

Health, Housing and Human Services, 2051 Kaen Road, Oregon City, OR 97045  
[jstark@clackamas.us](mailto:jstark@clackamas.us), 503-650-5692

Elizabeth Miller or their designee will act as liaison for HACC.

**Contact Information:**

Housing Authority of Clackamas County, PO Box 1510, Oregon City, OR 97045  
[emiller@clackamas.us](mailto:emiller@clackamas.us), 503-655-8279

9. **General Provisions.**

A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and HACC that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. HACC, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.

B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.

C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** HACC shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. HACC shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, HACC shall permit the County's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **No Third-Party Beneficiary.** HACC and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement 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 Agreement.
- J. **Subcontract and Assignment.** HACC shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve HACC of any of its duties or obligations under this Agreement.
- K. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.

- L. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- M. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- N. **Force Majeure.** Neither HACC nor County shall be held responsible for delay or default caused by events outside of HACC or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, HACC shall 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 Agreement.
- O. **Confidentiality.** HACC acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by HACC or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). HACC agrees to hold Confidential Information in strict confidence, using at least the same degree of care that HACC uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

Signatures on following page

**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**HOUSING AUTHORITY OF  
CLACKAMAS COUNTY BOARD**

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

Signing on Behalf of the Housing Authority Board

\_\_\_\_\_  
Jill Smith, Executive Director  
Housing Authority of Clackamas County

\_\_\_\_\_  
Date

**CLACKAMAS COUNTY**

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

Signing on Behalf of the Clackamas County Board

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

\_\_\_\_\_  
Date

## Exhibit A SCOPE OF WORK

### 1. IGA between Housing Authority of Clackamas County (HACC) and Home Forward

The IGA provides the basis for a cooperative working relationship for the case management of households living in Public Housing. Public Housing consists of 545 units. The work to be accomplished by Home Forward is set forth in the H3S Contract No. 9241.

Budget:	<u>Year 1: 2019-20</u>	<u>Year 2: 2020-21</u>	<u>Year 3: 2021-22</u>
	Salary & Fringe \$56,737	Salary & Fringe \$60,006	Salary & Fringe \$63,563
	Benefits \$29,726	Benefits \$30,902	Benefits \$31,839
	<u>Admin Fee \$8,537</u>	<u>Admin Fee \$9,091</u>	<u>Admin Fee \$9,540</u>
	<b>TOTAL \$95,000</b>	<b>TOTAL \$99,999</b>	<b>TOTAL \$104,942</b>
	<b>*total contract amount \$299,941</b>		

### 2. Contract between Housing Authority of Clackamas County (HACC) and Mental Health Association of Oregon

The Contract provides the basis for a cooperative working relationship for the Peer Support Services for households living in Public Housing. Public Housing consists of 545 units. The work to be accomplished by Mental Health Association of Oregon is set forth in the H3S Contract No. 9242.

Budget:	<u>Year 1: 2019-20</u>	<u>Year 2: 2020-21</u>	<u>Year 3: 2021-22</u>
	Salary & Fringe \$83,267.84	Salary & Fringe \$83,267.84	Salary & Fringe \$83,267.84
	<u>Indirect \$11657.50</u>	<u>Indirect \$11657.50</u>	<u>Indirect \$11657.50</u>
	<b>TOTAL \$94,925.34</b>	<b>TOTAL \$94,925.34</b>	<b>TOTAL \$94,925.34</b>
	<b>*total contract amount \$284,776.02</b>		

### 3. IGA between Housing Authority of Clackamas County (HACC) and Social Services Division

The IGA provides the basis for a cooperative working relationship for a half-time Case Manager for the Public Housing program. Public Housing consists of 545 units. The work to be accomplished by Social Services Division is set forth in the H3S Contract No. 9247.

Budget:	<u>Year 1: 2019-20</u>	<u>Year 2: 2020-21</u>	<u>Year 3: 2021-22</u>
		<u>Salary &amp; Fringe \$60,000.00</u>	<u>Salary &amp; Fringe \$60,000.00</u>
	<b>TOTAL \$0</b>	<b>TOTAL \$60,000.00</b>	<b>TOTAL \$60,000.00</b>
	<b>*total contract amount \$120,000</b>		

### 4. Contract between Housing Authority of Clackamas County (HACC) and Do Good Multnomah

The IGA provides the basis for a cooperative working relationship for Resident Services delivered to residents of the Veteran Housing project located at Pleasant Avenue. Pleasant Avenue consists of 24 units. The work to be accomplished by Do Good is set forth in the H3S Contract No. 9252.

Budget:	<u>Year 1: 2019-20</u>	<u>Year 2: 2020-21</u>	<u>Year 3: 2021-22</u>	<u>Year 4: 2022-23</u>
	<b>TOTAL \$0</b>	<u>Staffing \$120,000</u>	<u>Staffing \$125,000</u>	<u>Staffing \$125,000</u>
		<b>TOTAL \$120,000</b>	<b>TOTAL \$125,000</b>	<b>TOTAL \$125,000</b>
	<b>*total contract amount \$370,000</b>			

May 16, 2019

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between the Housing Authority and Home Forward for Case Management for families living in Public Housing

<b>Purpose/Outcomes</b>	Approval of an Intergovernmental Agreement between the Housing Authority and Home Forward for case management of families living in Public Housing.
<b>Dollar Amount and Fiscal Impact</b>	Not to exceed \$299,941 over three years. Subject to continuing Board of Commissioners' approval.
<b>Funding Source(s)</b>	County General Funds through Policy Level Proposal – Affordable Housing & Services Fund
<b>Duration</b>	May 16, 2019 – May 15, 2022
<b>Previous Board Action</b>	none
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Individuals and families in need are healthy &amp; safe</li> <li>2. Ensure safe, healthy and secure communities</li> </ol>
<b>Counsel Review</b>	March 26, 2019
<b>Contact Person</b>	Jill Smith, HACC Executive Director (503) 742-5336
<b>Contract Number</b>	Contract No. 9241

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval to enter into an Intergovernmental Agreement with Home Forward, for the funding of a case management for families living in Public Housing.

The Public Housing program consists of 545 housing units. Clients are selected from the waiting list and many prospective resident families are homeless (and/or have housing barriers) and are in need of case management to be successfully housed.

The Case manager will work in collaboration with HACC's Resident Services Team.

The scope of work for the case manager will fall under the following categories:

- Housing Stability/Eviction Prevention
- Economic Stability and Self-Reliance
- Promoting quality of life
- Vulnerable residents will be connected to support services
- Advocacy for residents to navigate systems
- Advancing young people
- Community building
- Tracking interventions and outcomes

Regular reports will be provided to the Board of County Commissioners and the Housing Authority Board to demonstrate the outcomes resulting from this investment in the areas outlined above.

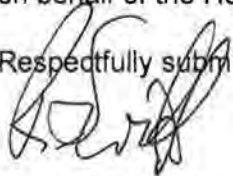
The funding source is County General Funds through the Affordable Housing & Services Fund Policy Level Proposal.

**RECOMMENDATION:**

Staff recommends the Board approve the Intergovernmental Agreement with Home Forward for the case management of Public Housing residents.

Staff also recommends the Board authorize Jill Smith, HACC Executive Director, to sign the IGA on behalf of the Housing Authority Board of Commissioners.

Respectfully submitted,



Richard Swift, Director  
Health, Housing and Human Services

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
HOUSING AUTHORITY OF CLACKAMAS COUNTY AND HOME FORWARD**

**I. Purpose**

A. This Agreement is entered into between the Housing Authority of Clackamas County (HACC) and Home Forward pursuant to ORS Chapter 190 and for the provision of a full time Service Coordinator by Home Forward to HACC for its Public Housing Program.

B. This Agreement provides the basis for a cooperative working relationship for the case management for households living in Public Housing. Public Housing consists of 545 units. The work ("Work") to be accomplished by Home Forward is set forth in the Scope of Work, attached hereto as Exhibit A and incorporated by this reference herein.

**II. Scope of Cooperation**

A. Home Forward agrees to:

1. Perform the Work described in Exhibit A of this Agreement;
2. Provide a full time Service Coordinator to HACC, that will provide direct service to residents of Public Housing or other housing as applicable;
3. Employ and manage the Service Coordinator's day-to-day work responsibilities in cooperation with HACC staff involved in property management and resident services. Staff hours are Monday through Thursday 8:00 a.m. – 6:00 p.m.;
4. Submit quarterly invoices to HACC for payment of services delivered.

B. HACC agrees to:

1. Assign HACC residents with specific needs to the Home Forward Service Coordinator;
2. Pay invoices due to Home Forward within 30 days of receipt;
3. Assist Home Forward with measuring and monitoring outcomes of Service Coordinator's interventions or care plans.

**III. Consideration**

A. HACC agrees to pay Home Forward, from available and authorized funds, a sum not to exceed two hundred ninety-nine thousand nine hundred forty-one dollars and zero cents (\$299,941) for accomplishing the work required by this Agreement. This budget may be amended upon mutual written agreement by the parties. Payments shall be made pursuant to the following budget:

<u>Year 1: 5/1/2019 – 4/30/2020</u>	<u>Year 2: 5/1/2020 – 4/30/2021</u>	<u>Year 3: 5/1/2021 – 4/30/2022</u>
Salary & Fringe \$56,737	Salary & Fringe \$60,006	Salary & Fringe \$63,563
Benefits \$29,726	Benefits \$30,902	Benefits \$31,839
<u>Admin Fee \$8,537</u>	<u>Admin Fee \$9,091</u>	<u>Admin Fee \$9,540</u>
<b>TOTAL \$95,000</b>	<b>TOTAL \$99,999</b>	<b>TOTAL \$104,942</b>

B. Terms of Payment:

1. Home Forward will invoice HACC on a quarterly basis with payment due within 30 days of receipt of an invoice. No interest or late fees may be charged for late or missed payments, and Home Forward's sole remedy for HACC's failure to pay is termination of this Agreement.

**IV. Agency Contacts**

HACC on-site Resident Services	Jemila Hart, Resident Services Coordinator	<a href="mailto:jemilahar@clackamas.us">jemilahar@clackamas.us</a>
HACC Contracts & Oversight	Elizabeth Miller, Administrative Svs Supervisor	<a href="mailto:emiller@clackamas.us">emiller@clackamas.us</a>
Home Forward on-site Service Coordinator		
Home Forward Contracts & Oversight		

**V. Other Terms**



- A. Monitoring and Measurement. HACC and Home Forward will develop benchmarks or metrics for monitoring the Service Coordinator's impact on outcomes listed in Exhibit A of this Agreement. Caseload will be established and monitored by HACC's Resident Services Coordinator and Home Forward's Human Services Manager.
- B. Indemnification. Home Forward 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 Home Forward, its subcontractors, agents, or employees. Home Forward agrees to indemnify, hold harmless and defend HACC, 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 Home Forward or the Home Forward's employees, subcontractors, or agents.

However, neither Home Forward nor any attorney engaged by Home Forward shall defend the claim in the name of HACC, nor purport to act as legal representative of HACC, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for HACC, nor shall Home Forward settle any claim on behalf of HACC without the approval of the Clackamas County Counsel's Office. HACC may, at its election and expense, assume its own defense and settlement.

- C. Amendments. This Agreement may be amended at any time upon written agreement between HACC and Home Forward. Amendments become a part of this Agreement only after any written amendment has been signed by the proper signatories for each department.
- D. Insurance Requirements. Home Forward agrees to furnish HACC with evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of HACC, and its officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Agreement. If self-insured, Home Forward shall provide documentation to HACC of Home Forward's self-insured status by completing a self-insurance certification in a form acceptable to HACC. HACC will be named as an additional insured on all insurance policies required under this Agreement.
- E. Oregon Law and Forum. This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between HACC and Home Forward that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by HACC of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Home Forward, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- F. Compliance with Applicable Law. Both parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- G. Non-Exclusive Rights and Remedies. Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other party.

- H. Access to Records. Home Forward shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Home Forward shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Home Forward shall permit the HACC's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.
- I. Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- J. Severability. If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.
- K. Integration, Amendment and Waiver. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by such party of that or any other provision.
- L. Interpretation. The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- M. Independent Contractor. Each of the parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one party shall be deemed to be a representative, agent, employee or contractor of the other party for any purpose. Nothing herein is intended, nor shall it be construed, to create between the parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each party hereby specifically disclaims any such relationship.
- N. No Third-Party Beneficiary. Home Forward and HACC are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement 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 Agreement.
- O. Subcontract and Assignment. Home Forward shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from HACC, which shall be granted or denied in the HACC's sole discretion. HACC's consent to any subcontract shall not relieve Home Forward of any of its duties or obligations under this Agreement.
- P. Counterparts. This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- Q. Survival. All provisions in sections V (B) and (D) shall survive the termination of this Agreement.
- R. Necessary Acts. Each party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

- S. Time is of the Essence. Home Forward agrees that time is of the essence in the performance this Agreement.
- T. Successors in Interest. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- U. Force Majeure. Neither Home Forward nor HACC shall be held responsible for delay or default caused by events outside of the Home Forward or HACC's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Home Forward shall 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 Agreement.
- V. Confidentiality. Home Forward acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Home Forward or its employees or agents in the performance of this Agreement shall be deemed confidential information of HACC ("Confidential Information"). Home Forward agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Home Forward uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

## VI. **Term and Termination of Agreement**

- A. This agreement is effective upon execution and will terminate three years later.
- B. Termination:
  1. Either party may terminate this Agreement for convenience at any time upon forty-five (45) days written notice to the other party.
  2. Either Home Forward or HACC may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the party seeking the termination shall give the other party written notice of the breach and of the party's intent to terminate. If the breaching party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
  3. Neither Home Forward nor HACC shall be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
  4. Each party may terminate this Agreement in the event that party fails to receive expenditure authority sufficient to allow that party, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the services to be performed under this Agreement are prohibited or either party is prohibited from paying for such services from the planned funding source.
  5. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

**HOUSING AUTHORITY OF  
CLACKAMAS COUNTY BOARD**

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

Signing on Behalf of the Housing Authority Board

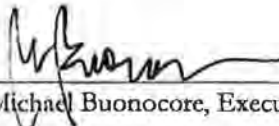
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Richard Swift, Director  
Health, Housing and Human Services Department

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Date

**Home Forward**



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Michael Buonocore, Executive Director

4.10.19

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Date

**EXHIBIT A – SCOPE OF WORK**  
**SERVICE COORDINATORS FOR HOUSING AUTHORITY OF CLACKAMAS COUNTY (HACC)**

**I. Logistics and Management of Caseload:**

Service Coordinator will work in collaboration with HACC Resident Services team, including the HACC Human Services Coordinator (HSC), Social Services Case manager and Resident Services Interns. HACC Resident Services will assist Service Coordinator with identifying residents in need of assistance, and work to develop strategies to provide crisis management and support services. Service Coordinator will have several offices at Hillside Manor in Milwaukie and Clackamas Heights, in Oregon City.

**II. The Service Coordinator will attend the following meetings on a regular basis:**

- Eviction Prevention Meeting on the 2<sup>nd</sup> & 4<sup>th</sup> Thursdays (Property Mgrs, Human Services Coordinator)
- Housing & Workforce Collaborative Meeting on the first Thursdays (Human Services Coordinator, FSS Specialist, Workforce community partners)
- Multi-disciplinary Team Meeting on the 2<sup>nd</sup> Tuesdays (Human Services Coordinator, Clackamas MHC representative, Behavior Health Staff)
- Holcomb Elementary School Meeting on the 1st Mondays (Human Services Coordinator, Holcomb school counselor).

**III. Primary Work Responsibilities of a Service Coordinator:**

- A. Housing Stability: To address the needs of households, staff works with property management to prevent evictions leading to the loss of housing and responds to crises in order to remedy and/or deescalate the situation.
- a. Create proactive activities around lease engagement, including follow-up with property management on challenges that arise for residents.
  - b. We offer support before the concerns have risen to a level of formal notice and provide direct support to assist residents in meeting their needs.
  - c. If an eviction notice is given, Service Coordinators respond by informing households of their options and attempt to remedy the issues in order to maintain housing stability.
- B. Economic Stability and Self-Reliance: To increase earning potential, Resident Services provide work-focused households coaching and connections to:
- a. Asset building
  - b. Education
  - c. Employment support
  - d. Fundamentals include job training, GED/high school completion, credit repair, expungement of criminal history, and removing barriers to greater economic stability.
- C. Promoting Quality of Life: Too often a sense of isolation can exist for seniors and people with disabilities. Often times, residents report that they feel disconnected from the surrounding neighborhood and express a desire to access the resources available in the larger community. These resources include:
- a. Affordable nutritious food
  - b. Better access to wellness programs
  - c. Enhanced social activities
  - d. For seniors and people with disabilities, Resident Services works towards creating social networks and effective linkages to programs that promote a positive quality of life.
- D. Advancing Young People: In order for families to achieve and sustain housing and economic stability, the needs of the entire family, especially those with children, must be addressed. Stability in housing and success at school go hand in hand. We seek to develop greater educational and leadership opportunities for youth early on in order to create greater economic stability in their adult lives. Evidence tells us that youth are more likely to graduate from high school, go on to college/job training, and become economically stable when they have had multiple positive interventions early on in their lives. If we guide youth towards greater stability, we believe that when they reach adulthood they will not need the same housing assistance that was needed by their parents.

- E. Community Building: The entire community is transformed when its members can access a full range of health, wellness, and social activity programs. Home Forward strives to build a sense of community by engaging with partners and residents to design activities and services that promote healthy and well-connected neighbors and neighborhoods.
- F. Performance Measures: tracking interventions and outcomes is important when evaluating programs and important for future funding opportunities.

Home Forward will submit quarterly reports to HACC regarding the following interventions and outcomes:

- a. Increase the number of culturally specific services delivered;
- b. Increase the number of services delivered for high barrier households;
- c. Increase the number of families having greater economic stability;
- d. Increase access to community resources;
- e. Increase the sense of community cohesion among residents;
- f. Decrease the number of eviction notices;
- g. Decrease the number of underserved households;
- h. Decrease the number of failed housing inspections; and
- i. Decrease the number of households facing potential loss of housing

May 16, 2019

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

Approval of a Service Contract between the Housing Authority and Mental Health Association of Oregon for Peer Support Services for families living in housing

<b>Purpose/Outcomes</b>	Approval of a Service Contract between the Housing Authority and Mental Health Association of Oregon for peer support services for families living in housing.
<b>Dollar Amount and Fiscal Impact</b>	Not to exceed \$284,776.02 over three years. Subject to continuing Board of Commissioners' approval.
<b>Funding Source(s)</b>	County General Funds through Policy Level Proposal – Affordable Housing & Services Fund
<b>Duration</b>	May 16, 2019 – May 15, 2022
<b>Previous Board Action</b>	none
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Individuals and families in need are healthy &amp; safe</li> <li>2. Ensure safe, healthy and secure communities</li> </ol>
<b>Counsel Review</b>	March 26, 2019
<b>Contact Person</b>	Jill Smith, HACC Executive Director (503) 742-5336
<b>Contract Number</b>	Contract No. 9242

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval to enter into a Service Contract with Mental Health Association of Oregon dba Mental Health & Addiction Association of Oregon, for the funding of a peer support specialist for families living in HACC Housing.

Clients are selected for housing from the waiting list and many prospective resident families are homeless (and/or have housing barriers) and are in need of case management to be successfully housed.

The Peer Support Specialist will work in collaboration with HACC's Resident Services Team.

The scope of work for the peer services specialist will fall under the following categories:

- Housing Stability/Eviction Prevention
- Promoting quality of life
- Vulnerable residents will be connected to support services
- Advocacy for residents to navigate systems
- Community Building
- Tracking Interventions and outcomes

The funding source is County General Funds through the Affordable Housing & Services Fund Policy Level Proposal.

**AGENCY SERVICES AGREEMENT  
BETWEEN  
HOUSING AUTHORITY OF CLACKAMAS COUNTY AND  
MENTAL HEALTH ASSOCIATION OF OREGON DBA MENTAL HEALTH & ADDICTION  
ASSOCIATION OF OREGON (MHAAO)**

**1. PURPOSE**

This Agency Services Agreement (“Agreement”) is entered into between Housing Authority of Clackamas County (“HACC”) and Mental Health Association of Oregon dba Mental Health & Addiction Association of Oregon, an Oregon nonprofit corporation (“MHAAO”). This agreement is for three years, effective upon signature by all parties.

This Agreement provides the basis for a cooperative working relationship for Peer Support Services for households living in Public Housing or Section 8. The work to be accomplished by MHAAO is set forth in the Scope of Work, attached hereto as Exhibit A and incorporated by this reference herein.

**2. SCOPE OF COOPERATION**

**A. MHAAO agrees to:**

1. Perform the Work described in Exhibit A of this Agreement;
2. Provide a full time Peer Support Specialist to HACC, that will provide direct service to residents of Public Housing or other housing as applicable;
3. Employ and manage the Peer Support Specialist day-to-day work responsibilities in cooperation with HACC staff involved in property management and resident services. Staff hours are Monday through Thursday 8:00 a.m. – 5:00 p.m.;
4. Submit monthly invoices to HACC for payment of services delivered.

**B. HACC agrees to:**

1. Assign HACC residents with specific needs to the Peer Support Specialist;
2. Pay invoices due to MHAAO within 30 days of receipt;
3. Assist MHAAO with measuring and monitoring outcomes of Peer Support Specialist interventions or care plans.

**C. Agency Contacts:**

HACC on-site Resident Services	Jemila Hart, Resident Services Coordinator	<a href="mailto:jemilahar@clackamas.us">jemilahar@clackamas.us</a>
HACC Contracts & Oversight	Elizabeth Miller, Administrative Svs Supervisor	<a href="mailto:emiller@clackamas.us">emiller@clackamas.us</a>
MHAAO on-site Service Coordinator	Cee Carver, Director of EVOLVE West	<a href="mailto:ccarver@mhaoforegon.org">ccarver@mhaoforegon.org</a>
MHAAO Contracts & Oversight	Janie Gullickson, MHAAO Executive Director	<a href="mailto:jgullickson@mhaoforegon.org">jgullickson@mhaoforegon.org</a>

**3. TERMS OF AGREEMENT**

- A. This Agreement becomes effective when it is signed by both Parties.
- B. The term of this Agreement is three (3) years from the effective date.
- C. Termination:
  1. Either party may terminate this Agreement for convenience at any time upon forty-five (45) days written notice to the other party.
  2. Either MHAAO or HACC may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the party seeking the termination shall give the other party written notice of the breach and of the party's intent to terminate. If the breaching party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the



A. Compliance with Applicable Laws and Regulations and Special Federal Requirements. MHAAO shall comply with all Federal, State, local laws, rules, and regulations applicable to the work to be performed under this contract, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed. Compliance with Applicable Law, attached hereto and incorporated herein by this reference. Any violation shall entitle HACC 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 MHAAO, 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 MHAAO 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, except for attorney's fees.

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.

D. Subcontracts. MHAAO shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from HACC.

F. Tax Laws. MHAAO 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 & ORS ch. 316, 317, & 318;
2. Any tax provisions imposed by a political subdivision of this state that applied to MHAAO, to MHAAO's property, operations, receipts, or income, or to MHAAO's performance of or compensation for any work performed by MHAAO;
3. Any tax provisions imposed by a political subdivision of this state that applied to MHAAO, or to goods, services, or property, whether tangible or intangible, provided by MHAAO; and
4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

G. Background Checks. Criminal background checks are required for direct service staff funded through this agreement.

H. Mandatory Reporting. Mandatory reporting is required for direct services staff funded through this IGA.

## 6. GENERAL CONDITIONS

A. Monitoring and Measurement. HACC and MHAAO will develop benchmarks or metrics for monitoring the Peer Support Specialist impact on outcomes listed in Exhibit A of this Agreement. Caseload will be established and monitored by HACC's Resident Services Coordinator and MHAAO's Human Services Manager.

B. Indemnification. MHAAO 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

shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, MHAAO shall permit the HACC's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.

- I. Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- J. Severability. If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.
- K. Integration, Amendment and Waiver. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by such party of that or any other provision.
- L. Interpretation. The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- M. Independent Contractor. Each of the parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one party shall be deemed to be a representative, agent, employee or contractor of the other party for any purpose. Nothing herein is intended, nor shall it be construed, to create between the parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each party hereby specifically disclaims any such relationship.
- N. No Third-Party Beneficiary. MHAAO and HACC are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement 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 Agreement.
- O. Subcontract and Assignment. MHAAO shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from HACC, which shall be granted or denied in the HACC's sole discretion. HACC's consent to any subcontract shall not relieve MHAAO of any of its duties or obligations under this Agreement.
- P. Counterparts. This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- Q. Survival. All provisions in sections V (B) and (D), and all other rights and obligations which by their context are intended to survive, shall survive the termination of this Agreement.
- R. Necessary Acts. Each party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- S. Time is of the Essence. MHAAO agrees that time is of the essence in the performance this Agreement.

## **Exhibit A**

### **Scope of Services**

#### **I. Logistics and Management of Caseload:**

Peer Specialists will work in collaboration with HACC Resident Services team, including the HACC Human Services Coordinator (HSC), Social Services Case manager, Additional Residents service staff and Interns. HACC Resident Services will assist Peer Specialist with identifying residents in need of assistance, and work to develop strategies to provide crisis management and support services. Peer Specialists will have several offices at Hillside Manor in Milwaukie and Clackamas Heights, in Oregon City.

#### **II. The Peer Specialist will attend the following meetings on a regular basis:**

1. Eviction Prevention Meeting on the 2<sup>nd</sup> & 4<sup>th</sup> Thursdays (Property Mgrs, Human Services Coordinator)
2. Housing & Workforce Collaborative Meeting on the first Thursdays (Human Services Coordinator, FSS Specialist, Workforce community partners)
3. Multi-disciplinary Team Meeting on the 2<sup>nd</sup> Tuesdays (Human Services Coordinator, Clackamas MHC representative, Behavior Health Staff)
4. Holcomb Elementary School Meeting on the 1st Mondays (Human Services Coordinator, Holcomb school counselor).

#### **III. Primary Work Responsibilities of a Peer Specialist:**

1. MHAAO's resident services peer support will bridge HACC residents to resource referrals to community organizations and partners. MHAAO's resident services peer support will participate in assisting tenants in systems navigation and provide advocacy within a broad range of systems.
2. MHAAO's resident services peer support will plan and coordinate activities which may include health and safety fairs, community gardening events, classes and instruction on topics such as basic financial wellness, including budgeting and expungement clinics, healthy eating and food resource options, transportation safety, job fairs, and various activities to increase exercise opportunities, as well as holiday and culturally appropriate community events where residents can get together to know one another and feel an increased sense of community.
3. MHAAO's resident services peer support will develop active and ongoing relationships with property management staff and HACC residents to address emergent and ongoing concerns or issues related to tenancy and to problem solve solutions in a creative and deliberative manner. MHAAO's resident services peer support will maintain focus on housing stability and requirements to maintain housing, including assistance to tenants throughout housing crises.
4. MHAAO's resident services peer support will be familiar with Clackamas County's Coordinated Housing Access System and assist residents in accessing the system when appropriate.
5. MHAAO's resident services peer support will work with the resident services coordinator to create and implement resident initiatives. The MHAAO resident services peer support will outreach to families within the HACC housing community to build relationships with the elders, youth, and families of HACC housing residents and provide information and support on culturally relevant and appropriate resources to engage the participation of underserved populations.
6. MHAAO's resident services peer support will participate regularly in Clackamas County's Continuum of Care monthly provider meetings and participate in professional group meetings and trainings to stay abreast of new trends and other relevant emerging best practices.
7. MHAAO's resident services peer support will maintain resident logs in designated databases, confidential files and notes; prepare reports to grant requirements.

#### **III. Performance Measures**

Tracking interventions and outcomes is important when evaluating programs and important for future funding opportunities. MHAAO will submit quarterly reports to HACC regarding the following interventions and outcomes:

1. Increase community engagement and natural support among youth, elderly, and general resident populations through resident services planned participation in wellness, entertainment, and educational events in their communities and on their properties;

May 16, 2019

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between the Housing Authority and Social Services for Case Management for Public Housing Program

<b>Purpose/Outcomes</b>	Approval of an Intergovernmental Agreement between the Housing Authority and Social Services for case management of Public Housing families.
<b>Dollar Amount and Fiscal Impact</b>	\$120,000 total over two (2) years
<b>Funding Source(s)</b>	County General Funds through Policy Level Proposal – Affordable Housing & Services Fund
<b>Duration</b>	May 16, 2019 – May 15, 2022
<b>Previous Board Action</b>	Board approved last IGA on April 5, 2018 (exp 6/30/19)
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Individuals and families in need are healthy &amp; safe</li> <li>2. Ensure safe, healthy and secure communities</li> </ol>
<b>Counsel Review</b>	May 2, 2019
<b>Contact Person</b>	Jill Smith, HACC Executive Director (503) 742-5336
<b>Contract Number</b>	Contract No. 9247

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval to enter into an Intergovernmental Agreement with Social Services, a Division of Health, Housing and Human Services Department, for the funding of a case management for families participating in the Public Housing program.

The Public Housing program consists of 545 housing units. Clients are selected from the waiting list and many prospective resident families are homeless (and/or have housing barriers) and are in need of case management to be successfully housed.

The Case manager will work in collaboration with the Social Services Supportive Housing Team ("Housing Pod"). Most case management will take place at tenant's living units, in the community or during meetings.

The scope of work for the case manager is as follows:

- Eligibility and Intake
- Documentation of Homelessness and compliance
- Housing Stability and Increasing Income
- Eviction Prevention
- Vulnerable residents will be connected to support services
- Advocacy for residents to navigate systems

- Tracking Interventions and outcomes, with the goal of supporting long term sustainability, collaboration between service systems, and to keep at risk residents in their housing and off the streets.

The funding source is County General Funds through the Affordable Housing & Services Fund Policy Level Proposal.

**RECOMMENDATION:**

Staff recommends the Board approve the Intergovernmental Agreement with Social Services for the case management of Public Housing residents.

Staff also recommends the Board authorize Jill Smith, HACC Executive Director, to sign the IGA on behalf of the Housing Authority Board of Commissioners.

Respectfully submitted,



Richard Swift, Director  
Health, Housing and Human Services

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
HOUSING AUTHORITY OF CLACKAMAS COUNTY  
AND  
CLACKAMAS COUNTY**

**I. Purpose**

A. This Agreement is entered into between the Housing Authority of Clackamas County (HACC) and Clackamas County through its Health, Housing and Human Services Department, Social Services Division (SSD) for the provision of a half time Case Manager by SSD to HACC for its Public Housing Program. HACC is a Public Corporation, established under the Federal Housing Act of 1937 and the provisions of Chapter 456 of the Oregon Revised Statutes. Although it is a separate entity, the Housing Authority falls under the administrative structure of Clackamas County government as a Division within the Department of Health, Housing and Human Services (H3S). SSD is also a division under H3S. This Agreement is intended to memorialize the agreement between these two County Divisions operating within H3S.

B. This Agreement provides the basis for a cooperative working relationship for the case management for households living in Public Housing at risk of eviction. Public Housing consists of 545 units. The Scope of Work to be accomplished is described in Exhibit A (attached as "Exhibit A").

**II. Scope of Cooperation**

A. SSD agrees to:

1. Perform the work described in the Scope of Work in Exhibit A of this Agreement;
2. Provide a half time Case Manager to HACC, that will provide direct service to residents of Public Housing or other housing as applicable;
3. Employ and manage the Case Manager's day to day work responsibilities in cooperation with HACC staff involved in property management and resident services;
4. Submit quarterly invoices to HACC for payment of services delivered.

B. HACC agrees to:

1. Perform the work described in the Scope of Work in Exhibit A of this Agreement;
2. In cooperation with the SSD Human Services Manager, assign HACC residents with specific needs to the Case Manager;
3. Caseload will be established and monitored by HACC's Resident Services Coordinator and SSD's Human Services Manager;
4. Pay invoices due to SSD within 30 days of receipt;
5. Assist SSD with measuring and monitoring outcomes of Case Manager's interventions or care plans.

**III. Budget and Terms of Payment for Services Rendered**

A. Budget: the cost of purchasing the services of a half time case manager will be \$60,000 per year. The budget components are detailed as follows:

Salary & Fringe Benefits	\$104,292
Indirect Costs	\$8,706
<u>Allocated Costs</u>	<u>\$7,002</u>
TOTAL	\$120,000

This budget may be amended by the Executive Directors of HACC and SSD upon written notification.

- B. HACC may provide funds through its Resident Participation Funds for small miscellaneous expenditures that assist residents with accessing essential services such as transportation fees, school application fees, etc.
- C. SSD will invoice HACC on a quarterly basis with payment due to SSD within 30 days of receipt of invoice.
- D. Control of Personnel. The Case Manager provided by SSD is solely the employee of SSD. Control of personnel, supervision, standards of performance, discipline, and all other aspects of performance shall be governed entirely by SSD. Allegations of misconduct shall be investigated in accordance with applicable Clackamas County policy and procedures. All liabilities for salaries, wages, any other compensation, injury, or sickness arising from performance of the services provided by the Case Manager shall be that of SSD.

#### IV. Liaison Responsibility

Liaison from HACC for the Program will be: Jemila Hart, 503-655-8877, jemilahar@clackamas.us

Liaison from SSD for the Program will be: Erika Silver, 503-650-5725, ESilver@clackamas.us. Liaison will determine case manager staff.

#### V. Other Terms

- A. Monitoring and Measurement. HACC and SSD will develop benchmarks or metrics for monitoring the Case Manager's impact on outcomes listed in Exhibit A of this Agreement.
- B. Amendments. This Agreement may be amended at any time upon written agreement between HACC and SSD. Amendments become a part of this Agreement only after any written amendment has been signed by the proper signatories for each department.
- C. Insurance Requirements.  
The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.
- E. Indemnification.  
Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, SSD agrees to indemnify, save harmless and defend HACC, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of SSD or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which SSD has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, HACC agrees to indemnify, save harmless and defend SSD, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of HACC or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which HACC has a right to control.

**VI. Term of Agreement**

- A. This agreement is effective July 1, 2019 and will terminate on June 30, 2021. The term of this Agreement may be extended by Amendment as noted in Section V above.

**VII. Termination**

- A. This agreement may be terminated by either party upon a written notice submitted 45 days prior to requested termination date or immediately if extraordinary circumstances emerge such as but not limited to loss of funding, personnel terminations, lack of need for services or other situations beyond the control of one or both parties to this agreement.



**HOUSING AUTHORITY OF  
CLACKAMAS COUNTY BOARD**

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

Signing on Behalf of the Housing Authority Board

---

Jill Smith, Executive Director  
Housing Authority of Clackamas County

---

Date

**CLACKAMAS COUNTY**

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

Signing on Behalf of the Clackamas County Board

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Richard Swift, Director  
Health, Housing and Human Services Department

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Date

**EXHIBIT A – SCOPE OF WORK  
CASE MANAGER FOR HOUSING AUTHORITY OF CLACKAMAS COUNTY (HACC)**

**I. Logistics and Management of Caseload:**

Case manager will work in collaboration with HACC Resident Services team, including the HACC Human Services Coordinator (HSC), Resident Services Assistant and Resident Services Interns. HACC Resident Services will assist Case Manager with identifying residents in need of assistance, and work to develop strategies to provide crisis management and support services. Case Manager will have an office at PSB. However, HACC can provide remote workspace at Hillside Manor or Oregon City View Manor (OCVM). Most case management work on site will take place at tenant's living units or during meetings.

**II. The Case Manager will attend the following meetings on a regular basis:**

- Eviction Prevention Meeting on the 2<sup>nd</sup> & 4<sup>th</sup> Thursdays (Property Mgers, Human Services Coordinator)
- Housing & Workforce Collaborative Meeting on the first Thursdays (Human Services Coordinator, FSS Specialist, Workforce community partners)
- Multi-disciplinary Team Meeting on the 2<sup>nd</sup> Tuesdays (Human Services Coordinator, Clackamas MHC representative, Behavior Health Staff)
- Holcomb Elementary School Meeting on the 1st Mondays (Human Services Coordinator, Holcomb school counselor).

**III. Primary Work Responsibilities of Case Manager:**

- Eviction Prevention – Work collaboratively with Resident Services team and other parties to prevent evictions.
- Vulnerable Residents – Identify and provide support services to vulnerable residents. This would include connecting residents to drug and alcohol treatment, mental health services, and health care services for persons living with chronic health conditions.
- Advocacy - Advocating for residents to navigate service systems and meet basic needs.
- Tracking Interventions and Outcomes – Track interventions and outcomes with the goal of supporting long term sustainability and collaboration between service systems.



May 16, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

First Reading of an Ordinance Amending Chapter 6.06,  
Park Rules, of the Clackamas County Code

<b>Purpose/Outcomes</b>	Provides for certain revisions to Code language to ensure continued public safety and improve the customer experience in county parks.
<b>Dollar Amount and Fiscal Impact</b>	A fine of \$150 will be imposed under 6.06.050.L.4 for public urination and/or defecation.
<b>Funding Source</b>	n/a
<b>Duration</b>	In effect until further amended or repealed.
<b>Strategic Plan Alignment</b>	1. Build Public Trust through Good Government 2. Honor, Utilize, Promote and Invest in our Natural Resources.
<b>Previous Board Action</b>	The BCC approved proposed amendments to County Code 6.06 at its April 16, 2019 Policy Session.
<b>Contact Person</b>	Rick Gruen, BCS County Parks & Forest Manager, x4345

**BACKGROUND:**

Business and Community Services County Parks manages nearly 1,000 acres of park lands including 3 campgrounds, 209 campsites, 11 day use areas and 4 public boat ramps. The public values fair and equitable access to clean and safe parks as demonstrated in recent park user surveys and through review and input provided by the County Parks Advisory Board.

Amendments to Chapter 6.06, Park Rules, of Clackamas Code include: 1) Large group bookings (over 30 campsites) will be restricted during peak season dates and require advance payment (County Code 6.06.040.B.2); 2) Year-in-advance reservations that are partially cancelled will be subject to cancellation penalties (County Code 6.06.040.C.4); and 3) Public urination and defecation shall be explicitly prohibited, with the fine amount of \$150 to be codified under County Code 6.06.050.L.4.

Staff desires to have these changes in effect prior to the beginning of Parks' busiest season (typically early July) in order to begin applying the new standards for reservations and to enforce the new prohibitions. As such, staff further requests that the Board find an emergency so that the

amendments take immediate effect following the second reading as opposed to the 90-day effective date.

The second reading by Title Only shall be held on Thursday, June 6, 2019.

County Counsel has reviewed and approved the language of Chapter 6.06 Code Amendments.

**RECOMMENDATION:**

Staff respectfully requests that the Board approve the Ordinance changes amending Chapter 6.06, Park Rules, and declare an emergency so that the amendments take effect immediately upon their adoption.

Respectfully submitted,

Laura Zentner, Director  
Business and Community Services

**ORDINANCE NO. \_\_\_\_\_**

**An Ordinance Amending  
Chapter 6.06, Parks Rules, of the Clackamas County Code, and declaring  
an emergency.**

WHEREAS, Business and Community Services County Parks is amending Chapter 6.06 Park Rules of the Clackamas County Code. The amendments to Chapter 6.06, Park Rules, of Clackamas Code include: 1) Large group bookings (over 30 campsites) will be restricted during peak season dates and require advance payment (County Code 6.06.040.B.2); 2) Year-in-advance reservations that are partially cancelled will be subject to cancellation penalties (County Code 6.06.040.C.4); and 3) Public urination and defecation shall be explicitly prohibited, with the fine amount of \$150 to be codified under County Code 6.06.050.L.4.

Now, therefore, the Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 6.06, Park Rules, of Clackamas County, is hereby amended as shown on Exhibit A, attached hereto and incorporated herein by this reference.

Section 2: Emergency Clause. The Board of Commissioners hereby finds and declares that due to the need to apply the new standards for reservations and to enforce the new prohibitions before Clackamas County Parks' summer season, an emergency exists that requiring the Ordinance to take immediate effect. Accordingly, this Ordinance shall be effective upon its adoption.

ADOPTED this 6<sup>th</sup> day of June, 2019.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

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

## Chapter 6.06

### 6.06 PARK RULES

#### 6.06.010 Policy and Purpose

The purpose of this chapter is to protect County parks, forest and recreational areas, protect the health, safety and welfare of the public using such areas, and insure the best use of and benefits from such areas. The numbering system for this chapter is necessarily *unique* because of the requirements of the County and State criminal justice systems.

[Codified by Ord. 05-2000, 7/13/00; renumbered from 6.06.02 by Ord. 04-2013, 8/22/13]

#### 6.06.020 Definitions

- A. APPROVED CAMPING SHELTER means ground tents, vehicle tents, motorhomes, travel trailers, vans and camper units designed specifically for overnight, outdoor camping, such as Class A, B or C vehicles, towables, and truck campers.
- B. BOARD means the Board of County Commissioners of Clackamas County.
- C. DIVISION means the Clackamas County Parks Division of the Business and Community Services Department and its employees.
- D. ANIMAL, as per ORS 167.310, means any non-human mammal, bird, reptile, amphibian or fish. LIVESTOCK, as per ORS 609.125 means any ratites (large flightless birds), psittacines (parrot & macaw type birds), horses, mules, jackasses, cattle, lamas, alpacas, sheep, goats, swine, domesticated fowl and any fur bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches.
- E. PARK AREA means any County park, forest or recreational area under the jurisdiction of the board, but not any residence located thereon.
- F. PARKS EMPLOYEE means ~~the individual in charge of and/or responsible for a County park area~~ a County employee, caretaker, host, or agent.
- G. PARKS DIRECTOR AND/OR THEIR DESIGNATEE means the person designated by the Board or the Department to administer the County's programs and policies for County parks, forests, and recreation areas.
- H. PEACE OFFICER means a Sheriff, deputy sheriff, constable, marshal, municipal police officer, Oregon State Police officer, and such other persons as may be designated by law.
- I. PROHIBITED ARTICLES means fireworks, weapons, glass, and alcoholic beverages under this Chapter.
- J. RESERVATION includes, but is not limited to, calling, ~~or conveying in writing (fax, email, US mail)~~ booking online or by email, in advance to obtain a campsite or day-use area.
- K. Other terms shall be defined as set forth in the Oregon Vehicle Code, ORS Chapter 801, unless specifically provided otherwise in this Chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.03 and amended by Ord 04-2013, 8/22/13; Amended by Ord. 01-2016, 3/24/16; Amended by Ord. 07-2018, 6/28/18]

**6.06.030 Opening, Closing, Entry Into Parks**

- A. The Division is hereby authorized to close to the public use of any County Park area or portion thereof, restrict the times when any County park area shall be open to such use, and limit or prohibit a recreation use whenever such action is necessary to protect the health or safety of the public, or the safety of the park area or its facilities. Cause for park area closure or limitation, or prohibition, on park area or recreational use includes, but is not limited to: Fire hazard, dangerous weather, water conditions, sanitary protection of the watershed, park area construction or repairs, conservation of fish and wildlife, excessive traffic; unsafe or overcrowded shoreline, ramp, parking or road conditions; the prevention of damage to the park or any of its facilities; or any dangerous, unsafe or unhealthful conditions.
- B. Any County employee designated by the Director of Business and Community Services Department or any peace officer may request, as a condition of the license or permit to enter the County's park areas, that persons entering or about to enter allow inspections of all backpacks, briefcases, suitcases, athletic bags, packages, duffle bags, coolers, ice chests, picnic baskets, and other containers capable of concealing prohibited articles:
1. Inspections under this section may occur anywhere on park property. Persons possessing containers subject to inspection shall be informed that they are free to decline the inspection and then must immediately leave the park area.
  2. If a person already inside the park area possesses a prohibited article, that person shall be considered to have violated the license to enter and use the park area. The person's license is automatically revoked and the person shall be requested to leave immediately.
  3. Any person in violation of park rules is subject to citation and immediate trespass.
- C. The County shall display signs at entrances to the park area that generally identify prohibited articles and provide notification of the request for inspection. The signs shall generally describe prohibited articles, explain the potential request for inspection and the right-to-decline options. Similar explanations may be printed on parking receipts and where available may be displayed at ticket windows on County property where parking passes or admissions are regularly sold.
- D. No person shall enter or use any County park area or any of its facilities without first paying the required fee, if any, unless such entry or use is otherwise authorized by a valid existing permit in the name of said person. For all misplaced or stolen parking permits, there shall be a nominal fee for replacement.

Any permit for entry or receipt for the use of any County park shall be displayed in a way that makes it easily visible from outside the vehicle. Failure to display a permit or receipt in a visible manner is a violation of this section requiring payment.

- E. Any County employee designated by the Director of Business and Community Services Department or any peace officer may revoke any permit that has been issued erroneously or where there is reasonable cause to believe the permit holder or any person in his or her custody, control, or family, has violated any of the provisions of these rules or any State, County or federal law. Any person whose permit has been revoked and all other persons in his or her custody, control, and family shall immediately leave the park area.

- F. Any person who violates any of these Park Rules, or who violates any state statute (including the vehicle chapter), County ordinance or code while in a County park, may be ordered to leave the park area.
- G. No person who has been ordered to leave a County Park area shall remain therein or return thereto.
- H. The Division may refuse to admit into a park area any person who has been previously ordered to leave a County park.
- I. The daily opening and closing times for each Clackamas County Park, including but not limited to Barlow Wayside, Barton, Boones Ferry Marina, Boring Station, Carver, Eagle Fern, Feyrer, Hebb, Knights Bridge, Madrone Wall, Metzler, Ed Latourette, Feldheimer ~~Boat Ramp~~, Wagon Wheel, and Wilhoit Springs, shall be established by the Parks Director and/or their designate and posted at the entrance to the park.
- J. Except for authorized overnight camping in accordance with these rules, no person, other than peace officers or authorized County personnel or agents, shall enter or remain in any park area after the daily closing time and before the daily opening time, without prior written authorization.
- K. User fees for campsites are due and shall be paid prior to each day's use. The fee covers use of facilities and services until the vacating time of 1:00 p.m. the following day.
- L. The person registering for the campsite is responsible for all persons using the campsite adhering to all park area rules, but this shall not provide a defense to any person who actually causes, or participates in causing, a violation of said rules.
- M. Campers must maintain campsites in a clean, sanitary, and safe manner.
- N. Unless otherwise posted at the entrance to the park campground, campsites may be occupied only as assigned by a reservation or at the campground registration area.
- O. No more than two (2) vehicles are allowed in a single campsite. The first vehicle is included in the campsite fee. All excess vehicles will be charged an additional fee and may need to be parked in designated overflow parking.
- P. In order to avoid unnecessary congestion of campground roadways and overloading of campground water and sanitation facilities, a park employee may prohibit entry of non-camper vehicles into the campground area. The park employee may issue temporary entry permits to non-camper vehicles when, in their opinion, such entry will not unnecessarily disrupt the operation, safety, and sanitation facilities of the campground.
- Q. Campsites may be accommodated with any approved camping shelter except those areas that have specific designated usage, i.e., RV only, ~~ground~~-tent only.
- R. Individual campsites are designed to serve one family unit. The following capacities shall apply:
  - 1. Not more than two (2) tents OR one (1) recreation vehicle and one (1) tent per campsite.
  - 2. A maximum occupancy of 8 persons per site.
  - 3. No person under the age of 18 shall camp overnight unless accompanied by an adult.
  - 4. ADA accessible campsites are designed for campers with mobility challenges. Campers with DMV placards or license plates are given priority in these sites. Unless otherwise noted below persons registering for, or occupying, accessible campsite(s) must clearly display an appropriate placard or plate during their stay.



*Note: Large group reservations of all campsites in a campground loop or park are exempt from this rule.*

- S. Parks with accessible campsites for Persons with Disabilities shall:
1. Hold all reserved site(s) for the date(s) of reservation unless notified by the Parks Office to release the site;
  2. Hold unreserved accessible sites site(s) for qualified drop-in campers until 7:00 p.m. daily;
  3. Release unreserved accessible site(s) for first come, first served use after 7:00 p.m. for one (1) night only stay if no qualified users have registered.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.03 and amended by Ord. 04-2013, 8/22/13; Amended by Ord. 05-2015, 5/14/15; Amended by Ord. 01-2016, 3/24/16; Amended by Ord. 07-2018, 6/28/18]

#### **6.06.040 Reservations And Check In/Out Times**

- A. All persons making reservations must be 18 years of age or older.
- B. Online reservations for camp sites, sheltered and non-sheltered picnic areas must be made a minimum of 3 days in advance. Payment for reservations of picnic areas and campsites are due in full at the time of booking unless booking ten (10) or more campsites.
1. Reservations for ten (10) or more campsites must be made through the Parks Administration Office and requires a deposit of the reservation fee and first night's rental fee due at the time of booking the reservation. The remaining balance is due thirty (30) days ~~prior to the arrival date~~ after making the reservation. The Parks Division reserves the right to cancel a reservation of ten (10) or more campsites, without notification, if the final payment has not been paid as per policy.
  2. No group may book more than thirty (30) campsites for the same date(s) in any one park on Memorial Day weekend or during the peak season from July 1 though Labor Day weekend.
- C. Cancellations and refunds:
1. For campsites (full hook-up, partial hook-up, primitive) and bunkhouse:
    - a. If cancellation is made four (4) or more days in advance of the arrival date, a refund will be issued by the Parks Division less the reservation fee and a cancellation fee.
    - b. If cancellation is made within three (3) days of the arrival date, a partial refund will be issued by the Parks Division less the reservation fee, a cancellation fee and the first night's camping fee.
  2. For sheltered and non-sheltered picnic areas:
    - a. If cancellation is made fifteen (15) days or more in advance of the reserved use date, a refund will be issued less the reservation fee and a cancellation fee.
    - b. If cancellation is made within fourteen (14) days of the reserved use date, no refunds will be issued.
  3. Reservation and transaction fees are non-refundable.

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4. If days are removed from the front of a reservation, resulting in the new arrival date being more than one year from when the original reservation was made, the County reserves the right to cancel the entire reservation and retain the reservation fee and first night's camping fee.

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- D. Changes to overnight camping reservations and day use reservations, such as a reduction in the number of campsites, or a change in the location or date, can be made at any time, except as noted in subsection (C)(4), but a change fee is required and will be charged at the time of the change request.
- E. Check-in time for all overnight camping sites is established at 3:00 p.m. and check-out time is established at 1:00 p.m. the following day. Campsites not vacated by 1:00 p.m. shall be subject to charge of fees for an additional night, if the campsite is available and not reserved for that time period.
- F. If a campsite has been reserved for use by another party for that night, and the campsite has not been vacated by the non-reserved party by check-out time:
1. The non-reserved party shall vacate the site immediately or be subject to eviction;
  2. The non-reserved party shall be subject to exclusion from Clackamas County parks pursuant to this chapter;
  3. Any vehicle occupying the campsite after check-out time other than a vehicle of the reserved party is parked in violation of this chapter, and may be immediately towed away without prior notice at the owner's expense under the provisions of the Clackamas County Vehicle Parking and Towing Chapter; and
  4. Park employees may remove any personal property remaining on the campsite other than property of the reserved party.
- G. Individual campers or small groups reserving ADA accessible sites must provide documentation upon making the reservation or the reservation may be forfeited. *Note: Large group reservations of all campsites in a campground loop or park are excluded from this rule.*

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.14; amended by Ord. 04-2013, 8/22/13; amended by Ord. 02-2014, 5/22/14; Amended by Ord. 01-2016, 3/24/16; Amended by Ord. 04-2017, 5/4/17; Amended by Ord. 07-2018, 6/28/18]

#### **6.06.050 Violations**

- A. No person shall park a vehicle on any Clackamas County park property before the posted opening time or after the posted closing time. Vehicles parked in violation of this section shall be towed or booted in accordance with the Clackamas County Parking and Towing Chapter.
- B. No person shall expose his or her genitalia or breasts, or be completely nude (full nudity) while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex or children.
- C. No person shall, while in, or in view of, a public place, perform an act of sexual intercourse or an act of oral or anal sexual intercourse; or an act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person, as defined in ORS 163.465.

D. No person shall have in his or her possession any glass beverage container without first obtaining a permit from the County Parks Department. Permits will be issued upon payment for use of designated campsites and group picnic areas. Permits for possession of glass beverage containers will not be issued for day-use areas.

E. Fires

1. Fires in park areas shall be confined to:
  - a. Fire rings, fire pits, or fireplaces provided for such purposes;
  - b. Portable stoves in established campsites and picnic areas where fires are permitted.
2. No person shall leave any fire unattended, and every fire user shall extinguish the fire before leaving the park area.
3. No person shall build, light or maintain any fire so as to constitute a hazard to any pile of wood, grass, tree, underbrush, or other flammable material.
4. No person shall move a park fire ring, fire pit, or fireplace from its designed location in any day use area or campground.

F. Fireworks and Weapons

1. No person shall hunt, pursue, trap, kill, injure, or molest any bird or animal in any park area.
2. No person shall discharge in any park area any firearm, pellet gun, bow and arrow, slingshot, paintball gun, or other weapon capable of injuring any person, bird, or animal.
3. No person shall possess in any park area any: loaded firearm, loaded pellet gun; paintball gun; bow and arrow; slingshot; other weapon capable of injuring any person, bird or animal; provided however that the prohibition of loaded firearms does not apply to or affect:
  - a. a law enforcement officer or authorized agent in the performance of official duty,
  - b. a member of the military in the performance of official duty,
  - c. a person licensed to carry a concealed handgun, or
  - d. a person authorized to possess a loaded firearm while in a public building under ORS 166.370.
4. No person shall possess or use fireworks or other explosives in any park area, except as designated, without the written permission from the Parks Director and/or their designatee.

G. Alcoholic Beverages

1. No person shall possess alcoholic beverages in any general day use area in any county park. Permits may be issued for designated reservable group picnic areas when requested and approved and upon payment for the group picnic area. Permits for the possession of alcoholic beverages in reserved campsites isare not required. Violations shall be treated as a rule violation, and any person authorized to enforce park rules is authorized to confiscate and destroy any alcohol and its container.

H. Park Property & Property Destruction

1. No person shall mutilate, deface, damage, or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or other structure or facility of any kind in any park area.

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2. No person shall dig up, deface, or remove any dirt, stones, rock or other substance whatever, make any excavation, quarry any stone, lay or set off any blast, roll any stones or other objects, or cause or assist in doing any of said things, in any park area.
3. No person shall erect temporary signs, markers, or inscriptions of any type in any park area, without ~~the written~~ permission from the Parks Director and/or their designee.
4. No person shall set up or use a public address system in any park area without the written permission from the Parks Director and/or their designee.
5. No person shall wash any clothing or other materials, or clean any fish, in a lake, stream, river, or pond, in any park area.
6. No person shall use abusive or threatening language or gestures, create any public disturbances, or engage in riotous behavior, in any park area.
7. No person shall operate or use any noise-producing machine, vehicle, device, or instrument in any park area in a manner that is disturbing to other park area visitors.
8. No person ~~shall~~ operate any remote control device in any park area (i.e., drones, airplanes, cars, etc.).
9. No person shall pick, cut, mutilate, or remove any flowers, shrubs, foliage, trees, or plant life or products of any type in any park area.

I. Concessions and Solicitations

1. No person shall operate a concession, either fixed or mobile, in any park area without the written permission from the Parks Director and/or their designee.
2. No person shall solicit, sell or offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids, or services in any park area without the written permission of the Parks Director and/or their designee.
3. No person shall advertise any goods or services in any park area without the written permission from the Parks Director and/or their designee.
4. No person shall distribute any circulars, notices, leaflets, pamphlets, or written or printed material of any kind in any park area by leaving or placing the material on a person's vehicle or property without the written permission from the Parks Director and/or their designee.

J. Animals

1. No person shall ride, drive, lead, or keep livestock or animals, other than cats and dogs, in any park area not designated for their use (e.g., equestrian trails/facilities) without the written permission from the Parks Director and/or their designee.
2. No dog or cat shall be brought into or kept in a park area unless confined or controlled on a maximum 6-foot long leash. A ~~County Parks e~~Employee may undertake, or require the person keeping the animal to take any measures, including removal of the animal from the park area, deemed necessary to prevent interference by the animal with the safety, comfort, and wellbeing of park area users, and the appearance or sanitary condition of the park area. No animals, other than service dogs for the disabled, shall be allowed in any park area building.
3. No person shall allow any animal in his or her custody or control to annoy, molest, attack, or injure any person or animal in the park area.

4. No person shall tie up any animal in his or her custody or control and leave such animal unattended.
5. All animal fecal matter shall be put in a bag or container and left in a designated waste receptacle.
6. No person shall have or allow more than two (2) domestic pets or other animals in any campsite.

K. Motor Vehicles

1. No person shall operate any vehicle in any park area in violation of the Oregon State Vehicle Code, County ordinance, code or other laws.
2. No person shall operate any motor vehicle in any park area at a speed in excess of 10 miles per hour, unless otherwise designated. In addition, no person shall operate any motor vehicle in any park area at a speed greater than is reasonable and prudent, having due regard to all of the following:
  - a. The traffic;
  - b. The surface and width of the highway;
  - c. The hazard at intersections;
  - d. Weather;
  - e. Visibility; and
  - f. Any other conditions then existing.
3. No person shall park a vehicle:
  - a. In violation of any "No Parking" signs or markings authorized by the Parks Director and/or their designatec;
  - b. In any location within a park, other than officially designated parking lots and parking spaces;
  - c. On grass, dirt, or landscaped areas that have not been graveled and designated for parking;
  - d. Beyond the edges of curbing or parking lots; or
  - e. In any designated staging area or timed parking area for longer than the maximum time limit stated on the posted sign.
4. No vehicle shall be parked in an emergency access area or travel lane of any park. Any vehicle parked in an emergency access area or travel lane of any park will be towed under the provisions of the Clackamas County Parking and Towing Chapter.
5. No person shall operate a motor vehicle on any park trail, or on any area within a park, which is not paved or graveled unless specifically marked as an area for motor vehicles.
6. No person shall operate any Off Highway Vehicle (OHV), All Terrain Vehicle (ATV) or any other vehicle not legal for street riding in any park area not designated for their use without the written permission from the Parks Director and/or their designatec.

L. Waste Disposal

1. All bottles, cans, ashes, waste, paper, garbage, sewage, and other rubbish or refuse shall be left only in receptacles designated for that purpose.
2. No person shall bring into a park area any trash, refuse, garbage, litter, waste material, or vehicles for the purpose of disposing them there.

3. No person shall use kitchen or toilet facilities in a camping vehicle in the park unless the person makes provision for holding sewage and other waste materials in watertight and sanitary containers. Such containers shall not be emptied in the park except at an officially designated dump station.

4. No person shall urinate or defecate in public in any park area.

M. Camping Rules

1. No person may camp overnight in a park area other than in an officially designated and numbered overnight camping space.
2. No person may camp in any one park area for more than fourteen (14) days in one eighteen (18) day period of time. No person may camp for more than twenty-eight (28) days total in the County Parks system as a whole, in any one camping season from May 1 to November 30, without the written permission from the Parks Director and/or their designatee.
3. Campers are required to maintain reasonable quiet between the hours of 10:00 p.m. and 7:00 a.m. and to respect the rights of other campers to peace and quiet during these hours.
4. No person shall camp overnight without an approved camping shelter.
5. No person shall wash a vehicle or trailer in any campsite.
6. No swimming pools of any size shall be filled with water in the campground without the written permission of the Parks Director and/or their designatee.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Amended by Ord. 04-2013, 8/22/13; Amended by Ord. 04-2017, 5/4/17; Amended by Ord. 07-2018, 6/28/18]

**6.06.060 Enforcement and Penalties**

- A. Any County employee or agent designated by the Director of the Business and Community Services Department, and any peace officer may enforce these park rules, order any person violating these rules to leave the park areas, and issue citations for violations of these rules, except that only a person expressly authorized under the Clackamas County Parking and Towing Chapter may enforce the towing or booting provision of that chapter. Caretakers and Camp hosts who are appointed by the County may notify persons of the requirements of these rules, seek voluntary compliance, and order any person violating the rules to leave the park areas.
- B. Violation of any of the foregoing rules is subject to citation and punishable by a fine as set forth below.
- C. Form of citation:
  1. Description of the specific violation alleged;
  2. The date, time, and location of its occurrence;
  3. The maximum amount of the fine for the violation alleged;
  4. A statement that the fine must be paid or a hearing requested within 20 days, and that upon failure to do so within 20 days opportunity for a hearing is forfeited and the fine doubles;
  5. A form for either admitting the violation alleged and paying the fine, or denying the violation alleged, paying the equivalent bail, and requesting a hearing;
  6. The address to which the form should be sent;

7. The telephone number of the person or facility which may be contacted for information;
8. The name and address of the violator, or in the case of a parking violation where the operator of the vehicle is not present, the license plate and vehicle number of the vehicle (if visible); and

D. Upon receiving a citation under this chapter, the cited person may:

1. Within 20 days, deliver to the Sheriff's Office the form provided with the citation, admitting the violation(s), forfeiting and paying the amount of the fine(s) indicated on the citation by credit card; forfeiture may be made by mail but must be actually received by the Sheriff within 20 days from the date of the citation; or
2. Within 20 days, deliver to the Sheriff's Office the form provided with the citation, denying all or part of the violation(s), and posting bail by paying a refundable deposit equivalent to the amount of fine(s) indicated on the citation; response may be made by mail, but must be actually received by the Sheriff within 20 days from the date of the citation.

Upon receipt of a denial, the Sheriff's Office shall inform the Hearings Officer. The Hearings Officer shall set a hearing within 30 days of the Sheriff's Office receipt of the denial and bail, and shall mail notice to the cited person and the issuer of the citation of the hearing date, time and place within 15 days of the Sheriff's Office receipt of the denial of bail.

3. Failure to perform any part of either subsection 1 or 2, including failure to respond within 20 days, shall be presumed an admission of the violation(s) cited, and the fine(s) shall be doubled.

E. Hearing Process.

The hearing shall afford a reasonable opportunity for the person(s) requesting it to present evidence that the citation was invalid or unjustified.

1. The Hearings Officer may administer oaths and take the testimony of witnesses. The Hearings Officer may issue subpoenas in accordance with Oregon Rules of Civil Procedure 55, provided that subpoena requests be received in writing no later than 5 days before the scheduled hearing. If the person charged with the violation(s) requests a subpoena, the person shall pay a deposit for each witness in an amount set by resolution of the Board of County Commissioners. Witnesses appearing by subpoena shall be allowed the same fees and mileage as allowed in civil cases in circuit court, to be paid by the person requesting the subpoena.
2. A person who receives a citation may be represented by an attorney or other person at any hearing, provided that in the case of representation by an attorney, the person gives written notice to the Hearings Officer two days prior to the hearing so that the County may, at its discretion, arrange for representation by an attorney on its behalf.
3. If the Hearings Officer, after due consideration, determines that the violation(s) alleged has been established, then the Hearings Officer shall issue a decision that the citation is valid and make brief findings of fact, and shall order the person cited to pay the appropriate fine to the County general fund. The decision and order may be oral and issued at the conclusion of the hearing, but in all cases must be recorded in the record of the hearing. The Hearings Officer will also determine

the amount of witness fees to be paid out of any deposit, or refunded.

4. The decision of the Hearings Officer is final.

[Codified by Ord. 05-2000, 7/13/00; Renumbered from 6.06.15 and amended by Ord. 04-2013, 8/22/13; amended by Ord. 02-2014, 5/22/14; Amended by Ord. 04-2017, 5/4/17; Amended by Ord. 07-2018, 6/28/18]

**6.06.04.01**[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 03-2010, 2/25/10; Repealed by Ord. 04-2013, 8/22/13]

**6.06.07.01**[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 03-2010, 2/25/10; Repealed by Ord. 04-2013, 8/22/13]

**06.06.07.02** [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Deleted by Ord. 03-2010, 2/25/10]

**6.06.070 Vehicle Towed**

A vehicle registered to a person who has failed to respond or pay fines as required by this chapter to three or more vehicle parking citations, may be towed from any park area or booted, without prior notice, in accordance with the Clackamas County Parking and Towing Chapter, and held until the amounts owing have been paid.

[Codified by Ord. 05-2000, 7/13/00; Renumbered from 6.06.11 by Ord. 04-2013, 8/22/13]

**6.06.080 Fines**

All fines shall be set by ordinance of the Board of County Commissioners.

[Added by Ord. 5-2003, 3-13-03; Renumbered from 6.06.17 and amended by Ord. 04-2013, 8/22/13]





**DAN JOHNSON**  
DIRECTOR

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

May 16, 2019

Board of Commissioners  
Clackamas County

Members of the Board:

**Approval of a Board Order Transferring Jurisdiction from  
Clackamas County to the City of Wilsonville for a portion of  
Stafford Road (Market Rd. No. 12 - County Rd. No. 1208)**

<b>Purpose/Outcomes</b>	Jurisdictional transfer of a portion of Stafford Road to the City of Wilsonville.
<b>Dollar Amount and Fiscal Impact</b>	Cost savings in the form of staff time and Maintenance monies used on a County maintained portion of road located entirely within the City of Wilsonville.
<b>Funding Source</b>	N/A
<b>Safety Impact</b>	N/A
<b>Duration</b>	Upon execution; permanent.
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	Build a strong infrastructure. Build public trust through good government.
<b>Contact Person</b>	Rick Maxwell, Engineering Tech; 503-742-4671
<b>Counsel Review</b>	Reviewed and approved on 05/07/19

**BACKGROUND:**

There are certain County roads, such as Stafford Road in Wilsonville, that are wholly, mostly, or partially within various Cities throughout Clackamas County. Fragmented jurisdiction over these roads often results in differing road maintenance activities and confusion by the public as to which agency is responsible for the operation and maintenance of the roads. Clackamas County and the City of Wilsonville propose to transfer a portion of Stafford Road, currently under the jurisdiction of the County, to the City with the intent of eliminating confusion to the public and to improve the efficiencies of maintenance and public service.

The portion of Stafford Road proposed to be transferred contains approximately 74,280 square feet of Right-of-Way. The portion of Stafford Road to be transferred was recently annexed within Wilsonville city limits. By accepting jurisdiction over this portion of Stafford Road, the City becomes the "Road Authority" responsible for all maintenance of drainage systems, improvements, permitting and road standard activities.

The City has formally requested that the County fully transfer jurisdiction of Stafford Road over to the City pursuant to ORS 373.270(6), (see attached Resolution 2739). Pursuant to ORS 373.270(6), the County may finalize the transfer by adopting the proposed order that is attached to this report.

**RECOMMENDATION:**

Staff respectfully requests that the Board approve this Board Order between Clackamas County and the City of Wilsonville related to the transfer of jurisdiction of a portion of Stafford Road.

Respectfully submitted,

Michael Bays  
Survey Group Supervisor  
Transportation and Development

Attachments:  
Board Order;  
Exhibit A – Map;  
Exhibit B - Description  
City Resolution #2739

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

In the matter of transferring to the City of Wilsonville, jurisdiction over a portion of Stafford Road, Market Rd No. 12, County Road No. 1208, DTD No.30054



Board Order No. \_\_\_\_\_  
Page 1 of 2

This matter coming before the Board of County Commissioners as a result of the City initiating action pursuant to ORS 373.270(6) on March 18, 2019 through Resolution No. 2739 to surrender jurisdiction of a county road within the boundary of the City of Wilsonville, and the preceding negotiation between the City of Wilsonville and Clackamas County Department of Transportation and Development to transfer portions of the following road:

<u>Road Name</u>	<u>Cnty #</u>	<u>DTD #</u>	<u>From</u>	<u>To</u>	<u>Square Feet</u>
Stafford Road, Market Rd No. 12	1208	30054	MP 0.09	MP 0.23	74,280 sf

It further appearing to the Board that said transfer of jurisdiction has been recommended by Dan Johnson, Director of the Department of Transportation and Development; and,

It further appearing to the Board that said transfer of jurisdiction is in the best interest of the citizens of Clackamas County; and,

It further appearing to the Board that pursuant to ORS 373.270, notice of the hearing on this matter was provided by publication in the Wilsonville Spokesman on 04/10/19, 04/17/19, 04/24/19 and 05/01/19; now therefore,

**IT IS HEREBY ORDERED** that Clackamas County surrender jurisdiction over a portion of Stafford Road, Market Rd No. 12 to the City of Wilsonville such that full and absolute jurisdiction of said portions of roadway for all purposes of repair, construction, improvement and the levying and collection of assessments therefor be transferred to the City of Wilsonville and shall vest as of the date of this order; and,

**IT IS FURTHER ORDERED** that, the portion of the roadway described herein, 74,280 square feet, more or less, be removed from the County's Road Inventory; and,

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

In the matter of transferring to the  
City of Wilsonville, jurisdiction over a  
portion of Stafford Road, Market Rd No.  
12, County Road No. 1208, DTD No.30054



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

Page 2 of 2

**IT IS FURTHER ORDERED** that  
copies of this Order be submitted to the Clackamas County Clerk's office for recording and that  
copies be subsequently sent without charge to the Clackamas County Surveyor, Tax Assessor,  
Finance/Fixed Asset Offices, and DTD Engineering.

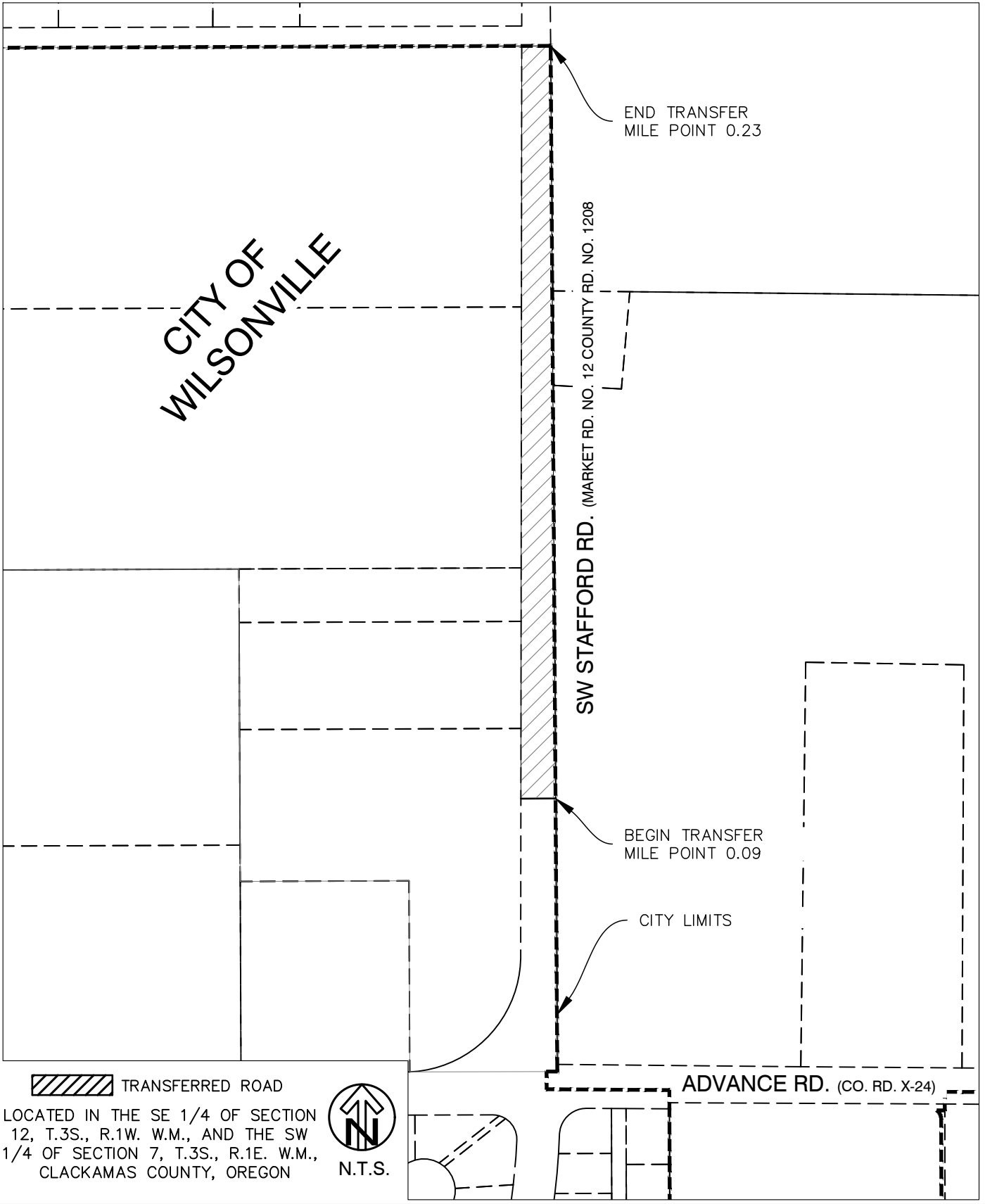
**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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

# EXHIBIT "A"



 TRANSFERRED ROAD

LOCATED IN THE SE 1/4 OF SECTION 12, T.3S., R.1W. W.M., AND THE SW 1/4 OF SECTION 7, T.3S., R.1E. W.M., CLACKAMAS COUNTY, OREGON



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



BY: R. MAXWELL      DATE: 04/11/2019  
**JURISDICTIONAL TRANSFER OF A  
 PORTION OF SW STAFFORD ROAD**  
 MARKET RD. NO. 12 COUNTY RD. NO. 1208

SHEET  
1 OF 1

## **EXHIBIT "B"**

### **Transfer Stafford Road:**

A portion Stafford Road, Market Road No. 12 - County Road No. 1208, Department of Transportation and Development maintenance No. 30054; Situated in the southeast 1/4 of Section 12, T. 3S., R. 1W. W.M. and the southwest 1/4 of Section 7, T. 3S., R. 1W. W.M., as depicted on Exhibit A, attached hereto, lying north of the current Wilsonville jurisdiction (mile point 0.09) extending to (mile point 0.23), being a total of approximately 1,238 feet long, 60 feet in width. Containing 74,280 square feet, more or less.

**RESOLUTION NO. 2739**

**A RESOLUTION OF THE CITY OF WILSONVILLE REQUESTING TRANSFER OF ROADWAY AUTHORITY ON A PORTION OF STAFFORD ROAD FROM CLACKAMAS COUNTY TO THE CITY OF WILSONVILLE.**

WHEREAS, Clackamas County (County) is the current roadway authority on this section of Stafford Road; and

WHEREAS, the Council approved adoption of the Frog Pond West Master Plan via Ordinance 806 on July 17, 2017; and

WHEREAS, the Council approved adoption of *The Methodology for the Preliminary Frog Pond West Infrastructure Supplemental Fee* (Resolution No. 2649, August 7, 2017), which includes future improvements to this section of Stafford Road; and

WHEREAS, the City's Development Review Board approved the Frog Pond Meadows development (February 11, 2019); and

WHEREAS, the Council approved the first reading of Ordinance No. 832, annexation of property for the Frog Pond Meadows development (March 4, 2019); and

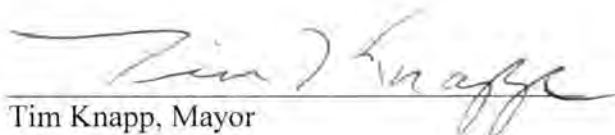
WHEREAS, the Frog Pond Meadows development is required to dedicate right-of-way frontage along Stafford Road, and roadway connections to Stafford Road will be required with development; and

WHEREAS, development adjacent to Stafford Road, and connections to Stafford Road are anticipated to be streamlined with the City being the roadway authority.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. To request transfer of roadway authority from Clackamas County to the City for an 819-foot section of Stafford Road.
2. This resolution becomes effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 18<sup>th</sup> day of March, 2019 and filed with the Wilsonville City Recorder this date.

  
Tim Knapp, Mayor

ATTEST:



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Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

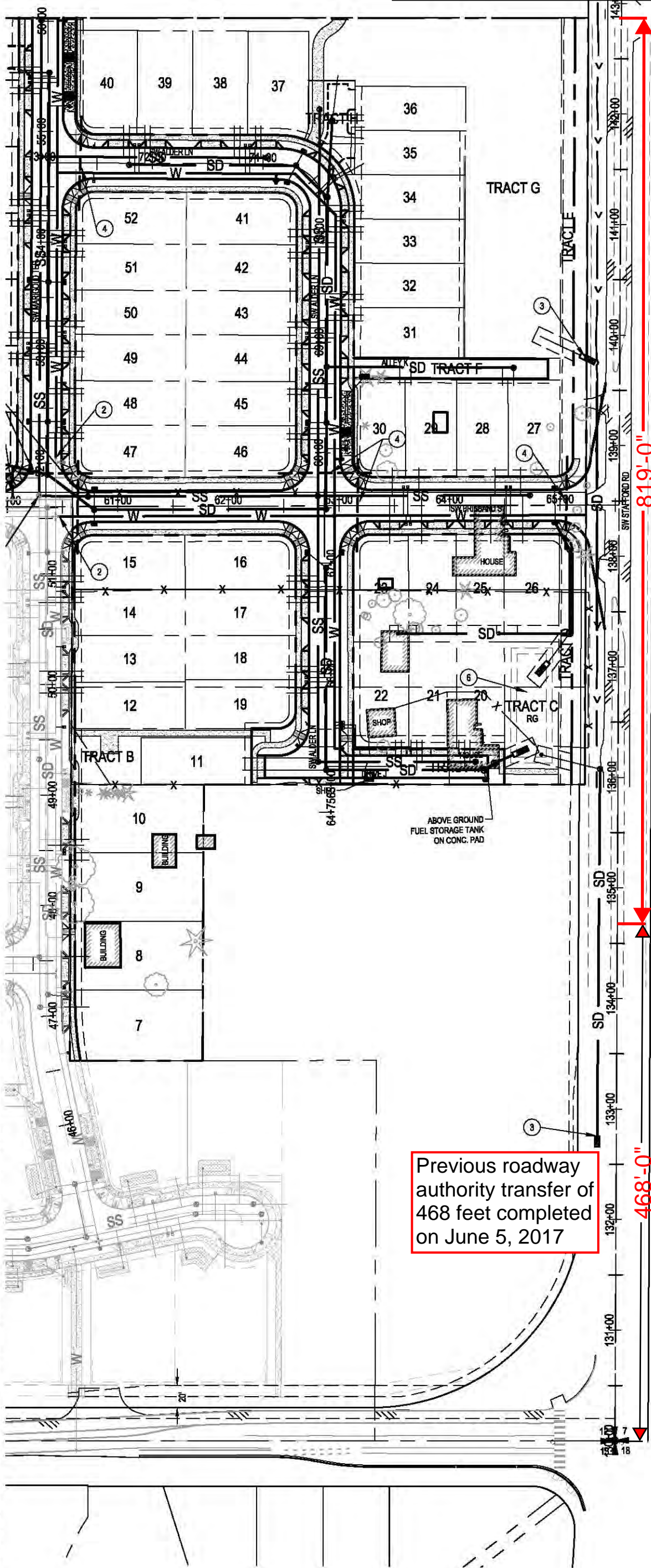
Mayor Knapp	Yes
Council President Akervall	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor West	Yes

Exhibit:

1. Stafford Road, Transfer of Roadway Authority



# EXHIBIT 1 - Stafford Road, Transfer of Roadway Authority

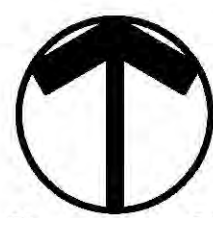


Current request for transfer of roadway authority of an additional 819 feet of Stafford Road.

Previous roadway authority transfer of 468 feet completed on June 5, 2017

## LEGEND

STORM LINE	SD
STORM MANHOLE	⊙
STORM CURB INLET/CATCH BASIN	■
SANITARY LINE	SS
SANITARY MANHOLE	⊙
WATER LINE	W
FIRE HYDRANT	⋈
WATER METER	⊞
WATER BLOW-OFF	⊞
PUBLIC UTILITY EASEMENT	- - - - -
STREET LIGHT	⊙
VEGETATED SWALE (TO BE CONSTRUCTED WITH ROADWAY IMPROVEMENTS UNDER THIS PERMIT)	▨
IRRIGATION AND FRANCHISE UTILITY CROSSINGS. (NUMBER, SIZE T.B.D.)	- - - - -



Plotted: Mar 05, 2019 - 12:16pm L:\Project\191001\19106\CADD\Drawings\Exhibits\Advances Road Exhibit.dwg Layout Name: Layout1

May 16, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Subrecipient Agreement,  
Amendment #2 with Senior Citizen Council of Clackamas County to  
Provide Social Services for Clackamas County Residents

<b>Purpose/Outcomes</b>	Subrecipient Agreement with the City of Wilsonville/Wilsonville Community Center to provide Older American Act (OAA) funded services for persons in the Wilsonville community.
<b>Dollar Amount and Fiscal Impact</b>	The maximum value is increased by \$154,698 for a revised agreement maximum of \$309,396. This agreement is funded through the Social Services Division Program agreements with the Oregon Department of Human Services and County General Fund.
<b>Funding Source</b>	Older American Act (OAA) and County General Funds.
<b>Duration</b>	Effective July 1, 2019 and terminates on June 30, 2020
<b>Previous Board Action</b>	061418-A6
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. This funding aligns with the strategic priority to increase self-sufficiency for our clients.</li> <li>2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.</li> </ol>
<b>Counsel Review</b>	This Subrecipient Agreement was approved by County Council.
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	H3S #9260; Subrecipient #20-010

**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services request approval of the Subrecipient Agreement with Senior Citizen Council of Clackamas County to provide Older American Act (OAA) funded services for persons living in Clackamas County. The services provided include Guardianship/Conservatorship, Guardianship Diversion and Case Management. These services assist older and disabled county residents in meeting their individual needs. The Guardianship/Conservatorship service helps those unable, in a variety of home settings, to handle their business affairs.

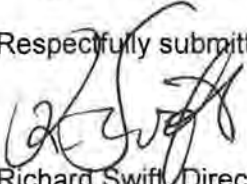
In the December 2015 Social Services advertised for a contractor to provide Older American Act services for older persons in Clackamas County during Fiscal Year 2016-17, with an option for renewal for four additional years. No agency other than Senior Citizen Council of Clackamas County showed an interest in providing these services for the County, so an agency services agreement with Senior Citizen Council of Clackamas County was negotiated. This is the fourth agreement under this RFP.

This agreement is effective on July 1, 2019 and terminates on June 30, 2020. This agreement has been approved signed by County Council on April 30, 2019.

**RECOMMENDATION:**

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard Swift', written over a faint circular stamp.

Richard Swift, Director  
Health Housing & Human Services

**CLACKAMAS COUNTY, OREGON  
SUBRECIPIENT GRANT AGREEMENT 20-010**

This Agreement is between Clackamas County, Oregon, acting by and through its  
Health Housing & Human Services Department,  
Social Services Division – Area Agency on Aging, and  
Senior Citizens Council of Clackamas County, Inc., (SUBRECIPIENT) an Oregon Nonprofit  
Organization.

**Clackamas County Data**

Grant Accountant: Sue Aronson	Project Manager: Stefanie Reid-Danielson
Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 503-742-5421 suea@clackamas.us	Clackamas County – Social Services Division 2051 Kaen Road Oregon City, OR 97045 503-655-8330 stefanierei@clackamas.us

**Subrecipient Data**

Finance/Fiscal Representative: <b>Christina Bird</b>	Program Representative: <b>Same</b>
Executive Director P.O. Box 1777 Oregon City, OR 97045 503-657-1366 christi@seniorcitizenscouncil.com	Same
FEIN: 93-0693668	DUNS: 14-538-3139

**RECITALS**

1. Project description: This project is a cooperative effort by parties in providing the Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, health promotion and legal consultation for Clackamas County residents age 60 and older.
2. This Grant Agreement of Federal financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement the COUNTY and SUBRECIPIENT agree as follows:

## AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse subrecipient for expenses approved in writing by County relating to the project incurred no earlier than **July 1, 2019** and not later than **June 30, 2020**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit 1 - Purpose, Service Descriptions and Service Objectives. SUBRECIPIENT agrees to perform the services in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Older Americans Act and 45 CFR 1321 (collectively "OAA"), that is the source of the grant funding, in addition to compliance with requirements of State of Oregon, Department of Human Services, State Unit on Aging Older Americans Act Program Standards.
4. **Grant Funds.** COUNTY's funding for this Agreement is a combination of Federal, State and Local dollars as specified below by title and CFDA number as appropriate. The maximum, not to exceed, grant amount that COUNTY will pay is **\$160,784**. This is a cost reimbursement grant and disbursements will be made in accordance with the requirements contained in Exhibit 4 – Reporting Requirements and Exhibit 5 – Budget and Units of Services. Failure to comply with the terms of this Agreement may result in withholding of payment. The split between funding sources is outlined in Exhibit 5 – Budget and Units of Services.
  - a. **Grant Funds.** COUNTY's funding of **\$60,819** in grant funds for this Agreement is the Older Americans Act (CFDA: 93.044) issued to COUNTY by the State of Oregon, Department of Human Services, State Unit on Aging.
  - b. **Other Funds.** COUNTY's funding of **\$99,965** for the Guardianship/Conservator Program Expansion services outlined in this agreement are from County General Funds.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty-five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.

6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other upon thirty (30) business days' notice. This notice may be transmitted in person, by certified mail, facsimile, or by email.
7. **Funds Available and Authorized.** COUNTY certifies that it has received an award sufficient to fund this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
8. **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 Section 7.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
  - a. **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred. In addition, SUBRECIPIENT agrees to comply with the standards set forth in the "OAA."
  - b. **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are "earned." All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to COUNTY within 15 days.
  - c. **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
  - d. **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of SUBRECIPIENT.
  - e. **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from services provided during the funding period.

- f. **Match.** SUBRECIPIENT agrees to provide matching funds for the services provided as outlined in Exhibit 5 – Budget and Units of Services.
- g. **Budget.** SUBRECIPIENT's use of funds may not exceed the amounts specified in the Exhibit 5 – Budget and Units of Services. SUBRECIPIENT may not transfer grant funds between services without the prior written approval of COUNTY. At no time may budget modifications change the scope of the original grant application or Agreement.
- h. **Research and Development.** COUNTY certifies that this award is not for research and development purposes.
- i. **Payment.** SUBRECIPIENT must submit a final request for payment no later than ten (10) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit 4 – Reporting Requirements.
- j. **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit 5 – Reporting Requirements for each period (monthly, quarterly, and final) during the term of this Agreement.
- k. **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasurer Regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Reimbursement Request on a monthly basis as specified in Exhibit 4 – Reporting Requirements.
- l. **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibit 4 – Reporting Requirements), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 10 calendar days after the end date of this agreement.
- m. **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number (DUNS) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, located at <http://www.sam.gov>.
- n. **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties

List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than E.O. 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

- o. Lobbying.** SUBRECIPIENT certifies (Exhibit 6: Lobbying and Litigation) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and *the Byrd Anti-Lobbying Amendment* 31 U. S. C. 1352, which prohibits the use of Federal grant funds for litigation against the United States. SUBRECIPIENT certifies that it does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- p. Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse ("FAC") within 9 months from SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <http://harvester.census.gov/sac/>. At the time of submission to the FAC, the SUBRECIPIENT will also submit a copy of the audit to COUNTY. If SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- q. Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.330-331. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- r. Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, or such longer period as may be required by the Federal agency or applicable state law, following final payment and termination of this Agreement, or until



the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.

- s. **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for OAA Funding, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to Clackamas County, as grantee, under those grant documents.
- t. **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original contract and this agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met or to terminate this relationship including the original contract and all associated amendments.

#### **10. Compliance with Applicable Laws**

- a. **Federal Terms.** SUBRECIPIENT shall comply with the federal terms and conditions as outlined in Exhibit 2 - Required Federal Terms and Conditions, and incorporated herein.
- b. **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the agreement.
- c. **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by the County shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- d. **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- e. **Criminal Records and Abuse Checks.** SUBRECIPIENT agrees to meet requirements set forth in OAR 407-007-0200 through 407-007-0370 and ORS 181.534 through 181.537 and ORS

443.004. Subject individuals are employees of SUBRECIPIENT; volunteers of SUBRECIPIENT; employees and volunteers of SUBRECIPIENT's subcontractors and direct care providers of clients for which SUBRECIPIENT provides service authorization.

COUNTY will assist SUBRECIPIENT to meet this requirement by processing criminal record checks utilizing the Oregon Department of Human Services ("DHS") Criminal Records Information Management System ("CRIMS") for SUBRECIPIENT's subject individuals as requested.

- f. **Mandatory Reporting of Elder Abuse.** SUBRECIPIENT shall ensure compliance with the mandatory reporting requirements of ORS 124.050 through 124.095 and OAR Chapter 411, Division 20 for employees and volunteers of SUBRECIPIENT's clients to whom SUBRECIPIENT provides services.
- g. **Americans with Disabilities Act.** SUBRECIPIENT will ensure facilities used for the provision of OAA funded services meet the requirements as stated in Title II of the Americans with Disabilities Act of 1990, as amended ("ADA"), Section 504 of the Rehabilitation Act and DHS Policy #010-005.
- h. **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:
  - i. Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
  - ii. Procure a commercial sex act during the period of time the award is in effect; or
  - iii. Used forced labor in the performance of the Agreement or subaward under this Agreement, as such terms are defined in such regulation.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. SUBRECIPIENT must include these requirements in any subaward made to public or private entities under this Agreement.

- i. **Confidentiality of Client Information.**
  - i. All information as to personal facts and circumstances obtained by SUBRECIPIENT on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, the responsible parent of a minor child, or his or her guardian except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
  - ii. The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.

- iii. DHS, COUNTY and SUBRECIPIENT will share information as necessary to effectively serve DHS Clients.

**11. SUBRECIPIENT Standard Terms and Conditions.** SUBRECIPIENT shall comply with the terms and conditions as incorporated hereto in Exhibit 3 – Subrecipient Standards Terms and Conditions.

**12. Federal and State Procurement Standards**

- a. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from County in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- b. COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, which are incorporated by reference herein.
- c. SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d. SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

**13. General Agreement Provisions.**

- a. **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.

- b. **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c. **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
- i. **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, 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 Agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
  - ii. **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, 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.
  - iii. **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability, shall include "Clackamas County, its agents, elected officials, officers, and employees" as an additional insured.
  - iv. **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60-days written notice to 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 onto the policy.
  - v. **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT 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.

- vi. **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. COUNTY and its officers must be named as an additional insured on the Certificate of Insurance. No agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the Agreement have been compiled with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
  - vii. **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
  - viii. **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
  - ix. **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
- d. **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
- e. **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- f. **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- g. **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state

courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.

- h. **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- j. **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- k. **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l. **Integration.** This Agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements. When a requirement is listed both in the main boilerplate of the agreement and in an Exhibit, the Exhibit shall take precedence.

This Agreement consists of thirteen (13) sections plus the following exhibits which by this reference are incorporated herein:

- Exhibit 1 Scope of Work: Purpose, Service Description, Service Objectives, and Elements of Completion
- Exhibit 2 Required Federal Terms and Conditions
- Exhibit 3 Subrecipient Standard Terms and Conditions
- Exhibit 4 Reporting Requirements
- Exhibit 5 Budget and Units of Service
- Exhibit 6 Congressional Lobbying Certificate
- Exhibit 7 Subrecipient Information

*(signature page follows)*

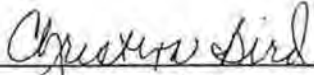
SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers.

CLACKAMAS COUNTY

Senior Citizens Council of Clackamas County, Inc.

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

By:   
Christina Bird, Executive Director

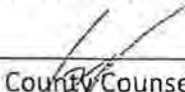
Signing on Behalf of the Board:

Dated: 5/1/2019

By: \_\_\_\_\_  
Rich Swift, Director  
Health, Housing and Human Services

Dated: \_\_\_\_\_

Approved to Form:

By:   
County Counsel  
Dated: 4/30/19

## Exhibit 1

### PURPOSE, SERVICE DESCRIPTION, SERVICE OBJECTIVES AND ELEMENTS OF COMPLETION

#### 1. PURPOSE OF THE SERVICES

The purpose of this contract is the cooperation of both parties in providing the Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, health promotion and legal consultation for Clackamas County residents age 60 and older. The goal in providing these services is to assist older residents in meeting their individual needs by linking them with County resources.

#### SERVICE DESCRIPTION

- a. **GUARDIANSHIP/CONSERVATORSHIP PROGRAM:** Consists of managing the personal affairs of vulnerable, elderly County residents who are at risk and have been evaluated to be incapable of making competent decisions about their well-being. Agency provides this service to elderly persons for whom venue can be established in Clackamas County. Qualified OAA services for approved Guardianship Client, or clients in process of having Guardianship established, are:
  - i. Guardianship: (1 Unit = 1 hour) Performing legal and financial transactions on behalf of a client based upon a legal transfer of responsibility including establishing the guardianship/conservatorship.
- b. **GUARDIANSHIP DIVERSION PROGRAM:** Agency provides services intended to help insure that all possible alternatives are explored before the step of Guardianship is taken. In order to prevent or delay adjudication, and assure quality of care and services to Clackamas County low income, frail and vulnerable elderly, this program offers to appropriate referrals the below qualified OAA services:
  - i. Client assessment (1 Unit = 1 Assessment)
  - ii. Case Management (1 Unit = 1 Hour)
  - iii. Money Management (1 Unit = 1 Hour)
  - iv. Public Outreach and community education about alternatives to guardianship (1 Unit = 1 Presentation)

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- c. **CASE MANAGEMENT:** Agency provides individualized and integrated access to an array of social service and health care options to assure appropriate levels of service and to maximize coordination in the service delivery system. Case management must include four general components: access, assessment, service implementation, and monitoring.  
(1 Unit = 1 Hour)
- i. Access & Assessments:
    - (1) Informing clients of available services and, where appropriate, developing a goal-oriented service plan.
    - (2) Utilize an approved assessment/intake form.
    - (3) Assessment is re-done with a change in client life situation/condition - every six to twelve months.
    - (4) May be billed upon submission of assessment/intake form.
  - ii. Service Implementation & Monitoring:
    - (1) Provide early identification of current or potential problem areas.
    - (2) Assess the need for changes/improvements in service.
    - (3) Identify any gaps/unmet needs.
    - (4) Review intervention results to determine if what was done achieved the desired result.
    - (5) Determine if services should be discontinued.
    - (6) Case monitoring services are available to frail but mobile elderly as well as homebound individuals.

### 3. SERVICE OBJECTIVES and STANDARDS

#### a. Guardianship/Conservatorship Program

**Objective:** To provide hours of service necessary to ensure the protected person's affairs are managed in their best interest.

Elements:

- i. Decisions regarding affairs of each protected person are discussed and made at bi-monthly meetings of Agency Guardianship/Conservatorship Technical Advisory Committee.
- ii. Contingency plans for alternative care are developed and followed in the event of an emergency for all protected persons who are dependent upon service providers for care in their own homes.
- iii. Confidentiality of client information is practiced at all times.
- iv. Checks are in place for client protection, i.e., bonding for each client, annual accounting to court, separate bank accounts for each protected person, and checks are signed by a signer other than the person drafting the check.
- v. Provide case management to keep track of client progress

## **b. Guardianship Diversion Program**

**Objective:** To provide information to referrals and/or families about alternatives to guardianship.

Elements:

- i. Assess referral/client to determine needs
- ii. Make appropriate referrals to services which will help fulfill client's needs
- iii. Discuss guardianship alternatives with family, attorney and physician, if appropriate
- iv. Provide case management to keep track of client progress

## **c. Case Management**

**Objective:** To provide contracted units of service throughout the contract period for County residents age 60 and older who are identified as needing assistance from County agencies.

Elements:

- i. Agency staff assesses clients within two weeks following their request for services or a referral from another source (outreach effort, gatekeeper, neighbor, family member, etc.).
- ii. Agency staff completes assessment on a County approved assessment/intake form.
- iii. Agency staff writes case plan, as appropriate, for the client from the information gathered on the assessment form.
- iv. Agency staff re-assesses clients' service needs/eligibility every twelve months or when their condition or life situation dramatically changes
- v. Agency staff reviews client case plans quarterly, at a minimum, and provides follow up contact by phone or home visits.
- vi. Agency staff (upon request from client, other agency or family member) provides additional follow up to coordinate services.
- vii. Agency staff consults with SPD Case Manager (if client has one) to maximize coordination of services. Consultations will be annotated on Case Monitoring forms within 2 work days.
- viii. Agency staff documents all reviews and additional follow ups on case monitoring contact forms which are kept in client record file.
- ix. Agency staff keeps all client information in a secured area, accessible to only authorized personnel.

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## EXHIBIT 2

### Required Federal Terms and Conditions

**General Applicability and Compliance.** Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, SUBRECIPIENT shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to SUBRECIPIENT, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** SUBRECIPIENT shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then SUBRECIPIENT shall comply and require all subcontractors to 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).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$150,000 then SUBRECIPIENT shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 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 DHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. SUBRECIPIENT shall include and require all subcontractors to include in all contracts with subcontractors

receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.

4. **Energy Efficiency.** SUBRECIPIENT shall comply and require all subcontractors to 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 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, the SUBRECIPIENT certifies, to the best of the SUBRECIPIENT's knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of SUBRECIPIENT, 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.
  - b. 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, the SUBRECIPIENT shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c. The SUBRECIPIENT shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients and subcontractors shall certify and disclose accordingly.
  - d. This certification is a material representation of fact upon which reliance was placed when this Agreement 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.
  - e. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.
  - f. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting

for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

- g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
  - h. No part of any federal funds paid to SUBRECIPIENT under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
6. **HIPAA Compliance.** To the extent that any Work or obligations of SUBRECIPIENT related to this Agreement are covered by the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), SUBRECIPIENT must comply. SUBRECIPIENT shall determine if SUBRECIPIENT will have access to, or create any protected health information in the performance of any Work or other obligations under this Agreement. To the extent that SUBRECIPIENT will have access to, or create any protected health information to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement, SUBRECIPIENT shall comply and cause all subcontractors to comply with the following:
- a. Privacy and Security of Individually Identifiable Health Information. Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between SUBRECIPIENT and COUNTY for purposes directly related to the provision of services to Clients which are funded in whole or in part under this Agreement. To the extent that SUBRECIPIENT is performing functions, activities, or services for, or on behalf of COUNTY, in the performance of any Work required by this Agreement, SUBRECIPIENT shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate OAR 407-014-0000 et. seq., or COUNTY HIPAA Privacy Policies and Notice of Privacy Practices. A copy of the most recent COUNTY HIPAA Privacy Policies and Notice of Privacy Practices may be obtained by contacting COUNTY.
  - b. Data Transactions Systems. If SUBRECIPIENT intends to exchange electronic data transactions with COUNTY in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction,

SUBRECIPIENT shall execute an EDI Trading Partner Agreement and shall comply with EDI Rules.

- c. Consultation and Testing. If SUBRECIPIENT reasonably believes that the SUBRECIPIENT's or COUNTY' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, SUBRECIPIENT shall promptly consult the COUNTY Program Manager. SUBRECIPIENT or COUNTY may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the COUNTY testing schedule.
  - d. Business Associate Requirements. SUBRECIPIENT and all subcontractors shall comply with the same requirements for Business Associates set forth in OAR 125-055-0100 through OAR 125-055-0130 as a contractor of a Business Associate.
7. **Resource Conservation and Recovery.** SUBRECIPIENT shall comply and require all subcontractors to 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 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 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.
8. **Drug-Free Workplace.** SUBRECIPIENT shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) SUBRECIPIENT 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 SUBRECIPIENT's workplace or while providing services to DHS clients. SUBRECIPIENT's notice shall specify the actions that will be taken by SUBRECIPIENT 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, SUBRECIPIENT'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 (5) days after such conviction; (v) Notify DHS within ten (10) days after receiving notice under subparagraph (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 subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither SUBRECIPIENT, or any of SUBRECIPIENT'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 SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to DHS 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; (x) Violation of any provision of this subsection may result in termination of this Agreement.

9. **Pro-Children Act.** SUBRECIPIENT shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. section 6081 et. seq.).
10. **Medicaid Services.** SUBRECIPIENT shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
  - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2).
  - b. Comply with all disclosure requirements of 42 CFR 1002.3(a) and 42 CFR 455 Subpart (B).
  - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 489 subpart I.
  - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. SUBRECIPIENT shall acknowledge SUBRECIPIENT'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.
  - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid Agreement) 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 U.S.C. § 1396a(a)(68).
11. **Agency-based Voter Registration.** SUBRECIPIENT shall 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.

**12. Disclosure.**

- a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.
- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- d. SUBRECIPIENT shall make the disclosures required by this Section 14. To DHS. DHS reserves the right to take such action required by law, or where DHS has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

- 13. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. The SUBRECIPIENT agrees that it has been provided the following notice:



- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
  - i. The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
  - ii. Any rights of copyright to which a grantee, subgrantee or a SUBRECIPIENT purchases ownership with grant support.
- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, sub-grant or agreement under a grant or sub-grant.

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### EXHIBIT 3

#### Subrecipient Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of Client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including SUBRECIPIENT and COUNTY, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that SUBRECIPIENT is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
  - a. SUBRECIPIENT represents and warrants as follows:
    - i. **Organization and Authority.** SUBRECIPIENT is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. SUBRECIPIENT has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
    - ii. **Due Authorization.** The making and performance by SUBRECIPIENT of this Agreement (a) have been duly authorized by all necessary action by

SUBRECIPIENT and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of SUBRECIPIENT's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which SUBRECIPIENT is a party or by which SUBRECIPIENT may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by SUBRECIPIENT of this Agreement.

- iii. Binding Obligation. This Agreement has been duly executed and delivered by SUBRECIPIENT and constitutes a legal, valid and binding obligation of SUBRECIPIENT, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
  - iv. SUBRECIPIENT has the skill and knowledge possessed by well-informed members of its industry, trade or profession and SUBRECIPIENT will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in SUBRECIPIENT's industry, trade or profession;
  - v. SUBRECIPIENT shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
  - vi. SUBRECIPIENT prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- b. COUNTY represents and warrants as follows:
- i. Organization and Authority. COUNTY has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
  - ii. Due Authorization. The making and performance by COUNTY of this Agreement (a) have been duly authorized by all necessary action by COUNTY and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which COUNTY is a party or by which COUNTY may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by COUNTY of this Agreement, other than approval by the Department of Justice if required by law.
  - iii. Binding Obligation. This Agreement has been duly executed and delivered by COUNTY and constitutes a legal, valid and binding obligation of COUNTY, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

- c. Warranties Cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**5. Ownership of Intellectual Property.**

- a. Definitions. As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:
    - i. "SUBRECIPIENT Intellectual Property" means any intellectual property owned by SUBRECIPIENT and developed independently from the Work.
    - ii. "Third Party Intellectual Property" means any intellectual property owned by parties other than COUNTY or SUBRECIPIENT.
  - b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, COUNTY will not own the right, title and interest in any intellectual property created or delivered by SUBRECIPIENT or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that the SUBRECIPIENT owns, SUBRECIPIENT grants to COUNTY a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 8.a.(ii) on COUNTY' behalf, and (3) sublicense to third parties the rights set forth in Section 8.a.(ii).
  - c. If state or federal law requires that COUNTY or SUBRECIPIENT grant to the United States a license to any intellectual property, or if state or federal law requires that the COUNTY or the United States own the intellectual property, then SUBRECIPIENT shall execute such further documents and instruments as COUNTY may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or COUNTY. To the extent that COUNTY becomes the owner of any intellectual property created or delivered by SUBRECIPIENT in connection with the Work, COUNTY will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to SUBRECIPIENT to use, copy, distribute, display, build upon and improve the intellectual property.
  - d. SUBRECIPIENT shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as COUNTY may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.
- 6. Records Maintenance; Access.** SUBRECIPIENT shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, SUBRECIPIENT shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document SUBRECIPIENT's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT whether in

paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." SUBRECIPIENT acknowledges and agrees that COUNTY, State Unit on Aging and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts.

7. **Records Retention.** SUBRECIPIENT shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. SUBRECIPIENT shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.
8. **Information Privacy/Security/Access.** If the Work performed under this Agreement requires SUBRECIPIENT or its subcontractor(s) to have access to or use of any COUNTY computer system or other COUNTY Information Asset for which COUNTY imposes security requirements, and COUNTY grants SUBRECIPIENT or its subcontractor(s) access to such COUNTY Information Assets or Network and Information Systems, SUBRECIPIENT shall comply and require all subcontractor(s) to which such access has been granted to 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.
9. **Assignment of Agreement, Successors in Interest.**
  - a. SUBRECIPIENT shall not assign or transfer its interest in this Agreement without prior written approval of COUNTY. Any such assignment or transfer, if approved, is subject to such conditions and provisions as COUNTY may deem necessary. No approval by COUNTY of any assignment or transfer of interest shall be deemed to create any obligation of COUNTY in addition to those set forth in the Agreement.
  - b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
10. **No Third Party Beneficiaries.** COUNTY and SUBRECIPIENT are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that SUBRECIPIENT's performance under this Agreement is solely for the benefit of COUNTY to assist and enable COUNTY to accomplish its statutory mission. Nothing in this Agreement 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 any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

11. **Severability.** The parties agree that 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 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.

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**Exhibit 4**  
**Reporting Requirements**

**1. INVOICES**

SUBRECIPIENT shall submit invoices in a format designated or approved by COUNTY. Invoices are due by the 10th of the subsequent month.

Invoices and reports on units of service provided shall bear the SUBRECIPIENT's name and address and be signed by an authorized representative of SUBRECIPIENT. The authorized signator of the invoice shall verify that the services purchased have been performed.

SUBRECIPIENT shall submit the following invoices and reports:

- a. Monthly OAA and County General Fund financial summaries including match and program income.
- b. Monthly National Aging Program Information System (NAPIS/Oregon Access) data for breakdown of client service and profile information.
- c. Additional financial reports for the administration of this contract, as required by the County.

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

SUBRECIPIENT shall return to the COUNTY all funds which were expended in violation of this contract.

**2. PROGRAM ACTIVITY REPORTS**

The SUBRECIPIENT shall submit monthly program activity reports presenting data comparing actual levels of service to the planned levels specified in Exhibit 5. These reports are due with the invoices. The format of these reports shall be designated or approved by the COUNTY, and contain the following:

- a. OAA Service/unit summary with current reporting period figures.
- b. Monthly NAPIS/Oregon Access information for client registration and program service data including client identifiers for all new clients. Programs service data must be equal to or greater than units of service billed for.
- c. Guardianship/Conservator Program Expansion service/unit summary with quarterly reporting period figures.

### **3. AUDIT/MONITORING**

SUBRECIPIENT shall permit authorized representatives of the COUNTY and other applicable audit agencies of the state or federal government, to review the records of the SUBRECIPIENT in order to satisfy program audit and evaluation purposes deemed necessary by the COUNTY and permitted under law.

SUBRECIPIENT agrees to participate with the COUNTY in any evaluation project or performance report, as designated by the COUNTY or applicable state or federal SUBRECIPIENT, and to make available all information required by any such evaluation process.

COUNTY agrees to notify SUBRECIPIENT in writing of intent to conduct onsite evaluation of reported performance management data and SUBRECIPIENT agrees to provide COUNTY access to its facility and staff, all related programs and fiscal documents, SUBRECIPIENT'S reports and on any other related documentation to substantiate performance management reporting of data.

### **4. ADMINISTRATION**

The COUNTY Project Manager shall be the ADS Contract Specialist or any other person as shall be designated in writing by the Director of the Social Services Division. The Project Manager is authorized to approve invoices, make site inspections, and be the COUNTY representative in matters related to this contract. The SUBRECIPIENT shall designate one or more representatives in writing who shall be authorized to sign the invoices and accompanying activity reports.

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**Exhibit 5  
Budget and Units of Service**

**1. BUDGET**

The County's payment to the Agency will be based on the provision of the units of service and according to the service elements and amounts specified in this Exhibit.

Program Income: Agency acknowledges that all contributions received from participants or other persons for receipt of services from the Older Americans Act Title III-B Programs are program income. If this program income is equal to or less than the budgeted amount, the program income is to be spent before any Title III-B funds. If the program income is greater than the budgeted amount, the funds are to be used either to expand the service or reduce County's Title III-B contribution.

On the Unit cost the funding described "Program Income" (P.I.) and "Match" may be changed without a written amendment only if the change is not more than 9% between services. Service changes greater than 10%, or any increase in the total amount of County's contribution, need to be incorporated into this contract by a written amendment signed by both Agency and County. Such amendment shall not become effective until signed by both the Agency and County.

Agency agrees to provide matching funds for the service provision specified in this Exhibit as follows:

OAA Match shall be figured at 11.12% of the III-B funds contracted per service provision.

**2. UNITS OF SERVICE**

Agency or County may request substantive changes in the program activities as described in "Exhibit 1". Such changes must be mutually agreed upon by and between Agency and County and incorporated in a written amendment to this contract. Such amendment shall not become effective until signed by both the Agency and the County.

Service Category	Unit of Measurement	Number of Unduplicated Clients to be Served
Guardianship/Conservator (OAA)	1 hour	35
Guardianship/Conservator Expansion (G/F)	1 hour	25
Guardianship Diversion	1 hour	55
Case Management	1 hour	55

3. UNIT COST SCHEDULE

SENIOR CITIZENS COUNCIL OF CLACKAMAS COUNTY, INC.

Fiscal Year 2019-20

	III B Funds	OAA Match	County Gen. Fund	P.I (if Applicable	NO. OF UNITS	TOTAL COST	REIMBURSE- MENT RATE
Federal Award Number	16AAORT3SS						
CFDA Number	93.044						
Service Category	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Guardian/Conservator	21,207	2,358	30,000	8,000	1877.78	\$61,565	\$27.27
Guardian Diversion	17,730	1,972	45,000	4,000	2300.33	\$68,702	\$27.27
Case Management	15,796	1,757	24,965	1,000	1494.72	\$43,518	\$27.27
TOTALS	\$54,733	\$6,086	\$99,965	\$13,000		\$173,784	

Total Cost Equals (1 + 2 + 3 + 4 = 6)

Source of OAA Match - Staff time

Contract Amount: \$160,784

Federal Award Total: \$60,819

**EXHIBIT 6  
CONGRESSIONAL LOBBYING CERTIFICATE**

The undersigned certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any SUBRECIPIENT, 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.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any SUBRECIPIENT, 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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all SUBRECIPIENTS shall certify and disclose accordingly.

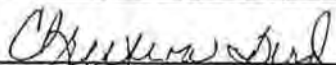
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The Contractor, Senior Citizens Council of Clackamas County, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: May 1, 2019

Company Name: Senior Citizens Council of Clackamas County, Inc.

Signature: 

Name: Christina Bird

(printed)

Title: Executive Director

Senior Citizen Council of Clackamas County

Subrecipient Grant Agreement #20-010

**EXHIBIT 7  
SUBRECIPIENT PROFILE**

**1. SUBRECIPIENT IDENTIFICATION**

Senior Citizens Council of Clackamas County, Inc.  
Legal Name

812 7<sup>th</sup> ST. Oregon City.  
Street Address

P.O. Box 1777  
Mailing Address

Oregon City 97045  
City Zip

(503) 657-1366 657-4214  
Phone Number FAX

**2. IRS/STATE NONPROFIT NUMBER:**

Federal ID#: 93-0693668

**3. CHIEF ADMINISTRATIVE OFFICIAL:**

Name: Christina Bird  
Title: Executive Director  
Address: P.O. Box 1777  
Oregon City, OR 97045  
Phone: 657-1366

**4. TYPE OF AGENCY** Non-profit/tax exempt, social service agency

**5. TYPE OF PROGRAM:** Multi-service

**6. BOARD OF DIRECTORS (List Members):**

Board of Directors: List Attached  
Frequency of Meetings:  
2<sup>ND</sup> Wednesday each Month at 4:00p.m.

Advisory Board: List Attached  
Frequency of Meetings:  
As needed

**7. SUBRECIPIENT INFORMATION:**

The following have been approved and adopted by the SUBRECIPIENT's Board of Directors:

	YES	NO	Approved Usage Certificate	YES	NO
Written Personnel Policies	X				
Staff Job Descriptions	X		Fire Marshal	X	
Written Benefits Policies	X		Co. Health	X	
Affirmative Action Plan	X		County Zone	X	
Nondiscrimination Plan	X				
State/Federal Certifications	X				

Current Articles of Incorporation: 3/11/1985

Last Total SUBRECIPIENT Audit: \_\_\_\_\_

8. Types and Amounts of Insurance Held: \$2,000,000 aggregate Commercial General Liability, \$1,000,000 each occurrence; \$1,000,000 Automobile Liability - Staff and Board.

9. SUBRECIPIENT CERTIFICATION STATEMENT:

I certify that to the best of my knowledge, the information contained in SUBRECIPIENT Profile is accurate and complete and that I have the legal authority to commit this SUBRECIPIENT to a contractual agreement.

Opuskin Bud

5/1/2019  
Date

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**BOARD OF DIRECTORS  
FISCAL YEAR 2019/20**

**OFFICERS:** *Andy Daniel, President* 09/2020 *Sue van der Naald, Vice President* 09/2019  
*Dale Evans, Treasurer* 09/2019 *Samantha Maiden, Secretary* 09/2020

**Andy Daniel, Retired Attorney at Law**  
1010 NW 12<sup>th</sup> Ave  
Canby, OR 97013  
[andydaniel2001@yahoo.com](mailto:andydaniel2001@yahoo.com)  
503-320-6682 (W)- Term Expires 08/30/2020

**Jack Lundeen, Retired Attorney At Law**  
PO Box 1146  
Lake Oswego, OR 97035  
[jacklundee@aol.com](mailto:jacklundee@aol.com)  
503-502-9750 (C) — Term Expiration: 09/30/2020

**Louise Marsh, Retired Geriatric Case Manager**  
3570 SW River Parkway St #901  
Portland, OR 97219  
[louise.marsh@comcast.net](mailto:louise.marsh@comcast.net)  
503-819-6776 (C) - Term Expiration 05/31/2020

**Sue van der Naald, Retired from Health, Housing & Human Services**  
18055 S Redland Rd  
Oregon City, OR 97045  
[suevdn@aol.com](mailto:suevdn@aol.com)  
503-810-2943 (C) — Term Expiration: 09/30/2020

**Staff Liaison**

**Christina Bird, Executive Director**  
Senior Citizens Council of Clackamas Co.  
PO Box 1777 — 812 7<sup>th</sup> Street  
Oregon City, OR 97045  
[christi@seniorcitizenscouncil.com](mailto:christi@seniorcitizenscouncil.com)  
Phone: 503-657-1366

**Andy Daniel, Retired Attorney at Law**  
1010 NW 12<sup>th</sup> Ave  
Canby, OR 97013  
[andydaniel2001@yahoo.com](mailto:andydaniel2001@yahoo.com)  
503-320-6682 (W)- Term Expires 08/30/2020

**Jack Lundeen, Retired Attorney At Law**  
PO Box 1146  
Lake Oswego, OR 97035  
[jacklundee@aol.com](mailto:jacklundee@aol.com)  
503-502-9750 (C) — Term Expiration: 09/30/2020

**Louise Marsh, Retired Geriatric Case Manager**  
3570 SW River Parkway St #901  
Portland, OR 97219  
[louise.marsh@comcast.net](mailto:louise.marsh@comcast.net)  
503-819-6776 (C) - Term Expiration 05/31/2020

**Sue van der Naald, Retired from Health, Housing & Human Services**  
18055 S Redland Rd  
Oregon City, OR 97045  
[suevdn@aol.com](mailto:suevdn@aol.com)  
503-810-2943 (C) — Term Expiration: 09/30/2020

Each officer serves a two-year term. Each board member serves a two-year term.  
All board members are committed to Clackamas County seniors and disabled adults.

**GUARDIANSHIP/CONSERVATORSHIP  
ADVISORY COMMITTEE  
2017**

**GUARDIANSHIP/CONSERVATORSHIP  
ADVISORY COMMITTEE  
2019**

Tami Black, Adult Protective Services  
Andy Daniel, Attorney at Law  
Vickie Palmer, Retired  
Stephanie Jefferson, Clackamas Co. Behavioral Health  
Stephanie Johnson, APD Case Manager  
Sue van der Naald, Clackamas Co. Social Services  
Marzean  
  
Staff: Christina Bird

**GUARDIANSHIP DIVERSION  
ADVISORY COMMITTEE  
2019**

Tami Black, Adult Protective Services  
Kristina John Baptiste, Clackamas Co. Social Services  
Stephanie Jefferson, Clackamas Co. Behavioral Health  
Cyndy Pecic, Case Manager  
  
Staff: Louise Marsh  
Sue Jones

## RESPONSE SECTION

1. Describe your grievance procedure for clients and how CCSS will fit in the process:

All Senior Council employees will be familiar with this grievance procedure, will encourage dissatisfied clients to use it, and may assist them in doing so.

All grievances and response to grievances shall be in writing. Clients may write their own letter of grievance, or may sign a letter of grievance written with assistance of others, including Senior Council employees.

Grievances shall be filed with the appropriate staff member. If the grievance is against a specific staff member then the grievance shall be sent to the Executive Director or to the President of the Board of Directors if the grievance is against the Executive Director. The grievance must be filed within 30 days of the event about which the client has a grievance. The staff member or Executive Director shall investigate and take whatever action is deemed appropriate and respond to the client within 30 days of the receipt of the letter of grievance.

If the client is dissatisfied with the staff or Executive Director's resolution of the matter, the client may send a written grievance to the President of the Board of Directors. The grievance shall be sent to the attention of the President at the council office, marked "***grievance- confidential***", within 30 days of the date of the response from the staff or Executive Director. The Board President shall review the grievance and respond to the client, in writing, within 30 days.

If the client is dissatisfied with the Board of Director's President's resolution, the client may file one final grievance to the Board of Director's Executive Committee. The grievance shall be sent to the attention of the Board of Director's Executive Committee at the council office, marked "***final grievance-confidential***", within 30 days of the date of the response from the Board President. The Executive Committee shall invite a representative from Clackamas County Social Services to meet with or provide input to the Executive Committee. The Executive Committee shall review the grievance and respond to the client, in writing, within 30 days. The actions taken by the Executive Committee shall be final.

2. Describe the organization's procedure for prioritizing services for the target population of frail, low income, minority and rural residents age 60 and older:

Usually, on a first come, first served basis; however, great attention is given to those in greatest need of help. The Guardianship Program and the Clearinghouse pay particular attention to need

3. Describe SUBRECIPIENT's operating procedures (use space provided only):

a. Hours of Operation: From 8:30 a.m. to 4:30 p.m.

Total hours per day: 8 1/2 hrs

Total hours per week: 42 1/2 hrs



**b. Official Closures:**

- New Year's Day, January 1
- The day before or after New Year's Day
- Presidents' Day or Martin Luther King Day
- Memorial Day, last Monday in May
- Independence Day, Fourth of July
- Labor Day, first Monday in September
- Veterans' Day, November 11
- Thanksgiving (fourth Thursday in November) and day after Thanksgiving
- Christmas, December 25
- The day before or after Christmas

4. Please describe the boundaries of the area for which a person propose to provide services.  
All of Clackamas County

5. Show an organizational chart which identifies staff positions and FTE within the contracted program.

Executive Director/Program Coordinator (1.0 FTE)

- 20% FTE Guardianship/Conservatorship
- 10% FTE Guardianship Diversion
- 70% Administration

Director of Client Services (1.0 FTE)

- 40% FTE Diversion
- 55% FTE Guardianship/Conservatorship
- 5% Administration

Director of Legal/Financial Services (1.0 FTE)

- 30% FTE Diversion
- 65% FTE Guardianship/Conservatorship
- 5% Administration

Office Manager (0.8FTE)

- 26% FTE Guardianship/Conservatorship
- 10% FTE Guardianship Diversion
- 44% Administration

Guardianship/Conservatorship Case Manager (.8 FTE)

- 60% FTE Guardianship/Conservatorship
- 20% FTE Diversion

Case Manager Aide (0.905 FTE)

- 80% FTE Diversion
- 20% FTE Guardianship/Conservatorship

6. Describe methods for providing information about services.

- |                |                  |                        |
|----------------|------------------|------------------------|
| Brochures      | Television       | Video Guard./Conser.   |
| Speeches       | Newspapers       | In-Home Svs Manual     |
| Fliers         | Radio            | Informational Mailings |
| Over the phone | Manual G/Conser. |                        |

May 16, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Intergovernmental Subrecipient Agreement with City of  
Sandy/Sandy Senior & Community Center to Provide Social Services for  
Clackamas County Residents

<b>Purpose/Outcomes</b>	Subrecipient Agreement with the City of Sandy/Sandy Senior & Community Center to provide Older American Act (OAA) funded services for persons in the cities of Oregon City and West Linn.
<b>Dollar Amount and Fiscal Impact</b>	The maximum agreement is \$167,842. The contract is funded through the Social Services Division Program agreements with the Oregon Department of Human Services, Oregon Housing & Community Resources; and various transportation agreements with TriMet & Ride Connection, Inc.
<b>Funding Source</b>	The Older American Act (OAA), State Special Program Allocation funds, Ride Connection pass-through STF funds, and LIHEAP funds- no County General Funds are involved.
<b>Duration</b>	Effective July 1, 2019 and terminates on June 30, 2020
<b>Previous Board Action</b>	
<b>Strategic Plan Alignment</b>	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
<b>County Council</b>	Agreement approved by County Council on 4/30/19
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	H3S #9264; Subrecipient #20-009

**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services request approval of the Subrecipient Agreement with the City of Sandy/Sandy Senior & Community Center to provide Older American Act (OAA) funded services for persons living in the Sandy Senior & Community Center service area. The services provided include congregate and home delivered meals, evidence-based health promotion activities, transportation, and information and referral activities. These services link residents with resources to meet their individual needs. This helps them to remain independent and interactive in the community.

In the December 2015 Social Services advertised for a contractor to provide Older American Act services for older persons in Clackamas County during Fiscal Year 2016-17, with an option for renewal for four additional years. No agency other than City of Sandy/Sandy Senior & Community Center showed an interest in providing these services in the Sandy/Boring area, so an

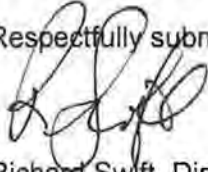
Intergovernmental subrecipient agreement with the City of Sandy/Sandy Senior & Community Center was negotiated. This is the fourth agreement under this RFP.

This agreement is effective July 1, 2019 and terminates on June 30, 2020. This agreement has been approved signed by County Council on April 30, 2019.

**RECOMMENDATION:**

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Swift', is written over the text 'Respectfully submitted,'.

Richard Swift, Director  
Health Housing & Human Service

**CLACKAMAS COUNTY, OREGON  
SUBRECIPIENT GRANT AGREEMENT 20-009**

This Agreement is between Clackamas County (COUNTY), a political subdivision of the State of Oregon, acting by and through its Health Housing & Human Services Department, Social Services Division – Area Agency on Aging, and City of Sandy on behalf of its Sandy Senior & Community Center (SUBRECIPIENT), a Municipal Corporation.

**Clackamas County Data**

Grant Accountant: Sue Aronson	Project Manager: Stefanie Reid-Danielson
Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 503-742-5421 <a href="mailto:suea@clackamas.us">suea@clackamas.us</a>	Clackamas County – Social Services Division 2051 Kaen Road Oregon City, OR 97045 503-655-8330 <a href="mailto:stefanierei@clackamas.us">stefanierei@clackamas.us</a>

**Subrecipient Data**

Finance/Fiscal Representative: <b><i>Tyler Deems</i></b>	Program Representative: <b><i>Melissa Thompson</i></b>
Tyler Deems, Finance Manager 39250 Pioneer Blvd Sandy, OR 97055 503-668-5533 <a href="mailto:tdeems@ci.sandy.or.us">tdeems@ci.sandy.or.us</a>	Melissa Thompson, Senior Services Mgr. 38348 Pioneer Blvd Sandy, OR 97055 503-668-5569 <a href="mailto:mthompson@cityofsandy.com">mthompson@cityofsandy.com</a>
DUNS: 03-708-5651	FEIN: 93-6002250

**RECITALS**

1. Project description: This project is a cooperative effort by parties in providing the Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, health promotion and legal consultation for Clackamas County residents age 60 and older.
2. This Grant Agreement sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement COUNTY and SUBRECIPIENT agree as follows:

## **AGREEMENT**

- 1. Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse subrecipient for expenses approved in writing by County relating to the project incurred no earlier than **July 1, 2019** and not later than **June 30, 2020**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
  
- 2. Program.** The Program is described in Attached Exhibit 1 - Purpose, Service Descriptions and Service Objectives. SUBRECIPIENT agrees to perform the services in accordance with the terms and conditions of this Agreement.
  
- 3. Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations including, but not limited to, the Older Americans Act, 42 U.S.C. § 3001 et. seq., and 45 CFR 1321 (collectively "OAA"), that is the source of the grant funding. SUBRECIPIENT shall further comply with any requirements required by the State of Oregon, Department of Human Services, Community Services & Supports Unit Older Americans Act Program Standards, together with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
  
- 4. Grant Funds.** COUNTY's funding for this Agreement is a combination of Federal, State and Local dollars as specified below by title and Catalog of Federal Domestic Assistance ("CFDA") number as appropriate. The maximum, not to exceed, grant amount that COUNTY will pay is **\$167,842**. This is a cost reimbursement grant and disbursements will be made in accordance with the requirements contained in Exhibit 5 – Reporting Requirements and Exhibit 6 – Budget and Units of Services. Failure to comply with the terms of this Agreement may result in withholding of payment. (The split between funding sources is outlined in Exhibit 6 – Budget and Units of Services.)
  - a. Grant Funds.** COUNTY's funding of **\$47,343** in grant funds for this Agreement is OAA funds (CFDA: 93.043, 93.044, 93.052, 93.053) issued to COUNTY by the State of Oregon, Department of Human Services, Community Services & Supports Unit and **\$34,800** from Federal Transportation Administration funds (Federal Statute: 49 USC 5310; CFDA: 20.513) issued to COUNTY by Ride Connection, Inc., an Oregon nonprofit corporation.

- b. **Other Funds.** COUNTY's funding of **\$65,429** for transportation services outlined in this agreement are from Elderly and Disabled Transportation funds issued to COUNTY by Ride Connection, Inc. and TriMet. COUNTY's funding of **\$3,900** for Physical Activity/Falls Prevention outlined in this agreement are from State of Oregon, Department of Human Services, Community Services & Supports Unit; Special Program Allocation and **\$3,500** for Low Income Home Energy Assistance application assistance outlined in this Agreement are from HEAT Oregon, an Oregon nonprofit organization. The **\$12,870** in Medicaid funds for Medicaid Home Delivered Meals is issued to SUBRECIPIENT by the State of Oregon, Department of Human Services, Adults and Persons with Disabilities.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty-five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other upon thirty (30) business days' notice. This notice may be transmitted in person, by certified mail, facsimile, or by email.
7. **Funds Available and Authorized.** COUNTY certifies that it has received an award sufficient to fund this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
8. **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 Section 7.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
- a. **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred. In addition, SUBRECIPIENT agrees to comply with the standards set forth in the "OAA."

- b. Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are “earned.” All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to COUNTY within 15 days.
- c. Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
- d. Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of SUBRECIPIENT.
- e. Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from services provided during the funding period.
- f. Match.** SUBRECIPIENT agrees to provide matching funds for the services provided as outlined in Exhibit 6 – Budget and Units of Services.
- g. Budget.** SUBRECIPIENT’s use of funds may not exceed the amounts specified in the Exhibit 6 – Budget and Units of Services. SUBRECIPIENT may not transfer grant funds between services without the prior written approval of COUNTY. At no time may budget modifications change the scope of the original grant application or Agreement.
- h. Research and Development.** COUNTY certifies that this award is not for research and development purposes.
- i. Payment.** SUBRECIPIENT must submit a final request for payment no later than ten (10) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit 5 – Reporting Requirements.
- j. Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit 5 – Reporting Requirements for each period (monthly, quarterly, and final) during the term of this Agreement.

- k. Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasurer Regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Reimbursement Request on a monthly basis as specified in Exhibit 5 – Reporting Requirements.
- l. Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibit 5 – Reporting Requirements), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 10 calendar days after the end date of this agreement.
- m. Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number (DUNS) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, located at <https://www.sam.gov>.
- n. Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <https://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than E.O. 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- o. Lobbying.** SUBRECIPIENT certifies (Exhibit 7: Lobbying and Litigation) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the *Byrd Anti-Lobbying Amendment* 31 U. S. C. 1352, which prohibits the use of Federal grant funds for litigation against the United States. SUBRECIPIENT certifies that it does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act, (Public Law 104-65, section 3).
- p. Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost



Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse ("FAC") within 9 months from SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.

- q. **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.330-331. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY'S discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- r. **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, or such longer period as may be required by the Federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.
- s. **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for OAA Funding, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to Clackamas County, as grantee, under those grant documents.
- t. **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of this agreement. Such material breach shall give rise to COUNTY'S right, but not obligation, to withhold SUBRECIPIENT

grant funds until compliance is met or to terminate this relationship including the original contract and all associated amendments.

#### **10. Compliance with Applicable Laws**

- a. **Federal Terms.** SUBRECIPIENT shall comply with the federal terms and conditions as outlined in Exhibit 3 - Required Federal Terms and Conditions, and incorporated herein.
- b. **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the agreement.
- c. **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by the County shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- d. **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- e. **Criminal Records and Abuse Checks.** SUBRECIPIENT agrees to meet requirements set forth in OAR 407-007-0200 through 407-007-0370 and ORS 181A.195 and 181A.200 and ORS 443.004. Subject individuals are employees of SUBRECIPIENT; volunteers of SUBRECIPIENT; employees and volunteers of SUBRECIPIENT's subcontractors and direct care providers of clients for which SUBRECIPIENT provides service authorization.  
  
COUNTY will assist SUBRECIPIENT to meet this requirement by processing criminal record checks utilizing the Oregon Department of Human Services ("DHS") Criminal Records Information Management System ("CRIMS") for SUBRECIPIENT's subject individuals as requested.
- f. **Mandatory Reporting of Elder Abuse.** SUBRECIPIENT shall ensure compliance with the mandatory reporting requirements of ORS 124.050 through 124.095 and OAR Chapter 411, Division 20 for employees and volunteers of SUBRECIPIENT's clients to whom SUBRECIPIENT provides services.

- g. Americans with Disabilities Act.** SUBRECIPIENT will ensure facilities used for the provision of OAA funded services meet the requirements as stated in Title II of the Americans with Disabilities Act of 1990, as amended (“ADA”), Section 504 of the Rehabilitation Act and DHS Policy #010-005.
- h. Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:

  - i. Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
  - ii. Procure a commercial sex act during the period of time the award is in effect; or
  - iii. Used forced labor in the performance of the Agreement or subaward under this Agreement, as such terms are defined in such regulation.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY’s right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. SUBRECIPIENT must include these requirements in any subaward made to public or private entities under this Agreement.

- i. Confidentiality of Client Information.**

  - i. All information as to personal facts and circumstances obtained by SUBRECIPIENT on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, the responsible parent of a minor child, or his or her guardian except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
  - ii. The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
  - iii. DHS, COUNTY and SUBRECIPIENT will share information as necessary to effectively serve DHS Clients.

**11. SUBRECIPIENT Standard Terms and Conditions.** SUBRECIPIENT shall comply with the terms and conditions as incorporated hereto in Exhibit 4 – Subrecipient Standards Terms and Conditions.

**12. Federal and State Procurement Standards**

- a. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from County in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- b. COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, which are incorporated by reference herein.
- c. SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d. SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

### **13. General Agreement Provisions.**

- a. **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b. **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with

respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.

- i. **Ride Connection/Tri-Met funds:** To the fullest extent permitted by law, SUBRECIPIENT agrees to fully indemnify, hold harmless and defend Ride Connection, its directors, officers, employees and agents, TriMet, its officers employees and agents, and the State of Oregon, its officers, employees and agents, from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense thereof including reasonable attorney's fees resulting from or arising out of the activities of SUBRECIPIENT, its officers, directors, employees, agents, subcontractors and volunteers under this Agreement.
  - ii. **OAA Program funds and Non-Medical rides for Medicaid clients funds:** SUBRECIPIENT shall defend, save, hold harmless, and indemnify the State of Oregon, Human Services Division and their officers, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of SUBRECIPIENT or its officers, employees, subcontractors, or agents, in performance of this contract
- c. **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
- i. **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, 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 Agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
    - I. **Required for State of Oregon for OAA funded services and non-medical rides for Medicaid clients** – Commercial General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided for this funding source.
    - II. **Required for Ride Connection/Tri-Met Transportation Funding** – Broad form comprehensive general liability coverage, \$1,000,000 combined single limit bodily injury and property damage
  - ii. **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during

the term of this Agreement, 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.

(a) Required for State of Oregon for OAA funded services and non-medical rides for Medicaid clients – Commercial General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided for this funding source.

(b) Required for Ride Connection/Tri-Met Transportation Funding – Broad form comprehensive general liability coverage, \$1,000,000 combined single limit bodily injury and property damage

iii. **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability, shall include "Clackamas County, its agents, elected officials, officers, and employees" as an additional insured and agencies named below

(a) Required by State of Oregon for OAA funded services non-medical rides for Medicaid clients – Insurance must provide that the State of Oregon, Department of Human Services, and its divisions, officers and employees are Additional Insured but only with respect to the OAA funded program services and the non-medical Medicaid transportation services funded under Agreement between the State of Oregon and Clackamas County Social Services.

(b) Required for Ride Connection/Tri-Met Transportation Funding – the insurance shall:

- (i) include Ride Connection and Tri-Met and its directors, officers, representatives, agents, and employees as additional insured with respect to work or operations connected with providing transportation;
- (ii) give Ride Connection and Tri-Met not less than thirty (30) days notice prior to termination or cancellation of coverage; and
- (iii) include an endorsement providing that the insurance is primary insurance and that no insurance that may be provided by Ride Connection or Tri-Met may be called in to contribute to payment for a loss.

iv. **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60-days written notice to 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 onto the policy.

- v. **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT 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.
  - vi. **Certificates of Insurance.** As evidence of the insurance coverage required by this agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the Agreement have been compiled with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
  - vii. **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
  - viii. **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
  - ix. **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
- d. **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
- e. **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- f. **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.

- g. **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- h. **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- j. **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- k. **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l. **Integration.** This Agreement contains the entire agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or agreements. When a requirement is listed both in the main boilerplate of the agreement and in an Exhibit, the Exhibit shall take precedence.

This Agreement consists of thirteen (13) sections plus the following exhibits which by this reference are incorporated herein:

- Exhibit 1 Purpose, Scope of Work and Service Objectives and Elements of Completion
- Exhibit 2 Transportation Provider Standards
- Exhibit 3 Required Federal Terms and Conditions
- Exhibit 4 Subrecipient Standard Terms and Conditions
- Exhibit 5 Reporting Requirements
- Exhibit 6 Budget and Units of Service
- Exhibit 7 Transportation Reaching People, Volunteer Driver Program
- Exhibit 8 Congressional Lobbying Certificate
- Exhibit 9 Subrecipient Information



*(signature page follows)*

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SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers.

**CLACKAMAS COUNTY**

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

Signing on Behalf of the Board:

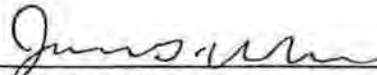
By: \_\_\_\_\_  
Rich Swift, Director  
Health, Housing and Human Services

Dated: \_\_\_\_\_

Approved to Form:

By: \_\_\_\_\_  
County Counsel

**City of Sandy**  
**Sandy Senior & Community Center**

By:   
Jordan Wheeler, City Manager Manager

Dated: 5/3/17

Approved as to Content:

By:   
Melissa Thompson, Senior Services Manager

Dated: 5.3.19

Dated: 4/30/19

## Exhibit 1

### PURPOSE, SERVICE DESCRIPTION, SERVICE OBJECTIVES AND ELEMENTS OF COMPLETION

#### 1. PURPOSE OF THE SERVICES

The purpose of this contract is the cooperation of both parties in providing the Area Agency on Aging's designated services of nutrition services, outreach, assessment, information and assistance, case management, reassurance, transportation, health promotion and legal consultation for Clackamas County residents age 60 and older. The goal in providing these services is to assist older residents in meeting their individual needs by linking them with County resources.

#### 2. DESCRIPTION OF SERVICES

- a. **CASE MANAGEMENT:** Is an in-depth interview with a client to provide access to an array of service options to assure appropriate levels of service and to maximize coordination in the service delivery system. Case management must include four general components: access, assessment, service implementation, and monitoring:
  - i. **Access & Assessments:**
    - (1) Informing clients of available services and, where appropriate, developing a goal-oriented service plan.
    - (2) Utilize an approved County-wide standardized assessment/intake form.
    - (3) Assessment is re-done with a change in client life situation/condition - every six to twelve months.
    - (4) May be billed upon submission of assessment/intake form.
  - ii. **Service Implementation & Monitoring:**
    - (1) Provide early identification of current or potential problem areas.
    - (2) Assess the need for changes/improvements in service.
    - (3) Identify any gaps/unmet needs.
    - (4) Review intervention results to determine if what was done achieved the desired result.
    - (5) Determine if services should be discontinued.
    - (6) Case monitoring services are available to frail but mobile elderly as well as homebound individuals.
- b. **REASSURANCE:** Regular friendly telephone calls and/or visits to physically, geographically or socially isolated registered clients that are receiving services to determine if they are safe and well, if they require assistance, and to provide reassurance. A unit is one contact

- c. **INFORMATION & ASSISTANCE:** Consists of request for assistance locating resources to meet a specific need, or assistance prioritizing and locating resources to meet multiple needs. Inquiries require:
- i. Informal assessment of the client's needs.
  - ii. Evaluation of appropriate resources.
  - iii. Assistance linking the client to the resources.
  - iv. Completion of an intake form to document background information on the client, the client's needs and what actions or referrals were made.
  - v. Follow up with the client or agency to see if the needs were met.
  - vi. Tallying the category of need for each inquiry.
  - vii. Documenting any unmet needs including recording the request, resources tried and the reason unable to help.
- d. **TRANSPORTATION:** Is the service that provides one-way rides for older persons and younger persons with disabilities. The goal is to ensure that transportation needs are met for those who are unable to meet their transportation needs independently. OAA funded rides are scheduled for persons who are age 60 and older for trips to medical appointments, clinics, personal business and to senior center activities. Ride Connection funded rides are scheduled for individuals age 60 and older and for persons with disabilities age 18 and over for medical appointments, clinics, personal business, shopping, nutrition and recreation activities.
- i. Sandy Sr. & Comm. Center Transportation Consortium Goals:
    - (1) Increase replacement reserve fund with separate accounting.
    - (2) Assure all drivers meet Ride Connection training and eligibility requirements as defined in the Operations Manual for Transportation Coordinators.
    - (3) Continue regular publicity/marketing efforts regarding transportation program
    - (4) Continue to explore ways to increase ridership, including contact with long term care facilities in the area.
    - (5) Attend all scheduled Transportation Consortium meetings.
  - ii. Guidelines for Non-Medical Transportation for Waivered Medicaid Clients
    - (1) This funding source is available for Medicaid clients who are receiving "waivered" services. Medicaid clients with a case manager who reside in all types of living situations except nursing facilities are waivered Medicaid clients. All rides must be authorized in writing on a *NON MEDICAL RIDE REFERRAL FORM FOR WAIVERED MEDICAID CLIENT* form by an Aging and Disability Services case manager before reimbursement may be requested for them. SUBRECIPIENT must keep the client ride authorizations on file – faxed forms are adequate. Case Managers will authorize rides yearly, at a minimum and will note the need for non-medical transportation in the client's signed case plan. COUNTY will coordinate completion and distribution of forms for SUBRECIPIENT and case managers through the Transportation Reaching People (TRP) program.

- (2) Services shall be billed by SUBRECIPIENT according to the following rate scale:  

One person, one-way ride:	\$14.00 per ride
---------------------------	------------------
- (3) Clients receiving the rides will not be asked or expected to contribute to the cost of the ride.
- (4) Trips will be tracked daily by client and type of ride. This information will be sent monthly to COUNTY, and be available for State and Federal representatives for audit purposes.

iii. SUBRECIPIENT will be responsible for:

- (1) recruitment of volunteer and/or paid drivers who will qualify for insurance coverage or who are willing to provide proof of coverage as drivers, and maintaining an adequate number of qualified volunteer and/or paid drivers to provide services.
- (2) orientation of drivers to the transportation program and informing them of other specialized training opportunities required to maintain safety of operations.
- (3) submission of criminal record check requests on all potential drivers and receiving satisfactory reports back prior to scheduling them to transport any client.
- (4) drug and alcohol testing on all potential paid drivers prior to hiring them is recommended for all drivers of Center-owned mini vans and buses, including volunteers.

e. **MEAL SITE MANAGEMENT:** Meal Site Management includes such tasks as: supervising final on-site preparation and serving/delivery of meals to eligible congregate and home-delivered participants; recruiting, training, scheduling and monitoring program volunteers; determining eligibility of participants; collecting and accounting for participant donations; completing and submitting required budget and program reports, providing events and activities for meal site participants; meeting with meal site Advisory Committee; and publicizing meal site in the Sandy community to enhance visibility and encourage participation. One unit is one meal served.

f. **PHYSICAL ACTIVITY AND FALLS PREVENTION:** The provision of physical fitness programs that include a focus on strength, balance, and flexibility exercise to promote physical activity and/or prevent falls, which have been demonstrated through rigorous evaluation to be evidence-based and effective with older populations.

g. **CAREGIVER RESPITE –** Services that offer temporary, substitute supports or living arrangements for care recipients in order to provide a brief period of relief or rest for unpaid caregivers served under the Family Caregiver Support Program. To be eligible for caregiver respite, the care recipient must either: (1) be unable to perform at least two activities of daily living (ADL's) without substantial human assistance, including verbal reminding, physical cueing OR (2) due to a cognitive or other mental impairment,

require substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or another individual.

- h. **LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP) Intakes** – A service provided by SUBRECIPIENT staff to assist vulnerable, homebound, low Income County residents in completing applications for LIHEAP funds. A unit of service is one correctly completed, accepted application submitted to COUNTY prior to the November 30, 2017 deadline.

### **3. SERVICE OBJECTIVES**

#### **a. Case Management**

**Objective:** To provide contracted units of service throughout the contract period for County residents age 60 and older who are identified as needing assistance from County agencies.

Elements:

- i. SUBRECIPIENT Client Services Coordinator (CSC) assesses clients within two weeks following their request for services or referral from another source (outreach effort, gatekeeper, neighbor, family member, etc.).
- ii. SUBRECIPIENT CSC completes assessment on a County approved assessment/intake form.
- iii. SUBRECIPIENT CSC writes case plan, as appropriate, for the client from the information gathered on the assessment form.
- iv. SUBRECIPIENT CSC re-assesses clients' service needs/eligibility every six months or when their condition or life situation dramatically changes
- v. SUBRECIPIENT CSC reviews client case plans quarterly, at a minimum, and provides follow up contact by phone or home visits.
- vi. SUBRECIPIENT CSC (upon request from client, other agency or family member) provides additional follow up to coordinate services.
- vii. SUBRECIPIENT CSC consults with SPD Case Manager (if client has one) to maximize coordination of services. Consultations will be annotated on Case Monitoring forms within 2 work days.
- viii. SUBRECIPIENT CSC documents all reviews and additional follow ups on case monitoring contact forms which are kept in client record file.
- ix. SUBRECIPIENT CSC keeps all client information in a secured area, accessible to only authorized personnel.

#### **b. Reassurance**

**Objective:** To provide contracted units of service throughout the contract period for County residents age 60 and older who are identified as needing assistance from County agencies.

Elements:

- i. SUBRECIPIENT Client Services Coordinator (CSC) assesses clients provides follow up contact by phone to ensure that services outlined under case plan are meeting clients need.
- ii. SUBRECIPIENT CSC documents all reviews and additional follow ups on case monitoring contact forms which are kept in client record file.
- iii. SUBRECIPIENT CSC keeps all client information in a secured area, accessible to only authorized personnel.

**c. Information and Assistance - COUNTY Responsibilities**

**Objective:** To provide participating SUBRECIPIENT with training, technical assistance, resource development, networking and information sharing.

Elements:

- i. County will provide orientation on County's I&R program to SUBRECIPIENT I&A staff.
- ii. County will notify SUBRECIPIENT's I & A Specialist of "Networking" I & R Breakfast Meetings and schedule speakers to meet interests expressed by SUBRECIPIENT.

**d. Information and Assistance - SUBRECIPIENT Responsibilities**

**Objective 1:** Have a system in place which enables SUBRECIPIENT to provide referral services to link people with needs to the appropriate resources.

Elements:

- i. SUBRECIPIENT will designate a single individual (paid or volunteer) who is at least 0.5 FTE with SUBRECIPIENT as an I & A Specialist.
- ii. SUBRECIPIENT will notify COUNTY I & A Coordinator and Contract Specialist within 30 days of any change in SUBRECIPIENT's designated I & A Specialist, and will schedule an on-site training with the County I & A Coordinator for the new designee within 60 days of appointment.
- iii. SUBRECIPIENT's I & A Specialist will attend a minimum of 6 monthly County "Networking" I&R breakfasts meeting each year and attend Scheduled CSC meetings.
- iv. SUBRECIPIENT's I & A Specialist will update center information for the County's Community Resources Guide, initiate notification to County's I&R program regarding any changes to SUBRECIPIENT programs, and notify County's I&R program of any significant changes in local community resources.
- v. SUBRECIPIENT I & A Specialist will compile and submit quarterly data reports, including a description of unmet needs, to the Contract Specialist for forwarding to the County I & A Coordinator by the 10th day following each quarter.

**Objective 2:** To provide contracted units of service throughout the contract period for County residents age 60 and older who need help identifying resources to meet their individual needs.

Elements:

- i. SUBRECIPIENT Director or CSC annotates name, Medicaid status, address, phone number, date of request, and nature of request/need.
- ii. SUBRECIPIENT makes referral and follows up with client within a 2 day work period.
- iii. SUBRECIPIENT annotates follow up taken and number of referrals needed on Referral Log.
- iv. SUBRECIPIENT Director keeps completed Referral Logs in a secured area, accessible to only authorized personnel.

#### **e. Transportation**

**Objective:** To provide contracted units of service throughout the contract period for County residents age 60 and older, and to younger persons with disabilities who are unable to meet their transportation needs.

Elements:

- i. SUBRECIPIENT designates one person to be coordinator for the transportation program. This person will be responsible for:
  - (1) Recruiting drivers.
  - (2) Submitting criminal checks
  - (3) Ensuring all drivers meet Ride Connection training requirements
  - (4) Scheduling road tests for all drivers.
  - (5) Conducting periodic/seasonal driver safety training.
  - (6) Providing a copy of written procedures for transportation services to each driver.
  - (7) Scheduling vehicle maintenance.
  - (8) Maintain daily Pre- and Post- trip Reports
- ii. SUBRECIPIENT provides transportation as scheduled each day.
- iii. SUBRECIPIENT maintains system to document each trip of each day.

#### **MEAL SITE MANAGEMENT**

**Objective 1:** To supervise preparation of meals, serving meals to congregate participants, and delivery of meals to home delivered clients.

Elements:

- i. Procurement of milk is part of site management.
- ii. Packaging of home delivered meals is part of site management.

**Objective 2:** To organize and supervise the recruiting, training, scheduling and monitoring of program volunteers.



**Objective 3:** To determine eligibility of participants and target services to individuals who are in the greatest economic or social need, with particular attention to low income minority individuals.

**Elements:**

- i. Economic need is defined as income equal to, or less than, the poverty level as determined by the Department of Commerce.
- ii. Persons with social need are those persons who have at least two of the following characteristics:
  - (1) be 75 years or older
  - (2) live alone
  - (3) have a physical or mental impairment which prevents proper functioning within society
  - (4) be of a minority group
  - (5) have no significant other(s)

**Objective 4:** To offer a range of events and activities to enhance daily living efforts of older people or to provide opportunity for their participation in community life.

**Elements:**

- i. SUBRECIPIENT plans educational presentations in areas such as nutrition, health, safety, utilization of community services and programs, and other topics of interest to participants.
- ii. SUBRECIPIENT provides opportunities to promote personal growth and self image.
- iii. SUBRECIPIENT provides opportunities for a variety of types and levels of involvement.
  - (1) Small and large group activities
  - (2) Active and spectator participation
  - (3) Participation with the general community and other generations.
- iv. SUBRECIPIENT plans activities which are flexible and responsive to change in:
  - (1) Individual participant needs and interests.
  - (2) Characteristics of the service area's older population.
  - (3) Other programs in the relevant service area.

**Objective 5:** To inform the community about the meal site program.

**Elements:**

- i. SUBRECIPIENT publicizes programs in local newspapers, flyers, brochures, posters, fraternal organizational meetings, etc.
- ii. SUBRECIPIENT ensures Center is identified by an easily visible sign at its entrance.
- iii. SUBRECIPIENT posts monthly menus in an obvious position in the Center and delivers them to home-bound clients each month.
- iv. SUBRECIPIENT mails or delivers calendar of upcoming Center activities to current and potential participants.

**Objective 6:** To plan for provision of services in cooperation with site Advisory Committee and Area Agency on Aging (AAA) Adult Center Liaison Committee.

Elements:

- i. SUBRECIPIENT identifies needs and concerns specific to the Center and service area participants.
- ii. SUBRECIPIENT incorporates information from other service providers, community agencies, and governmental organizations in providing services.
- iii. SUBRECIPIENT conducts program participant satisfaction survey at least once per year.
- iv. SUBRECIPIENT food service manager meets quarterly with COUNTY nutrition consultant to go over status of meal program files, plans, goals, accountings, etc.

**Objective 7:** To collect, account for and report program income (participant donations).

Elements:

- i. SUBRECIPIENT provides each participant (congregate and home delivered) with an opportunity to voluntarily contribute to the cost of the service.
- ii. SUBRECIPIENT sets up container for donations at meal site which ensures and protects the privacy of the participants.
- iii. SUBRECIPIENT has system set up at site to collect full meal price from persons not eligible for services.
- iv. SUBRECIPIENT posts:
  - (1) full cost of the meal, and
  - (2) a notice describing the donation and payment policies.
- v. SUBRECIPIENT may post suggested donation information if it is clear that:
  - (1) every donation from an eligible participant is on a "pay what you can afford" basis, and
  - (2) no means test is used in the collection of contributions or provision of the meal.

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**i. Preventive Screening, Counseling, and Referrals**

**Objective:** To provide contracted units of service throughout the contract period.

**Elements:**

- i. SUBRECIPIENT contacts qualified professionals/organizations to conduct educational programming about the availability, benefits and appropriate use of Medicare preventive health services.
- ii. SUBRECIPIENT contacts qualified professionals/organizations to conduct Health risk assessments and screenings or preventive health education programs at their facility or a facility convenient for their clientele.
- iii. SUBRECIPIENT schedules and advertises programs.
- iv. SUBRECIPIENT registers participants for activities, if necessary.
- v. SUBRECIPIENT has staff and/or trained volunteers available on site to coordinate the programs.
- vi. Where appropriate, SUBRECIPIENT keeps demographic records of participants for future planning purposes and so that participants may be notified of other preventive health education programs available to them.

**j. Caregiver Respite –**

**Objective:** To provide contracted units of service for family members of eligible under the Family Caregiver Support Program.

**Elements:**

- i. Agency respite program coordinator (RPC) interviews care providers to determine appropriateness of clients to program.
- ii. Agency RPC registers clients in program.
- iii. Agency staff, led by an RN, provide weekly activity program for respite clients.

**l. Low Income Home Energy Assistance Program (LIHEAP) Intakes**

**Objective:** To provide contracted units of service throughout the contract period.

**Elements:**

- iv. SUBRECIPIENT Client Services Coordinator (CSC) assists home-bound clients with the completion and submission of a LIHEAP annual application.
- v. SUBRECIPIENT CSC ensures that the application form is completed per program requirements.

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**Exhibit 2**  
**Transportation Provider Standards**

**A. Vehicle Standards**

1. SUBRECIPIENT shall maintain its vehicles to provide comfortable and safe Rides to Clients. SUBRECIPIENT's vehicles shall meet the following requirements:
  - a. The interior of the vehicle shall be clean;
  - b. SUBRECIPIENT shall not smoke or permit smoking in the vehicle;
  - c. SUBRECIPIENT shall maintain appropriate safety equipment in the vehicle, including but not limited to:
    - i. First Aid Kit;
    - ii. Fire Extinguisher;
    - iii. Roadside reflective or warning devices;
    - iv. Flashlight;
    - v. Chains or other traction devices (when appropriate); and,
    - vi. Disposable gloves.
  - d. SUBRECIPIENT shall maintain the vehicle in good operating condition, by providing the following:
    - i. Seatbelts;
    - ii. Side and rear view mirrors;
    - iii. Horn; and,
    - iv. Working turn signals, headlights, taillights, and windshield wipers.
2. SUBRECIPIENT shall maintain a preventative maintenance schedule, which incorporates, at a minimum, all maintenance recommended by the vehicle manufacturer. SUBRECIPIENT shall comply with appropriate local, state, and federal transportation safety standards regarding passenger safety and comfort. SUBRECIPIENT shall provide all equipment necessary to transport Clients using wheelchairs.

**B. Drivers**

1. SUBRECIPIENT shall inform drivers of their job duties and responsibilities and provide training related to their job duties. SUBRECIPIENT shall also:
  - a. Brief drivers about the Non-Medical Transportation Services, reporting forms, vehicle operation, and the geographic area in which drivers will be providing service;
  - b. Ensure that drivers are capable of safely operating vehicles;
  - c. Require drivers to complete the National Safety Council Defensive Driving course, or an equivalent course, within six months of date of hire;
  - d. Require drivers to complete Red Cross approved First Aid, Cardiopulmonary Resuscitation and blood spill procedures within six months of date of hire prior to providing Medicaid Non-medical transportation services to Clients;
  - e. Require drivers to complete passenger assistance training, as required by the Americans with Disabilities Act; and,
  - f. Establish procedures for drivers to deal with situations in which emergency care is needed for Clients that they have been assigned to transport.

2. SUBRECIPIENT's selection of its drivers shall include:
  - a. Verification that the driver has an appropriate and valid, unrestricted State of Oregon driver's license as defined in ORS Chapter 807 and OAR Chapter 735, Division 062; and,

Verification that the driver has not been convicted of any crimes against people or any drug or alcohol related offenses. If a Provider desires an exception to this requirement, such exception shall be made only with the approval of COUNTY and shall be dependent upon when the crime occurred, nature of the offense, and other circumstances to assure Clients is not placed at risk of harm from the driver.

**C. Vehicles**

1. SUBRECIPIENT shall operate the vehicles listed below that are owned by Ride Connection, to deliver transportation services as outlined in this agreement
  - a. 2016 Dodge MV1 Amerivan, VIN: 57WMD2C60GM100101
  - b. 2012 Ford Startrans Senator, VIN: 1FDFF4FS6CDB38243
2. Subrecipient shall perform vehicle maintenance in accordance with manufacturer's specifications. All invoices for maintenance performed shall be input by Subrecipient into the Ride Connection vehicle maintenance database at the time service is completed. If Subrecipient is unable to access database invoices are to be faxed to Ride Connection's Fleet Maintenance Unit.
3. Ride Connection will submit to ODOT, on a quarterly basis, request for reimbursement of qualified vehicle maintenance performed and entered in the database. County will distribute these funds to Subrecipient within 21 days of receipt of payment from Ride Connection.

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### EXHIBIT 3

#### Required Federal Terms and Conditions

**General Applicability and Compliance.** Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, SUBRECIPIENT shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to SUBRECIPIENT, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** SUBRECIPIENT shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, SUBRECIPIENT expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then SUBRECIPIENT shall comply and require all subcontractors to 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).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$150,000 then SUBRECIPIENT shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 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 DHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. SUBRECIPIENT shall include and require all subcontractors to include in all contracts with subcontractors

receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.

4. **Energy Efficiency.** SUBRECIPIENT shall comply and require all subcontractors to 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 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, SUBRECIPIENT certifies, to the best of SUBRECIPIENT's knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of SUBRECIPIENT, 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.
  - b. 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, SUBRECIPIENT shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c. SUBRECIPIENT shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients and subcontractors shall certify and disclose accordingly.
  - d. This certification is a material representation of fact upon which reliance was placed when this Agreement 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.
  - e. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.
  - f. No part of any federal funds paid to SUBRECIPIENT under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting

for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

- g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h. No part of any federal funds paid to SUBRECIPIENT under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

6. **HIPAA Compliance.** To the extent that any Work or obligations of SUBRECIPIENT related to this Agreement are covered by the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), SUBRECIPIENT must comply. SUBRECIPIENT shall determine if SUBRECIPIENT will have access to, or create any protected health information in the performance of any Work or other obligations under this Agreement. To the extent that SUBRECIPIENT will have access to, or create any protected health information to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement, SUBRECIPIENT shall comply and cause all subcontractors to comply with the following:

- a. Privacy and Security of Individually Identifiable Health Information. Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between SUBRECIPIENT and COUNTY for purposes directly related to the provision of services to Clients which are funded in whole or in part under this Agreement. To the extent that SUBRECIPIENT is performing functions, activities, or services for, or on behalf of COUNTY, in the performance of any Work required by this Agreement, SUBRECIPIENT shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate OAR 407-014-0000 et. seq., or COUNTY HIPAA Privacy Policies and Notice of Privacy Practices. A copy of the most recent COUNTY HIPAA Privacy Policies and Notice of Privacy Practices may be obtained by contacting COUNTY.
- b. Data Transactions Systems. If SUBRECIPIENT intends to exchange electronic data transactions with COUNTY in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction,



SUBRECIPIENT shall execute an EDI Trading Partner Agreement and shall comply with EDI Rules.

- c. Consultation and Testing. If SUBRECIPIENT reasonably believes that SUBRECIPIENT's or COUNTY' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, SUBRECIPIENT shall promptly consult COUNTY Program Manager. SUBRECIPIENT or COUNTY may initiate a request for testing of HIPAA transaction requirements, subject to available resources and COUNTY testing schedule.
  - d. Business Associate Requirements. SUBRECIPIENT and all subcontractors shall comply with the same requirements for Business Associates set forth in OAR 125-055-0100 through OAR 125-055-0130 as a contractor of a Business Associate.
7. **Resource Conservation and Recovery.** SUBRECIPIENT shall comply and require all subcontractors to 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 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 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.
8. **Drug-Free Workplace.** SUBRECIPIENT shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) SUBRECIPIENT 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 SUBRECIPIENT's workplace or while providing services to DHS clients. SUBRECIPIENT's notice shall specify the actions that will be taken by SUBRECIPIENT 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, SUBRECIPIENT'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 (5) days after such conviction; (v) Notify DHS within ten (10) days after receiving notice under subparagraph (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 subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither SUBRECIPIENT, or any of SUBRECIPIENT'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 SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs SUBRECIPIENT or SUBRECIPIENT's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to DHS 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; (x) Violation of any provision of this subsection may result in termination of this Agreement.

9. **Pro-Children Act.** SUBRECIPIENT shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. section 6081 et. seq.).
10. **Medicaid Services.** SUBRECIPIENT shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
  - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2).
  - b. Comply with all disclosure requirements of 42 CFR 1002.3(a) and 42 CFR 455 Subpart (B).
  - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 489 subpart I.
  - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. SUBRECIPIENT shall acknowledge SUBRECIPIENT'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.
  - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid Agreement) 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 U.S.C. § 1396a(a)(68).
11. **Agency-based Voter Registration.** SUBRECIPIENT shall 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.

**12. Disclosure.**

- a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) In the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.
- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- d. SUBRECIPIENT shall make the disclosures required by this Section 14. To DHS. DHS reserves the right to take such action required by law, or where DHS has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

- 13. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. SUBRECIPIENT agrees that it has been provided the following notice:

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
  - i. The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
  - ii. Any rights of copyright to which a grantee, subgrantee or a SUBRECIPIENT purchases ownership with grant support.
- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, sub-grant or agreement under a grant or sub-grant.

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## EXHIBIT 4

### Subrecipient Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of Client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including SUBRECIPIENT and COUNTY, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that SUBRECIPIENT is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
  - a. SUBRECIPIENT represents and warrants as follows:
    - i. **Organization and Authority.** SUBRECIPIENT is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. SUBRECIPIENT has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
    - ii. **Due Authorization.** The making and performance by SUBRECIPIENT of this Agreement (a) have been duly authorized by all necessary action by

- SUBRECIPIENT and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of SUBRECIPIENT's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which SUBRECIPIENT is a party or by which SUBRECIPIENT may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by SUBRECIPIENT of this Agreement.
- iii. **Binding Obligation.** This Agreement has been duly executed and delivered by SUBRECIPIENT and constitutes a legal, valid and binding obligation of SUBRECIPIENT, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
  - iv. SUBRECIPIENT has the skill and knowledge possessed by well-informed members of its industry, trade or profession and SUBRECIPIENT will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in SUBRECIPIENT's industry, trade or profession;
  - v. SUBRECIPIENT shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
  - vi. SUBRECIPIENT prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- b. COUNTY represents and warrants as follows:
- i. **Organization and Authority.** COUNTY has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
  - ii. **Due Authorization.** The making and performance by COUNTY of this Agreement (a) have been duly authorized by all necessary action by COUNTY and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which COUNTY is a party or by which COUNTY may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by COUNTY of this Agreement, other than approval by the Department of Justice if required by law.
  - iii. **Binding Obligation.** This Agreement has been duly executed and delivered by COUNTY and constitutes a legal, valid and binding obligation of COUNTY, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

- c. Warranties Cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**5. Ownership of Intellectual Property.**

- a. Definitions. As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:
  - i. "SUBRECIPIENT Intellectual Property" means any intellectual property owned by SUBRECIPIENT and developed independently from the Work.
  - ii. "Third Party Intellectual Property" means any intellectual property owned by parties other than COUNTY or SUBRECIPIENT.
- b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, COUNTY will not own the right, title and interest in any intellectual property created or delivered by SUBRECIPIENT or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that SUBRECIPIENT owns, SUBRECIPIENT grants to COUNTY a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 8.a.(ii) on COUNTY' behalf, and (3) sublicense to third parties the rights set forth in Section 8.a.(ii).
- c. If state or federal law requires that COUNTY or SUBRECIPIENT grant to the United States a license to any intellectual property, or if state or federal law requires that COUNTY or the United States own the intellectual property, then SUBRECIPIENT shall execute such further documents and instruments as COUNTY may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or COUNTY. To the extent that COUNTY becomes the owner of any intellectual property created or delivered by SUBRECIPIENT in connection with the Work, COUNTY will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to SUBRECIPIENT to use, copy, distribute, display, build upon and improve the intellectual property.
- d. SUBRECIPIENT shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as COUNTY may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

- 6. Records Maintenance; Access.** SUBRECIPIENT shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, SUBRECIPIENT shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document SUBRECIPIENT's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT whether in

paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." SUBRECIPIENT acknowledges and agrees that COUNTY, Ride Connection, Oregon Department of Transportation, the Public Transit Division, TriMet, State Unit on Aging and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts.

7. **Records Retention.** SUBRECIPIENT shall retain and keep accessible all Records for the longest of:
  - a. Six years following final payment and termination of this Agreement;
  - b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
  - c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.
  
8. **Information Privacy/Security/Access.** If the Work performed under this Agreement requires SUBRECIPIENT or its subcontractor(s) to have access to or use of any COUNTY computer system or other COUNTY Information Asset for which COUNTY imposes security requirements, and COUNTY grants SUBRECIPIENT or its subcontractor(s) access to such COUNTY Information Assets or Network and Information Systems, SUBRECIPIENT shall comply and require all subcontractor(s) to which such access has been granted to 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.
  
9. **Assignment of Agreement, Successors in Interest.**
  - a. SUBRECIPIENT shall not assign or transfer its interest in this Agreement without prior written approval of COUNTY. Any such assignment or transfer, if approved, is subject to such conditions and provisions as COUNTY may deem necessary. No approval by COUNTY of any assignment or transfer of interest shall be deemed to create any obligation of COUNTY in addition to those set forth in the Agreement.
  - b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
  
10. **No Third Party Beneficiaries.** COUNTY and SUBRECIPIENT are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that SUBRECIPIENT's performance under this Agreement is solely for the benefit of COUNTY to assist and enable COUNTY to accomplish its statutory mission. Nothing in this Agreement 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 any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.



11. **Severability.** The parties agree that 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 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.

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**Exhibit 5**  
**Reporting Requirements**

**1. INVOICES**

SUBRECIPIENT shall submit invoices in a format designated or approved by COUNTY. Invoices are due by the 10th calendar day of the subsequent month. COUNTY shall make payment to SUBRECIPIENT within 21 days of receipt of each invoice submitted.

Invoices and reports on units of service provided shall bear SUBRECIPIENT's name and address and be signed by an authorized representative of SUBRECIPIENT. The authorized signator of the invoice shall verify that the services purchased have been performed.

SUBRECIPIENT shall submit the following invoices and reports:

- a. Financial summary including match and program income.
- b. Vehicle Maintenance Invoices for vehicle maintenance will be entered into Ride Connection database as outline in Exhibit 2 Section 3 and noted on monthly transportation reports submitted to County.
- c. Additional financial reports for the administration of this contract, as required by COUNTY.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should SUBRECIPIENT fail to submit 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 cause may continue until SUBRECIPIENT submits required reports, performs required services, or establishes to COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence of SUBRECIPIENT.

SUBRECIPIENT shall return to COUNTY all funds which were expended in violation of this contract.

**2. PROGRAM ACTIVITY REPORTS**

SUBRECIPIENT shall submit monthly program activity reports presenting data comparing actual levels of service to the planned levels specified in Exhibit 6 Budget & Units of Service. These reports are due with the invoices. The format of these reports shall be designated or approved by COUNTY, and contain the following:

- a. SUBRECIPIENT shall submit nutrition reports monthly. These reports shall have:
  - i. the over and under age 60 meal program participation numbers broken out by: Congregate, HDM, Medicaid, volunteers, guests and staff.
  - ii. the amount of participant donations by Congregate and HDM .

- b. SUBRECIPIENT may bill Food Services for OAA funded HDM if they have been ordered by recipients then cancelled after 2:00 PM the day before delivery. SUBRECIPIENT may not bill for Meal Site Management for these meals.
- c. Monthly NAPIS/Oregon Access information for client registration and program service data including client identifiers for all new clients. Programs service data must be equal to or greater than units of service billed for.
- d. Transportation Report forms A, B, and C
- e. List of Medicaid waived services clients who were provided non-medical transportation during the billing period, with number of rides provided for each client by ride type.
- f. SUBRECIPIENT shall submit copies of the SPD Medicaid Home Delivered Meals vouchers on current State approved form.

### **3. AUDIT/MONITORING**

SUBRECIPIENT shall permit authorized representatives of COUNTY and other applicable audit agencies of the state or federal government, to review the records of SUBRECIPIENT in order to satisfy program audit and evaluation purposes deemed necessary by COUNTY and permitted under law.

SUBRECIPIENT agrees to participate with COUNTY in any evaluation project or performance report, as designated by COUNTY or applicable state or federal SUBRECIPIENT, and to make available all information required by any such evaluation process.

COUNTY agrees to notify SUBRECIPIENT in writing of intent to conduct onsite evaluation of reported performance management data and SUBRECIPIENT agrees to provide COUNTY access to its facility and staff, all related programs and fiscal documents, SUBRECIPIENT'S reports and on any other related documentation to substantiate performance management reporting of data.

### **4. ADMINISTRATION**

COUNTY Project Manager shall be the ADS Contract Specialist or any other person as shall be designated in writing by the Director of the Social Services Division. The Project Manager is authorized to approve invoices, make site inspections, and be COUNTY representative in matters related to this contract. SUBRECIPIENT shall designate one or more representatives in writing who shall be authorized to sign the invoices and accompanying activity reports.

**Exhibit 6  
Budget and Units of Service**

**1. BUDGET**

COUNTY's payment to SUBRECIPIENT will be based on the provision of the units of service and according to the service elements and amounts specified in this Exhibit.

As required in 42 U.S.C. § 3001.315(b)(3) of the Older Americans Act (OAA), no means testing for services eligibility will be conducted and per 42 U.S.C. § 3001.315(b)(4)(A-D), all recipients of OAA services will be provided the opportunity to voluntarily contribute towards the cost of service. SUBRECIPIENT has appropriate safeguards in place to account for all contributions. Said contributions are hereby referred to as Program Income and shall be used by SUBRECIPIENT for the sole purpose of expanding services if the program income is equal to or less than the budgeted amount.

SUBRECIPIENT may not transfer funds in excess of 15% from one service category to another without written approval from COUNTY.

SUBRECIPIENT agrees to provide matching funds in accordance with Section 309(b)(1) and 373 (g)(2) of the OAA for qualified expenditures with cash or in-kind resources of non-federal means as follows:

Match shall be figured at 10% of the total OAA Title III-B expenditures and at 25% of the total OAA Title III-E funds.

SUBRECIPIENT match funds must be from sources other than Federal funds, and SUBRECIPIENT will provide COUNTY with a statement of assurance stating this.

SUBRECIPIENT will invoice and receive direct reimbursement from the State of Oregon, Dept. of Human Services, Senior & People with Disabilities for Home Delivered Meals provided for authorized Medicaid clients at the state approved per meal rate.

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2. UNIT COST SCHEDULE

CITY OF SANDY - SENIOR CENTER

Fiscal Year 2016

FUND AGENCY	041110 B		041110 C1		041110 C2		041110 C3		041110 E		NSIP	Other		Risk Control		MEDICAD			LIFESP		NO. OF UNITS	TOTAL COST	REBURSEMENT RATE		
	Fund		Fund		Fund		Fund		Fund			SF	OP	Fund		Fund		Fund		Fund					
	18A00123	8006	18A00123	8004	18A00123	8004	18A00123	8004	18A00123	8006		SF	OP	Fund		Fund		Fund		Fund					
Sub-Category																									
Cash Management	52955																								
Respite	91404																								
In-Home Services	92459																								
Transportation	92244																								
Physical Activity/Recreation																									
Family Care: People																									
Trans- Risk Con Out of CA																									
Transportation- Special Need																									
Transportation- Single Drive																									
Transportation- TransMed																									
RiskCon- 4th Level																									
Food Service- Food ETA																									
CRAMM Self Management																									
Medical Aids- SCBC																									
LIFESPARE																									
TOTALS	91404	92459	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244	92244

CRAMM Number 201618 RiskCon Out of CA for Transport of 1st & 2nd Level

Sum of CRAMM with Self-Med Aids of 5 units in case of contact

Contract Amount \$157,941

RiskCon Total \$2,143

### 3. UNITS OF SERVICE

SUBRECIPIENT or COUNTY may request substantive changes in the program activities as described in "Exhibit 1". Such changes must be mutually agreed upon by and between SUBRECIPIENT and COUNTY and incorporated in a written amendment to this contract. Such amendment shall not become effective until signed by both SUBRECIPIENT and COUNTY.

Client Service Objectives:

Service Category	Planned Number of Service Units	Unit of Measurement	Number of Unduplicated Clients to be Served
Case Management (OAA)	92	1 hour of service	65
Reassurance (OAA)	55	1 contact	40
Information and Assistance (OAA)	188	1 response to inquiry and follow up	60
Transportation (OAA)	1,311	1 one-way ride	100
Physical Activity/ Falls Prevention	90	1 class session	20
Caregiver Respite	175	1 hour of service	25
Transportation (Medicaid non-medical)	150	1 one-way ride	10
Transportation (Ride Connection)	1,786	1 one-way ride	120
Transportation (STF & Boring)	1,775	1 one-way ride	40
Meal Site Management (OAA)	23,500	1 meal delivered/served	200
Food Service – Frozen Meals (OAA)	6,775	1 meal delivered/served	25
Medicaid Home Delivered Meals	1,500	1 meal delivered/served	15
LIHEAP Applications	140	1 Completed Application	140

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## EXHIBIT 7

### Transportation Reaching People, Volunteer Driver Program Scope of Work, Performance Standards and Guidelines for Service

#### ~ BASIC PROVISIONS ~

#### Both Parties agree to:

1. Designate and keep current a representative to serve as liaison to the other party.
  2. Conduct business in the best interest of volunteers and clients.
  3. Communicate any issues, concerns and problems to each other in a timely manner.
1. COUNTY, as the Transportation Reaching People program (TRP) agrees to:
    - a. Recruit, interview, background check and enroll volunteer drivers and refer same to SUBRECIPIENT.
    - b. Provide orientation, In-service or special training of volunteers as required by the TRP volunteer driver position.
    - c. Instruct volunteers in proper use of monthly reports, reimbursement guidance, and program procedures.
    - d. Provide training to SUBRECIPIENT staff around documentation of dispatched rides as TRP procedures change or the need arises.
    - e. Develop publicity for the program.
    - f. Furnish accident, personal liability, and excess automobile insurance coverage as required by program policies for the TRP Volunteer Driver. This coverage is secondary coverage to the volunteer driver's own coverage and is not primary insurance.
    - g. Periodically monitor volunteer activities at SUBRECIPIENT to assess and/or discuss needs of volunteers and SUBRECIPIENT.
    - h. May provide volunteer mileage reimbursement directly to the TRP volunteer driver for the assigned and confirmed trips.
  2. SUBRECIPIENT agrees to:
    - a. Interview volunteers who are referred by TRP and make final decision on volunteer driver placement.
    - b. Provide supervision of TRP volunteer drivers and furnish volunteers with dispatch sheets and/or Monthly Volunteer Mileage Reimbursement claim forms as appropriate.
    - c. Provide for adequate safety of volunteers during assignments.
    - d. Investigate and immediately report to TRP any incident, accident or injury involving TRP volunteer drivers. All reports must be submitted in writing.
    - e. Sign Monthly Volunteer Mileage Reimbursement claim forms which should also indicate hours of service and send to TRP office by the 5th of each month.

- a. Volunteers must use current TRP forms. It is the Volunteers responsibility to insure they use the current TRP reporting forms
- f. If SUBRECIPIENT collects rider donations from TRP volunteer drivers; SUBRECIPIENT will document this as program income for COUNTY's Transportation Reaching People (TRP) program and will be handled as such. Program Income shall be forwarded to COUNTY, at a minimum, monthly.

**~ ADDITIONAL PROVISIONS ~**

1. Inclusivity: SUBRECIPIENT will not discriminate against TRP volunteers or in the operation of its program on the basis of race, color, national origin, sex, age, political affiliation, religion, or disability, if the volunteer is an otherwise qualified individual.
2. Accessibility: SUBRECIPIENT will provide reasonable accommodation to allow persons with disabilities to participate in programs to which volunteers are assigned.
3. Prohibited Activities: TRP will not refer volunteers for (1) partisan political activities, (2) religious activities, (3) a position for which pay is available or which supplants a paid employee.
4. Removal or Separation: SUBRECIPIENT may request the removal of a volunteer at any time. A volunteer may withdraw from service at SUBRECIPIENT or from TRP at any time. Discussion of individual separations will occur between TRP staff, SUBRECIPIENT staff and the volunteer to clarify the reasons, resolve conflicts, or take remedial action, including another placement. Clackamas County Social Services has a grievance policy that may be used by volunteers or SUBRECIPIENT at any time.

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**EXHIBIT 8  
CONGRESSIONAL LOBBYING CERTIFICATE**

The undersigned certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any SUBRECIPIENT, 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.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any SUBRECIPIENT, 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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all SUBRECIPIENTS shall certify and disclose accordingly.

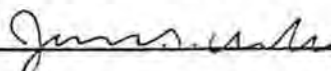
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The Contractor, City of Sandy/Sandy Sr. & Comm. Ctr., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

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

Company Name: City of Sandy/ Sandy Sr. & Comm. Center

Signature: 

Name: Jordan Wheeler, City Manager  
(printed)

Title: City Manager

**EXHIBIT 9  
SUBRECIPIENT PROFILE**

**1. SUBRECIPIENT IDENTIFICATION**

City of Sandy Senior Center  
Legal Name

38348 Pioneer Boulevard  
Mailing Address

Sandy 97055  
City Zip

(503) 668-5569; 668-5891  
Phone Number; Fax #

**2. IRS/STATE NONPROFIT NUMBER:**

Federal ID#: 93-6002250

**3. CHIEF ADMINISTRATIVE OFFICIAL:**

Name: Jordan Wheeler

Title: City Manager

Address: 39250 Pioneer Blvd.  
Sandy, OR 97055

Phone: 503-668-5533

**4. TYPE OF AGENCY:** Public

**5. TYPE OF PROGRAM:** Social Services

**6. BOARD OF DIRECTORS (List Members):**

CITY OF SANDY – CITY COUNCIL

~~Bill King Mayor, Carl Exner, Olga Gerberg,~~  
Jeremy Pietzold, ~~Lois Coleman,~~ John Hamblin,  
~~Don Hollis~~

Frequency of Meetings:  
Twice Monthly

Stan Pullam, Mayor  
Bethany Shultz  
Laurie Smallwood  
Jan Lee

**7. SUBRECIPIENT INFORMATION:**

The following have been approved and adopted by SUBRECIPIENT's Board of Directors:

	YES	NO	Approved Usage Certificate	YES	NO
Written Personnel Policies	X				
Staff Job Descriptions	X		Fire Marshal	X	
Written Benefits Policies	X		Co. Health	X	
Affirmative Action Plan	X		County Zone	X	
Nondiscrimination Plan	X				
State/Federal Certifications	X				

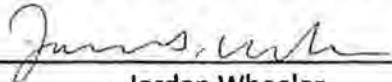
Current Articles of Incorporation: Date: 1911

Last Total SUBRECIPIENT Audit: Completed annually as part of the City audit

8. Types and Amounts of Insurance Held: Commercial General Liability - \$5,000,000 per occurrence, \$15,000,000 aggregate; Commercial Automobile Liability Insurance - \$5,000,000 each occurrence.

9. SUBRECIPIENT CERTIFICATION STATEMENT:

I certify that to the best of my knowledge, the information contained in SUBRECIPIENT Profile is accurate and complete and that I have the legal authority to commit this SUBRECIPIENT to a contractual agreement.

  
\_\_\_\_\_  
Jordan Wheeler

5/3/19  
\_\_\_\_\_  
Date

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## I. RESPONSE SECTION

### 1. Describe your grievance procedure for clients and how CCSS will fit in the process:

Clients who have been denied a Center service or have a complaint relating to service delivery will be referred to the formal grievance procedure if all attempts to resolve the conflict informally between the parties involved fail.

The formal grievance procedure encompasses a successive review of the complaint by the Center Director, City Manager, and City Council, in that order. The City Council's decision is binding. All complaints relating to Aging and Disability Services contracted services shall be resolved in accordance with the terms of the contract and CCSS staff review.

### SANDY SENIOR CENTER PROCEDURES FOR HANDLING COMPLAINTS

Complaints are a natural result of being a visible, active organization providing services to the public. In order to maintain a positive climate in the community, and provide quality services to the public, we must be aware of any concerns about the programs and services we provide and have a consistent procedure for responding to complaints. Our preferred way to handle complaints is to solve them informally by the parties involved. This informal process encourages persons to freely express their concerns so that immediate action may be taken to resolve the issue in a positive way. While the Informal process is preferred, it is also necessary to make available a formal process for taking a complaint elsewhere if it cannot be solved informally.

#### INFORMAL PROCEDURE

When staff\* or volunteers receive a complaint they should:

- a. Make sure that complainant talk directly to the staff person responsible for the day-to-day operation of the activity about which there is a complaint. If persons first receiving the complaint are not responsible for the particular activity, they should take the name and phone number of the complainant. Complainants should be advised that the person responsible for the activity will call them. It is the responsibility of persons first receiving the complaint to inform the person responsible for the activity about the complaint. It is preferable that persons not be passed from one person to another in order to have their complaint be heard.

\* If the complainant chooses to go first to the Assistant to the City manager, the City Manager, or the Center Advisory Board with the complaint, the informal process described here will normally be used. The Assistant to the City Manager, the City Manager, or the Center Advisory Board would refer the complaint to the Center Director to handle according to the informal process before initiating the formal process. In addition to verbal and written complaints, the City offers an on-line complaint initiation process which is directly forwarded to the staff person who is responsible for resolution of the concern.

- b. When staff receives a complaint about an activity for which they are responsible, they should try to resolve the problem as follows:
  - treat the complaint seriously;
  - ask the complainants what action they expect to be taken;
  - involve complainants in the process of devising a solution, if feasible;
  - inform complainants of what action will be taken, or why no action is necessary.
- c. If complainants still are not satisfied, they should be referred to the Center Director. The Center Director should be advised of this referral. This will allow the Center Director to begin to take any appropriate steps and/or follow-up with complainants should they fail to contact the Director. If the issue relates to Center programs, policies or procedures, the Center Director may request that the Center Advisory Board make a recommendation on the matter. Any decision must be in accordance with Senior Center policies and procedures, City of Sandy Policies, and in the case of contracted services, in accordance with established policies and procedures of the contracting agency and terms of the contract.
- d. If complainants still are not satisfied, the Formal Procedure will be initiated.

#### FORMAL PROCEDURE

If the problem has not been resolved after speaking to the Center Director, complainants may request a review by the Assistant to the City Manager. The Assistant to the City Manager will discuss with the complainants what the problem is and what action they would like taken. This will be summarized by the Assistant to the City Manager. The Assistant to the City Manager will request that the Center Director provide a written summary of the action taken to resolve the problem, and will review the information and discuss it with complainants. Within five (5) working days of this discussion, the Assistant to the City Manager will let complainants know what action is being taken.

If the problem is not resolved, the complaint must be readdressed in writing to the City Manager. Within 30 days of receipt of the complaint the City Manager will meet with complainants and the Senior Center Director to discuss the problem. When the hearing is over the City Manager will send a written decision within ten (10) working days of the hearing. The decision of the City Manager is final as to whether actions taken were justified and whether circumstances warrant review by the City Council.

2. Describe the organization's procedure for prioritizing services for the target population of frail, low income, minority and rural residents age 60 and older:

Traditionally, Sandy Senior Center clients have not been denied outreach, case monitoring, or information and assistance services upon request. Efforts, however, are directed towards locating at-risk individuals and those at greatest economic and social need in coordinating the social services program.

**3. Describe SUBRECIPIENT's operating procedures (use space provided only):**

**a. Hours of Operation: From 8:30 a.m. To 5:00 p.m.**

**Total hours per day: 8.5 hrs**

**Total hours per week: 42.5 hrs**

**b. Official Closures:**

**New Year's Day, January 1**

**Martin Luther King, Jr. Day - 3rd Monday in January**

**President's Day, third Monday in February**

**Memorial Day, last Monday in May**

**Independence Day, Fourth of July**

**Labor Day, first Monday in September**

**Veterans' Day, November 11**

**Thanksgiving, fourth Thursday in November & the following day**

**Christmas, December 25**

**4. Please describe the boundaries of the area for which a person propose to provide services.**

The Sandy Senior Center provides services to seniors residing in the Oregon Trail School District, exclusive of the Hoodland area. The boundary between the Hoodland and Sandy districts is represented by Alder Creek. The Center informally extends certain services such as Meals-On-Wheels and medical transportation to currently unserved areas of Clackamas County

**5. Show an organizational chart which identifies staff positions and FTE within the contracted program.**

**Director (0.125 FTE)**

<b>Social Svcs Coordinator (1.0 FTE)</b>	<b>Clerical Assistant (.5 FTE)</b>	<b>Volunteer Assistants (1.0 FTE)</b>	<b>Senior Companions (.5 FTE)</b>	<b>Driver/ Custodian (.25 FTE)</b>
--	--	---	---	--

**6. Describe methods for providing information about services.**

A variety of means are utilized to disseminate public information about service center staff and volunteers provide. Articles are published monthly in the Sandy Senior Scene highlighting center services, activities, and special programs. Other media opportunities include the weekly Sandy Post and monthly City water bill newsletter. Presentations concerning senior issues and center programs are also made before community groups each year. Senior volunteers are encouraged to provide information to their peers on an informal basis. Persons serving on the Sandy Senior Center Advisory Committee from churches and other organizations also represent an important source of community networking and information sharing. The City maintains a web site and cable television channel 7 which also advertise center information.

7. List the services provided and include the strategies and methods for conducting these services (i.e. staff time, volunteers used, method of community awareness, intake, and record keeping procedures).

The Sandy Senior Center will provide Assessment, Case Monitoring, Transportation and Information and Assistance services under the terms of the contract. Staff involved in the delivery of services will include the Director (.125 FTE), social services coordinator (1.0 FTE), Clerical Assistant (.25 FTE), Driver/Custodian (.25 FTE), and a minimum of 10 volunteer assistants equaling one full-time position. All staff and volunteers shall participate in providing information and referral services. Only staff members will be involved in the I&A documentation and record keeping process. Clackamas County Community Action Agency I&A tallying forms will be utilized.

The Center's Social Services Coordinator will act as the primary coordinator of Assessment and Case Monitoring services. Efforts will be placed on identifying isolated and frail seniors as part of the initial outreach process. Each client shall receive an initial visit, if possible in the home, to assess needs and to develop a case plan. Implementation of the case plan may include any use of volunteers to provide such on-going services as medical and shopping escort, congregate or home delivered meals, friendly visiting, filing medical insurance claims, and other support services. During the intake procedure clients are informed of services available and the Center's confidentiality policy; and participate in the development of a goal-oriented case plan. Following the implementation of the case plan, the client is monitored by the senior companions and other trained center volunteers working closely with staff. All initial and follow-up contacts completed in person or by phone shall be documented as part of client records, and maintained in a locked file.

Center staff shall also network with community gatekeepers to insure the effectiveness of the Assessment and Case Monitoring programs.

8. Briefly, describe methods for providing legal services.

Three (3) volunteer attorneys participate in monthly law projects held at the Sandy Senior Center. Clients with legal concerns are screened in advance and referred to the program as appropriate. Low-income clients may be eligible for follow-up services on a pro bono basis after the initial 30 minute interview.

## **GUIDELINES FOR INCLUSION OF RESIDENTS OF CONGREGATE LIVING FACILITIES IN CLACKAMAS COUNTY SENIOR CENTER ACTIVITIES**

Clackamas County Senior Centers provide a variety of program and services for adults who are able to participate independently and without special assistance or supervision.

Those who use the Center must be:

1. Mobile or if of limited mobility, able to use walker, cane, wheelchair or other device completely unassisted.
2. Continent, or wear appropriate protective undergarments, and not need assistance with bathroom concerns.
3. Physically able to care for personal needs and be able to take part in activities selected without special assistance.
4. Mentally able to make responsible decisions regarding participation.
5. Able to behave in an appropriate manner so not to disrupt or require supervision.
6. Able to remove self from danger without assistance.
7. Or, if unable to meet the above criteria, accompanied by a caregiver provided by the family or facility where the individual lives, to assist as necessary to comply with guidelines.

If an individual lives in a care facility it is the responsibility of the facility to:

1. Determine if it is appropriate for their resident to take part in Center activities.
2. Make advance arrangements for such participation with the Center Director or appropriate designee.
3. Communicate the information contained in these guidelines to their employees, residents and/or residents' guardians and others involved in residents' care who should be aware of these guidelines.

### **Transportation**

Some Centers provide transportation to and from the Centers and to grocery shopping. Rides are subject to available space and priority is given to isolated individuals without access to transportation. Individuals using Center transportation must be able to:

1. Meet the Guidelines listed above.
2. Be physically able to use the transportation available.
3. Be mentally able to follow procedures, e.g., regarding arrival and departure, seat belt use, etc.

If an individual is being transported from a care facility by a Center bus, the facility must make arrangements in advance for that individual's transportation and is responsible to reimburse the Center for the bus fare.

Under no circumstances is the Center responsible for individuals who call and request a ride without the facility's knowledge and for whom a ride is given. The Center is not responsible for individuals who once arrive at the Center, leave the Center, make other arrangements to return home or request to be returned to a location other than the original pick up address.



**Nutrition**

Individuals who wish to participate in the Center's nutrition program must meet the guidelines listed above. If an individual is from a care facility, the facility must make arrangements in advance for that individual's participation in the nutrition program and is responsible to reimburse the Center for the meal cost.

**Emergency Care**

It is imperative that a care facility's staff provide contact information prior to one of their residents coming to the Center. It is imperative that a care facility's staff be accessible by phone for the period of time when their resident is taking part in Center activities. In the event that an individual who lives in a care facility becomes ill or incontinent while at the Center, the Center staff will call the facility. It is the facility's responsibility to provide transportation for the individual from the Center back to the facility. In the event of a serious illness or injury, the Center's staff will call "911" for emergency assistance. The facility will be notified by the Center's staff in order for the facility to provide follow-up instructions for care of their resident.

*THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK*

May 16, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval for Amendment #2 to a Revenue Agreement with CareOregon for the  
Integrated Behavioral Health Program -  
Per Member Per Month (PMPM) Incentive Program

<b>Purpose/Outcomes</b>	Provides Clackamas County Health Centers Division (CCHCD) funding for working towards improvement in patient's behavioral health outcomes.
<b>Dollar Amount and Fiscal Impact</b>	Based on number of clients reported and by what percentage the measure was increased during reporting period. This is a no maximum agreement. No County General Funds are involved. No matching funds required.
<b>Funding Source</b>	CareOregon
<b>Duration</b>	Effective July 1, 2019 and terminates on June 30, 2020
<b>Previous Board Action</b>	The Board last reviewed and approved this contract on October 18, 2018, agenda item A2.
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
<b>Counsel Review</b>	County Counsel has reviewed and approved this document. It was approved on May 7, 2019.
<b>Contact Person</b>	Deborah Cockrell 503-742-5495
<b>Contract No.</b>	8645_02

**BACKGROUND:**

The Clackamas County Health Centers Division (CCHCD) of the Health, Housing and Human Services Department requests the approval of Amendment #2 to a Revenue Agreement with CareOregon for the Integrated Behavioral Health Program - Per Member Per Month (PMPM) Incentive Program.

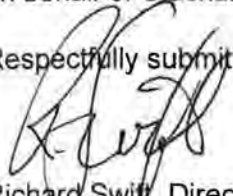
CareOregon offers payment incentives to organizations that have been qualified as a Patient Centered Primary Care Home and who have a Behavioral Health Integrated Letter of Agreement with CareOregon. This Amendment is needed to extend the agreement with the effective dates of July 1, 2019 to June 30, 2020, with the new payment model measurements. There is no way to determine the amount of revenue to be received as this is determined based on the number of members assigned to CCHCD and the amount of measured improvement reported per quarter. CCHCD is eligible for revenue generated per member per month (PMPM) depending on level of achievement at the Beavercreek, Sunnyside, Sandy, and Gladstone clinics. Due to these factors, we are processing this as a No Maximum Agreement.

This Amendment #1 is effective July 1, 2019 and continues through June 30, 2020.

**RECOMMENDATION:**

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Swift", is written over the text "Respectfully submitted,".

Richard Swift, Director  
Health, Housing, and Human Services

**CareOregon, Inc.**

**Letter of Agreement**

**#8645\_02**

**Integrated Behavioral Health**

This Letter of Agreement (Agreement) is between CareOregon, Inc. (CareOregon) and Clackamas County acting by and through its Health, Housing, and Human Services Department, Health Centers Division (Provider), effective July 1, 2019 through June 30, 2020.

**I. Recitals:**

- A. CareOregon and Provider are independent companies.
- B. This Agreement is distinct and separate from the Provider Services Agreement in place between CareOregon and Provider, and shall be applicable only so long as the Provider Services Agreement remains in place and is effective between CareOregon and Provider.
- C. If the State of Oregon or the contracted Coordinated Care Organization changes the requirements for Patient Centered Primary Care Home (PCPCH) Supplemental Payment, this Agreement will be re-evaluated.
- D. This Agreement supersedes any existing or previous Letter of Agreement for CareOregon Integrated Behavioral Health (IBH) between CareOregon and Provider for the participating clinics specified in this Agreement.

**II. Incentive Payments:**

- A. For the period of this Agreement, participating clinics are eligible to receive a per member per month (PMPM) incentive payment.
- B. Incentive payment amount is determined by performance on the CareOregon Member Population Reach Measure, as defined in Exhibit A.1 as reported for the final month of the reporting period:

<b>Structural Integration Tier</b>	<b>Data Submission Performance</b>	<b>Payment Level</b>
Tiers 1 & 2 Integration	< 5.0% CareOregon Member Population Reach*	Payment Level 0
Tiers 1 & 2 Integration	≥ 5.0% CareOregon Member Population Reach*	Payment Level 1
Tier 2 Integration Only	≥ 12.0% CareOregon Member Population Reach*	Payment Level 2

\* Participating clinics must meet all applicable Structural Behavioral Health Integration Criteria defined in Exhibit B.

- C. Participating clinics and selected Target Population from Exhibit A.2.:

<b>Target Population: Alcohol &amp; Drug Screening</b>	<b>Structural Integration Tier</b>	<b>PMPM Rate</b>		
		<b>Level 0</b>	<b>Level 1</b>	<b>Level 2</b>
1. CLACKAMAS COUNTY BEAVERCREEK	Tier 2	\$0.00	\$2.00	\$4.00
2. SANDY HEALTH CLINIC	Tier 2	\$0.00	\$2.00	\$4.00
3. SUNNYSIDE HEALTH CLINIC	Tier 2	\$0.00	\$2.00	\$4.00

Target Population: Depression (Pediatric)	Structural Integration Tier	PMPM Rate		
		Level 0	Level 1	Level 2
1. GLADSTONE COMMUNITY CLINIC	Tier 2	\$0.00	\$2.00	\$4.00

**III. Conditions of Payment:**

- A. CareOregon will pay participating clinics a monthly PMPM incentive payment, provided this Agreement is fully executed, according to the following timelines:
  - 1. If Provider’s Agreement is executed prior to June 15<sup>th</sup>, 2019, PMPM will commence on the Agreement effective date.
  - 2. If Provider’s Agreement is executed between the 16<sup>th</sup> and the last day of June 2019, PMPM will commence in two (2) months.
- B. Payment will be made monthly based on the number of members assigned to participating clinics where the primary plan coverage is CareOregon Oregon Health Plan, as of the fifth (5<sup>th</sup>) of the month.
- C. CareOregon will not pay Provider a retro-active PMPM.
- D. This Agreement shall be applicable provided participating clinics are recognized by the State of Oregon as Tier Three (3) or higher PCPCH.
- E. This Agreement shall be applicable provided total CareOregon membership assigned to Provider is no fewer than 1,000 members.

**IV. Terms:**

- A. Provider agrees to maintain a minimum of a 0.5 Full Time Employee (FTE) licensed Behavioral Health Clinician (BHC) at each Provider location, as defined by ORS 414.025, at a ratio of 1 FTE for every 6 FTE Primary Care Clinicians. The BHC will practice within the scope of their respective license.
- B. Provider agrees to provide Mental Health, Substance Use Disorder, and Developmental Screening of patients established with documentation for on-site local referral resources and processes.
- C. Provider agrees to incorporate clinically relevant patient behavioral health information into the patient medical record at the point of care.
- D. Provider agrees to notify CareOregon within thirty (30) days of any changes that may affect any participating clinic’s ability to maintain eligibility requirements of CareOregon IBH.
- E. Payments may be immediately suspended for participating clinics that cease to meet eligibility requirements and may resume upon notification of eligibility fulfillment during the term of this Agreement.
- F. Provider agrees to submit to CareOregon, all claims for services provided by the Behavioral Health Clinician (BHC).
- G. To ensure appropriate payment of funds under this Agreement, Provider will ensure clinic-specific billing for each participating clinic. Clinic-specific billing requires claims submission using professional claims forms (CMS-1500 or 837P) with a clinic-specific National Provider Identifier (NPI) submitted as the billing provider (CMS-1500 item 33a or 837 loop ID 2010AA).

- H. Clinics new to participation in IBH at the time of Agreement execution, will receive payment level one (1) until the first payment adjustment date as specified in V.N.
- I. Clinics participating in IBH at the time of Agreement execution, will receive the payment level currently assigned as specified in II.C. until the first payment adjustment date as specified in V. N.
- J. Provider agrees that payments received will be used to support the appropriate participating clinic.
- K. Provider will select one (1) Target Population Measure as defined in Exhibit A.2 to be reported in addition to the Population Reach Measure Set as defined in Exhibit A.1.
- L. No changes will be permitted to the Target Population Measure selection during the period of this Agreement.
- M. Target Population and Population Reach Measurement data must be submitted prior to data submission deadlines, for each month of the reporting period for PMPM to continue on next Payment Adjustment Date.
- N. Incentive payment level may be adjusted as scheduled on payment adjustment date following data submission based on the value of the final month reported for the CareOregon Population Reach Measure:

<b>Data Submission Deadline</b>	<b>Specifications</b>	<b>Reporting Period (Rolling 12-months)</b>	<b>Payment Adjustment Date</b>
August 31, 2019	Exhibit A.1	January 2019 – June 2019	December 2019
February 29, 2020	Exhibit A.1	July 2019 – December 2019	June 2020

- O. Data submitted for any clinical quality measure that is incomplete, invalid, or erroneous will be excluded from the payment level calculation for that reporting event.
- P. If data is not submitted prior to data submission deadlines, participating clinics will receive payment level zero (0), effective on the payment adjustment date until the next scheduled payment adjustment date.
- Q. Both entities acknowledge that this program will be reviewed periodically.
- R. This Agreement may be amended by CareOregon upon written notice to Provider to reflect immaterial programmatic changes to CareOregon IBH. Any other changes to this Agreement can only be amended by a written agreement signed by the parties hereto.
- S. CareOregon may request a site visit to meet with Provider and review their Integrated Behavioral Health Program.
- T. This Agreement is renewable at the discretion of CareOregon.
- U. Either party may terminate this Agreement with 30 days written notice.

**V. General Provisions:**

- A. Should Provider’s participation in the CareOregon Provider Agreement terminate, this funding will cease immediately upon written notification of termination and Provider agrees to refund any paid amounts prorated from the date of termination to the end of the period outlined above.
- B. Provider agrees not to disclose the information in this Agreement and agrees to keep it confidential. Provider agrees that the information in this Agreement is proprietary information

that represents a trade secret of CareOregon. To the extent authorized by Oregon law, neither party will disclose this or any other proprietary information or trade secret without the express written approval of the other party.

- C. Both parties agree to seek written approval for, and provide a copy of, any news releases or any other external communication related to this Agreement. Email approval by CareOregon or Provider will suffice as written approval.
- D. Provider is not eligible to participate or receive funding associated with this Agreement if Provider is placed on the Tier Monitoring System by CareOregon's Peer Review Committee or has documented contract and/or compliance issues. All funding associated with this Agreement will be discontinued until Provider is removed from the CareOregon Tier Monitoring System or has resolved compliance issue to CareOregon's satisfaction. Discontinued funding will not be disbursed.
- E. CareOregon can terminate this Agreement immediately if the safety or health of a member or staff person is threatened. Any remaining balance of the payment disbursed under this Agreement at the time of immediate termination will be returned to CareOregon.

**Agreed to on behalf of Clackamas County acting by and through its Health, Housing, and Human Services Department, Health Centers Division:**

**Agreed to on behalf of CareOregon, Inc.:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Name: Richard Swift

Name: Eric C. Hunter

Title: Director

Title: Chief Executive Officer

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

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

## Exhibit A

### CareOregon 2019 Integrated Behavioral Health Reporting Requirements

CareOregon IBH Progress Reports must include: Population Reach Data; data for selected Target Population Measure; and a narrative report. Numerator and denominator values must be submitted for each month in the reporting period for all measures. Month six (6) CareOregon Population Reach data is used to determine payment level. All other Progress Report components must be reported only.

#### 1. Population Reach Measure Set (Required)

Quality Measure	Numerator (n) and Denominator (d) Descriptions	
All Patient Population Reach	n	Of those in denominator, unique patients seen by BHC in the previous rolling 12-months.
	d	Unique patients seen in primary care in the previous rolling 12-months.
CareOregon Member Population Reach	n	Of those in denominator, unique CareOregon members seen by BHC in the previous rolling 12-months.
	d	Unique CareOregon members seen in primary care in the previous rolling 12-months.

#### 2. Target Population Measure Set

Quality Measure	Numerator (n) and Denominator (d) Descriptions	
Depression (Tier 1 only)	n	Of those in denominator, all patients seen by BHC within 30 days following PHQ measurement.
	d	All patients with a PHQ-9 > 9 measured in the reporting month.
Diabetes	n	Of those in denominator, all patients seen by BHC within 30 days following HbA1c measurement.
	d	All patients with an HbA1c > 9 measured in the reporting month.
Tobacco	n	Of those in denominator, all patients seen by BHC within 30 days following positive screening.
	d	All patients who reported "yes" for tobacco use in the reporting month.
Alcohol & Drug Screening	n	Of those in denominator, all patients seen by BHC within 48hrs of a positive screening.
	d	All patients screened positive in the reporting month.
Emergency Department Utilization	n	Of those in denominator, all patients seen by BHC within 30 days following an ED visit.
	d	All patients who have visited the Emergency Department in the reporting month.
Parental ACEs screening	n	Of those in denominator, all parents/children whom a BHC coordinated or provided services (including but not limited to dyadic treatment) within 30 days following parental ACEs screening.
	d	Children 0-3 years old with a parental ACEs screening completed scoring 3 or more who were seen in the reporting month.
Depression (Pediatrics only)	n	Of those in denominator, all patients seen by BHC within 30 days following depression screening.
	d	All patients screened positive for depression or SI in the reporting month.
Alcohol & Drug Screening/CRAFFT (Pediatrics only)	n	Of those in denominator, all patients seen by BHC within 48hrs of a positive screening.
	d	All patients screened positive in the reporting month.



## Clinical Quality Measure Specifications

### Numerator and Denominator Specification Notes

#### Inclusion criteria for patients seen by BHC (numerator):

- ✓ All billable services, paid and unpaid, including face-to-face and telehealth interventions both scheduled and same-day appointments.
- ✓ Visits where the BHC assists in service delivery along with the medical provider resulting in increased medical complexity that is billed under the medical provider.
- ✓ Clinics selecting parental ACEs screening may count non-billable visits or services related to ACEs work toward both numerator compliance in this sub-population as well as population reach.

#### Inclusion criteria for patients seen in Primary Care (denominator):

- ✓ Any PCP or BHC appointment (i.e. 99201, 99202, 99203, 99204, 99205, 99211, 99212, 99213, 99214, 99215, 99354, 99355, 99401, 99402, 99403, 99404, 99411, 99412, G0507, G0505, 96150, 96151, 96152, 96153, 96154, 99408, G0396, 99409, G0397, 99406, G0436, 99407, G0437, 96110, 96127, 90791, 90832, 90834, 90837, 98966, 98967, 98968).

## Exhibit B

### CareOregon 2019 Integrated Behavioral Health

#### Structural Integration Tier Criteria

Integrated Behavioral Health Criteria	Tier One (1)	Tier Two (2)
<b>Staffing:</b> <ul style="list-style-type: none"> <li>✓ At least 0.5 FTE licensed behavioral health clinician (BHC) as defined by subset of ORS 414.025 (Table 4) is on-site, located in the same shared physical space as medical providers.</li> <li>✓ Mental Health, Substance Use Disorder, and Developmental Screening strategy is established with documentation for on-site local referral resources and processes.</li> <li>✓ BHC(s) provide care at a ratio of 1 FTE BHC for every 6 FTE Primary Care Clinicians.</li> </ul>	✓ ✓ ✓	✓ ✓ ✓
<b>Communication around Shared Patients:</b> <ul style="list-style-type: none"> <li>✓ Primary care clinicians, staff, and BHCs document clinically relevant patient information in the same medical record at the point of care.</li> <li>✓ Care team and BHC routinely engage in face-to-face collaborative treatment planning and co-management of shared patients.</li> </ul>	✓ ✓	✓ ✓
<b>BHC as an Integrated Part of the Primary Care Team:</b> <ul style="list-style-type: none"> <li>✓ Warm hand-offs/introductions between care team members and BHC.</li> <li>✓ BHC is a regular part of practice activities (i.e. team meetings, provider meetings, quality improvement projects, case conferences).</li> <li>✓ Pre-visit planning activities (i.e. scrubbing and/or huddling for behavioral health intervention opportunities).</li> </ul>	✓ ✓ ✓	✓ ✓ ✓
<b>Same-Day Access:</b> <ul style="list-style-type: none"> <li>✓ On average, ≥ 25% of BHC hours at the practice each week are available for same-day services (may include average weekly late-cancelation/no-shows converted to same-day services).</li> </ul>	✓	✓
<b>Same-Day Access:</b> <ul style="list-style-type: none"> <li>✓ On average, ≥ 50% of BHC hours at the practice each week are available for same-day services (may include average weekly late-cancelation/no-shows converted to same-day services).</li> </ul>		✓

#### Integration Criteria Specifications

Integration Criteria Specifications
<b>Qualifying Behavioral Health Clinicians (BHC); subset of ORS 414.025:</b> <ul style="list-style-type: none"> <li>✓ Licensed psychologist</li> <li>✓ Licensed clinical social worker</li> <li>✓ Licensed professional counselor or licensed marriage and family therapist</li> <li>✓ Certified clinical social work associate</li> <li>✓ Intern or resident who is working under a board-approved supervisory contract in a clinical mental health field</li> </ul>

May 16, 2019

Board of County Commissioners  
 Clackamas County

Dear Board Members:

Approval of Intergovernmental Agreement (IGA) with Multnomah and Washington Counties for the Get Trained to Help Regional Collaborative

<b>Purpose/Outcomes</b>	The purpose of the Get Trained to Help Collaborative (GTTH) is to promote suicide prevention and increase mental health literacy.
<b>Dollar Amount and Fiscal Impact</b>	\$15,000 – Clackamas County cost. Each county contributing \$5,000 per year (\$15,000 total for each County; \$45,000 grand total) towards GTTH website and collaborative activities. Clackamas to act as the fiscal agent for the GTTH Collaborative.
<b>Funding Source</b>	No general funds to be utilized. Funded by Oregon Health Plan (OHP).
<b>Duration</b>	Effective upon signature and terminates on June 30, 2021
<b>Previous Board Action</b>	No previous Board Action
<b>Counsel Review</b>	IGA was reviewed and approved by County Counsel March 21, 2019
<b>Strategic Plan Alignment</b>	1. Improved community safety and health 2. Ensure safe, healthy and secure communities
<b>Contact Person</b>	Mary Rumbaugh, Director – Behavioral Health Division 503-742-5305
<b>Contract No.</b>	#9191


**BACKGROUND:**

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of the Intergovernmental Agreement with Multnomah and Washington Counties for the Get Trained to Help (GTTH) Regional Collaborative. The Collaborative promotes suicide prevention and increases mental health literacy through a shared website, trainings, and acting as a forum for sharing experiences, lessons, and problem solving related to GTTH. In December 2018 the Collaborative adopted a charter and developed a policies and procedures handbook outlining the focus, roles, policies and processes/practices of the group. Each county has agreed to share the cost of the GTTH Collaborative by contributing \$5,000 each year for a total of \$15,000 per county. Clackamas shall serve as the administrative and fiscal lead for the Collaborative.

**RECOMMENDATION:**

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

Respectfully submitted,



Richard Swift, Director  
 Health, Housing & Human Services Department

*Healthy Families. Strong Communities.*

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

Clackamas.us/h3s

**INTERGOVERNMENTAL AGREEMENT**

**BETWEEN**

**CLACKAMAS COUNTY, OREGON  
HEALTH, HOUSING AND HUMAN SERVICES DEPARTMENT,  
BEHAVIORAL HEALTH DIVISION**

**AND**

**MULTNOMAH COUNTY, OREGON  
MENTAL HEALTH & ADDICTIONS SERVICES DIVISION**

**AND**

**WASHINGTON COUNTY, OREGON  
COMMUNITY MENTAL HEALTH**

**Agreement #9191**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County (Clackamas), by and through its Department of Health, Housing and Human Services, Behavioral Health Division, Multnomah County (Multnomah), and Washington County (Washington), each a political subdivision of the State of Oregon, collectively referred to as the "Counties". This Agreement is intended to memorialize the shared and individual responsibilities of the Counties in relation to the Get Trained To Help Regional Collaborative.

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Counties hereby agree as follows:

**TERMS**

1. **Term.** This Agreement shall be effective upon execution and **shall expire on June 30, 2021.**
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as **Exhibit A, Scope of Work**, and incorporated herein ("Work").
3. **Consideration.** See **Exhibit B, Budget and Financial Contributions.**
4. **Payment.** See **Exhibit B, Budget and Financial Contributions.**
5. **Representations and Warranties.**
  - A. Counties represent and warrant that each has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of the Counties enforceable in accordance with its terms.
  - B. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**6. Termination.**

- A. Clackamas, Multnomah, or Washington may terminate this Agreement at any time upon thirty (30) days written notice to the other Counties.
- B. Clackamas, Multnomah, or Washington may terminate this Agreement in the event of a breach of the Agreement by one of the Counties. Prior to such termination however, the county seeking the termination shall give the other Counties written notice of the breach and of the county's intent to terminate. If the breaching county has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the county giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching county begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The county giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. Clackamas, Multnomah, or Washington shall not be deemed to have waived any breach of this Agreement by the other counties except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Clackamas, Multnomah, or Washington may terminate this Agreement in the event Clackamas, Multnomah, or Washington fails to receive expenditure authority sufficient to allow Clackamas, Multnomah or Washington, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Project under this Agreement is prohibited or Clackamas, Multnomah, or Washington is prohibited from paying for such work from the planned funding source.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Counties prior to termination.

**7. Indemnification.** Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, Clackamas, Multnomah, or Washington agrees to indemnify, save harmless and defend the other Counties, their officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the indemnifying county, or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the county has a right to control.

**8. Insurance.** The Counties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.

**9. Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address is deemed to be received two (2) hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

A. Notices.

**If to Clackamas County:**

Clackamas County Behavioral Health Division  
2051 Kaen Road, Suite #154  
Oregon City, OR 97045

**If to Multnomah County:**

Multnomah County Mental Health &  
Addictions Services Division  
209 SW 4<sup>th</sup> Avenue, Suite 520  
Portland, OR 97204

**If to Washington County:**

Washington County Community Mental Health  
5240 NE Elam Young Pkwy, Suite #150  
Hillsboro, OR 97124

B. Contacts.

Naomi Caster, Program Supervisor HEART Team, or designee will act as liaison for Clackamas County.

\_\_\_\_\_ or designee will act as liaison for Multnomah County.

Kristin Burke or designee will act as liaison for Washington County.

10. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between Clackamas and Multnomah and/or Washington that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by Clackamas of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Multnomah and Washington, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Counties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by Clackamas, Multnomah, or Washington of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Counties.

- D. Records Retention.** Counties shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Counties shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken.
- E. Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- F. Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Counties.
- G. Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Counties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind the Counties unless in writing and signed by the Counties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of any county to enforce any provision of this Agreement shall not constitute a waiver by such county of that or any other provision.
- H. Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. No Third-Party Beneficiary.** Clackamas, Multnomah, and Washington counties are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement 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 Agreement.
- J. Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- K. Survival.** All provisions in sections 6, 8, and 9 shall survive the termination of this Agreement.
- L. Necessary Acts.** Clackamas, Multnomah, or Washington shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- M. Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- N. Force Majeure.** Counties shall not be held responsible for delay or default caused by events outside of Counties’ reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Counties shall 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 Agreement.

- O. Confidentiality.** Counties acknowledge that each county and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information, and agree to comply with the Contact Management System Policies and Practices Handbook. Any and all information of any form obtained by Counties, or their employees or agents in the performance of this Agreement shall be deemed confidential information. Counties agree to hold Confidential Information in strict confidence, using at least the same degree of care that Counties uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

This Agreement consists of ten (10) sections plus the following exhibits and attachments which by this reference are incorporated herein:

- Exhibit A – Scope of Work
- Exhibit B – Budget and Financial Agreement
- Attachment 1 – Get Trained to Help (GTTH) Regional Collaborative Charter
- Attachment 2 – GTTH Contact Management System, Policies & Practices Handbook

**[Signatures on Following Page]**



**SIGNATURE PAGE**

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

**MULTNOMAH COUNTY**

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

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

**WASHINGTON COUNTY**

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

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

**CLACKAMAS COUNTY  
BOARD OF COMMISSIONERS**

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                      Date  
Health, Housing and Human Services

Approved as to form:

\_\_\_\_\_  
Kathleen Rastetter via email              March 21, 2019  
County Counsel                                      Date

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Contract with Bateman Community Living to provide Food Service for Older Adult Community Nutrition Programs**

<b>Purpose/ Outcomes</b>	This contract will provide meals for the older adult nutrition program for five (5) meals sites located in Estacada, Gladstone, Molalla, Oregon City, and Sandy. For on-site meal preparation.
<b>Dollar Amount and Fiscal Impact</b>	The contract value is \$380,100.00 Funded by Social Services Div. agreement with Oregon Dept. of Human Services, Community Services & Supports Unit.
<b>Funding Source</b>	The Older American Act (OAA) - no County General Funds are involved
<b>Duration</b>	Contract signing through June 30, 2024
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
<b>Counsel Review</b>	Agreement was reviewed and approved 3/27/19.
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	H3S #9193

**BACKGROUND:**

The Social Services Division of the Health, Housing and Human Services Department request approval of the Goods and Services Contract with Erior, Inc., Valley Services, Inc., dba Bateman Community Living, LLC. This agreement provides funding for food services through Bateman Community Living, to five Older Americans Act (OAA) funded senior nutrition program meal sites. The sites are located in Estacada, Gladstone, Oregon City, Molalla, and Sandy and provide meals for persons age 60 and over. These meals are served at the above Sites as either the noon meal served at the Senior Center or as Meals on Wheels® delivered by a volunteer. The goal of the program is to help residents meet their nutritional and social needs. This helps them to remain independent and involved in the community as long as possible.

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on November 29, 2018. Proposals were closed on January 3, 2019 at 2:00PM. The County received 1 proposals: Bateman Community Living. Final evaluations determined that Bateman

Community Living, was the highest ranking proposer and could meet the needs of the County. The total contract amount is not to exceed \$380,100.

County Counsel reviewed and approved 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 Bateman Community Living, for the Health Housing and Human Services.

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services Dept.

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



## CLACKAMAS COUNTY GOODS AND SERVICES CONTRACT

This Goods and Services Contract (this "Contract") is entered into between Bateman Community Living, LLC ("Contractor"), and Clackamas County, a political subdivisions of the State of Oregon ("County") on behalf of Health, Housing and Human Services for the purposes of providing food service for older adult community nutrition program.

### **I. TERM**

This Contract shall become effective July 1, 2019 and shall remain in effect until **June 30, 2020**, with the option of four (4) one (1) year renewals thereafter. This Contract and any amendments to this Contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

### **II. SCOPE OF WORK**

This Contract covers the Scope of Work as described in Request for Proposals # 2018-113 Food Service for Older Adult Nutrition Program, issued January 3, 2019, attached and hereby incorporated by reference as Attachment "A." This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference: this Contract, Attachment "A", and the Contractor's Proposal attached and hereby incorporated by reference as Attachment "B." Work shall be performed in accordance with a schedule approved by the County. The Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The County's Representative for this contract is: Stefanie Reid- Danielson, Social Services Division, Health Housing & Human Services Department.

### **III. COMPENSATION**

- 1. PAYMENT.** The County agrees to compensate the Contractor on a time and material basis as detailed in this Contract. The maximum annual compensation authorized under this Contract shall not exceed **Three Hundred Eighty Thousand One Hundred dollars (\$380,100.00)** and the total compensation authorized under this Contract, including any optional renewals, shall not exceed **One Million Nine Hundred Thousand Five Hundred dollars (\$1,900,500.00)**. All payments, including any interim payments, to Contractor shall be made in accordance with the schedule and requirements in Exhibit A. The parties expressly acknowledge this Contract is funded, in whole or in part, by state or federal funds. Part of that state or federal funding requires Contractor to match the compensation provided herein. Contractor's match obligations are set forth in Table 2 in Exhibit A, compliance of which is a material term of this Contract.
- 2. TRAVEL EXPENSE REIMBURSEMENT.** Authorized:  Yes  No  
If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.
- 3. INVOICES.** Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent County contract and/or purchase order numbers. All charges shall be billed monthly (unless a different payment period is outlined in Attachment A) and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute ("ORS") 293.462. 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. Invoices shall be submitted to the County Representative at: Stefanie Reid-Danielson at 2051 Kaen Road, Oregon City, Oregon, 97045 or via email at [Stefanierei@clackamas.us](mailto:Stefanierei@clackamas.us).

#### **IV. CONTRACT PROVISIONS**

**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 six (6) 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, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 437, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Contractor shall immediately provide 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 their 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 the 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; 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.

**10. INSURANCE.** 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. Contractor shall provide insurance as indicated below:

**A. COMMERCIAL GENERAL LIABILITY**

The Contractor agrees to furnish the County evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use

thereof, in any way related to this Contract. The general aggregate shall apply separately to this project / location. The County, at its option, may require a complete copy of the above policy.

**B. AUTOMOBILE LIABILITY**

The Contractor agrees to furnish the County evidence of business automobile liability insurance with a combined single limit of not less than \$1,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this Contract. The County, at its option, may require a complete copy of the above policy.

**C.** Contractor shall provide County a certificate of insurance naming the Clackamas County and its officers, elected officials, agents, and employees as an additional insured. If Contractor's insurance policy does not include a blanket endorsement for additional insured status when/where required by written contract (as required in this Contract), the insurance, shall include Clackamas County and its officers, elected officials, agents, and employees as expressly scheduled additional insured. Use CG 20 10 or its equivalent. Such insurance shall provide sixty (60) days written notice to the County in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

**D.** If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor agrees to qualify and remain qualified for the term of this Contract as an insured employer under ORS 656. The Contractor shall maintain employer's liability insurance with limits of \$100,000 for each accident, \$100,000 per disease for each employee, and \$500,000 each minimum policy limit.

**E.** If any other required 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 Contractor's insurer will provide "tail" coverage as subscribed, whichever is greater, 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 it's retroactive date is on or before the effective date of this Contract.

**F.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice by the Contractor to the County. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

**G.** Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Contract, unless this requirement is expressly modified or waived by the County.

**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, facsimile, or mailing the same, postage prepaid, to Contractor or County at the address or number set

forth on the signature page 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 such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against County, such facsimile transmission must be confirmed by telephone notice to County's supervising representative. 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 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 (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (4) 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.

- a. Performance Warranty. Contractor warrants that the goods provided to the County shall consistently perform according to the performance characteristics described in the Scope of Work.
- b. Service Warranty. Contractor warrants that the services provided herein to the County, if any, will be performed in a workmanlike manner and in accordance with the highest professional standards. Contractor's liability and County's remedy under this services warranty are limited to Contractor's prompt correction of such services, provided that written notice of such alleged defective services shall have been given by the County to Contractor. The County agrees to provide Contractor reasonable access to the goods for purposes of repair or replacement under this services warranty. Failure of Contractor to promptly correct problems pursuant to this Service Warrant shall be deemed a material breach of this Contract.

**15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections of Section IV: 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 section and Sections 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, 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. TERMINATION.** 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 are 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 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 or 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 under 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 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. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default. (D) The Contractor shall promptly, as due, make payment to any person or copartnership, 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. DELIVERY.** All deliveries shall be F.O.B. destination with all transportation and handing charges paid by the Contractor, unless specified otherwise in this Contract. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the County except as to latent defects, fraud and Contractor's warranty obligations.

**29. INSPECTIONS.** Goods and services furnished under this Contract will be subject to inspection and test by the County at times and places determined by the County. If the County finds goods and services furnished to be incomplete or not in compliance with the Contract, the County, at its sole discretion, may either reject the goods and services, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the goods and services to the County at a reduced price, whichever the County deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the County, the County may reject the goods and services and cancel the Contract in whole or in part. Nothing in this paragraph shall in any way affect or limit the County's rights as a Buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

**30. 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, 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.

Bateman Community Living  
 300 South Tryon Street, Suite 400  
 Charlotte, North Carolina 28202

Clackamas County Board of County  
 Commissioners

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

\_\_\_\_\_  
 Chair    Date

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

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

1442078-91  
 Oregon Business Registry #

Approved as to Form:

FLLC/ Delaware  
 Entity Type / State of Formation

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

**EXHIBIT A**  
**Budget and Units of Service**

**EXHIBIT B**  
**RFP #2018-113**  
**Food Service for Older Adult Community Nutrition Program**  
**Issued January 3, 2019**

**EXHIBIT C**  
**CONTRACTOR'S PROPOSAL**



**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 a Contract with David Evans and Associates, Inc. for the  
South End Road at Milepost 3.8**

<b>Purpose/Outcomes</b>	This contract will provide engineering services to design improvements needed to stabilize the roadway and slope on South End Road at Milepost 3.8.
<b>Dollar Amount and Fiscal Impact</b>	Contract value is \$485,959.14 Federal Emergency Relief funds: \$436,051.14 County Road fund match (10.27%): \$49,908.00
<b>Funding Source</b>	215-7432-02101-481180-22270 Federal Emergency Relief Program (ERP) and Clackamas County Road Funds.
<b>Duration</b>	Contract execution through June 30, 2021
<b>Previous Board Action</b>	01/01/17: BCC Approval of Master Certification Agreement No. 30923 for County implementation of federally funded projects 08/16/18: BCC Approval of Supplemental Project Agreement No. 32607 for 2011 Emergency Relief Program Project Funding
<b>Strategic Plan Alignment</b>	This project will provide strong infrastructure and ensure safe communities by maintaining the County's existing road infrastructure.
<b>Counsel Review</b>	May 6, 2019
<b>Contact Person</b>	Joel Howie, Project Manager 503-742-4658

**Background:**

Clackamas County obtained Federal Emergency Relief Program (ERP) funds to stabilize the roadway and slope on South End Road at Milepost 3.8. The road was damaged in March of 2017 as a result of heavy rains that occurred during the spring of 2017. A state emergency declaration, which included Clackamas County, was signed by the governor allowing Clackamas County to be eligible for the ERP funding.

Clackamas County constructed temporary repairs to these areas of roadway prism failure and deterioration in the spring of 2017. A more permanent solution is required to mitigate the slope instability and it is anticipated that the permanent solution will consist of a retaining wall and roadway embankment reinforcement. This contract will provide engineering services to design these improvements in accordance with ODOT and federal requirements.

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on October 11, 2018. Proposals were opened on November 7, 2018. The County received one Proposal: David Evans and Associates, Inc. An Evaluation committee was assembled consisting of County staff. After evaluations of proposals



David Evans and Associates, Inc. was determined to be a qualified proposer. Upon Contract award, the final statement of work was negotiated and finalized. Project fees were negotiated and based upon existing Oregon Department of Transportation ("ODOT") Negotiated Billing Rates.

This contract has been reviewed and approved by County Counsel.

**Recommendation:**

Staff respectfully recommends that the Board approve and execute the Engineering and Related Services Contract with David Evans & Associates, Inc. for the South End Road at Milepost 3.8 Project. The Contract amount not to exceed is \$485,959.14.

Sincerely,

A handwritten signature in cursive script that reads "Joel Howie".

Joel Howie,  
Civil Engineering Supervisor

Placed on the BCC Agenda \_\_\_\_\_ by Procurement and Contract Services



**ENGINEERING AND RELATED SERVICES CONTRACT**  
**Contract Number: 2018-103 (RFP 22270-01)**

<b>Project Title: South End Road at Milepost 3.8</b>	<b>County Project Number: 22270</b>
<b>Project Location: Clackamas County</b>	<b>Associated RFP Number: 22270-01</b>
<b>Federal Aid Number: 21257</b>	<b>DBE Goal: 8.5% (see Exhibit E)</b>
<b>Total Not-to-Exceed (“NTE”) amount for this Contract.</b> This total includes: a) all allowable costs and expenses, profit, and fixed-fee amount, if any; and b) \$37,131.86 for contingency tasks, each of which must be separately authorized by County.	<b>\$ 485,959.14</b>

This Contract is between Clackamas County, hereafter called “County” or “Agency” and **David Evans and Associates, Inc.**, an Oregon corporation, hereafter called “Consultant.” County and Consultant together are also referred to as “Parties” and individually referred to as “Party.” The primary contacts for this Contract are identified in Exhibit J, Contact Information and Key Persons.

This Contract includes Federal Highway Administration (“FHWA”) funding coordinated through the Oregon Department of Transportation (“ODOT”). See Section 18 - Compliance with Applicable Law.

For purposes of this Contract:

- a) “business days” means calendar days, excluding Saturdays, Sundays and all State of Oregon recognized holidays;
- b) “calendar days” means any day appearing on the calendar, whether a weekday, weekend day, national holiday, State of Oregon holiday or other day;
- c) “Engineering” Services means architectural, engineering, photogrammetric mapping, transportation planning or land surveying services that must be procured using qualifications based selection procedures [see ORS 279C.100 and ORS 279C.110]; and
- d) “Related Services” has the meaning provided in ORS 279C.100.

**TERMS AND CONDITIONS**

**1. Contract Effective Date and Term.** This Contract is effective on the date it has been signed by the parties and all required approvals have been obtained. No work or compensation under the Contract is authorized until notice to proceed has been issued in writing (email acceptable) by the County. Unless otherwise amended or terminated, this Contract shall expire June 30, 2021.

**2. Statement of Work.** Consultant shall perform all Services and deliver all deliverables as described in Exhibit A, Statement of Work (the “Services”). The required schedule for performance under the Contract is specified in the Statement of Work.

**3. Compensation.** The maximum NTE amount, which includes the total of all allowable and reimbursable costs and expenses (and contingency tasks, if any) payable to Consultant under this Contract, is set forth in the table above and detailed further in Exhibit B, Compensation. County reserves the right, in its sole discretion, to amend this Contract to increase this amount

for additional Services within the scope of the procurement. If this Contract was awarded as a Direct Appointment, amendments to increase the maximum amount payable are subject to limitations and additional requirements as set forth in applicable Federal, State and local laws. The payment methodology and basis for payment to Consultant is described in Exhibit B, Compensation. Consultant and any subconsultants are subject to the requirements and limitations of 48 CFR Part 31 - Contract Cost Principles and Procedures.

**4. Contract Exhibits.** This Contract includes the following exhibits, each of which is incorporated into this Contract as though fully set forth herein:

- Exhibit A - Statement of Work
- Exhibit B - Compensation
- Exhibit C - Insurance
- Exhibit D - Title VI Non-Discrimination Provisions
- Exhibit E - Disadvantaged Business Enterprise (“DBE”) Provisions
- Exhibit F - Special Terms & Conditions
- Exhibit G - RESERVED
- Exhibit H - RESERVED
- Exhibit I - Errors & Omissions (“E&O”) Claims Process
- Exhibit J - Contact Information and Key Persons

**5. Order of Precedence.** Unless a different order is required by law, this Contract shall be interpreted in the following order of precedence: this Contract (including all amendments, if any) less all Exhibits, attachments and other documents/information incorporated into this Contract, then the Statement of Work and Payment Schedule, then all other Exhibits, then any other attachments or documents/information incorporated into this Contract by reference.

**6. Independent Contractor; Conflict of Interest; Responsibility for Taxes and Withholding; Consultant Oversight.**

- a. Consultant, by its signature on the Contract, certifies that it is an independent contractor as defined in ORS 670.600 and as described in IRS Publication 1779, which is available at the following link: <https://www.irs.gov/pub/irs-pdf/p1779.pdf>. Consultant shall perform all required Services as an independent contractor. Although County reserves the right (i) to determine the delivery schedule (as mutually acceptable to County and Consultant) for the Services to be performed and (ii) to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services. Consultant is not an "officer", "employee", or "agent" of County, as those terms are used in ORS 30.265.
- b. Consultant, by its signature on the Contract, certifies that: (i) Consultant and, to the best of its information, knowledge and belief, its Associates have made any disclosures required under the COI Disclosure Form (available at: [https://www.oregon.gov/ODOT/Business/Procurement/DocsLPA/COI\\_LPA.docx](https://www.oregon.gov/ODOT/Business/Procurement/DocsLPA/COI_LPA.docx)) or any applicable law; and (ii) if a conflict of interest is discovered during the term of the Contract, Consultant shall timely submit a COI Disclosure Form to County disclosing the conflict(s).
- c. Consultant shall be responsible for all Federal or State of Oregon (“State”) taxes applicable to compensation or payments paid to Consultant under the Contract and, unless Consultant is subject to backup withholding, County will not withhold from such compensation or payments any amount(s) to cover Consultant's Federal or State tax obligations. Throughout the duration of the Contract, Consultant shall submit an updated

W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>) to County whenever Consultant's backup withholding status or any other information changes. Consultant is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Consultant under the Contract, except as a self-employed individual.

- d. Consultant shall not be responsible for or have control over the means, manner, methods or techniques required of or used by other consultants or contractors under contract with County, unless otherwise expressly agreed to in writing by the Parties. The Parties agree, however, that these Section 6.d. provisions do not in any way revise or adjust Consultant's professional responsibility to report to County any information that comes to Consultant's attention (during performance of this Contract) pertaining to a project, or to performance by other consultants or contractors on a project, that would adversely affect County or a particular project.

**7. Subcontracts and Assignment; Successors and Assigns**

- a. Consultant shall obtain County's written consent prior to entering into any subcontracts for any of the Services required by the Contract, or in any manner assigning, selling or transferring any of its rights or interest under the Contract or delegate any of its duties or performance under the Contract. In addition to any other provisions County may require, Consultant shall include, in any permitted subcontract under the Contract, contractual provisions that shall require any subcontractor (which may also be referred to as "subconsultant") to comply with Sections 9, 10, 11, 12, 13, 16, 17, 18, 19, 23, 27 and 29 of these Contract provisions, the limitations of **Exhibit B** - Compensation, Exhibit D - Title VI Nondiscrimination Provisions, and the requirements and sanctions of ORS Chapter 656, Workers' Compensation, in the performance of the subcontractor's Services on the project that is the subject of the Contract, as if the subcontractor were the Consultant. County's consent to any subcontract shall not relieve Consultant of any of its duties or obligations under the Contract, including with respect to any Services, whether performed or to be performed by Consultant or a subcontractor.
- b. The provisions of the Contract shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and permitted assigns, if any.
- c. Any purported assignment, delegation or disposition in violation of subsection "a." above is void.

**8. Third Party Beneficiaries.** The State of Oregon, the Oregon Transportation Commission (OTC) and ODOT, are intended third-party beneficiaries of the Contract with express independent authority to enforce the terms and conditions of the Contract. Otherwise, there are no third-party beneficiaries of the Contract.

**9. Representations and Warranties.** Consultant represents and warrants to County that (i) Consultant has the power and authority to enter into and perform the Contract, (ii) the Contract, when executed and delivered is a valid and binding obligation of Consultant, enforceable in accordance with its terms, (iii) the Services under the Contract will be performed in accordance with the professional standard of care set forth in Section 10 below; (iv) Consultant is duly licensed to perform the Services, and if there is no licensing requirement for the profession or Services, is duly qualified and professionally competent to perform the Services; and (v) Consultant is an experienced firm having the skill, legal capacity, professional ability and resources necessary to perform all the Services required under the Contract. The warranties set forth in this Section are in addition to, and not in lieu of, any other warranties provided.

10. **Professional Standard of Care; Responsibility of Consultant; Design Within Funding Limit**

a. **Professional Standard of Care.**

Consultant shall perform all Services under the Contract in accordance with the degree of skill and care ordinarily used by competent practitioners of the same professional discipline when performing similar services under similar circumstances, taking into consideration the contemporary state of the practice and the project conditions.

b. **Responsibility of Consultant.**

- (i) Consultant shall be responsible for the professional quality, technical accuracy, and coordination of all designs, drawings, specifications, and other Services furnished by Consultant under the Contract. Consultant shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications and other Services.
- (ii) County's review, approval or acceptance of, or payment for, the Services required under the Contract shall not be construed to operate as a waiver of any rights under the Contract or of any cause of action arising out of the performance of the Contract, and Consultant shall be and remain liable to County in accordance with applicable law for all damages to County caused by Consultant's negligent performance of any of the Services furnished under the Contract or negligent failure to perform any of the Services under the Contract.
- (iii) The rights and remedies of County provided for under the Contract are in addition to any other rights and remedies provided by law.
- (iv) If Consultant is comprised of more than one legal entity (for example, a joint-venture or partnership), each such entity shall be jointly and severally liable under the Contract.

c. **Design Within Funding Limit.**

When the Services under the Contract include preparation of design plans for the project:

- (i) Consultant shall accomplish the design Services required under the Contract so as to permit construction of the project within County's budget for construction. **County's budget for construction of the project is \$2,100,000.** Consultant shall promptly advise County's Contract Administrator if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable project within these limitations. Upon receipt of such information, the Contract Administrator will review Consultant's revised estimate of construction cost. County may, if it determines that the estimated construction contract price set forth in this Section is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in this Section, or County may adjust such estimated construction contract price.
- (ii) Prior to releasing the bid for the construction contract, County will prepare an estimate of constructing the design submitted. If County's estimator(s) determines Consultant's design exceeds County's budget for the construction contract as set forth in Section (i) above {and as may be revised per Section (i) above}, then Consultant shall perform such redesign and other Services as are necessary to permit contract award within the funding limitation. These additional Services shall be performed at no increase in the price of the Contract. However, Consultant shall not be required to perform such additional Services at no cost to County if Consultant's design exceeds County's budget {as set forth in Section (i) above} as a result of conditions beyond Consultant's reasonable control.

## 11. Ownership of Work Product

- a. **Definitions.** The following terms have the meanings set forth below:
- (i) "Consultant Intellectual Property" means any intellectual property owned by Consultant and developed independently from the Contract.
  - (ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than County or Consultant.
  - (iii) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item, and all intellectual property rights therein, that Consultant is required to deliver to County pursuant to the Contract.
- b. **Work Product.** All Work Product created by Consultant pursuant to the Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of County. County and Consultant agree that Work Product that constitutes original works of authorship (the "Original Work Product") is "work made for hire" of which County is the author within the meaning of the United States Copyright Act. If for any reason Original Work Product created pursuant to the Contract is not "work made for hire," Consultant hereby irrevocably assigns to County any and all of its rights, title, and interest in all Original Work Product created pursuant to the Contract, whether arising from copyright, patent, trademark, trade secret, or any other State or Federal intellectual property law or doctrine. Upon County's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Original Work Product in County. Consultant forever waives any and all rights relating to Original Work Product created pursuant to the Contract, 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. However, see Sections 11.c and 11.d immediately below, for provisions applicable to Consultant Intellectual Property, Third Party Intellectual Property, Consultant Intellectual Property derivative works and Third Party Intellectual Property derivative works.
- c. **Consultant and Third Party Intellectual Property.** In the event that any Work Product is Consultant Intellectual Property or Third Party Intellectual Property (Consultant Intellectual Property or Third Party Intellectual Property that is applicable to the Services being performed by Consultant under the Contract or included in Work Product deliverable to County under the Contract), or in the event any Consultant Intellectual Property or Third Party Intellectual Property is needed by County to reasonably enjoy and use any Work Product, Consultant hereby agrees that it will grant to, or obtain for, the County an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Consultant Intellectual Property and or Third Party Intellectual Property, including the right of County to authorize contractors, consultants and others to do the same on County's behalf. This obligation of the Consultant does not apply to a situation involving a third party who enters a license agreement directly with the County. At the request of Consultant, County shall take reasonable steps to protect the confidentiality and proprietary interests of Consultant in any Consultant Intellectual Property licensed under this Section, within the limits of the Oregon Public Records Law (ORS 192.410 through 192.505) and the Oregon Uniform Trade Secrets Act (ORS 646.461 to 646.475).
- d. **Consultant and Third Party Intellectual Property-Derivative Work.** In the event that Work Product created by Consultant under the Contract is a derivative work based on Consultant Intellectual Property or Third Party Intellectual Property, or is a compilation that includes Consultant Intellectual Property or Third Party Intellectual Property, Consultant hereby agrees to grant to, or obtain for, County an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works

based upon, distribute copies of, perform and display the pre-existing elements of Consultant Intellectual Property or Third Party Intellectual Property employed in the Work Product, including the right of County to authorize others to do the same on County's behalf.

- e. **Consultant Use of Work Product.** Notwithstanding anything to the contrary in this Section 11, Consultant may refer to the Work Product in its brochures or other literature that Consultant utilizes for advertising purposes and, unless specified otherwise in Exhibit A - Statement of Work, County hereby grants to Consultant a non-exclusive, non-transferable, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display County-owned Work Product on other unrelated projects, except for any "Confidential Information" protected from disclosure under the provisions of Section 12 below, pertaining to Confidentiality and Non-Disclosure.

**12. Confidentiality and Non-Disclosure.** Consultant and its subcontractors, and their respective employees and agents, shall keep confidential all information, in whatever form, produced, prepared, observed or received to the extent that such information is designated as confidential by the County, by law, or by this Contract. In the event Consultant is required to disclose Confidential Information pursuant to a subpoena or other legal process, Consultant shall immediately notify County of such subpoena or other legal process, provide County with copies of any subpoena, other legal process and any other written materials supporting the subpoena or other legal process, and otherwise cooperate with County in the event County decides to oppose the disclosure of the Confidential Information. In the event County decides not to oppose such subpoena or other legal process or County's decision to oppose the subpoena or legal process has not been successful, Consultant shall be excused from the confidentiality provisions of this Section, to the extent necessary to meet the requirements of the subpoena or other legal process controlling the required disclosure.

**13. Indemnity**

- a. **Claims for Other Than Professional Liability.** Consultant shall indemnify, defend, save, and hold harmless the County, State of Oregon, the OTC and ODOT, and their respective officers, members, agents and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, of whatsoever nature, resulting from or arising out of the acts or omissions of Consultant or its subcontractors, or their respective agents or employees, under the Contract.
- b. **Claims for Professional Liability.** Consultant shall indemnify, defend, save, and hold harmless the County, State of Oregon, the OTC and ODOT, and their respective officers, members, agents and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, of whatsoever nature, resulting from or arising out of the professionally negligent acts, errors or omissions of Consultant or its subcontractors, or their respective agents or employees, in the performance of Consultant's professional services under the Contract.
- c. **Indemnity for Infringement Claims.** Without limiting the generality of section 13(a) or 13(b), Consultant expressly agrees to indemnify, defend, save and hold harmless the County, State of Oregon, the OTC and ODOT, and their respective officers, members and their agencies, subdivisions, officers, directors, agents, and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, arising out of or relating to any claims that Consultant's services, the Work Product or any other tangible or intangible items delivered to the County by Consultant that may be the subject of protection under any state or federal intellectual property law or doctrine, or the County's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third

party; provided, County shall provide Consultant with prompt written notice of any infringement claim. Provided, however, Consultant shall not be obligated to indemnify, defend, save and hold harmless the County (or other entities identified above) under this section 13(c), based solely on the following: Consultant's compliance with County specifications or requirements, including, but not limited to the required use of tangible or intangible items provided by County.

- d. **Defense Qualification.** Neither Consultant nor any attorney engaged by Consultant shall defend or purport to defend a claim in the name of the County, the State of Oregon, the OTC or ODOT without first receiving from the applicable entity, authority to act as legal counsel, nor shall Consultant settle any claim on behalf of the foregoing entities without the approval of these entities. The County, the State of Oregon, the OTC or ODOT may, at their election and expense, assume their own defense and settlement.
- e. **County's Acts or Omissions.** This section 13 does not include indemnification by Consultant of the County, the State of Oregon, the OTC and ODOT, and their respective officers, members, agents and employees, for the acts or omissions of these entities and their respective officers, members, agents and employees, whether within the scope of the Contract or otherwise.

14. **Insurance.** Consultant shall carry insurance as required on **Exhibit C**.

15. **Termination**

- a. **Termination by Mutual Consent.** The Contract may be terminated at any time, in whole or in part, by mutual written consent of the Parties.
- b. **County's Right to Terminate for Convenience.** County may, at its sole discretion, terminate the Contract, in whole or in part, upon 30 calendar days prior written notice to Consultant.
- c. **County's Right to Terminate for Cause.** County may terminate the Contract, in whole or in part, immediately upon written notice to Consultant or at such later date as County may establish in such notice, upon the occurrence of any of the following events:
  - (i) County fails to receive appropriations, limitations or other expenditure authority sufficient to allow County, in the exercise of its reasonable administrative discretion, to continue to make payments for Consultant's Services. Payments under this Contract and continuation of this Contract beyond the current biennium are subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available from current funding sources. The County may terminate this Contract, and Consultant waives any and all claims for damages, effective immediately upon receipt of written notice, or any date specified therein, if for any reason the County's funding from local, state and/or federal sources is not appropriated or is withdrawn, limited or impaired;
  - (ii) Federal, State or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under the Contract are prohibited or County is prohibited from paying for such Services from the planned funding source;
  - (iii) Consultant no longer holds any license or certificate that is required to perform the Services; or
  - (iv) Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform the Services under the Contract within the time specified or any extension thereof, or so fails to perform the Services as to endanger Consultant's performance under the Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after County's notice to Consultant, or such longer period as County may specify in such notice.



- d. Consultant's Right to Terminate for Cause.**
- (i) Consultant may terminate the Contract by giving written notice to County if County fails to pay Consultant pursuant to the terms of the Contract and if County fails to cure within 14 calendar days after receipt of Consultant's written notice, or such longer period of cure as Consultant may specify in such notice.
  - (ii) Consultant may terminate the Contract, for reasons other than nonpayment, if County commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform under the Contract within the times specified, or so fails to perform as to endanger Consultant's performance under the Contract, and such breach, default or failure is not cured within 14 calendar days after Consultant's notice to County, or such longer period as Consultant may specify in such notice.
- e. Remedies.**
- (i) In the event of termination pursuant to Sections 15(a), 15(b), 15(c)(i), 15(c)(ii) or 15(d), Consultant's sole remedy (except as otherwise required by applicable State or Federal law) shall be a claim for payment of the satisfactory Services actually rendered up to the time of termination, less previous amounts paid and any claim(s) which State has against Consultant, except in the event of a termination under Section 15(c)(i) where no payment will be due and payable for Services performed or costs incurred after the last day of the current biennium. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall pay all excess to County upon demand.
  - (ii) In the event of termination pursuant to Section 15(c)(iii) or 15(c)(iv), County shall have any remedy available to it in law or equity. If it is determined for any reason that Consultant was not in default under Section 15(c)(iii) or 15(c)(iv), the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 15(b).
- f. Consultant's Tender Upon Termination/Retained Remedies of County.** Upon receiving a notice of termination of the Contract, Consultant shall immediately cease all activities under the Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of the Contract, Consultant shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon County's request, Consultant shall surrender to anyone County designates, all documents, information, research, works-in-progress, Work Product and other property, that are deliverables or would be deliverables had the Contract been completed, that are in Consultant's possession or control and may be needed by County to complete the Services.

**16. Records Maintenance; Access.** Consultant, and its subconsultants, shall maintain all fiscal records relating to the Contract in accordance with generally accepted accounting principles. In addition, Consultant shall maintain all other records pertinent to the Contract and the project and shall do so in such a manner as to clearly document Consultant's performance. The County, ODOT, the Oregon Secretary of State's Office (OSS), FHWA and the Comptroller General of the United States (CGUS) and their respective, duly authorized representatives shall have access, and Consultant shall permit the aforementioned entities and individuals access, to such fiscal records and other books, documents, papers, plans and writings of Consultant that are pertinent to the Contract to perform examinations and audits and make excerpts and transcripts. Consultant shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of 6 years, or such longer period as may be required by applicable law, following final payment and expiration or termination of the Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever

date is later. Any cost data submitted by Consultant pursuant to this Contract may be shared with ODOT, FHWA, OSS and CGUS, as necessary, for audit purposes. County, ODOT and FHWA shall have the right to review or examine the work in progress for any Services performed under the Contract.

**17. Performance Evaluations.** County will conduct performance evaluation(s) on the Consultant and its subconsultants during the term of the Contract, which will be compiled and maintained by County, and become a written record of Consultant's performance. Generally, the performance evaluations will include criteria related to, but not limited to, quality and technical performance, adherence to contract scope and budget, schedule performance, and business relations (including communications and negotiations performance). County will provide a copy of the performance evaluation results to Consultant within 14 calendar days following completion. Consultant may respond, in writing, or may request a meeting to address any or all findings contained in the completed performance evaluation within 30 calendar days following receipt. County may adjust evaluation score(s) upon County's finding of good cause. County may provide copies of any performance evaluation documentation to ODOT, FHWA, and other parties unless lawfully exempt from disclosure. County may use performance evaluation findings and conclusions in any way deemed necessary, including, but not limited to, corrective action, requiring submittal of performance improvement plan by Consultant and withholding of retainage. County and ODOT may use Consultant performance under previous contracts as a selection criterion for future contracts.

**18. Compliance with Applicable Law.** Consultant shall comply with all Federal, State and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Contract, in effect at the time the Contract is executed and as may be amended, revised, enacted or adopted thereafter. Changes in these legal requirements after the execution of the Contract may or may not be the basis for modifications to Consultant's schedule, scope and fee, depending on a reasonable assessment of the nature of the change, the extent to which the change was anticipated by Consultant or the Parties, and other circumstances then existing. Without limiting the generality of the foregoing, Consultant expressly agrees to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659a.142; (iv) the Clean Air Act (42 U.S.C. 7401-7671q); (v) the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (vi) Executive Order 11738; (vii) Environmental Protection Agency regulations (40 CFR part 15); (viii) and all applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws. County's performance under the Contract is conditioned upon Consultant's compliance with, and Consultant shall comply with, the obligations applicable to public contracts and intended for contractors under ORS 279C.505 through 279C.580, which are incorporated by reference herein. All rights and remedies available to County under applicable federal, state and local laws are also incorporated by reference herein and are cumulative with all rights and remedies under the Contract. If Consultant discovers a conflict among Federal, State and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Contract, Consultant shall in writing request County to resolve the conflict (in collaboration with ODOT and FHWA as applicable). Consultant shall specify if the conflict(s) create a problem for the design or other Services required under the Contract. If County concludes there is a conflict among the applicable laws, Federal laws shall govern among the others; State laws shall govern over the others except Federal. The resolution of the conflict of the applicable laws by County shall be final and not subject to further review or challenge.

**19. Permits and Licenses**

- a. **Permits and licenses to conduct business.** Unless otherwise specified in **Exhibit A**, Statement of Work, Consultant shall obtain, hold, maintain and fully pay for during the term of the Contract all permits and licenses required by law for Consultant to conduct its business and perform the Services under the Contract.
- b. **Permits and licenses required for the project.** Unless otherwise specified in **Exhibit A**, Statement of Work, Consultant shall obtain, hold and maintain during the term of the Contract all permits and licenses required for the project (for example, permits from regulatory authorities and use permits or licenses from owners of real and personal property), but County shall pay for such permits and licenses. Consultant shall review the project site, if applicable, and the nature of the Services that Consultant shall perform under the Contract. Consultant shall advise County throughout the course of the project as to the necessity of obtaining all project permits and licenses, the status of the issuance of any such permits and licenses, and any issues or impediments related to the issuance or continuation of any such permits and licenses.

**20. Foreign Contractor.** If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to the Contract.

**21. Force Majeure.** Neither County nor Consultant shall be held responsible for delay or default in the performance of its obligations due to a cause beyond its reasonable control, including, but not limited to, fire, riot, acts of God, terrorist acts or other acts of political sabotage, or war where such cause was beyond the reasonable control of County or Consultant, respectively. Consultant 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 the Contract.

**22. Survival.** All rights and obligations shall cease upon termination or expiration of the Contract, except for the rights and obligations set forth in Sections 5, 9, 10, 11, 12, 13, 15(e), 15(f), 16, 22, 23, 26, 27 and 29 and all other rights and obligations which by their context are intended to survive.

**23. Time is of the Essence.** Consultant agrees that time is of the essence in Consultant's performance of its obligations under the Contract.

**24. Notice.** Except as otherwise expressly provided in the Contract, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by e-mail, by personal delivery, facsimile, or mailing the same, postage prepaid, to Consultant or County at the e-mail address, the delivery address or facsimile number set forth in the Contract, or to such other addresses or numbers as either Party may hereafter indicate in writing to the other. Any notice or day-to-day communication sent by e-mail shall be deemed received when it is sent. **The recipient of any notice sent by e-mail shall reply by e-mail to confirm receipt of such notice.** Any communication or notice made by personal delivery shall be deemed to be received when actually delivered. Any communication or notice properly addressed and mailed shall be deemed received 5 calendar days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received on the date of the notice of successful transmission generated by the transmitting machine. To be effective, such facsimile transmission must be confirmed by telephone notice to County's Contract Administrator or Consultant's representative, as applicable.

**25. Severability.** The Parties agree that if any term or provision of the 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.

**26. Dispute Resolution and Errors & Omissions Claims Process.** In the event of a dispute between the Parties regarding any aspect of the Contract or performance under the Contract, the Parties agree to attempt in good faith to investigate and resolve any such dispute through direct communications and negotiations.

- a. **Errors & Omissions Related.** In the event those good faith efforts do not resolve disputes related to potential Errors and Omissions, the Parties agree to make good faith efforts to resolve the matter pursuant to **Exhibit I, Errors & Omissions Claims Process.**
- b. **Other Disputes.** In the event good faith efforts do not resolve disputes unrelated to Errors & Omissions, the Parties agree to make a good faith effort to resolve any such dispute through fact finding and non-binding mediation prior to resorting to litigation. The mediator shall be selected by mutual agreement of the Parties. If the Parties fail to agree on a mediator, each Party shall select a mediator and those two persons shall agree on a third-party, who will be the sole mediator. The cost of the mediator shall be split equally between the Parties.
- c. **Notification to ODOT.** County shall immediately notify ODOT of any disputes that seek resolution with the Errors & Omissions Claims Process or mediation.

**27. Governing Law; Venue; Consent to Jurisdiction.** The Contract shall be governed by, and construed and enforced in accordance with, the laws of the State of Oregon, without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between County (or any agency or department of the State of Oregon) and Consultant that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court located in the County in which the Project is located; provided, however, if a Claim must be brought in a Federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the County or State of Oregon of any form or defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution, or otherwise. **CONSULTANT, BY EXECUTION OF THE CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

**28. Amendments.** County may amend the Contract to the extent permitted by applicable statutes, administrative rules and ordinances and as mutually agreed upon by County and Consultant. County may agree to appropriate increases in the maximum compensation payable under the Contract, should any County-approved increase occur in the scope, character, schedule or complexity of Services as outlined in the Statement of Work. Consultant shall not commence any Services authorized under an amendment, and the amendment is not effective, unless it is in writing, signed by the Parties and all approvals required by applicable law have been obtained.

**29. False Claims**

- a. Consultant understands and acknowledges it is subject to the Oregon False Claims Act ([ORS 180.750 to 180.785](#)) and to any liabilities or penalties associated with the making of a false claim under that Act. By its execution of the Contract, Consultant certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it

makes, it may make, or cause to be made that pertains to the Contract or the Project for which the Services are being performed, including but not limited to Consultant's statement of proposal and any invoices, reports, or other deliverables.

- b. Consultant shall immediately disclose (in writing) to County whenever, in connection with the award, performance or closeout of the Contract, or any subcontract thereunder, Consultant has credible evidence that a principal, employee, agent, or subcontractor of Consultant has committed—
  - (i) A violation of the Oregon False Claims Act; or
  - (ii) A violation of State or Federal criminal or civil law involving fraud, conflict of interest, bribery, gratuity or similar misconduct.
- c. Consultant must include subsections (a) and (b) of this section in each subcontract Consultant may award in connection with the performance of the Contract. In doing so, Consultant may not modify the terms of those subsections, except to identify the subcontractors or sub grantee that will be subject to those provisions.

**30. Certified Small Businesses.** Respecting certification as a disadvantaged business enterprise, minority-owned business, woman-owned business, business that a service-disabled veteran owns or an emerging small business under ORS 200.055, as and when applicable, the Consultant shall maintain the certifications, and require in its subcontracts that subcontractors maintain the certifications required by Section 2, Chapter 325, Oregon Laws 2015, as amended by Section 26, Chapter 565, Oregon Laws 2015 as a material condition of the Contract. If the Consultant or subcontractor was awarded the Contract or subcontract, as applicable, in the course of County carrying out an affirmative action goal, policy or program under ORS 279A.100, and fails to maintain the required certification, County may terminate the Contract, require the Consultant to terminate the subcontractor, or exercise any of remedies reserved for breach of the Contract.

**31. Merger Clause; Waiver; Interpretation.** The Contract, including everything incorporated by reference, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding the Contract. No waiver, consent, modification or change of terms of the Contract shall bind either Party, unless such waiver, consent, modification or change of terms is in writing and signed by the Parties, and all necessary State of Oregon governmental approvals have been obtained. Such a waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. Either Party's failure to enforce any provision of the Contract shall not constitute a waiver by that Party of that or any other provision. The characterization of provisions of the Contract as material provisions or the failure to comply with certain provisions as a material breach of the Contract shall in no way be construed to mean that any other provisions of the Contract are not material or that failure to comply with any other provisions is not a material breach of the Contract.

## CONSULTANT CERTIFICATIONS

### A. Any individual signing on behalf of Consultant hereby certifies under penalty of perjury:

- (1) Consultant has provided its correct TIN to County;
- (2) Consultant is not subject to backup withholding because (a) Consultant is exempt from backup withholding, (b) Consultant has not been notified by the IRS that Consultant is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified Consultant that Consultant is no longer subject to backup withholding; and
- (3) s/he is authorized to act on behalf of Consultant, s/he has authority and knowledge regarding Consultant's payment of taxes, and to the best of her/his knowledge, Consultant is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a State tax

imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321, and 323; and local taxes administered by the Department of Revenue under ORS 305.620.

**B. Any individual signing on behalf of Consultant hereby certifies they are authorized to sign this Contract and that:**

- (1) **Consultant has read this Contract, understands it, and agrees to be bound by its terms and conditions.**
- (2) Consultant understands and agrees that various documents are not physically attached, but are incorporated by reference and have the same force and effect as if fully set forth herein.
- (3) Consultant understands and has provided to all Associates the COI Disclosure Form available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/LPA.aspx>. Consultant and (to the best of the undersigned's information, knowledge and belief) Consultant's Associates are in compliance with the disclosure requirements of the COI Disclosure Form and have no conflicts of interest to disclose. If disclosures regarding this Contract or the related Project are required per the COI Disclosure Form, Consultant has made such disclosures to County on a properly prepared and submitted form and, if determined necessary by County or ODOT, a mitigation plan has been approved by County and ODOT.
- (4) (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, 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 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.  
(b) 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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.  
(c) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, 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.  
(d) Consultant shall require that the language of this certification be included in all subcontracts in excess of \$100,000 at all tiers and that all such subcontractors shall certify and disclose accordingly.
- (5) Consultant is an independent contractor as defined in ORS 670.600 and as described in IRS Publication 1779.
- (6) In the event that Consultant is a general partnership or joint venture, Consultant signature(s) on this Contract constitutes certifications to the above statements pertaining to the partnership or joint venture, as well as certifications of the above statements as to any general partner or joint venturer signing this Contract.

No Payment shall be made for Services that are performed before all necessary governmental approvals have been obtained, the Contract is fully executed, and Notice-To-Proceed has been issued by County.
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**Signature page to follow.**

**Counterparts:** The Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

**CONSULTANT SIGNATURE(s)**

Signature: \_\_\_\_\_

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

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

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

**CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS**

Chair: \_\_\_\_\_

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

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

**COUNTY LEGAL REVIEW (Approved as to Form):**

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

# Exhibit A

## STATEMENT of WORK and DELIVERY SCHEDULE South End Road at Milepost 3.8 Project

### A. PROJECT DESCRIPTION and OVERVIEW of SERVICES

Clackamas County (the “Agency”) is contracting with David Evans and Associates, Inc. (the “Consultant”) for “Services” (as defined in Section E, below) in connection with the following project (the “Project”): South End Road at Milepost 3.8. South End Road in the vicinity of Milepost 3.8 has experienced significant roadway distress due to slope instability as a result of heavy rainfall in the spring of 2017. Clackamas County constructed temporary repairs to these areas of roadway prism failure and deterioration. However, it is clear that a more permanent solution is required to mitigate the slope instability. It is anticipated that the permanent solution will consist of up to a 250 ft long retaining wall and up to 650 ft route length of roadway embankment reinforcement (i.e., deep patch). The Project limits extend along the existing South End Road centerline between the following coordinates: 45.34645833, -122.6169306 at the route-direction north end; and 45.34361111, -122.6209333 at the route-direction south end, as shown in the Figure 1 below. The southern project limit extends approximately 700 ft beyond the south end of the currently assumed extents of the constructed mitigation for slope instability.



Figure 1 – KMZ file of South End Road Project.



## General Expectations

Consultant commits to oversee and direct the design of the Project to obtain the greatest long-term value for the Agency, and which reflects the prudent expenditure of public funds within the constraints of the Project, program, context and budget. In pursuing this goal, Consultant commits to:

- Develop a design that is appropriate for the context of the Project and the nature of its function, both present and future;
- Avoid expenditures for aesthetic effect that are disproportionate to the Project as a whole;
- Manage and facilitate all facets of the Project that are reasonably within Consultant’s control to provide for the Project being completed on or ahead of time and within budget;
- Strive to reduce the construction cost of the Project while keeping life-cycle costs low;
- Use recycled/recyclable products to the maximum extent economically feasible in the performance of the Contract; and
- Apprise Agency throughout the Project concerning the economic impact of all design decisions, and embody sound and cost-effective sustainability principles in the Services performed under the Contract in accordance with the Department of Administrative Services Sustainable State Facilities Standards and Guidelines.

## Project Phasing

This Project is divided into 2 phases:

1. Preliminary Design, Right of Way, and Final Design Phase
2. Construction Phase

This statement of work (“SOW”) addresses the first phase of the Project. Following completion of a given phase, Agency may, at its discretion:

- Amend this Contract to add the next phase (or various elements), or
- Elect to complete subsequent phase tasks with in-house staff, or
- Assign subsequent phase tasks to another consulting firm.

Agency and Consultant shall negotiate the detailed tasks, deliverables, schedule, and costs for each phase Agency elects to add. Each added phase will be authorized only by written Contract amendment with all required approvals and signatures.

## Agency Responsibilities

- Agency review periods do not exceed 3 weeks.
- Agency will be primary point of contact with the Oregon Department of Transportation (“ODOT”) regarding the Contract and the design aspects of this Project.

## Acronyms and Definitions

AASHTO ....American Association of State Highway and Transportation Officials	ADT .....Average Daily Traffic
ADA.....Americans with Disabilities Act of 1990	APE.....Area of Potential Effect
	API.....Area of Project Impact
	APM.....Agency Project Manager (Clackamas County)

ASTM .....	American Society for Testing and Materials	OCMC.....	Oregon City Municipal Code
BMP .....	Best Management Practice	ODA.....	Oregon Department of Agriculture
CE .....	Categorical Exclusion	ODFW .....	Oregon Department of Fish and Wildlife
CFR.....	Code of Federal Regulations	ODOT .....	Oregon Department of Transportation
City.....	City of Oregon City	ORBIC .....	Oregon Biodiversity Information Center
CPM .....	Critical Path Method	ORS.....	Oregon Revised Statutes
DAP.....	Design Acceptance Package	PA .....	Price Agreement
DBE.....	Disadvantaged Business Enterprise	PCE .....	Programmatic Categorical Exclusion
DEQ .....	Department of Environmental Quality	PDT .....	Project Development Team
DOE .....	Determination of Eligibility	POR.....	Professional of Record
DSL.....	Department of State Lands	PSA .....	Project Study Area
DTM.....	Digital Terrain Model	PS&E.....	Plans, Specifications, and Estimate
ESA .....	Endangered Species Act	QA/QC .....	Quality Assurance/Quality Control
ETWP.....	Exploration and Testing Work Plan	REC.....	Regional Environmental Coordinator
FAHP .....	Federal Aid Highway Programmatic Agreement	ROE.....	Right of Entry
FHWA.....	Federal Highway Administration	ROS.....	Record of Survey
GIN .....	General Information Notice	ROW .....	Right of Way
GIS .....	Geographic Information System	SHPO .....	State Historic Preservation Office
GLO .....	General Land Office	SOW.....	Statement of Work
GPS .....	Global Positioning System	T&E.....	Threatened & Endangered
HMCA.....	Hazardous Materials Corridor Assessment	THPO .....	Tribal Historic Preservation Office
JPA.....	Joint Permit Application	USACE .....	United States Army Corps of Engineers
LAL.....	Local Agency Liaison	USFWS .....	United States Fish and Wildlife Service
LPA .....	Local Public Agency (Clackamas County)	UST .....	Underground Storage Tank
MUTCD .....	Manual on Uniform Traffic Control Devices		
MWESB .....	Minority, Women, and Emerging Small Business		
NE .....	No Effects		
NEPA .....	National Environmental Policy Act		
NMFS.....	National Marine Fisheries Service		
NRHP .....	National Register of Historic Places		
NTP .....	Notice to Proceed		
NWI/LWI...	National/Local Wetland Inventory		
OAR .....	Oregon Administrative Rule		

## **B. STANDARDS and GENERAL REQUIREMENTS**

The following standards and general requirements shall apply to this SOW:

### **1. Standards**

#### ***General and Administrative***

- Oregon Standard Specifications for Construction, ODOT 2018 Standard Specifications
- ODOT Local Agency Guidelines

#### ***Environmental***

- Wetland Delineation Manual, United States Corp of Engineers/Environmental Protection Agency 1987
- Federal-aid Highway Program User Guide: For Oregon's Programmatic Endangered Species Act Consultation on the Federal-aid Highway Program

#### ***Geotechnical***

- Soil and Rock Classification Manual, ODOT 1986
- Geotechnical Design Manual, ODOT April 2011

#### ***Hydraulic***

- Hydraulic Manual, Parts I and II, ODOT 2008
- HEC-18 Evaluating Scour at Bridges, Federal Highway Administration ("FHWA")
- HEC-20 Stream Stability at Highway Bridges, FHWA

#### ***Roadway***

- Manual of Uniform Traffic Control Devices
- Standards Manual of the Oregon Utilities Coordinating Council

#### ***Structural***

- ODOT Geotechnical Design Manual

#### ***Right-of-Way***

- ODOT Right of Way Manual
- Real Estate Acquisition Guide for Local Public Agencies
- Uniform Standards of Professional Appraisal Practice
- Uniform Appraisal Standards for Federal Land Acquisition

### **2. Software Requirements**

The Consultant shall develop the design utilizing AutoCAD Civil 3D version 2015 or later.

### **3. Reserved**

### **4. General Requirements**

- The Agency Project Manager ("APM") (or such other individual identified in specific tasks or as designated in writing to Consultant) is the primary contact on behalf of Agency for this Project.
- To the extent possible, all transmittals from Consultant to Agency must include as applicable the Contract number, Price Agreement ("PA") number, Project name, and the Project key number.
- Consultant shall represent Project and Agency in an appropriate and professional manner in public.

## **5. Compliance with Applicable Law**

**6. ADA Compliance – Assessment, Design, Inspection.** When the Services under this SOW include **assessment or design (or both)** for curb ramps, sidewalks or pedestrian-activated signals (new, modifications or upgrades), Consultant shall:

- a. Utilize ODOT standards to assess and ensure Project compliance with the Americans with Disabilities Act of 1990 (“ADA”), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards; and
- b. Follow ODOT’s processes for design, modification, upgrade, or construction of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, and ODOT Construction Specifications, and providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection Form.

When the Services under this SOW include **inspection** of curb ramps, sidewalks or pedestrian-activated signals (new, modifications or upgrades), all such inspections shall include inspection for compliance with the standards and requirements in a. and b. above. In addition, at Project completion, Consultant shall send an ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to ODOT’s Project Manager for each curb ramp constructed, modified, upgraded, or improved as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT’s fillable Curb Ramp Inspection Form and instructions are available at the following address: <http://www.oregon.gov/ODOT/Forms/Pages/default.aspx>.

Above references to curb ramps, sidewalks or pedestrian-activated signals also include, when applicable, shared use paths, transit stops, park-and-rides, and on-street parking.

## **C. REVIEW, COMMENT, and SCHEDULE OVERVIEW**

- Consultant shall submit all deliverables to APM or designee unless otherwise noted in specific tasks.
- Consultant shall make revisions to address Agency review comments and submit revised deliverable(s) to APM within 10 business days of receipt of Agency review comments, unless a different time frame is specified for specific tasks or otherwise agreed to in writing by Agency.

## **D. FORMAT REQUIREMENTS**

- Consultant shall submit draft deliverables in electronic format via email (and up to three [3] hard copies of deliverables, if requested).
- Consultant shall also submit all graphic files and accompanying reports in PDF.
- Consultant shall provide AutoCAD files of the final design in .dwg format.
- Each draft and final text-based or spreadsheet-based deliverable shall be provided in MS Office file formats (i.e., MS Word, Excel, etc.) and must be fully compatible with the version used by Agency.
- Additional format requirements may be listed with specific tasks/deliverables throughout the SOW or in the PA/Contract.

## **E. TASKS, DELIVERABLES, and SCHEDULE**

Consultant shall complete all tasks and provide all deliverables (collectively, the “Services”) included in this SOW, unless specifically stated otherwise in a particular task. Consultant shall provide all labor, equipment, and materials to manage, coordinate, and complete the work in accordance with the performance and delivery schedules identified in this SOW.

**Task Numbering:** For purposes of standardization, task numbers in this SOW may be non-sequential and do not necessarily begin with “1” on the first task.

### **TASK 1 – PROJECT MANAGEMENT**

Consultant shall provide management and coordination of Services under this SOW for delivery of tasks and deliverables according to the agreed- upon delivery schedule.

#### **1.1 Administration and Record Keeping**

Consultant shall:

- Prepare a Project design schedule using the Critical Path Method (“CPM”). The Project schedule must include, but is not limited to: all major authorized tasks as agreed upon by the parties, Project design team meetings, and milestones (type and date) specified in this SOW. Updates to the Project schedule shall be made during the course of the Project if milestone dates are modified. For budgeting purposes, it is assumed that up to 3 Project schedule updates will be necessary;
- Prepare invoices and progress reports according to the Contract. Each progress report must:
  - Include a summary of the previous period’s activities and the planned activities for the upcoming period;
  - Identify percentage completed of each task/deliverable;
  - Reconcile the budget with the actual amount billed to date; and
  - Identify unresolved issues and concerns that may affect the SOW, schedule, and/or budget for Services
- Develop and maintain a Project file to include survey and engineering computations, assumptions, meeting agendas and summary notes, working drawings, QC and review documentation, correspondence, and memoranda.

#### **1.1 Consultant Deliverables and Schedule**

Consultant shall provide:

- Project Design Schedule submitted within 7 calendar days of NTP (submit electronically to the APM in PDF and provide an electronic file in Microsoft Project format to the APM);
- Updated Project Design Schedule, as necessary, via timeline agreed to by APM (submit electronically to the APM in PDF and provide an electronic file in Microsoft Project format to the APM); and
- Up to 20 progress reports and invoices submitted electronically to APM no later than the 20th calendar day of the month following the reporting period.

#### **1.2 Coordination**

Consultant shall:

- Coordinate with the APM as the main point of contact for coordination and management of Consultant Services under the SOW;

- Contact other Agency staff, ODOT staff, and regulatory agency staff, if necessary throughout the Project duration to gather any additional information needed for the Project, Project site, regulations, and guidance; and
- Provide overall management, direction, and coordination of staff (including subconsultants, if any) to include any necessary internal Consultant staff meetings.

## **1.2 Consultant Deliverables and Schedule**

Consultant shall provide:

- Ongoing coordination and communication as needed to appropriately manage the Services under this SOW (no tangible deliverables for this task).

## **1.3 Project Meetings**

### **1.3.1 Project Kickoff Meeting**

Consultant shall organize, conduct, prepare for, and attend a Project kickoff meeting. The Project kickoff meeting will be held at Agency's office (150 Beaver Creek Road, Oregon City) with Agency, ODOT Local Agency Liaison ("LAL"), City of Oregon City representative, Consultant's project manager, and other necessary Consultant staff in attendance. Consultant shall prepare the Meeting Agenda with input from the APM and ODOT LAL. The purpose of the Project kickoff meeting is to review Project issues such as the SOW, work products and deliverables, schedules, budgets, right of way, utility coordination/design, design criteria, guidance documents and standards, and quality control. Consultant shall schedule Project kickoff meeting within 7 business days of NTP. Consultant shall prepare Draft Meeting Summary Notes for review and prepare the Final Meeting Summary Notes. For budgeting purposes, it is assumed that up to 3 Consultant staff shall attend the 1.5-hour-long Project kickoff meeting.

### **1.3.2 Project Development Team Meetings**

Consultant shall organize, conduct, prepare for, and attend up to 4 Project Development Team ("PDT") Meetings; 2 via telephone (90% and 100% milestones) and 2 in-person meetings (30% and 60% milestones). Each in-person PDT meeting will be held at Agency's office (150 Beaver Creek Road, Oregon City) with Agency, City of Oregon City representative, Consultant's project manager, and other necessary Consultant staff in attendance. Consultant shall prepare the Meeting Agenda with input from the APM. Consultant shall prepare Draft and Final Meeting Summary Notes. For budgeting purposes, it is assumed that up to 3 Consultant staff shall attend each 1.5-hour-long PDT meeting.

## **1.3 Consultant Deliverables and Schedule**

For each meeting, Consultant shall provide:

- Meeting Agenda submitted electronically to APM and all other meeting participants at least 2 business days prior to meeting,
- Draft Meeting Summary Notes submitted electronically to APM no later than 5 business days after the meeting, and
- Final Meeting Summary Notes submitted electronically to APM no later than 5 business days after receiving consolidated comments from the APM.

## **TASK 2 SURVEY**

Consultant shall survey this Project for the areas as shown in Figure 1 of Section A for areas related to the proposed Project limits on South End Road, unless otherwise noted in specific tasks. Consultant shall obtain readily available aerial photos to supplement the survey outside of the Project limits. Deliverables are to be scheduled as per Task 1, Project Management.

### **Right of Entry (“ROE”)**

Agency will obtain up to 3 ROEs required for Consultant’s survey and other field reconnaissance work. Agency and Consultant acknowledge that once requests to owners are sent out, it can take up to 3 weeks to receive the authorization (ROE) back from the landowners due to schedules and availability. If ROEs are required for geotechnical boring outside of the right of way (ROW), Consultant shall provide a map identifying the approximate location of the proposed boring(s) on the parcel. This map will be included in the Agency’s mailing to the affected property owner to assist the owner in understanding the proposed work. Consultant shall allow adequate time for Agency to obtain this additional ROE.

### **2.1 Research**

Consultant shall obtain the research data for the area, as described in Section A of this SOW.

Consultant shall perform data research as necessary to prepare for and support Project activities, and to produce Project maps and reports as called for in subsequent tasks. The typical records required for research are, but are not limited to: vesting deeds, land sales contracts, Agency assessor plats and road records, subdivision plats, General Land Office plats, county surveys, and road dedications and vacations.

#### **Existing Vesting Deeds and Property Ownerships**

Consultant shall obtain a “Trio listing kit” (typically provided by a title company). Consultant shall obtain a Preliminary Title Report from the title company if the “Trio Listing Kit” is insufficient to thoroughly identify property ownership. Consultant shall identify property ownership within and adjacent to the Project site by investigating property deeds and county tax records. Consultant shall itemize and report property ownership and owner contact information to APM. Consultant shall submit each deed in its own electronic file. Consultant shall include all vesting deeds referenced in the Property Vesting Deeds if needed to resolve the property boundary.

#### **Existing ROW Records**

Consultant shall research and obtain copies of surveys, subdivision plats, and land partition plats filed in the county surveyor’s office related to the properties potentially impacted by the Project. This information is used to find monuments that might be impacted by the Project and establish property lines for area calculations when new ROW is acquired.

Consultant shall research and obtain copies of county assessor maps, General Land Office plats, and county road records related to the properties potentially impacted by the Project.

Consultant shall research and obtain available data about Government Public Lands Survey Corners and their references in the Project area as defined in the SOW.

### Existing Horizontal/Vertical Control Stations

Consultant shall research and obtain data about horizontal and vertical control points as required for the Project area, including triangulation stations, Global Positioning System (GPS) stations, benchmarks, and prior Project control surveys from Agency, and federal, county, city, and other governmental agencies.

### Existing Utility Records

Consultant shall research and obtain available facility maps and as-built construction plan data pertaining to utilities in or near the Project area from Agency, One-Call Service, county, city, or other governmental agencies, and utility companies.

### Existing Water Way Data

Consultant shall research and obtain maps and data about rivers, creeks, and streams, springs or flowing water in or near the Project area from Agency, and federal, county, city, and other governmental agencies. Consultant shall include items such as, but not limited to: Federal Emergency Management Agency flood maps, tide gage data, and stream navigability per Division of State Lands (“DSL”) designation.

## **2.1 Consultant Deliverables and Schedule**

Consultant shall incorporate information from this task into the deliverables listed in Tasks 2.4 and 2.5 as required for delivery of documents in subsequent tasks.

## **2.2 Horizontal and Vertical Control Network**

The purpose of this task is to provide the means by which the Project can be located relative to horizontal and vertical datum, map projection, and coordinate systems. Consultant shall establish a horizontal and vertical control network using the Oregon Coordinate Reference System, Portland Zone horizontal datum and NAVD88 vertical datum unless otherwise specified by the Agency.

Consultant shall establish horizontal control according to Agency standards using Terrestrial (Theodolite and EDM), GPS (Static or Rapid Static) or a combination of both. Consultant shall set and adjust control points in conformance with Agency guidelines. A control traverse will be established along South End Road for topography and monument ties.

Consultant shall use 5/8-inch rebar with plastic or brass caps, or other Agency -approved control point, for the GPS and network points. Consultant shall establish a minimum of 3 GPS control points through the length of the survey.

Consultant shall establish vertical control using differential leveling. Consultant shall get Agency approval before using other methods such as trigonometric leveling and elevations derived from GPS.

## **2.2 Consultant Deliverables and Schedule**

Consultant shall:

- Place control points in the ground at the Project location; and
- Incorporate the information listed below into the deliverables listed in Tasks 2.4 and 2.5 as required for delivery of documents in subsequent tasks:
  - An adjustment report for one or more of the following: Least Squares adjustment for networks, an approved traverse adjustment method for traverses, and/or a GPS adjustment report when using GPS;



- An ASCII file containing the coordinates for every network point set and found;
- If the levels were electronically processed, then one copy each of the following: original raw level file as collected in the field, ASCII file showing level closure data, ASCII file with elevations on all network points, and/or an ASCII file showing the level rod readings;
- Original field notes for the control network and one scanned copy of the original field notes in “.pdf” format;
- An AutoCAD design file (\*.dwg) containing all the set and tied control points to show elevations; and
- An AutoCAD file (\*.dwg) containing all vertical and horizontal control points stored as cogo points to show elevations.

### **2.3 Monument Recovery**

The purpose of this task is to address the requirements of Oregon Revised Statutes (“ORS”) 209.150 and 209.155, and other survey-related statutes for construction projects.

Consultant shall survey for, but not limited to, the following: government corners, geodetic control stations, benchmarks, ROW monuments, property boundary markers, and roadway alignment markers.

#### **Identify, Search, and Recover Monuments**

Consultant shall recover existing monuments to preserve the locations of any monuments of record that are endangered by any activity related to the Project and to resolve roadways and property lines.

Consultant shall provide a record (field notes) of monuments searched for, the date of the search, and the results of the search.

#### **Field Survey of Recovered Monuments**

Consultant shall locate, measure, and document the location of survey markers and monuments of record for property boundaries and/or ROW needed within the areas.

### **2.3 Consultant Deliverables and Schedule**

Consultant shall incorporate the information gathered in this task, including field notes, into the deliverables listed in Tasks 2.4 and 2.5 as required for delivery of documents in subsequent tasks.

### **2.4 Topographic Data, Detailed Base Map, and Digital Terrain Model (“DTM”)**

The purpose of this task is to collect the existing topographic features and create a detailed basemap and DTM for the Project.

#### **Topographic Data Collection**

Consultant shall collect topographic data between the boundaries described in Section A of this SOW. Consultant shall collect and tie topographic data of human-made and/or natural features using a variety of Agency-approved methods. These methods include, but are not limited to: collecting the data using terrestrial (Theodolite and EDM), GPS (RTK), 3D Laser Scanning, or station and offset. Topographic data collected will include: trees of 6” in diameter and larger at chest height including genus, species, and size; existing roadway striping and signing including crosswalks, arrows, bike lane markings, lane lines, and all traffic control signs; driveways located within project;

Consultant shall contact Oregon Utility Notification Center to request pre-survey utility locates.

Consultant shall keep the locate request number and ticket information in the Project file.

Consultant shall record in the field notes the utility ownership when describing the line data points. Consultant shall record all visible utility identifications in the field notes, such as numbers shown on power and/or telephone poles; vault tags; telephone pedestals (aka risers); cabinets, meters, fences or screened enclosures for gas regulators; and sanitary sewer pump stations. This data is needed for Agency or Consultant to communicate where the facility may be in conflict with the Project.

Consultant shall measure and record all utility facility structures (e.g., concrete pads, top slab of vaults, pump station housing, barrier screens or fenced enclosures). Consultant shall make a request to the utility owner to pull the cover whenever a manhole is found locked or bolted.

Consultant shall tie environmental and archaeological features that have been identified within the Project area. These features include, but are not limited to: wetlands, high water mark, Threatened and Endangered (“T&E”) species, hazmat sites, archaeology sites, and sensitive plants.

Consultant shall survey up to seven cross sections of the road and downhill slope to support slope stability analyses. The cross sections will extend from approximately 8 feet up the uphill slope to approximately 8 feet from the toe of the downhill slope.

Consultant shall provide flaggers for safety when working in or along South End Road due to the narrow width of road, minimal or nonexistent shoulder, and limited sightlines.

#### Detailed Basemap

Consultant shall take applicable topographic data collected in this subtask and create a detailed basemap file. A detailed basemap has all features and is drafted according to criteria provided by Agency.

#### Digital Terrain Model

Consultant shall create a three-dimensional digital terrain surface using all relevant topographical data collected in this subtask.

Consultant shall collect the topographical data to create points and break lines in adequate quantity and in proper placement, to accurately represent the surface of the ground for generating contours described below. Consultant shall collect confidence points in the field and generate a confidence point report. The topographical data and confidence points must meet Agency’s criteria. Consultant shall generate 0.2-foot minor contours and 1-foot major contours for road surfaces, and 1 foot minor contours and 5 foot major contours for ground surfaces throughout the DTM for a QC analysis of the surface.

### **2.4 Consultant Deliverables and Schedule**

Consultant shall provide the following deliverables and submit them electronically (.PDF) to the APM within 60 days of NTP:

- 1 copy of field notes,
- Copy of the AutoCAD Files (\*.dwg) Detailed Base Map with DTM,
- All files for the network control points in ASCII format,
- Files of listing kits,
- Files of survey research,
- Files of tax maps,
- Confidence Point Report, and

- Control Point Worksheet with datum used and descriptions of control points found and set.

## **2.5 Existing ROW and Boundary Resolution**

The purpose of this task is to identify the location of the existing Centerline(s), ROW lines, and property line(s) as necessary, to perpetuate the location of the monuments found, document the control used for this Project area, and establish property lines for area calculations when new ROW is acquired. This task addresses the requirements of ORS 209.150 and 209.155, and other survey-related statutes.

### **Resolve ROW and Property Boundaries**

Consultant shall resolve the location of the ROW within the present Project limits as described in this SOW.

Consultant shall resolve identified ROW centerlines alignments, ROW lines, and property boundaries abutting the roadway and along the proposed route of construction, using accepted concepts and rationale or methods of survey professional judgment. Consultant shall evaluate the available evidence for relevance, adequacy, and reliability; use professional judgment in determining the type and quantity of evidence available, and the influence given each factor; and determine a best fit with the evidence, and probable location of ROW alignments and property boundaries for the area as described. Consultant shall provide a detailed narrative of available evidence; desirable evidence not available; rationale for decisions made; and summary of the conclusions in the establishment of the ROW centerline, ROW lines (including all jogs), and property boundary lines.

### **Control, Recovery, and Retracement Record of Survey**

If the Project will impact property or existing survey monuments, Consultant shall create a Record of Survey (“ROS”) which meets the requirements of Agency and the Oregon Revised Statutes. The survey or surveys must be prepared for 18-inch by 24-inch sheet plots. The “**Control**” survey must consist of Geodetic and Terrestrial points set for the Project. The “**Recovery**” is the documentation of the monuments recovered for the Project. The “**Retracement**” is a record of resolved ROW centerlines, ROW lines, and/or property boundaries. These surveys may be combined or separate surveys, as directed by Agency.

Consultant shall submit a draft ROS to Agency for review. Consultant shall address comments received from the Agency and submit the final ROS for filing in the format required.

## **2.5 Consultant Deliverables and Schedule**

Consultant shall provide:

- Draft ROS to Agency within 60 days of NTP, and
- Final ROS for filing within 2 weeks of receipt of comments from Agency.

## **2.6 Right Of Way Engineering (Mapping & Descriptions)**

The purpose of this subtask is to prepare right of way engineering products used in the acquisition of property. The estimated number of right of way files is three (3). These products are:

- Right of Way acquisition map
- Autocad file used to prepare the acquisition map
- Right of Way legal descriptions and exhibits

The right of way acquisition map, exhibits and legal descriptions shall be prepared in accordance with LPA or ODOT Geometrics Right of Way Engineering Manual and ODOT's Right of Way Section's Right of Way & Rail/Utility Coordination Contractor Services Guide (March 2009 revision).

## **2.6 Consultant Deliverables and Schedule**

Consultant shall provide in accordance with Project Schedule developed in Task 1:

- Legal descriptions and exhibits in electronic (.PDF) to the APM.
- Final Right of Way acquisition map in electronic (.PDF and CADD) to APM.

## **TASK 3 ENVIRONMENTAL SERVICES**

Consultant shall complete necessary field and literature investigations to provide Agency and ODOT environmental documentation and permits required for completion of this Project. Consultant shall complete the following environmental investigations, documentation, and permits for this Project, unless marked as a CONTINGENCY TASK, which Consultant shall complete only following Agency's and Consultant's written agreement on cost and receipt of NTP from Agency:

- Final National Environmental Policy Act ("NEPA") Categorical Exclusion ("CE") and Programmatic CE Documentation
- Archaeological Literature Review/Field Reconnaissance/Baseline Report
- Phase 1 Archaeological Investigation with Technical Report (CONTINGENCY)
- Historic Resources Baseline Report
- Hazardous Materials Corridor Assessment
- Endangered Species Act No Effect Memorandum
- Federal-Aid Highway Programmatic Documentation
- Wetland/Waters of the U.S./State Fieldwork and Determination Memo
- Joint Permit Application for Impacts to Wetland/Waters (CONTINGENCY)

For all of Task 3, the Project Area is the same as described in Section A of this SOW unless otherwise noted and described in specific Task 3 subtasks.

Agency is responsible for obtaining all ROE. Consultant shall not conduct any fieldwork outside of Agency ROW and/or property until all ROEs for private property have been obtained and are in field staff's possession.

### **3.1 NEPA CE and Programmatic CE ("PCE") and Supporting Documentation**

Consultant shall provide technical assistance and services necessary to meet FHWA NEPA classification documentation requirements for NEPA CE projects ("Class 2 Projects").

#### **3.1.3 Final NEPA CE and PCE Documentation**

Consultant shall compile data completed in tasks 3.2 through 3.6 to complete a draft PCE Approval or CE Closeout Document and submit to Agency for review and approval. Consultant shall coordinate with Agency on compiling data completed during Project development to deliver the draft PCE Approval or CE Closeout Document to Agency to finalize and approve.

Only after all relevant tasks 3.2 through 3.6 have been completed and approved by Agency can this task be completed. In the draft PCE Approval or CE Closeout Document, Consultant shall follow the specific protocols in the CE/PCE Procedures to complete drafts of the following:

- After Agency has accepted Tasks 3.2 through 3.6, complete each of the resource narrative sections using protocols and standard language contained in the “Procedures for Completing NEPA for Categorical Exclusion and Programmatic Categorical Exclusion Projects with Oregon Division Federal-Aid Highway Program Nexus” (known as the CE/PCE Procedures, available here: [http://www.oregon.gov/ODOT/GeoEnvironmental/Docs\\_NEPA/NEPA\\_CE-PCE-Procedures.pdf](http://www.oregon.gov/ODOT/GeoEnvironmental/Docs_NEPA/NEPA_CE-PCE-Procedures.pdf)).
- Include the supporting documents required as per the CE/PCE Procedures, as applicable to the Project (e.g., Endangered Species Act [“ESA”] approvals, cultural resources documentation, hazardous materials, etc.). If submittal of the draft PCE or CE document requires supporting documentation not developed under this SOW, it will be provided by APM.

Agency and ODOT will review all draft PCE Approval and CE Closeout Document, and send them back to Consultant for any revisions needed. ODOT will approve, on behalf of FHWA, the accepted PCE Approval document as per the PCE Agreement, or Agency will submit the accepted CE Closeout Document to FHWA Oregon Division for FHWA review and approval.

### **3.1.3 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- One electronic copy of the Draft PCE Approval or CE Closeout Document and supporting documentation to APM for review per Task 1 Project Design Schedule, and
- One electronic copy of the Final Agency accepted Draft PCE Approval or CE Closeout Document and supporting documentation to APM 2 weeks following receipt of draft review comments.

## **3.2 Archaeological Resources**

All archaeological subtasks must be completed by registered professional archaeologists who meet the Secretary of the Interior's professional standards for Archaeology ([36 Code of Federal Regulations \[CFR\] 61, Appendix A](#)) and who have been “qualified” through the [Agency’s Cultural Resources Consultant Qualification Training Program](#).

### **3.2.1 Literature Review/Field Reconnaissance/Baseline Report**

The purpose of this task is for the Consultant to conduct archival and background research in combination with field reconnaissance to determine the presence or absence of high probability landforms or archaeological sites within the Area of Potential Effect (“APE”) and to make recommendations for further archaeological review.

Consultant shall conduct a literature review for the APE, and include a description of the APE, detailed historic context and ethno-historic information, methodology, recommendations for future work, detailed bibliography, maps, and photos. Consultant shall provide the Agency Archaeologist with a minimum of 5 days’ advance notice prior to Field Reconnaissance.

Consultant shall examine the following databases and/or documents:

- The State Historic Preservation Office (“SHPO”) database in Salem, OR, and/or appropriate Tribal Historic Preservation Office (“THPO”) database if the APE is within a recognized reservation boundary;
- General Land Office (“GLO”) maps;
- Sanborn Fire Insurance Maps; and

- Other records archives (i.e., historical societies, tribal archives) for known/potential prehistoric and historic archaeological resources within a 1-mile radius of the APE.

Field reconnaissance must include a pedestrian survey. Consultant shall conduct pedestrian surveys within the APE, and these surveys must include areas where ground will be disturbed by Project construction including temporary access roads, as well as staging areas, material sources, disposal sites, detours, etc.

Pedestrian survey methods must be consistent with the latest updated [SHPO guidelines](#). The recommended maximum spacing of transects will be 20 meters apart and may vary depending on terrain features and/or ground visibility. Consultant shall determine transect spacing based on professional judgment to help ensure that all probable site locations are discovered. All cultural resources observable on the surface and in exposed subsurface profiles must be identified and recorded. Field reconnaissance must enable Consultant to identify areas of high and low probability for archaeological resources and to determine the appropriate level of survey or subsurface exploratory probing.

Consultant shall prepare a Baseline Report that must contain the following:

- A completed Oregon SHPO Archaeological Report Cover Page
- A purpose statement and full Project description including:
  1. Agency Key Number and Federal Aid Number
  2. Location and legal description
  3. General environmental description
  4. Historic context
  5. Proposed construction activities
  6. Defined APE and APE map
  7. Total acreage of impact
- Results of SHPO/THPO database search including:
  1. Brief summary of previous archaeological research completed within 1 mile of APE
  2. Brief summary of recorded archaeological features within 1 mile of APE, including eligibility discussion if available.
- Results of GLO and Sanborn map review including:
  1. Brief summary of features (trails, buildings, etc.) depicted on maps and within APE, including eligibility discussion if available.
- Description of pedestrian survey methods including date of survey, types of transects used, and names and duties of personnel conducting the survey
- Findings of pedestrian survey including ground conditions (percent visibility) and difficulties encountered, if any
- Identification of areas of high and low probability for archaeological resources within the APE
- Recommendations for appropriate level of additional survey and/or subsurface exploratory probing, if any
- Site and isolate forms (hard copies) for newly discovered archaeological sites and isolates; Consultant shall also complete the SHPO online site form
- List of references cited
- Location map at 1:24,000 scale; aerial image (Google map acceptable) showing APE; and representative digital images of current conditions within APE

### **3.2.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- One electronic copy (in Microsoft Word format) of the Draft Baseline Report to APM for review per Task 1 Project Design Schedule, and
- One electronic copy (in Word and PDF formats) of the Final Baseline Report to the APM 2 weeks following receipt of draft review comments.

### **3.2.2 Phase I Archaeological Investigation with Technical Report (CONTINGENCY TASK – See Section F)**

The purpose of this task is for Consultant to establish the presence or absence of archaeological sites in, or eligible for the National Register of Historic Places (“NRHP”), which may be in the APE for the Project. Investigations under this task must comply with Guidelines for Conducting Field Archaeology in Oregon. The Phase I investigation must comply with the latest updated SHPO guidelines for Reporting on Archaeological Investigations. These investigations must include pedestrian survey and/or subsurface exploratory probing. Subsurface probing must be conducted in areas where ground visibility is low and in areas of high probability for archaeological resources, unless documented proof of previous fill is available (i.e., as-builts or geomorphological work).

Consultant shall conduct record searches and literature review for the APE provided by Agency, within a 1-mile radius, prior to any fieldwork. Consultant shall, at a minimum, examine the following databases and documents:

- SHPO database in Salem, OR;
- Appropriate THPO database, if APE is within a recognized reservation boundary;
- GLO maps;
- Historic topographic maps;
- Sanborn Fire Insurance Maps; and
- Other records archives (i.e., historical societies and tribal archives) for known/potential prehistoric and historic archaeological resources within a 1-mile radius of the APE.

Consultant shall conduct pedestrian field surveys within the APE and must include areas where ground will be disturbed by Project construction including temporary access roads, as well as staging areas, material sources, disposal sites, detours, etc. Consultant shall provide the Agency Archaeologist with a minimum of 5 days’ advance notice prior to conducting a pedestrian survey. Pedestrian survey methods must be consistent with the latest updated SHPO guidelines. The recommended maximum spacing of transects will be 20 meters apart and no more than 30 meters apart, and may be as close as 10 meters apart, depending on terrain features and/or ground visibility. Consultant shall determine transect spacing based on professional judgment to ensure that all probable sites are discovered. All cultural resources observable on the surface and in exposed subsurface profiles during the inventory must be identified and recorded.

Consultant shall obtain all required excavation permits and conduct subsurface exploratory probing in the APE. Copies of the draft excavation permits must be provided to the Agency Archaeologist prior to submittal to SHPO. Consultant shall provide the Agency Archaeologist with a minimum of 5 days’ advance notice of exploratory probing. Subsurface exploratory probing field methodology must be consistent with the latest updated SHPO guidelines.

Probing must be based on an established research design. Probes must be at least 30 centimeters (cm) in diameter and dug to sterile (at least two levels void of cultural material) or to 50 cm and two sterile

levels where possible, or as appropriate based on varying field conditions. Materials must be screened with a 1/8-inch mesh screen (1/4-inch as needed; see SHPO guidelines).

Auguring may be used to establish soil stratigraphy or depth of archaeological deposits and may be incorporated into the research design, if approved by Agency Archaeologist. Up to 20 discovery probes will be excavated under this task.

Consultant shall prepare Phase I Archaeological Investigation Report. The report must include:

- A purpose statement and full Project description including:
  1. Agency Key Number and Federal Aid Number
  2. Location and legal description
  3. General environmental description
  4. Historic context
  5. Proposed construction activities
  6. Defined APE and APE map
  7. Total acreage of impact
  8. Anticipated direct, indirect, and cumulative impacts
- Results of SHPO/THPO database searches including:
  1. Brief summary of previous archaeological research completed within 1 mile of APE, with eligibility description if available
  2. Brief summary of recorded archaeological features within 1 mile of APE, with an eligibility description if available
- Results of GLO and Sanborn map review including:
  1. Brief summary of features (trails, buildings, etc.) depicted on maps and within APE
- Discussion of ethno-historic information and historic context of APE and surrounding environment
- Description of pedestrian survey methods including date(s) of survey, types of transects used, and names and duties of personnel conducting the survey
- Results of pedestrian survey, including ground conditions (percent visibility) and difficulties encountered, if any, and descriptions of any archaeological artifacts encountered and other pertinent information
- Description of subsurface exploratory probing methodology including date(s) of probing, and names and duties of personnel completing probes
- Results of subsurface exploratory probing, including descriptions of soil conditions and any archaeological artifacts encountered and other pertinent information (negative findings must be reported also)
- Summary of Tribal consultation(s), to be provided by Agency
- A summary with recommendations that must include a discussion of the site(s) identified and whether or not they meet NRHP criteria and maintain integrity
- List of references cited
- Location map at 1:24,000 scale; aerial image (Google map acceptable) showing APE; and representative digital images of current conditions within APE
- Site forms and isolate forms (hard copies) for newly discovered archaeological sites and isolates; Consultant shall also complete the SHPO online site form
- Site update forms for previously identified archaeological sites
- A modified [Determination of Eligibility \(“DOE”\)](#), a maximum of 2 to 3 pages long, which must be included in the appendix for historic sites with no subsurface component; this appendix must



include a short discussion on boundaries (vertical and horizontal), integrity, as well as statement of significance and discussion of the NRHP criteria; Consultant shall provide enough information to write a detailed DOE

- Maps, photos, and an artifact catalogue

Establishing eligibility without testing for prehistoric sites may be difficult; however, this is possible with historic sites if sufficient historic documentation is provided. Please refer to the SHPO guidelines.

Consultant shall provide final Phase I Technical Report and site forms in PDF format, digital images of each photo and illustration, raw GPS files (\*.ssf and \*.cor), and edited Geographic Information System (“GIS”) files (\*.shp, \*.shx, and \*.dbf).

### **3.2.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- 1 electronic copy (in Microsoft Word format) of the Draft Phase I Technical Report with site forms and/or isolate forms to APM for review per Task 1 Project Design Schedule, and
- 1 electronic copy (in PDF format) of the Final Phase I Technical Report with site forms and/or isolate forms to APM 2 weeks following receipt of draft review comments.

## **3.3 Historic Resources**

All historic resources subtasks must be completed by professional historians who meet the Secretary of the Interior’s professional standards for architectural history and/or history ([36 CFR 61, Appendix A](#)) and who have been “qualified” through the [ODOT Cultural Resources Consultant Qualification Training Program](#).

### **3.3.1 Historic Resources Baseline Report**

The purpose of the Agency Historic Resources Baseline Report is to identify and characterize the historic resources issues, using the APE to determine what may be impacted by a transportation project. The Historic Resources Baseline Report is a scoping report that is not intended to be a comprehensive technical report. As part of developing the Historic Resources Baseline Report, Consultant shall review the SHPO Statewide Inventory and conduct an on-site reconnaissance of the Project Area.

The Historic Resources Baseline Report must include, but is not limited to:

- Project description and a description of the APE;
- Photographs of resources that are 45 years old or older;
- Descriptions of historic resources that are 45 years old or older, including a discussion of each potential NRHP eligibility (A-D); and
- Map that identifies the location of each potential historic resource within the APE.

It is anticipated that approximately 10 resources will be identified in the baseline report. Previous inventories have identified 4 NRHP-eligible properties within the APE.

### **3.3.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- One electronic copy (in Microsoft Word format) of the Draft Historic Resources Baseline Report to APM and ODOT for review per Task 1 Project Design Schedule, and

- One electronic copy (in Word and PDF formats) of the Final Historic Resources Baseline Report to APM and ODOT 2 weeks following receipt of draft review comments.

### **3.4 Hazardous Materials**

This work is intended to identify potential sources of environmental contamination (hazardous waste, hazardous substances, toxic substances, and other hazardous materials regulated under federal and state statutes and regulations/administrative rules) that could impact the Project.

#### **3.4.1 Hazardous Materials Corridor Assessment (“HMCA”)**

Consultant shall perform the HMCA within the Project Area of Project Impact (“API”) and according to accepted environmental procedures as outlined in the Hazardous Waste Guide for Project Development (1990), by the *American Association of State Highway and Transportation Officials (AASHTO)* Special Committee on Environment, Archaeology and Historic Preservation, and the 2010 ODOT Hazardous Materials Program Procedures Guide available on the Agency website at:

<https://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/HazMat/HazMatProgramProceduresl.pdf>

Consultant shall prepare the HMCA Report per the most recent version of the Agency Level 1 Hazardous Materials Corridor Study report template.

Consultant shall:

- Review available federal and state environmental records for hazardous waste generators, documented leaking or permitted underground storage tanks (“USTs”), sites with known or suspected releases, landfill sites, and Superfund sites using government web-based databases or using a commercial database search report. Consultant shall use the search radii set forth in American Society for Testing and Materials (“ASTM”) Standard E1527-05 for these database searches. Consultant shall review Oregon Department of Environmental Quality (“DEQ”) files for all sites that could impact the Project corridor to determine the nature and extent of contamination.
- Conduct a site reconnaissance of the Project API that consists of systematically traversing the Project API and viewing adjacent properties from roadways and public access areas. Consultant shall include photographs documenting Project API observations in the HMCA Report. Consultant shall use the reconnaissance to identify potential sources of contamination that could impact the proposed Project during construction or that could result in Agency acquiring contaminated property.
- Conduct historical research to assess past uses of the Project API and adjacent properties starting in 1920 and at 10-year intervals to present time. Consultant shall note data gaps in the HMCA Report. Consultant shall make recommendations for additional research if the historical resources are insufficient in describing the Project API land use history for the last 50 years. The historical research must include a review of historic aerial photographs and at least 1 or more of the following:
  - Sanborn Fire Insurance maps
  - Historic property ownership/occupancy records
  - Interviews of available key Agency personnel familiar with the site history
  - Review of chain-of-ownership documents, if provided by Agency
- Contact local Agency Maintenance and Engineering staff to get an accounting and records relating to prior maintenance activities that have occurred in the Project Area that may relate to hazardous materials.

- Prepare an AASHTO Initial Site Assessment Checklist according to AASHTO guidelines. Consultant shall incorporate the checklist into the HMCA Report.
- Prepare a draft and final HMCA Report to include a description of field observations, information from state and federal environmental databases, DEQ file review information, historic land use, a scaled map showing the location of all identified potential sources of contamination and sample locations and depths (as applicable), photographs, copies of historic data, copies of state and federal databases, results of any testing, and any other relevant documentation. The HMCA Report must include conclusions that identify specific sources of contamination that could impact the Project or the proposed construction work, and recommendations for further investigation or remediation. Consultant shall use the Agency’s report template to structure the report.

Consultant shall prepare a draft HMCA Report for APM and ODOT review and comment. Consultant shall prepare a final HMCA Report based on APM and ODOT review comments and acceptance of the draft document.

### **3.4.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- One electronic copy (in Microsoft Word format) of the Draft HMCA Report to APM for review per Task 1 Project Design Schedule, and
- One electronic copy (in PDF format) of the Final HMCA Report to APM and ODOT 2 weeks following receipt of draft review comments.

### **3.5 Biological Resources Compliance and Permitting**

Consultant shall complete the appropriate biological resources tasks presented below based on the Design Acceptance Plans. General biological work shall be executed by a qualified biologist who meets the following minimum qualifications: 3 full years of environmental analysis or resource project management experience and a Bachelor’s degree that included 30-quarter or 20-semester hours in biology, environmental science, natural science, or closely related field. An individual who makes determinations of effect under the ESA and prepares ESA documentation must also be an ESA-qualified biologist in accordance with ODOT Technical Services Bulletin GE14-03(B) or most current ([http://www.oregon.gov/ODOT/Engineering/Doc\\_TechnicalGuidance/GE14-03b.pdf](http://www.oregon.gov/ODOT/Engineering/Doc_TechnicalGuidance/GE14-03b.pdf)).

#### **3.5.1 ESA No Effects Memorandum**

When Agency determines or approves Consultant’s determination that a proposed action will not affect state or federal ESA listed or proposed species or critical habitat, a No Effects Memorandum (“NE Memo”) is prepared to document compliance with the state and federal ESAs. The NE Memo must be completed by an ESA-qualified biologist as described above.

Consultant shall:

- Use a qualified ESA biologist(s) to conduct 1 field survey of the API at the appropriate time for each ESA-listed plant, fish, and wildlife species with the potential to be present in the API and their potential suitable habitats following standard/appropriate field survey techniques;
- Conduct Oregon Department of Agriculture (“ODA”), Oregon Department of Fish and Wildlife (“ODFW”), National Marine Fisheries Service (“NMFS”), and U.S. Fish and Wildlife Service (“USFWS”) database searches to acquire ESA information for the Project Area;
- Contact Agency and/or Oregon Biodiversity Information Center (“ORBIC”) to obtain data regarding listed threatened and endangered (also referred to as T&E) species, as well as those

proposed for listing under the federal and state ESA that may occur within the API, and Consultant shall determine whether federally listed species and their habitat will be affected by the Project;

- Communicate with local ODA, ODFW, NMFS, and USFWS staff via phone or email to acquire additional specific ESA information for the Project Area;
- Make ESA effects determinations following the analysis of gathered ESA information (if a determination is “No Effects” for at least one listed or proposed species, obtain Agency concurrence on the No Effects determination);
- Coordinate with design staff, Agency, and ODOT to develop appropriate measures (i.e., construction special provisions) to avoid impacting listed species proposed for coverage in the NE Memo, if avoidance measures are necessary to obtain the No Effects determination;
- Prepare draft NE Memo for the Project Area using the most recent Agency-provided form, and provide to Agency and APM for review and comment;
- Prepare final NE Memo for Agency acceptance; and
- Notify Agency immediately if Consultant determines that an ESA determination of No Effects is no longer appropriate.

### **3.5.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- 1 electronic PDF copy of the Draft NE Memo to APM for review per Task 1 Project Design Schedule;
- 1 electronic PDF copy of the Final NE Memo to APM within 2 weeks following receipt of draft review comments;
- 1 electronic PDF copy of the Draft construction special provisions relevant to NE determination to APM for review per Task 1 Project Design Schedule; and
- Final construction special provisions relevant to No Effects determination to APM within 2 weeks following receipt of draft review comments.

### **3.5.2 Federal-Aid Highway Program (“FAHP”) ESA Programmatic Documentation**

Consultant shall coordinate and document compliance with the federal ESA for NMFS trust species and USFWS trust species using the FAHP Programmatic. The FAHP ESA Programmatic is appropriate for most projects with Federal-Aid funding. ESA documentation must be completed by a qualified biologist. All documentation for the Project design phase must follow procedures contained in the most recent version of the ODOT FAHP Programmatic User’s Guide available on the ODOT Biology ESA website: (<http://www.oregon.gov/ODOT/GeoEnvironmental/Pages/ESA.aspx>). FAHP ESA programmatic documentation must be completed by an ESA-qualified biologist as described above.

Consultant shall:

- Facilitate early coordination with NMFS and/or USFWS according to Section 2.3 of the FAHP Programmatic User’s Guide;
- Coordinate with the APM and ODOT biologist to complete the FAHP Project Stakeholder List, as shown in Table 4 of the FAHP Programmatic User’s Guide;
- Utilizing the latest template available on the FAHP Programmatic website, prepare and submit the Project Initiation Form to the ODOT Regional Environmental Coordinator (“REC”) for the Project;
- Contact the ODOT biologist via phone or email for site-specific information on ESA species, including but not limited to background reports and ORBIC special status species lists;

- Contact via phone or email ODFW, NMFS, and/or USFWS for additional site-specific information on ESA species;
- Review all ESA information provided or obtained;
- Facilitate and attend 1 site visit with the Agency and USFWS and/or NMFS to discuss Project impacts, applicable FAHP Programmatic standards, and possible modifications to the Project to meet FAHP Programmatic standards; Consultant shall prepare site visit meeting notes that include topics discussed and recommendations; and
- Prepare and submit all required FAHP Programmatic forms to the Agency REC for the Project, utilizing the latest templates available on the Agency ESA website. In addition to the Stakeholder List and Initiation Form detailed above, the following forms are required as part of the FAHP Project Notification documents:
  - Notification Form,
  - Change Form.

### **3.5.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- Draft Site Visit Meeting Notes, within 1 week of the meeting, to APM, and REC;
- Final Site Visit Meeting Notes, within 1 week of receiving comments, to APM, LAPM, and REC;
- Draft FAHP Programmatic Project Initiation Form, within 2 weeks of Kickoff Meeting, to APM and REC;
- Final FAHP Programmatic Project Initiation Form, within 1 week of receiving comments, to APM and REC;
- Draft FAHP Programmatic Project Notification documents per Task 1 Project Design Schedule to APM and REC; and
- Final FAHP Programmatic Project Notification documents, within 2 weeks of receiving comments, to APM and REC.

## **3.6 WETLAND AND WATER RESOURCES**

Consultant shall research and prepare documentation necessary to satisfy the requirements of Section 404 of the Clean Water Act and Oregon’s Removal Fill Law (ORS 196.795-196.990).

### **3.6.1 Wetland/Waters of the U.S./State Fieldwork and Determination Memo**

Consultant shall complete a wetland field determination for the Project Study Area (“PSA”).

Consultant shall use available data (including but not limited to: soil surveys, aerial photos, and National/Local Wetland Inventory [“NWI/LWI”] maps), as well as data gathered in the field to document the presence or absence of wetlands within the PSA.

Consultant shall:

- Determine wetland boundaries within the PSA in accordance with the criteria and methods described in the *1987 Corps of Engineers Wetland Delineation Manual (Environmental Laboratory Technical Report Y-87-1)* and appropriate Regional Supplements;
- Place flags in the field to show wetland and upland sample plot locations, and the wetland boundaries, and label and number the flags to identify their function;
- Prepare sketch maps of approximate wetland boundaries with numbering of flags or stakes;

- Use field methods and collect data that meets the U.S. Army Corps of Engineers (“USACE”) and DSL technical requirements for wetland delineations and ordinary high water demarcations, and collect and record wetland delineation data on approved wetland determination data sheets for possible inclusion with a wetland delineation report; and
- Consultant shall notify Agency if wetlands are present and will be impacted.

Consultant shall prepare 1 Wetland Determination Technical Memo. The memo must include:

- Description of the PSA;
- Summary of existing available information, noting the standard information that is not available (i.e., if no Agency soil survey coverage exists for the area, then it must be stated);
- Field reconnaissance methods;
- Results of field reconnaissance;
- Data Sheets;
- Color photographic record depicting on-the-ground conditions; and
- Sketch mapping depicting locations of wetlands or waterways within the PSA.

### **3.6.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- Sketch map of approximate wetland and waters boundaries to Agency (if present) per the schedule in Task 1;
- Notification to Agency (via email) if wetlands are present and will be impacted per the schedule in Task 1;
- Electronic copy (Word) of the draft Wetland Determination Technical Memo to APM for review per the schedule in Task 1; and
- Electronic copy (PDF) of the Final Wetland Determination Technical Memo to APM 2 weeks following receipt of draft review comments.

### **3.6.2 Joint Permit Application for Impacts to Wetland/Waters (Contingency – See Section F)**

If the Project requires impacts to wetlands or waters, Consultant shall prepare a Joint Permit Application Form (“JPA”) for the federal Clean Water Act Section 404 and 401 permit and the Oregon DSL Removal-Fill Law permit. A draft of the application will be prepared for Agency review and comment prior to submitting the application to agencies. It is assumed that any permanent wetland impacts can be mitigated by purchasing credits from the Mud Slough Wetland Mitigation Bank.

### **3.6.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- Electronic copy of Draft JPA with attachments to APM for review per the schedule in Task 1, and
- Final JPA with attachments based on Agency review comments.

## **3.7 RESERVED**

It is assumed the Agency will attend any land use pre-application meetings and hearings and develop applicable Oregon City land use applications and obtain permits, if required.

#### **TASK 4 PUBLIC INVOLVEMENT SUPPORT**

Consultant shall assist Agency, as defined below, for the design phase of the Project through Final Plans, Specifications, and Estimate (“PS&E”). Agency will have overall responsibility for the Project public involvement and outreach program.

##### **4.1 Public Involvement Plan (Reserved)**

##### **4.2 Public Involvement Meetings**

###### **4.2.1 Open House Meetings**

Consultant shall prepare materials for and attend up to 2 two-hour open houses to provide Project information and solicit from the public questions and concerns related to the Project. Consultant will provide 2 staff to attend the open house. Agency will document input received from the meetings and prepare written summaries.

###### **4.2.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit to Agency in formats compatible for website and other uses:

- One draft and 1 final copy of a strip map of the Project Area, annotated with the proposed improvements and impacts;
- One draft and 1 final copy of an aerial map of the Project Area;
- One draft and 1 final electronic copy of 1, 8 1/2 x 11, 2-sided fact sheet including problem description, background, project and schedule information, decision process, and avenues for involvement;
- One Fast Facts display board with concise description of the Project;
- One electronic flyer to be distributed by Agency;

###### **4.2.2 Stakeholder Meeting**

Consultant shall attend, as a Project resource, 1 one-hour meeting with Project stakeholders to identify issues and discuss the Project process. Consultant will provide 1 staff to attend the stakeholder meeting. Agency will document input received from the meetings and prepare written summaries.

###### **4.2.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- One consultant to attend 1 meeting with identified Project stakeholders;

#### **TASK 5 - UTILITIES**

Consultant shall perform the coordination of all utility facilities within the Project limits in accordance with the *Oregon Utility Relocation Manual*.

If any utility is nonresponsive or uncooperative, Consultant shall notify Agency, and Agency will communicate with the utility to affect a solution.

##### **5.1 Utility Location and Coordination**

Consultant shall perform utility coordination and liaison activities with utility owners/operators for the Project. Consultant shall comply with the current version of the Utility coordination policy requirements as described in the *Oregon Utility Relocation Manual*. This work includes reviewing utilities that may be in conflict with the Project work and utility relocation coordination with the utility owners to resolve

those potential conflicts. Additionally, Consultant shall obtain system mapping from utilities located within the Project limits. Consultant shall use this information to confirm the survey map as developed under Task 2, Survey.

### **5.1 Consultant Deliverables and Schedule**

Consultant shall provide:

- Existing utility information gathered in Task 5.1 to be included in the survey map/basemap; and
- Record of communications with each utility within the Project limits; copies of communication record must be provided to APM within 3 days of request.

### **5.2 Utility Report**

Consultant shall prepare a draft and final Utility Report for those utilities located within the Project limits. The Utility Report should include as many of the following items that are known and applicable:

- Description of utilities located within the Project limits,
- Utility facility's structure dimension,
- Probable buried depth of cover or aerial lowest height of wire,
- General description of utility facility structure material,
- Reliance upon other utilities in the vicinity (joint use facility),
- Description of the means used to verify facility location and limits of conflict (test hole data, aka "pothole" verification),
- Proposed project construction requirements,
- Potential utility conflicts, and
- Probable conflict resolution (relocation or adjustment concept).

### **5.2 Consultant Deliverables and Schedule**

Consultant shall provide:

- Draft Utility Report to be submitted with Design Acceptance Package ("DAP") under Task 13, and
- Final Utility Report to be submitted to Agency within 10 business days receipt of comments on draft document.

### **5.3 Utility Coordination Meetings**

To facilitate the development of each utility relocation plan, Consultant shall organize, conduct, prepare for, and attend the following utility coordination meetings with utilities within the Project limits:

- 1 on-site group utility meeting, to coordinate relocation plan, construction constraints, means and methods, work sequence, and schedule limitations.

Consultant shall prepare a Meeting Agenda and Meeting Summary Notes summarizing the discussions at the group utility meeting.

For budgeting purposes, it is assumed that up to 2 Consultant staff shall attend the 2-hour meeting, including travel time.



### **5.3 Consultant Deliverables and Schedule**

For each meeting Consultant shall provide to APM:

- Meeting Agenda for each meeting, due within 2 business days prior to meeting; and
- Meeting Summary Notes, due within 5 business days after meeting.

### **5.4 Utility Relocations**

Consultant shall coordinate the efforts of the utility agencies in developing and executing a plan for relocating utilities to resolve conflicts with the Project design. As part of that effort, Consultant shall complete the following:

- Preparation of Project Notification Letter(s)/Utility Conflict Notices
- Review of Utility Relocation Plans and Preparation of Relocation Time Requirement Letters

#### **5.4.1 Utility Notices**

For those utilities where no conflict is anticipated, Consultant shall provide a Project Notification (first notice per Oregon Administrative Rule [“OAR”] 734-055-045). Consultant shall use the Project Notification Letter template located at:

<https://www.oregon.gov/ODOT/ROW/Pages/Utility-Forms.aspx>

The Project Notification Letter must include plan sheets indicating location of existing utilities in relationship to the proposed Project.

For those utilities where a conflict is anticipated, Consultant shall provide a Conflict Notice (first notice per OAR 734-055-045). Consultant shall use the Conflict Notice located at:

<https://www.oregon.gov/ODOT/ROW/Pages/Utility-Forms.aspx>

Consultant's coordination schedule must allow each utility a 30-day period to respond with a proposal from date of the notice. Multiple notices or revised notices must be created and delivered to a utility owner when additional facility conflicts become apparent and the utility owner's response time may be shortened to 7 calendar days.

#### **5.4.1 Consultant Deliverables and Schedule**

Consultant shall provide:

- Project Notification Letter(s) and Conflict Notice(s) with enclosures to utilities, due within 10 business days after submittal of Preliminary plans to Agency; and
- One electronic copy (PDF) of Project Notification/Utility Conflict Letters, with enclosures, to APM and State Utility Liaison.

#### **5.4.3 Review Utility Relocation Plans and Relocation Time Requirement Letters**

Consultant shall examine all received utility relocation plans for completeness and accuracy. If relocation plans do not resolve utility conflict, Consultant shall provide comments to the utility for correction and resubmittal.

For those utilities that propose to attach to structures, Consultant shall provide guidance (e-mail acceptable) to the utility regarding Agency bridge accommodation policies and request protocol for bridge accommodation (reference ODOT's Bridge Design/Drafting Manual, sec. 3.14.10.3-4:

[http://www.oregon.gov/ODOT/HWY/BRIDGE/docs/bddm/oct2014\\_finals/sec\\_3\\_oct2014.pdf](http://www.oregon.gov/ODOT/HWY/BRIDGE/docs/bddm/oct2014_finals/sec_3_oct2014.pdf).)

Consultant shall obtain acceptance or rejection of the utility's request for bridge accommodation from APM.

Consultant shall negotiate with each utility a utility construction work schedule that conforms to the Project construction schedule. Consultant shall deliver a Time Requirement Letter (second notice) to each utility owner accepting or modifying the required utility facility construction time.

#### **5.4.3 Consultant Deliverables and Schedule**

Consultant shall provide:

- The final utility relocation plan(s) submitted to Agency within 10 days after acceptance, and
- Time Requirement Letter(s) submitted to each utility, Agency, and State Utility Liaison within 20 business days after submittal of Advance Plans to Agency.

#### **5.6 Utility Certification**

Consultant shall complete and sign the Utility Certification verifying that all utility work has been completed or that all necessary arrangements have been made for it to be undertaken and completed, as required for proper coordination with the physical construction schedule.

If an exception is required, Consultant shall prepare, for the Agency's signature, a Public Interest Finding as part of the Utility Certification, including facts regarding the cause for the exception, an action plan, and a time table in securing a utility agreement (i.e., the Time Requirements Letter).

#### **5.6 Consultant Deliverables and Schedule**

Consultant shall provide:

- One electronic copy (PDF) of the Utility Certification sent to the State Utility Liaison for co-signature, due 10 business days prior to PS&E; and
- One hard copy of signed Utility Certification form to be incorporated into PS&E package.

### **TASK 6 GEOTECHNICAL/PAVEMENT SERVICES**

Consultant shall conduct a geotechnical field investigation to explore the following:

- Surface and subsurface conditions in proposed bank stabilization improvement areas.

Consultant shall provide documentation that summarizes and presents the results of the investigation, analyses, and recommendations.

#### **6.1 Data Review/Reconnaissance**

Data Review:

Consultant shall review available existing information to evaluate the following:

- Geologic conditions, landslide information, and hazards along the proposed project limits, such as geologic units, historic land use, and fill materials.

Consultant shall review available information from the following sources (as applicable):

- Existing published and unpublished literature from Agency records;
- Previous geology and/or geotechnical reports from Agency, and federal, city, county, or other officials, consultants, groups or individuals pertinent to the Project;
- As-built roadway plans (as available); and
- Maintenance records.

Reconnaissance:

Consultant shall conduct a geologic and geotechnical reconnaissance of the site consisting of up to 2 separate site visits. Consultant shall identify the following:

- Geologic conditions at the Project site, any geologic hazards present, and their impacts to the proposed Project elements.

As part of the site reconnaissance work, Consultant shall:

- Observe surface conditions that may be indicative of subsurface conditions of concern, as well as past or ongoing geologic processes (e.g., areas of seeps or springs, erosion, unstable slopes, shallow groundwater, roadway settlement, offsets and depressions, existing earthwork performance, exposed soil and bedrock units);
- Identify site constraints, staging concerns (for exploration and construction), and environmental considerations;
- Identify potential exploration and/or monitoring locations; and
- Locate borings and stake or paint on the ground the proposed boring locations.

**6.1 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Tasks 6.2 and 6.6.

**6.2 Exploration and Testing Work Plan**

Consultant shall prepare an Exploration and Testing Work Plan (ETWP) prior to beginning field work. No field work is to be performed, other than initial site reconnaissance, before review and approval by Agency of the ETWP.

The ETWP shall address the proposed drilling boring locations, site access, exploration and sampling procedures, preliminary laboratory testing plan, safety plan, and traffic control plan. The traffic control plan must address minor road encroachments as well as lane and/or shoulder closures for activities associated with cores, borings, or drive probes, and restoration of pavements, shoulders, and other areas disturbed due to subsurface exploration activities, including erosion control measures.

Consultant shall obtain required Utility Permits from Agency for exploration locations in public ROW prior to beginning field work.

Agency shall satisfy 1 request to obtain any required Right-of-Entry Agreements from the adjacent property owners under Task 14 prior to beginning field work. Agency will need a minimum of 3 weeks to obtain the ROE.

## **6.2 Consultant Deliverable and Schedule:**

Consultant shall provide:

- ETWP in Microsoft Word format, at least 5 business days prior to beginning field work, to APM.

## **6.3 Geotechnical and Pavement Explorations**

Consultant shall conduct field investigation work in accordance with the most current versions of the ODOT Geotechnical Design Manual and the ODOT Pavement Design Guide.

All field explorations shall be performed in conformance with the approved ETWP developed in Task 6.2. When possible, Consultant shall coordinate traffic control and other subcontractors, such as drillers, to provide exploration services for geotechnical explorations concurrently.

Consultant shall perform subsurface explorations to estimate and characterize the *in situ* soils for the purposes of addressing foundation support and other geotechnical or geological considerations for the following:

- Slope stability and retaining wall design.

The anticipated subsurface explorations to be performed for the Project are shown in the following table:

<b>Exploration Method</b>	<b>Quantity</b>	<b>Depth/Length of Exploration(s)</b>
Drilled Borings (shallow)	4	25 to 30 feet each
Drilled Borings (deep)	1	75 feet
Slope Inclometers with Vibrating Wire Piezometers (installed in selected drilled borings)	3	2 for 25 to 30 feet deep; 1 for 75 feet deep
Surface Geophysical Profiles (seismic refraction lines)	5	150 feet each

Consultant shall provide an experienced engineer or geologist to supervise the field operations for *in situ* data gathering.

Consultant shall perform the exploration work while following additional requirements as follows:

- Boring locations that have restrictions must have boring performed in conformance with the permit requirements.
- The drill cuttings and drilling mud must be collected in sealable steel drums and removed from the site, unless otherwise coordinated with Agency.
- The borings must be abandoned and backfilled according to Oregon Water Resources Department regulations.
- All borings and core holes through pavement must be patched with cold patch asphalt emulsion, quick set PCC, or as approved by Agency.
- Inclometers and vibrating wire installations will include flush-mounted monuments.

### **6.3 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Task 6.7.

### **6.4 Laboratory Testing**

Consultant shall perform laboratory tests on disturbed and/or undisturbed soil samples obtained from the explorations in order to:

- Characterize the subgrade and subsurface soils,
- Develop engineering soil parameters for the retaining wall design,
- Assist with determining engineering geologic unit boundaries, and
- Check field soil description and identification.

The laboratory testing program shall be performed in accordance with standard ASTM and Agency practices to include the following:

- Moisture/density,
- Atterberg limits,
- Gradation (minus No. 200 sieve wash),
- Direct shear testing (if applicable), and
- Unconfined compressive strength of intact rock (if applicable).

### **6.4 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Task 6.7.

### **6.5 Geotechnical Monitoring**

Consultant shall collect data from the inclinometers and vibrating wire piezometers twice during the winter months (including the initial reading) and once during the spring months.

### **6.5 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Task 6.7.

### **6.6 Geotechnical Design Analysis**

Consultant shall perform the slide mitigation design analysis and pavement design for the Project. Consultant will evaluate up to 3 potential mitigation alternatives for the Project site in order to develop a preferred cost-effective mitigation alternative for the Project. The detailed SOW is as follows:

- Evaluate regional and site-specific geologic hazards,
- Estimate soil residual shear strength along the landslide failure planes,
- Evaluate potential landslide mitigation design alternatives,
- Meet with Agency to discuss findings and potential mitigation design alternatives,
- Develop the final design mitigation recommendations, and
- Provide the pavement design recommendations.

### **6.6 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Task 6.7.

### **6.7 Geotechnical Report and Foundation/Geotechnical Data Sheets**

Consultant shall prepare a Geotechnical Report according to the ODOT Geotechnical Design Manual criteria for submittal to Agency for review. The Geotechnical Report must:

- Summarize the geotechnical design and construction recommendations;

- Identify general specification criteria for the construction contract and provide recommendations for special provisions, if required;
- Summarize the results of the geotechnical analyses and geotechnical monitoring; and
- Provide design recommendations for the slope stability and retaining wall design.

#### **6.7 Consultant Deliverables and Schedule:**

Consultant shall provide:

- Draft Geotechnical and Pavement Design Report in Microsoft Word and PDF formats to be incorporated into the DAP delivered under Task 13.
- Final Geotechnical and Pavement Design Report in PDF format to APM within 2 weeks of receipt of comments from Agency.

#### **6.8 Review of Geotechnical-related Plans and Specifications**

Consultant shall review geotechnical-related plans and specifications to confirm that the landslide mitigation design plans and specifications, as well as pavement design plans and specifications, are consistent with the geotechnical design and construction recommendations provided in the Geotechnical and Pavement Design Report.

#### **6.8 Consultant Deliverables and Schedule:**

The review comments will be provided by using tracked changes in the Word document, and sketches on the plans.

### **TASK 7 HYDRAULICS-RELATED SERVICES**

Consultant shall provide stormwater management and hydraulics-related design services under this SOW for delivery of tasks and deliverables according to the agreed-upon delivery schedule.

#### **7.1-7.4 RESERVED**

#### **7.5 Stormwater Management Design**

The purpose of this subtask is to design stormwater systems for the conveyance and treatment of drainage in the Project.

#### **Storm Sewer Conveyance**

The purpose of this subtask is to provide design of stormwater conveyance facilities that collect and carry roadway runoff per local agency, ODOT Hydraulics Manual, and/or FAHP Programmatic Biological Opinion, whichever standard is most strict.

Consultant shall:

- Determine the locations of flow entering and leaving the Project ROW;
- Review existing conditions downstream of locations where flow is leaving the Project ROW for deficiencies and document observations;
- Delineate on-site drainage basins, calculate peak flow rates for design, model the proposed pipe network, and calculate hydraulic grade line to check that proper freeboard design requirements are being met;
- Check inlet capacity and inlet spacing, calculate gutter flow to check spread, and provide design recommendations for inlet locations;

- Provide design recommendations for pipe network, associated pipe sizes, pipe material recommendations, and manhole access design recommendations (i.e., spacing, location within a travel lane, etc.);
- Provide manhole diameter design recommendations based upon analysis of pipe connections at each manhole;
- Compare pipe network against known utilities in the Project Area and provide design recommendations to minimize utility conflicts or to adjust existing utilities; and
- Provide stormwater outfall design and energy dissipater design recommendations, if needed.

### **Stormwater Quality Design**

The purpose of this subtask is to provide design of stormwater management facilities that provide water quality treatment of highway runoff per local agency standards, ODOT Hydraulics Manual, and/or FAHP Programmatic Biological Opinion, whichever standard is most strict.

The design strategy is to limit upstream flow from entering the Project Area. This flow will not have stormwater quality criteria. Due to space constraints, flow generated through the Project Area will be contained using drainage curb, using an enclosed system as necessary, and then treated via a hydrodynamic separator or cartridge filtration system, and piped into the enclosed system near Fifth Avenue. The Consultant shall also study an alternative using impermeable swales where space permits that would drain into an enclosed system.

Consultant shall:

- Define “Contributing Impervious Area”;
- Delineate on-site drainage subbasins;
- Identify treatment Best Management Practice (“BMP”) types applicable for the site;
- Identify potential locations to site facilities within and outside the ROW;
- Estimate facility size, type, and space needs at each of the potential locations;
- Evaluate constraints to siting a stormwater facility (i.e., drainage area, adjacent grades, roadway safety, presence of existing utilities, protected resource areas, etc.);
- Prepare up to 2 stormwater management strategies that combine potential stormwater facilities into a comprehensive solution for meeting the needs of the Project; and
- Compare alternative stormwater management strategies and recommend a preferred strategy.

### **Stormwater Quantity Design**

The Project is not anticipated to trigger requirements for stormwater quantity management. The design assumes that no stormwater quantity analysis is necessary for the Project, because there is no change to impervious area. There will be coordination with NMFS to provide an overview of the design to get concurrence.

### **7.6 Stormwater Design Memo**

The purpose of this subtask is to provide preliminary stormwater design recommendations and document the final stormwater facility design recommendations.

Consultant shall prepare a preliminary version of the Project Stormwater Design Memo per Water Environment Services Guidelines or FAHP guidelines containing preliminary stormwater facility design recommendations.

Consultant shall prepare a final Stormwater Design Memo to reflect Agency review comments on stormwater facility design recommendations, changes to stormwater facility design due to advancement of the overall Project design, and supporting documentation of the final stormwater facility design.

### **7.6 Consultant Deliverables and Schedule**

Consultant shall provide:

- Draft Stormwater Design Memo in PDF file format, along with an Microsoft Word file containing the report narrative, and 2 hard copies, due with the DAP; and
- Final Stormwater Design Memo, in PDF file format, of complete report, and 2 hard copies, due with the Final Plans.

### **7.7 Stormwater Operations and Maintenance Manual**

The purpose of this subtask is to provide Operations and Maintenance Manual documentation of all proposed stormwater management facilities, so that Agency has a record of the stormwater facilities that need to be as-built and as operated, and how to maintain them after the Project is constructed. The manual must be developed using the Agency templates referenced in ODOT's Hydraulics Manual. The general outline described in the Hydraulics Manual shall be followed unless agreed to otherwise by the APM, as follows:

- 1) Identification
  - a) Facility Type
  - b) Location
- 2) Facility Contact Information. This section provides a general summary of contacts for operational clarification, maintenance clarification, and repair or restoration assistance. This section requires no or little modification.
- 3) Construction
- 4) Storm Drain System and Facility Overview
- 5) Auxiliary Outlet (High Flow Bypass)
- 6) Maintenance Requirements
- 7) Waste Material Handling
- 8) Operations and Maintenance Appendices A, B, and C

Consultant shall prepare up to 2 Draft Operations and Maintenance Manuals, 1 for each stormwater facility anticipated for the Project, per Chapter 4, Section 4.6.6 of the ODOT Hydraulics Manual (latest edition). Consultant shall prepare operational plans as outlined in Technical Bulletin GE 16-01 (B) titled "Stormwater Control Facility Operation and Maintenance Plan Development Drafting Guidance."

### **7.7 Consultant Deliverables and Schedule:**

Consultant shall provide:

- 1 copy of each Draft Operations and Maintenance Manual, in Microsoft Word and PDF formats, to the APM with Advanced Plans; and
- 1 copy of each draft operational plan in AutoCAD format (\*.DWG file) to the APM with Advanced Plans.

## **TASKS 8 TRAFFIC ENGINEERING AND MANAGEMENT**

Consultant shall provide traffic design services under this SOW for delivery of tasks and deliverables according to the agreed-upon delivery schedule.



### **8.1 Permanent Signing**

Consultant shall prepare plans, construction cost estimates, and special provisions for the permanent signing associated with the proposed improvements. Consultant shall perform the design work for this task through guidance provided by the current edition of the ODOT Traffic Sign Design Manual, the Manual on Uniform Traffic Control Devices (“MUTCD”) and Oregon Supplements to the MUTCD (OAR 734-020-005), the Oregon Standard Drawings and Details, and LPA standards as applicable. Signing Plans will include but are not limited to the following: permanent signing plans, signing details, and sign and post data tables. Existing signs within the Project limits will be shown on the plans.

#### **8.1 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Tasks 13 and 15.

### **8.2 Permanent Pavement Markings**

Consultant shall prepare plans, construction cost estimates, and special provisions for the permanent pavement markings associated with the proposed improvements. Consultant shall perform the design work for this task through guidance provided by the current edition of the ODOT Traffic Line Manual, ODOT Pavement Marking Design Guidelines, the MUTCD, the Oregon Supplement to the MUTCD (OAR 734-020-005), the Oregon Standard Drawings and Details, and LPA standards as applicable.

#### **8.2 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Tasks 13 and 15.

### **8.3 Traffic Control Plans**

Consultant shall prepare plans, construction cost estimates, and special provisions for temporary traffic control to accommodate the public during construction. ODOT standard drawings must be referenced where possible. Consultant shall prepare traffic control plans in accordance with the current ODOT Traffic Control Design Manual, ODOT Traffic Control Plans Design Manual, ODOT Contract Plans Development Guide, applicable ODOT Standard Drawings, the MUTCD, and LPA standards as applicable. One detour plan is anticipated for this Project.

#### **8.2 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Tasks 13 and 15.

## **TASK 9 RESERVED**

## **TASK 10 ROADWAY DESIGN**

Consultant shall provide roadway design Services under this SOW for delivery of tasks and deliverables according to the agreed-upon delivery schedule.

### **10.1 Design Criteria**

Consultant shall prepare draft and final design criteria. Design criteria shall be consistent with Agency Roadway Standards. Consultant shall present the design criteria in a table or matrix format listing all conditions, assumptions, and minimum standards for the roadway design elements of the Project. This includes:

- Obtain functional classification facility based on current Transportation System Plan;
- Obtain existing and design year Average Daily Traffic (“ADT”) from traffic report or Project Prospectus;

- Determine design speed;
- Determine roadside design requirements (clear zone);
- Match existing cross slope, centerline, and any horizontal curves;
- Match existing vertical grade and any vertical curves; and
- Determine cross section elements:
  - Number and width of travel lanes,
  - Shoulders,
  - Curbs,
  - Side slopes and retaining wall location, and
  - Ditches or swales (drainage facilities).

**10.1 Consultant Deliverables and Schedule:**

Consultant shall provide:

- Draft design criteria electronically and in hard copy to APM within 6 weeks from NTP, and
- Final design criteria electronically and in hard copy to APM within 2 weeks from receipt of Agency comments.

**10.2 Concept Plans/Alternative Analysis**

The Consultant shall work with Agency to develop up to 2 alternatives for the roadway alignment and cross section, based on initial solutions from the Project Prospectus, suggestions from Agency, and current Agency design standards.

Consultant shall develop each alternative to concept-level design sufficient to establish construction limits, quantities, and major construction activities. Each alternative shall have horizontal and vertical alignments developed that meet minimum design standards. Consultant shall prepare a conceptual drawing for each alternative. The drawing shall utilize the topographic survey base map or corridor roll plot on an aerial map at a scale of 1 inch = 30 feet. Geometric design elements that do not meet design standards shall be identified as needing a design exception.

Consultant shall analyze each alternative and determine the potential benefits and impacts associated with construction of the proposed alternative. Potential benefits and impacts to be considered include, but are not limited to, ROW, retaining wall location, existing landslide locations, utilities, stormwater facilities, and environmental.

Consultant shall prepare a construction cost estimate for each alternative that includes the major construction items and quantities that can be identified at this level of design detail.

Consultant shall prepare an Alternatives Analysis technical memorandum that summarizes the results of analysis for each alternative. The memo must include a summary of the identified impacts and the cost estimate associated with each alternative, to allow Agency to determine which alternative to move forward to the DAP.

**10.2 Consultant Deliverables and Schedule:**

Consultant shall provide:

- Alternatives Analysis technical memorandum and drawings to APM electronically (PDF) within 5 months of NTP.

### **10.3 Roadway Design Exceptions (CONTINGENCY TASK – See Section F)**

Consultant shall prepare up to 2 draft Roadway Design Exception Request(s) for the Project. The Design Exception Request(s) must be prepared using the standard Design Exception Request form provided by Agency. The final Design Exception Request(s) for the Project must be stamped and signed by the engineer of record. Agency will coordinate final approval of the Design Exception Request(s).

#### **10.3 Consultant Deliverables and Schedule:**

Consultant shall provide:

- 1 electronic copy in Microsoft Word format to APM of draft Design Exception Request(s) within 2 weeks of the DAP, and
- 1 hard copy and 1 electronic copy in Word and PDF formats to APM of final Design Exception Request(s) no later than 2 weeks after receipt of comments from Agency.

### **TASK 11 NEW RETAINING WALL DESIGN**

Consultant shall perform structural analysis and design for a tied-back retaining wall, and developing layout and performance requirements for the reinforced roadway embankment. Consultant shall base the general design upon AASHTO LRFD Bridge Design Specifications. Consultant shall address other design requirements and costs conforming to AASHTO, Agency, and ODOT standards. It is assumed that no grading plan will be required for the excavation outboard of the retaining wall or reinforced roadway embankment.

### **11.1 Retaining Wall Type, Size and Location (TS&L)**

Consultant shall address the following in the Retaining Wall TS&L narrative:

- Type, size and location of the retaining wall
- Summary of existing conditions of the retaining wall
- Outline of site specific constraints, including but not limited to; topography, geology, hydrology, environmental constraints and requirements, permits, R/W, utilities, and cost

Consultant shall prepare retaining wall plan sheets in accordance with the table in 13.1 below.

Consultant shall prepare cost estimates for the wall and reinforced roadway embankment.

Consultant shall incorporate comments received on draft Retaining Wall TS&L into the DAP submittal.

#### **11.1 Consultant Deliverables and Schedule**

Consultant shall:

- Submit the draft Retaining Wall TS&L for the tied-back retaining wall including narrative, plan sheets and cost estimates to APM in accordance to the schedule of Task 1
- Incorporate final Retaining Wall TS&L including narrative, plan sheets and cost estimate into the DAP submittal delivered under Task 13.

### **11.2 Preliminary Retaining Wall Design**

Consultant shall prepare preliminary 60% plans for the Project incorporating Agency comments on the DAP submittal. Consultant shall update the cost estimate.

Consultant shall complete design and prepare retaining wall plans to be in the construction bid package to a 60% design level. Consultant shall reference Agency or ODOT standard drawings and details. The following retaining wall plans are anticipated:

- Plan and Elevation

- General Notes
- Foundation Plan and Data Sheet
- Construction Notes and Details
- Typical Section(s)
- Wall Elevation Table(s)
- Wall Details
- Miscellaneous details

### **11.2 Consultant Deliverables and Schedule**

Consultant shall provide:

- 60% plans, draft design exceptions submitted as part of Task 15.1
- Final design deviations submitted within 2 weeks of receipt of comments from Agency.
- Final design exceptions submitted within 2 weeks of receipt of comments from Agency.

### **11.3 Advance Retaining Wall Design**

Consultant shall incorporate all comments received from the Agency during 60% review and prepare 90% advance retaining wall plans to be included in the construction bid package. Consultant shall reference Agency or ODOT standard drawings and details, and other related drawings.

Consultant shall prepare/update retaining wall technical special provisions and construction cost estimate as specified in Task 15.2.

Consultant shall complete Class II design check of the Advance PS&E according to ODOT Bridge Practices and Procedures Manual (BPPM).

### **11.3 Consultant Deliverables and Schedule**

Consultant shall provide:

- Advance Retaining Wall PS&E documents as part of Task 15.2
- Class II design check in quality assurance and calculation book.

### **11.4 Final Retaining Wall Design**

Consultant shall incorporate all comments received from the Agency during advance plans review and prepare final bridge plans to be included in the construction bid package.

Consultant shall finalize retaining wall technical special provisions and construction cost estimate as specified in Task 15.3.

### **11.4 Consultant Deliverables and Schedule:**

Consultant shall provide final bridge PS&E documents submitted as part of Task 15.3

## **TASK 12 RESERVED**

### **TASK 13 - DESIGN ACCEPTANCE PACKAGE (30%)**

The objective of the DAP is to identify the size of the Project footprint, required design exceptions, and any required environmental permits prior to preparing the Preliminary, Advance, and Final Plans.

Consultant shall develop the alternative chosen in Tasks 7.6 and 10.3 by Agency to prepare the DAP.

Consultant shall prepare a DAP that includes 30% design plans, a cost estimate, and a design narrative that addresses the following:

- Description of the purpose, need, and design solution for the Project;
- Summary of existing conditions, (i.e., Project location, roadway classification, lanes, ADT, posted speed, and other design standards pertinent to the Project);
- Summary of design exceptions that will be necessary;
- Summary of retaining wall locations evaluated;
- Retaining Wall TS&L;
- Outline of Project constraints such as topography, environmental, permits, ROW, utilities, and cost (NOTE: these may be executive summaries prepared by Consultant for other deliverables associated with this Project);
- Environmental impacts and mitigation measures;
- Environmental permitting requirements;
- Utility conflicts;
- Description of geotechnical subsurface conditions;
- Draft Geotechnical Report;
- Draft Stormwater Memo;
- ROW needs; and
- Construction staging, temporary detours, and temporary protection and direction of traffic during construction.

Consultants shall prepare DAP plan sheets according to the following table:

Name of Sheet		Estimated # of Sheets
Title Sheet		1
Typical Sections and Notes		1
Details		2
Retaining Wall Plan and Typical Section		2
Roadway Plan and Profiles		2
Stormwater Water Quality and Detention Plan and Details		2

Consultant shall summarize and reference in the DAP all of the reports and technical memoranda pertinent to the Project. Consultant shall prepare and submit design plans and a cost estimate as appendices to the DAP. Drawings submitted with the DAP must be marked as “Design Acceptance Plans for Review.” Both the DAP and the design plans must bear the responsible engineer’s seal. Consultant shall prepare the title sheet in accordance with Agency standards and provide an index to the drawing set.

Agency will provide comments on the DAP. Consultant shall address Agency and LPA comments. Consultant shall attend a DAP Plan Review Meeting to communicate and discuss resolution to Agency review comments. Consultant shall provide written responses to address review comments received from Agency after attending the DAP Plan Review Meeting.

For budgeting purposes, it is assumed that up to 2 Consultant staff shall attend the 2-hour DAP Plan Review Meeting, including travel time.

### **13.1 Consultant Deliverables and Schedule**

Consultant shall provide:

- One electronic copy of DAP in PDF format to APM within 7 months of NTP, and
- One electronic copy of written responses to DAP review comments to APM within 1 week of the DAP Plan Review Meeting.

### **TASK 14 RIGHT OF WAY (ROW)**

Consultant shall conduct the ROW activities for all properties in accordance with the most current version of the following:

- ROW Services Agreement specific to the Project;
- *ODOT Right of Way Manual*;
- *ODOT Guide to Appraising Real Property*;
- *ODOT Right of Way & Rail/Utility Coordination Contractor Services Guide*;
- Oregon Revised Statute 35, with reference to the *Uniform Appraisal Standards for Federal Land Acquisitions*; and
- Agency ROW acquisition policies and procedures.

Consultant shall use Agency versions of all forms, spreadsheets, brochures, and pamphlets referenced in the *ODOT Right of Way Manual* and needed to complete work associated with Task 14. These forms, spreadsheets, brochures, and pamphlets shall not be altered without written permission from Agency. They may be obtained through the Agency Right of Way Manager or Designee.

Consultant shall track status for all parcel files to be acquired for ROW purposes in the format provided by Agency. Consultant should coordinate the details of this process with the Agency Right of Way Manager or Designee at the Project Kickoff meeting.

For estimating purposes, up to 3 files are anticipated for this Project.

### **14.1 R/W Meetings (PE & R/W Phase)**

Consultant shall attend meetings to coordinate the Right-of-Way tasks with the Agency, internal Project team members and other discipline activities as needed. Meetings may be scheduled for, but are not limited to, the following:

- Site Visit meetings
- Project Development meetings
- Plans Review meetings

### **Assumptions**

- There will be up to 1 site visit meeting.
- Right of Way consultant to attend project meetings as needed via conference call.

### **14.2 Title Reports and Document Requests**

Consultant shall prepare and assemble all title documents, including vesting deeds, necessary to accomplish acquisition of ROW, to Agency and/or ODOT standards, for each impacted property.

## **14.2 Consultant Deliverables and Schedule**

Consultant shall provide:

- Clearance Documents from Lenders and/or Lessees per the schedule developed in Task 1, Project Management.

## **14.3 RESERVED**

## **14.4 ROW Programming Estimate**

Consultant shall prepare a ROW programming estimate for use by the Right of Way Section to program funds for property acquisition. Consultant shall obtain the most current version of the Programming Estimate Form to be used from the Agency Right of Way Manager or Designee. The programming estimate shall include the Project name and county in which the Project is located, and all Project ROW costs, including separate Consultant, Agency, and ODOT ROW costs as outlined in the Right of Way Services Agreement with the Agency. The ROW programming estimate shall include dollar amounts for the following items: Land and Improvements, Damages/Cost to Cure, Relocation, Demolition, Personnel and Administration, and Legal and Contingencies, as well as totals for all items. The programming estimate shall be submitted to the appropriate Agency Right of Way Manager or Designee for review.

Consultant shall revise and resubmit the programming estimate, incorporating comments received from Agency.

## **14.4 Consultant Deliverables and Schedule**

Consultant shall provide:

- One draft programming estimate for delivery electronically to Agency Right of Way Manager or Designee and APM, per the schedule developed in Task 1, Project Management; and
- One final programming estimate for delivery electronically to Agency Right of Way Manager or Designee and APM, per the schedule developed in Task 1, Project Management.

**PLEASE NOTE: Consultant shall not perform any Services described in Tasks 14.5 through 14.6 below until Agency issues NTP for the ROW phase of the Project.**

## **14.5 Preliminary Activities**

Upon receipt of authorization to proceed with ROW acquisition, Consultant shall set up ROW parcel files and deliver a General Information Notice (“GIN”), acquisition and relocation brochures, and a copy of the applicable portion of the ROW acquisition map (marked Preliminary and showing the parcel(s) to be purchased) to all owners and occupants of affected properties. Consultant shall send the GIN via certified mail with proof of delivery kept in the parcel file. Consultant shall use the Agency GIN form.

Consultant shall prepare and maintain a Report of Personal Interview for each file. The Report of Personal Interview must include proof of delivery of the GIN; a statement that brochures were delivered and explained; and a date, place of contact, parties contacted, and summary of content of contact for all personal contact with affected property owners and/or their representatives, and of other activities conducted during the course of the ROW process.

#### **14.5 Consultant Deliverables and Schedule**

Consultant shall provide:

- GINs (1 hard copy to each property owner and 1 electronic copy to Agency) within 20 business days following NTP for the ROW acquisition phase.

#### **14.6 Appraisal and Appraisal Review**

Consultant shall use appraisers who are licensed or certified in the State of Oregon, competent in eminent domain appraising, and on ODOT's Qualified Appraisers List.

Consultant shall provide 1 real estate appraisal for each property or properties that constitute the "larger parcel" as described in the *ODOT Right of Way Manual* from which an interest is to be acquired. If identification of the larger parcel is problematic, Consultant shall resolve the issue in consultation with the Agency Right of Way Manager or Designee.

All real estate appraisals provided by the Consultant shall be prepared using forms or formats of, or approved by, the Agency's ROW Section. The types of appraisal reports shall fall into the following categories:

- Taking and damages appraisals for simple takings, and
- Detailed (before/after) appraisals for complex takings.

Consultant shall prepare all reports and estimates necessary to value specialty items to be acquired or to support cost-to-cure estimates.

Consultant shall provide not fewer than 15 days' written notice to owners of the planned appraisal inspections. The property owner and designated representative, if any, shall be invited to accompany the appraiser on any inspection of the property for appraisal purposes. Consultant shall send this notice via certified mail with proof of delivery, and it shall be kept in the parcel file.

Special Benefits, if any, must be quantified by the appraiser whether or not there are any compensable damages to the property.

Consultant shall perform independent reviews of appraisals. Consultant shall ensure that the same firm does not perform both the appraisals and the appraisal reviews. Consultant shall forward both the appraisal and the review to Agency for final approval.

Agency will establish just compensation for each property owner and will notify the Consultant.

Consultant shall continue documentation in the Report of Personal Interview for each file. The Report of Personal Interview must include proof of delivery of the written notice of appraisal inspection, date and place of contact, parties of interest contacted, a statement that brochures were delivered and explained, and record of other activities conducted during the appraisal.

#### **14.6 Consultant Deliverables and Schedule**

Consultant shall provide:

- 15-day notice of appraisal inspection to each property owner and an electronic copy to Agency's ROW Section and to APM, per the schedule developed in Task 1, Project Management;



- Report of Personal Interview to Agency ROW Section and APM within 3 business days of request; and
- Appraisal and appraisal review in electronic format for each file to Agency ROW Section and APM, and in hard copy format to Agency ROW Section, in accordance with the Project Design Schedule developed under Task 1, as follows:
  - Value finding/taking and damages appraisal (for simple takings), OR
  - Detailed before-and-after appraisal (for complex takings), and
  - Specialty reports, if necessary, prior to incorporation in appraisal reports.

### **Assumptions**

- It is assumed that these are taking and damages appraisals. If appraisals needed are more complex in nature, fees and schedules will be adjusted accordingly.

### **14.7 Acquisition Services**

All ROW shall be acquired in the name of Agency as easement, if a partial acquisition, and as fee, if a whole acquisition is required. Consultant shall conduct negotiations, on behalf of the Agency, in good faith and in compliance with all federal and state laws and regulations and Agency policies and procedures. Consultant shall conduct negotiations for acquisition of real property based on Just Compensation issued by Agency.

Consultant shall consult with Agency to determine the extent to which Consultant will be responsible for clearing title encumbrances identified on the Preliminary Title Report or making the offer subject to clearing title encumbrances. Consultant shall present any requests for taking title subject to one or more outstanding interests to Agency for approval. Fee owners' and contract purchasers' ownership interests must be addressed. When impacted by the taking, lessees' interests must also be addressed.

Consultants shall prepare and present to Agency the draft Offer Packets. All offers will be made on Agency letterhead, will include Agency contact information, and will be signed by Agency. These Offer Packets shall include, but shall not be limited to, acquisition and relocation brochures, offer-benefit letter, acquisition and relocation summary statements, Terms of Agency's Offer signed by Agency, copy of appraisal, map of acquisition, instruments of conveyance, and W-9 form (if money is exchanged).

To every reasonable extent possible, Consultant shall make offers in person, especially where the acquisition involves either a major impact to the property or the displacement of persons occupying the property. If this is deemed not possible, Consultant shall send the offer via certified mail. Proof of delivery must be documented in the Report of Personal Interview and file.

Consultant shall make every reasonable effort to acquire the ROW expeditiously by negotiation. Consultant shall give property owners reasonable opportunity to consider the offer (statutorily, 40 calendar days) and to present material the owner believes is relevant to determining the value of the property. Consultant shall attempt to negotiate an approved administrative settlement but shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property (49 CFR 24.102(h)).

- IF the OFFER is ACCEPTED, Consultant shall present a Final Report Packet covering the acquisition of ROW to Agency for final approval, payment, conveyance of title, and recording.

- IF a COUNTER OFFER is received, Consultant shall submit the proposed COUNTER OFFER (exceeding the estimate of just compensation) with a justification letter and owner-supplied supporting documentation to Agency for approval. If counter offer is accepted, see above.
- IF an acceptable agreement is not reached, Consultant shall prepare and submit a Recommendation for Condemnation.

Consultant shall continue documenting the Report of Personal Interview for each file. The Report of Personal Interview must include contact with property owners, owners' attorneys and occupants, efforts to achieve amicable settlements, owners' suggestions for changes in plans, and responses to owners' counterproposals.

**14.7 Consultant Deliverables and Schedule**

Consultant shall provide the following per the Project Design Schedule developed under Task 1:

- Three Draft Offer Packets for review for each file to Agency ROW Section;
- Three Final Offer Packets for review and signature to Agency ROW Section;
- Three Final Report Packets, 1 for each file, containing the file contents and a Final Report (Agency form) to Agency ROW Section;
- If applicable, proposed counter offers with justification information to Agency ROW Section; and
- If applicable, Recommendation for Condemnation to Agency ROW Section.

**14.8 Relocation (Reserved)**

**14.9 Condemnation Process Assistance – (CONTINGENCY TASK – See Section F)**

After good faith effort has been made to acquire ROW at the Agency's determination of just compensation, if settlement with the property owner(s) is NOT reached, Consultant shall:

- With Agency authorization, send Final Offer letter to the property owner in accordance with the ROW Manual.
- Provide information and clarification to Agency and LPA in support of mediation and condemnation proceedings, and assist property owner with any relocation according to the Consultant Services Guide.

**Assumptions**

- There is 1 condemnation file.
- Agency will initiate condemnation proceedings.

**14.9 Consultant Deliverables and Schedule:**

Consultant shall provide:

- One file prepared for condemnation.

**Task 14 Assumptions:**

- Consultant to secure and pay for all title reports.
- Agency will provide conveyance document forms.
- Agency will approve GIN and offer documents. GINs and offer letters will be on Agency letterhead and will be signed by Agency.
- Agency will disperse payment to property owners and record all documents.

- Number of parcels 3 is based on preliminary alignment and is subject to change. If more or less, payment for this scope of services may be adjusted up or down by negotiation.
- Consultant shall provide legal descriptions and exhibits, property impact maps, and other drawings as needed.
- Consultant shall provide the most up-to-date plan sheets as needed for the ROW process.

**TASK 15 - PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E)**

Consultants shall prepare plan sheets according to the following table:

**Table 15**

<b>Name of Sheet</b>	<b>Estimated # of Sheets</b>	<b>60% PS&amp;E Submittal</b>	<b>Advance Submittal</b>	<b>Final Submittal</b>
Title Sheet and General Notes	2	x	x	x
Typical Sections	1	x	x	x
Existing Conditions and Details	4	x	x	x
Detour Plan	1	x	x	x
Roadway Plans and Profiles and Stormwater Conveyance Notes	3	x	x	x
Pipe Data Sheet	1	x	x	x
Erosion Control Plans and Notes	3		x	x
Foundation Data Sheet	1	x	x	x
Retaining Wall Plan, Profile, and Details	8	x	x	x
Stormwater Facility Details	2	x	x	x
Seeding/Restoration Plans and Details	2		x	x
Permanent Signing and	4	x	x	x
Permanent Pavement Marking		x	x	x

**15.1 Preliminary PS&E (60%)**

Consultant shall prepare preliminary (60%) documents for the Project, incorporating comments from DAP review (Task 13).

Consultant shall prepare drawings, according to Table 15 above and:

- Reference Agency standard drawings and details; and
- Prepare construction cost estimate quantities and unit costs utilizing Agency standard bid items (Consultant shall prepare the estimate to include mobilization, contingency, and construction engineering, and the percentages will be agreed to by both parties). The estimate must be based on unit prices utilizing Agency and Consultant’s historical bid information and considering an early 2021 bid letting.

The APM will submit a Preliminary PS&E Review Comment Log as a single electronic file to Consultant.

Consultant shall address comments received and communicate with the APM the proposed resolution to the comments. Consultant shall provide written response to address review comments received from the APM on the Preliminary PS&E.

### **15.1 Consultant Deliverables and Schedule**

Consultant shall submit the following to the APM within 8 weeks of the APM written approval (e-mail acceptable) of the final DAP (Task 13):

- Preliminary Plans (PDF),
- Special Provisions Document Assembly Form (PDF), and
- Preliminary Construction Cost Estimate in Excel/table format (PDF).

Consultant shall submit Preliminary PS&E Review Comment Log with initial responses to the APM within 2 weeks of receipt of comments.

### **15.2 Advance PS&E (90%)**

This task includes preparation of advance plans, Special Provisions, construction cost estimate, risk assessment, and quality control reviews, as well as incorporating comments from previous reviews.

#### Advance Plans:

Consultant shall prepare drawings, per Table 15 above, and reference Agency standard drawings and details, and other related drawings.

#### Advance Special Provisions:

Consultant shall update Project Special Provisions based on changes and clarifications to the Project design, as determined at preliminary plans and in accordance with 2018 *Oregon Standard Specifications for Construction as amended* and *Agency Specification and Writing Style Manual*. Consultant shall prepare the Special Provisions to the 90% level (the “Advance Special Provisions”) in Microsoft Word utilizing “Track Changes.”

The Advance Special Provisions must incorporate the Agency’s boilerplate Special Provisions corresponding with the Project bid date. If a bid date has not been identified, Consultant shall use the most current boilerplate Special Provisions. Boilerplates, by bid date, can be found at the following website:

[http://www.oregon.gov/ODOT/HWY/SPECS/Pages/Boilerplate\\_Special\\_Provisions.aspx](http://www.oregon.gov/ODOT/HWY/SPECS/Pages/Boilerplate_Special_Provisions.aspx).

Consultant shall submit the Agency Civil Rights Request for Goals Worksheet to the Agency Office of Civil Rights and incorporate the appropriate Disadvantaged Business Enterprise (“DBE”) goals; Minority, Women, and Emerging Small Business (“MWESB”) aspirational target values; and On the Job Training hours into the Project Special Provisions.

#### Advance Cost Estimate:

Consultant shall update the construction cost estimate quantities and unit costs utilizing Agency standard bid items to support the Advance Plans (the “Advance Cost Estimate”). Consultant shall prepare the estimate to include mobilization, contingencies, and construction engineering. The estimate must be based on unit prices utilizing Agency and Consultant historic bid information and anticipating an early 2021 bid letting. Consultant shall prepare the final cost estimate using Agency’s Trns\*port Estimator software.

### Construction Schedule:

Consultant shall prepare a construction schedule, using the Critical Path Method, or CPM, (Microsoft Project and PDF formats) that outlines a reasonable Project construction sequence and time frames. The schedule must include anticipated material lead times, Project milestones, and anticipated construction phasing and staging.

### Advance PS&E Revisions/Corrections:

The APM will submit a single electronic file of Advance PS&E Comment Log review comments to Consultant.

Consultant shall address comments received and communicate with the APM the proposed resolution to the comments. Consultant shall provide written responses to address review comments received from the APM on the Advance PS&E.

### **15.2 Consultant Deliverables and Schedule**

Consultant shall submit the following to the APM within 8 weeks of the APM's written approval (e-mail acceptable) of the Preliminary Plans (60%) (Task 15.1):

- Advance Plans (PDF),
- Advance Special Provisions in electronic format (Microsoft Word, utilizing "Track Changes"),
- Advance Construction Cost Estimate in electronic format (Excel and PDF),
- Construction schedule in electronic format (Microsoft Project and PDF),
- Comment response log for plans and specifications (Excel document), and
- Civil Rights request for goals worksheet.

Consultant shall submit the Advance PS&E Review Comment Log with initial responses to the APM within 2 weeks of receipt of comments.

### **15.3 Final PS&E Package (100%)**

This task includes preparation of the Final PS&E package for bidding purposes. The final plans, Special Provisions, and construction cost estimate must incorporate all revisions agreed to and documented on the Advance PS&E Review Comment Log (Task 15.2).

Consultant shall coordinate with the APM to provide deliverables listed on the most current Final PS&E Submittal and Completeness checklists. Refer to the latest version of the Final PS&E checklists at: [http://www.oregon.gov/odot/hwy/opl/pages/manuals\\_forms\\_etc.aspx](http://www.oregon.gov/odot/hwy/opl/pages/manuals_forms_etc.aspx).

Agency will review final plan sheets and note any final revisions needed prior to preparation and submittal of Professional of Record ("POR")-signed Final Plans within 2 weeks of receipt of documents from Consultant. Consultant shall incorporate final revisions into POR-signed Final Plans.

Upon request from Agency, Consultant shall resolve comments from the Office of Pre-letting.

### **15.3 Consultant Deliverables and Schedule**

Consultant shall submit the following, 5 weeks prior to the PS&E due date, to Agency:

Description	To APM		To ODOT LAL	
	Electronic	Paper	Electronic	Paper
Unsigned Final Design Plans (11" x 17")	PDF	X	PDF	X
Project Special Provisions	Word and PDF	X	PDF	X
POR Certification with all Special Provisions sections stamped	PDF			
Signed Special Provision Integrity Certification	PDF			
Email from Civil Rights noting applicable DBE goals, MWESB targets, and On the Job Training hours		X		
Cost Estimate	PDF and Excel	X	Excel	X
CPM Construction Schedule (11" x 17", in color)	PDF	X	PDF	X
Fuel Escalation Worksheet	Excel			
Steel Escalation Worksheet	Excel			
Utilities Certification (delivered under Task 5)	PDF and Excel		PDF	

Consultant shall submit the following to APM, no later than 1 week prior to the PS&E due date, to Agency:

- POR-signed Final Plans printed on 11-inch x 17-inch paper;
- POR-signed Final Plans printed on 11-inch x 17-inch paper, 2 copies; and
- POR-signed Final Plans in PDF format.

Consultant shall submit the following to ODOT LAL, no later than 1 week prior to the PS&E due date, to Agency:

- POR-signed Final Plans printed on 11-inch x 17-inch paper, 5 copies; and
- POR-signed Final Plans in PDF format.

#### **TASK 16 BID AND AWARD ASSISTANCE**

This task includes the preparing addenda, as needed, and responding to questions during the bidding phase. Consultant shall respond to questions from Agency and Construction Contractors about the plans and specifications during the bidding process. The duties of the Consultant Project Manager in the Bid and Award phase are summarized in the *ODOT Construction Manual*, Chapter 6 – Examination of Project Site or Data by Bidders. This document can be found at:

[https://www.oregon.gov/ODOT/Construction/Doc\\_ConstructionManual/cm06.pdf](https://www.oregon.gov/ODOT/Construction/Doc_ConstructionManual/cm06.pdf).

This document is revised and updated from time to time. Consultant will review this chapter and develop a scope of work that reflects the responsibilities of the PM as detailed in Chapter 6 of the *ODOT Construction Manual*, and will revise the scope of work as necessary to fit the needs of the Project.

### **16.1 Questions During Bidding**

Consultant's Project Manager, or Consultant's designee(s) approved by Agency, shall assist Agency with questions regarding the bid documents and bid process. Consultant shall respond to all questions in writing, within 2 days, to Agency Project Manager.

Consultant shall, during the bidding process, assist Agency with the communications with Construction Contractors and suppliers in a manner that ensures that no Construction Contractor or supplier is provided with information not in the bidding documents, and that could provide a bidding advantage or disadvantage. Consultant shall prepare a written log to document conversations and questions asked by construction contractors or suppliers, and the answers provided to Agency. Consultant shall maintain the written log in the project file and provide it upon request of the APM or Agency.

### **16.1 Consultant Deliverables and Schedule**

Consultant shall provide:

- Written log of conversations, questions, and answers, provided to APM or Agency upon request.

### **16.2 Addenda to the Bid Documents (CONTINGENCY TASK – See Section F)**

This task identifies specific deliverables that Agency at its discretion may elect to authorize Consultant to produce. Consultant shall only complete this Task 16.2 and the identified deliverables if written (email acceptable) NTP is issued by Agency. The not-to-exceed amount for completing this contingency task is \$5,534 and is only billable if authorized.

Consultant shall prepare up to 1 bid addenda to provide interpretation of construction documents.

If Agency chooses to authorize this work, Consultant shall submit addendum documents within 3 calendar days from NTP, unless a different time frame is agreed to and stated in the NTP (prior to expiration of SOW).

Consultant shall prepare and deliver the addenda text in a Microsoft Word file. Consultant shall prepare and deliver stamped drawings in PDF and 11" x 17" Mylar. Consultant shall coordinate reviews of addenda by APM prior to submittal. Consultant shall not be responsible for distributing addenda to bidders. Agency will issue and distribute all addenda.

### **16.2 Consultant Deliverables and Schedule**

Consultant shall provide:

- Bid document addenda, stamped PDF drawings, or special provision revisions.

## **F. CONTINGENCY TASKS**

The table below is a summary of contingency tasks that County, at its discretion, may authorize Consultant to perform. Details of the contingency tasks and associated deliverables are stated in the Task section of the Statement of Work. Consultant shall complete only the specific contingency task(s) identified and authorized via written (e-mail acceptable) Notice-to-Proceed ("NTP") issued by County's Project Manager. If requested by County, Consultant shall submit a detailed cost estimate for the agreed-

to contingency Services (up to the NTE amount(s) in the Contingency Task Summary Table) within the scope of the contingency task.

If County chooses to authorize some or all of these tasks, Consultant shall complete the authorized tasks and deliverables per the schedule identified for each task. The NTP will include the contingency task name and number, agreed-to due date for completion and NTE amount for the authorized contingency task.

Each contingency task is only billable (up to the NTE amount identified for the task) if specifically authorized per NTP. In the table below, the “NTE for Each” amount for a contingency task includes all labor, overhead, profit, and expenses for the task. The funds budgeted for contingency tasks may not be applied to non-contingency tasks without an amendment to the Contract. The total amount for all contingency tasks authorized shall not exceed the maximum identified in the table below. Each authorized contingency task must be billed as a separate line item on Consultant’s invoice.

**Contingency Task Summary Table**

Contingency Task Description	NTE for Each	Max Quantity	Method of Comp.	Total NTE Amount
3.2.2 Phase I Archaeological Investigation with Technical Report	\$14,810	1	T&M	\$14,809.60
3.6.2 Joint Permit Application for impacts to wetlands/waters	\$9,295	1	T&M	\$9,294.88
10.3 Roadway Design Exceptions	\$5,029	1	T&M	\$5,029.04
14.9 Condemnation Process Assistance	\$2,465	1	T&M	\$2,464.51
16.2 Addenda to the Bid Documents	\$5,534	1	T&M	\$5,533.83
<b>Total NTE For All Contingency Tasks:</b>				\$37,131.86



## EXHIBIT B - COMPENSATION

### Definitions:

**CPFF** - Cost Plus Fixed Fee

**FCCM** - Facilities Capital Cost of Money

**NBR** - Negotiated Billing Rates. NBRs are fully loaded billing rates used by firms that do not have an audited, approved overhead rate. NBRs are inclusive of direct salary, indirect expenses and profit.

**NTE** - Not to Exceed Amount

**T&M** - Time and Materials

### A. METHOD of COMPENSATION

Payment will be made for completion of, or acceptable monthly progress on, tasks and deliverables in conformance with Contract requirements and all applicable standards. Consultant shall complete all Services and provide all deliverables as defined in the Contract. If the applicable compensation is exhausted, but Services and deliverables are not complete, Consultant shall complete the Services and provide the deliverables to County's satisfaction without additional compensation.

The amount payable under the Contract may be adjusted by County or renegotiated to:

- Reduce the NTE, Fixed-Price or Fixed-Fee amount associated with Tasks/Deliverables that were not authorized by County or not performed by Consultant;
- Reduce the NTE, Fixed-Price or Fixed-Fee amount commensurate with deductive amendments to reduce the risk associated with the project or to reduce the scope of work required under the Contract;
- Increase the NTE, Fixed-Price or Fixed-Fee amount for additional Tasks/Deliverables added to the scope of work via amendment to the Contract.

#### 1. Time and Materials with Not-To-Exceed (T&M)

County will pay Consultant for completion of Services required under the Contract on the basis of T&M, up to the NTE amount established in the Contract. Billable items include:

- **Loaded Costs**- the NBR (which is inclusive of profit and overhead costs); or the actual direct salary rate paid to the specific employee(s) (up to the maximum rate approved in the Contract for the employee's classification) productively engaged in work to complete the Services required under the Contract, plus profit and the approved overhead.
- **Direct Non-Labor Costs** (without mark-up) - Approved travel costs (up to the rates established in Section B of this Exhibit) and other approved direct-non labor expenses that are not included in overhead.
- **Subcontractor Costs** (without mark-up, unless County notifies Consultant otherwise in writing) - the hourly labor rates and direct non-labor costs (as described above) that have been billed to Consultant and recognized by Consultant as valid, undisputed and payable.

The dollar amount for T&M Services is: \$ 485,959.14
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### B. PAYMENT OPTIONS

Payments will occur only after County has determined that Consultant has completed, and County has accepted, the required Services (including defined deliverables) for which payment is sought via a properly submitted and correct invoice.

**(For CPFF and T&M) - Progress Payments for Acceptable Progress.** County will pay Consultant monthly progress payments for actual costs, up to the Contract NTE amount, for Consultant's acceptable (and verifiable) progress on tasks and deliverables included in the invoice.

**(For Fixed-Price) - Progress Payments for Percentage of Services Completed.** County will pay Consultant monthly progress payments based on a percentage of the total agreed fixed price. Monthly progress payments shall be limited to an amount commensurate with the percentage of the total Services and deliverables that were completed in the month invoiced.

**Payment upon Milestone (or other Unit) Completion.** County will pay Consultant the fixed price per milestone amount(s), or all amounts due as actual costs up to the Contract NTE amount per milestone, but only after Consultant completes and County accepts all Services and deliverables required under the Contract for a given milestone (or other unit) as listed below:

**Payment upon Full Completion.** County will pay Consultant the fixed price amount, or all amounts due as actual costs up to the Contract NTE amount, but only after Consultant completes and County's accepts all Services and deliverables required under the Contract.

### **C. TRAVEL**

The Fixed Price amount(s) in this Contract includes all travel, lodging, per diem, and mileage expenses. County will not reimburse Consultant separately for travel, lodging, per diem, or mileage expenses.

Travel costs are allowable only if they are authorized under the Contract and if the travel is essential to the normal discharge of County's responsibilities and is related to official County business. **All travel shall be conducted in the most efficient and cost-effective manner that results in the best value for the State.** Personal expenses shall not be authorized at any time. The following guidelines shall apply to the Contract:

- The travel, lodging, and per diem rates referenced in this Section C are the maximums that Consultant's estimate (or reimbursement, if applicable) may be based on. Travel rates other than those referenced in this Section C may be negotiated in the Contract, however, under no circumstance shall travel, lodging and per diem rates exceed the maximums set forth by the State Controller at <https://www.oregon.gov/DAS/SCD/SARS/policies/oam/40.10.00.PO.pdf> .
- Mileage - For compensation based on Cost-Plus-Fixed-Fee or Time and Materials (or Fixed Price or Price Per Unit when travel reimbursement is approved and mileage is compensated separately), all mileage approved by County will be reimbursed according to the rates set forth by the State Controller at <https://www.oregon.gov/DAS/SCD/SARS/policies/oam/40.10.00.PO.pdf> that are in effect on the date when the travel occurs.
- For compensation based on Cost-Plus-Fixed-Fee or Time and Materials, Consultant shall submit receipts for travel-related expenses billed to County, such as but not limited to, lodging, rental vehicles, and air fare. If lodging is shared by two or more travelers, the lodging receipt must indicate the names of any travelers on official State business who shared the room.

### **D. INVOICES**

Consultant shall submit invoices in the format required by County (and with supporting documentation to substantiate charges on the invoice, including a detailed line-item breakdown of labor and direct non-labor costs by task/subtask) no more frequently than once per month. The address for invoice submittal is set forth in Exhibit J. In addition to all other applicable invoice requirements in this section D, each invoice must include the following information:

Final SOW March 20, 2019  
RFP #22270-01 / #2018-103

- The County's Contract number
- The County's project number

**Progress Reports:** Each monthly invoice must include a progress report. The monthly progress report must cover the period invoiced and, at minimum, must:

- Describe the previous month's project activities and the planned activities for the next month;
- For each task/deliverable identify the percentage completed during the month and the cumulative percentage completed;
- Reconcile progress of each task/deliverable with the schedule identified for each.
- Identify issues/concerns that may affect the project Statement of Work, schedule or budget.

#### **"Paid Summary Report"**

Consultant shall complete and submit to APM [Paid Summary Report\(s\)](#) [form 734-2882] per the instructions on the form. Consultant must report payment information for all subcontractors and suppliers used under the Contract throughout the period of performance. **This reporting is required for all Contracts that include subs, regardless of funding or whether or not a DBE goal or Certified Small Business Aspirational Target is assigned.**

#### **CPFF and T&M Compensation:**

- Consultant shall prepare invoices based on the actual hourly rates, up to the maximums for each respective classification approved in the Contract, of the employees (or subconsultants) that performed the Services.
- Consultant shall provide documentation in each invoice to itemize all reimbursable actual labor costs and direct non-labor expenses for which Consultant seeks reimbursement, including a breakdown by task of the number of labor hours for each employee, employee names and classifications. Include copies of all invoices, similarly detailed, from authorized subconsultants.
- County will reimburse Consultant for approved travel expenses incurred in accordance with **Exhibit B**, Section C of the Contract, if County has agreed to reimburse Consultant for travel expenses.

**Fixed-Price Compensation.** Consultant shall prepare invoice(s) based on the payment option identified in Section B of this Exhibit:

- For Contracts using "Payment upon Full Completion" payment option, Consultant shall submit a single invoice requesting payment for the full Fixed-Price amount after all Services have been completed and all Deliverables have been accepted by County.
- For Contracts using "Progress Payments for Percentage of Services Completed" payment option, Consultant invoices shall be limited to an amount commensurate with the percentage of the total Services (including Deliverables) that were completed in the month invoiced.

County may request a full written itemization of and receipts for, but not limited to, any or all labor and direct costs billed by Consultant. Consultant shall provide written itemization and receipts to County within 5 business days of County's request. County will not make payment to Consultant under the applicable invoice until County has received all requested supporting documentation from Consultant and County has approved the invoiced amounts. Any overdue payments to Consultant by County for an approved invoice are subject to ORS 293.462.

#### **E. PAYMENT TERMS**

Payment will be made to Consultant no later than 45 calendar days from receipt of invoice completed in conformance with all contractual requirements. County will endeavor to notify Consultant within 10 business days of receipt of invoice regarding any necessary revisions or corrections to the invoice. If

revisions are necessary, payment will be made no later than 45 calendar days from receipt of the revised invoice. Any interest for overdue payment will be in conformance with Oregon law.

#### **F. CORRECTIVE WORK**

Consultant shall complete all Services, including Deliverables, as required in the Contract to County's satisfaction. If County, using reasonable discretion, determines that the Services or associated deliverables, or both, are unacceptable, County shall notify Consultant in writing of the deficiency. Within 7 calendar days (unless a different timeframe is agreed to by the Parties) of receipt of the deficiency notification Consultant shall respond to County outlining how the deficiency shall be corrected. Consultant shall correct any deficiencies in the Services and Deliverables to County's satisfaction without further compensation. County will not unreasonably withhold payment.

#### **G. WITHHOLDING/RETAINAGE**

County reserves the right to initiate, at any time during the Contract, withholding of payment equal to 5% of the amount of each invoice submitted to County under the Contract. County will make final payment of any balance due to Consultant promptly upon verification of completion and acceptance of all Services by County and will pay interest as required on retainage.

#### **H. PAYMENT REDUCTION**

County, or its duly authorized agents, may audit Consultant's fiscal records, including certified payroll and overhead records at any time. If County finds previously undisclosed inaccurate or improper costs have been invoiced and paid, County will notify Consultant and seek clarification. County, in its sole discretion, may reduce the payment for Services by withholding the inaccurate or improper amounts from any future payment to Consultant, withhold the inaccurate or improper amounts from final payment to Consultant, or may use any other means to seek recovery of already paid but improperly calculated amounts.

#### **I. SPECIFIC LIMITATIONS and UNALLOWABLE CHARGES**

##### **Specific Limitations**

For cost reimbursement compensation such as CPFF or T&M, Consultant shall invoice County only for actual productive time Consultant personnel spend on Services by any level of Consultant's staff (up to the established not-to-exceed amount). Consultant's general supervisors or personnel who are responsible for more than one County project shall charge only for actual productive time spent directly on the project identified in the Contract.

County will pay Consultant only up to the hourly rates set forth in the Contract that are commensurate with the type of Services performed regardless of the classification, title, or level of experience of the individual performing those Services. However, under no circumstances shall Consultant invoice County based on higher direct salary rates than the actual amount paid to its employees.

**Discriminatory Pricing.** Direct and indirect costs as applied to work performed under County contracts and subcontracts may not be discriminatory against the County. It is discriminatory against the County if employee (or owner/sole proprietor) compensation (in whatever form or name) is in excess of that being paid for similar non-County work under comparable circumstances.

**Discriminatory Wage Rates.** Pursuant to ORS 279C.520, Consultant shall comply with the prohibitions set forth in ORS 652.220. Failure to comply is a breach that entitles the County to terminate the Contract for cause.

**Employee Discussions Regarding Compensation.** Consultant shall not prohibit any of its employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's

rate of wage, salary, benefits or other compensation with another employee or another person {see ORS 279C.520(1)}.

### **Unallowable Charges**

County will not pay for direct or indirect costs that are unallowable under the provisions of [48 CFR Part 31](#).

Costs or direct charges for, but not limited to, the following are not reimbursable:

- Costs for negotiation of the Contract or Contract amendments, including but not limited to proposal preparation, BOC preparation, preparation for negotiations, and negotiation of level of effort/budget.
- Costs related to disputes or E&O Claims, including but not limited to discussions, meetings and preparation of any dispute or claim related documentation.
- Mark-up on subcontractors or direct non-labor costs.
- Transfer of knowledge and information related to Key Person replacements.
- Correcting or making adjustments to incorrect or improper invoices.
- Direct compensation for items included in firm's indirect costs (unless properly credited back to indirect cost).
- Premium costs incurred as a result of working overtime or holidays. (Premium time should normally be charged to overhead. In accordance with ORS 279C.520, employees shall be paid at not less than time and one-half for all overtime worked and for work on legal holidays, except for individuals who are excluded from receiving overtime under personal services contracts pursuant to ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209.)

## **J. INDIRECT COSTS; SALARY and BILLING RATE SCHEDULES**

**1. Approved cost data on file with ODOT** - If Consultant or its subconsultants have current, approved overhead, salary, or NBR rate schedules on file at ODOT, Consultant and its subconsultants will submit those approved rate schedules and any required certifications (or County may obtain rate schedules from ODOT) as required in subsections 2 and 3 below for use under the Contract.

**2. Overhead Schedule** - If Consultant or subconsultants calculate overhead as part of their normal business practice, the overhead schedules shall be prepared and submitted in accordance with ODOT's Billing Rate Policy (as may be revised from time to time by ODOT) available at: <https://www.oregon.gov/ODOT/Business/Procurement/DocsPSK/brPolicy.pdf>. Consultant Certification of compliance with Federal Cost Principles is required per FHWA directive 4470.1a: <https://www.fhwa.dot.gov/legregs/directives/orders/44701a.htm>. A signed [Certification of Final Indirect Costs form](#) must be submitted with the overhead schedule.

In order to assess the adequacy of an audited overhead rate for use in fair and reasonable price negotiation, County and/or ODOT may evaluate a firm's financial capability, internal control structure, and overhead schedule. This includes a determination as to the applicability of historical overhead rates to the anticipated future contract period, performing financial ratio analysis, evaluating overhead account trends and utilization rates for reasonableness.

### **3. Salary and Billing Rate Schedules**

Consultant shall, and shall cause all of its subconsultants to submit electronically to County the applicable rate schedules described below.

**Direct Salary Rate Schedule** - includes the name, classification and actual direct salary rate as approved for each employee that may be used under the Contract. This schedule is required for firms that calculate an overhead rate. This schedule will not be included in the Contract but will be retained by County.

**Negotiated Billing Rate Schedule** - may be required for Consultants or subconsultants that do not have a cognizant or acceptable independent audit for overhead rates (or do not calculate overhead as part of their normal accounting practice) and County determines it is in the public's best interest to negotiate specific billing rates. Instead of calculating a billing rate using a formula that applies overhead, profit, and FCCM to the direct salary rate, this schedule lists negotiated rates that are fully inclusive of profit, overhead and any cost of living or merit raises. The billing rates invoiced under the Contract must not exceed the rates per classifications listed in the schedule and may be no greater than the lowest rates charged to other public or private clients.

**Direct Non-Labor Rate Schedule** - is an optional schedule used to list actual costs of reimbursable items that are not included in the firm's overhead rate (or that are properly applied as a credit in overhead calculation).

**Approved Rate Schedules** - The rate schedules approved for the Contract and the BOC are incorporated into this Contract. Prior to approval of additional subconsultants, Consultant shall provide to County any requested documentation of qualifications and experience of the prospective subconsultant and its staff.

#### **K. RATE REVISIONS**

The hourly rates (including escalations, if any) approved for use under this Contract shall remain in effect throughout the duration of the Contract unless revisions are approved by County. Any approved revisions to the hourly rates allowable under the Contract shall not cause an increase in the Contract NTE amount (exceptions may be approved by County on a case by case basis).

#### **L. BREAKDOWN OF COSTS (BOC)**

Prior to execution of the Contract or any amendments that add Services, Consultant shall prepare and submit a BOC based on the approved overhead and actual direct salary rates (and approved NBRs as applicable) for each classification to be used under the Contract. Consultant shall include names of proposed staffing in the BOC.

The BOC must include a detailed breakdown of the costs for each element of the work regardless of compensation method. The BOC must identify:

- a) the proposed staff assignments (classifications and names) and hours per task and sub-task;
- b) an itemization with documentation (estimates from vendors shall be provided upon request) to support rental equipment, flaggers, travel and other direct non-labor expenses; and
- c) the estimate for Services as provided by each subconsultant that shows the assigned staff and hours per task and sub-task and itemized direct non-labor costs. County may ask for qualifications of any staff assigned to work on a project if they were not included in Statement of Proposal originally submitted for solicitation.
- d) the certification status of any disadvantaged business enterprise, minority-owned business, woman-owned business, service-disabled veteran-owned business or emerging small business subcontractors included in the BOC.
- e) **Contingency Tasks.** Amounts for any contingency tasks must be shown as a separate line-item for each task. The amount for a contingency task must include all labor, overhead, profit, and expenses for the task. Expenses for contingency tasks must not be included in an overall amount for direct non-labor expenses applied to the budget for the non-contingency tasks. Enter the agreed to unit and extended amounts for contingency tasks in the Contingency Task Summary table.

**The final BOC agreed to by the Parties is incorporated by this reference**

Breakdown of Costs - Dated: 3-18-2019

PA/ATA or Contract Number: 2018-103
WOC Number: #A
PROJECT NAME: South End Road @ MP 3.8 Project

Table with Multipliers and Billing Rate Multipliers. Columns include % of budget in Current Year (CY), Accepted Overhead, FFCM, % of budget in CY+1, Negotiated Profit, % of budget in CY+2, Annual Escalation Rate, % of budget in CY+3, and Weighted Escalation Factor.

Cell Color Legend
Yellow cells are for data entry
Green cells have formulas (no data entry unless specified)
Grey cells are section dividers (no data entry unless specified)

For instructions, click on 'Instructions' tab below.

David Evans and Associates, Inc. Certification: Not Certified

Main data table with columns for Job Classifications (Project Manager III, Engineer VI, etc.), Hours, Escalated Direct Labor or NBR \$, Overhead, FFCM, Direct Expenses, and Total Cost. Rows include Project Management, Survey, Environmental Services, Public Involvement Support, Utilities, Geotechnical/Pavement Services, Hydraulics Related Services, Traffic Engineering and Management, Roadway Design, Retaining Wall Design, Design Acceptance Package, Right of Way (ROW), and Plans, Specifications, and Estimate (PS&E).

Summary rows for Contingency Tasks/Deliverables and Environmental Services.





Breakdown of Costs - Dated: 3-18-2019

PA/ATA or Contract Number: 2018-103  
 WOC Number: A  
 PROJECT NAME: South End Road @ MP 3.8 Project

MULTIPLIERS		
% of budget in Current Year (CY)	80.00%	Accepted Overhead
% of budget in CY+1	20.00%	FCCM
% of budget in CY+2	0.00%	Negotiated Profit
% of budget in CY+3	0.00%	Annual Escalation Rate
Weighted Escalation Factor	1.007	

Enter Billing Rate Multipliers  
 These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and escalation at 4.5%.

Cell Color Legend  
 Yellow cells are for data entry  
 Green cells have formulas (no data entry unless specified)  
 Grey cells are section dividers (no data entry unless specified)

For instructions, click on "Instructions" tab below.

Job Classifications (Individuals' names are optional)

Direct Salary Rate (Avg. Actual, Max) Current Year  
 Annualized Direct Salary Rate (OR enter Negotiated Billing Rate)  
 Fully Burdened Billing Rate

**Epic Land Solutions, Inc.**

Certification: **Not Certified**

NON-CONTINGENCY TASKS/DELIVERABLES

Task #	Description	Hours/Task	Advisory Manager	Project Manager	Sr. ROW Agent	ROW Agent	Administrative Support	Budget & Financial Controls	Appraiser	Technical Support	QA/QC	Hours	Escalated Direct Labor or NBR \$	Overhead	FCCM	Direct Expenses	Total Cost	Profit	
<b>1</b>	<b>PROJECT MANAGEMENT</b>	<b>3,087.64</b>																	
1.1	Administration & Record Keeping	890																	
1.2	Coordination	1,297																	
1.3	Project Meetings	901																	
<b>2</b>	<b>SURVEY</b>	<b>4,279.33</b>																	
2.1	Research	227																	
2.2	Horizontal and Vertical Control Network	201																	
2.3	Monument Recovery	490																	
2.4	Topographic Data, Detailed Base Map and Digital Terrain Model (DTM)	1,919																	
2.5	Existing ROW & Boundary Resolution	1,079																	
2.6	Right Of Way Engineering (Mapping & Descriptions)	364																	
<b>3</b>	<b>ENVIRONMENTAL SERVICES</b>	<b>1,973.64</b>																	
3.1	NEPA Categorical Exclusion (CE) and Programmatic CE (PCE) and Supporting Documentation	373																	
3.2	Archaeological Resources																		
3.3	Historic Resources																		
3.4	Hazardous Materials																		
3.5	Biological Resources Compliance and Permitting	701																	
3.6	Wetland and Water Resources	900																	
<b>4</b>	<b>PUBLIC INVOLVEMENT SUPPORT</b>	<b>1,321.99</b>																	
4.2	Public Involvement Meetings	1,322																	
<b>5</b>	<b>UTILITIES</b>	<b>1,139.83</b>																	
5.1	Utility Location and Coordination	239																	
5.2	Utility Report	183																	
5.3	Utility Coordination Meetings	48																	
5.4	Utility Relocations	646																	
5.6	Utility Certification	24																	
<b>6</b>	<b>GEOTECHNICAL/PAVEMENT SERVICES</b>	<b></b>																	
6.1	Data Review/Reconnaissance																		
6.2	Exploration and Testing Work Plan (ETWP)																		
6.3	Geotechnical and Pavement Explorations																		
6.4	Laboratory Testing																		
6.5	Geotechnical Monitoring																		
6.6	Geotechnical Report and Foundation/Geotechnical Data Sheets																		
6.7	Draft & Final Report																		
6.8	Plans & Specifications																		
<b>7</b>	<b>HYDRAULICS RELATED SERVICES</b>	<b>3,237.23</b>																	
7.5	Stormwater Management Design	2,191																	
7.6	Stormwater Design Memo	916																	
7.7	Stormwater Operation and Maintenance (O&M) Manual	130																	
<b>8</b>	<b>TRAFFIC ENGINEERING AND MANAGEMENT</b>	<b></b>																	
8.1	Permanent Signing																		
8.2	Permanent Pavement Markings																		
8.3	Traffic Control Plans (TCPs)																		
<b>10</b>	<b>ROADWAY DESIGN</b>	<b>819.52</b>																	
10.1	Design Criteria	234																	
10.2	Concept Plans/Alternative Analysis	585																	
<b>11</b>	<b>NEW RETAINING WALL DESIGN</b>	<b>2,052.10</b>																	
11.1	Retaining Wall Type, Size and Location (TS&L)	638																	
11.2	Preliminary Wall Design	425																	
11.3	Advance Retaining Wall Design	579																	
11.4	Final Retaining Wall Design	410																	
<b>13</b>	<b>DESIGN ACCEPTANCE PACKAGE (30%)</b>	<b>1,918.46</b>																	
13.1	Design Acceptance Package	1,918																	
<b>14</b>	<b>RIGHT OF WAY (ROW)</b>	<b></b>																	
14.1	RW Meetings (PE & TW Phase)	4																	
14.2	Title Reports and Document Requests	2																	
14.4	Right of Way Programming Estimate	1																	
14.5	Preliminary Activities	9																	
14.6	Appraisal and Appraisal Review	5																	
14.7	Acquisition Services	13																	
14.10	ROW Certification																		
<b>15</b>	<b>PLANS, SPECIFICATIONS, AND ESTIMATE (PS&amp;E)</b>	<b>7,496.34</b>																	
15.1	Preliminary PS&E (60%)	2,443																	
15.2	Advance PS&E (90%)	2,939																	
15.3	Final PS&E Package (100%)	2,114																	
<b>16</b>	<b>BID AND AWARD ASSISTANCE</b>	<b>476.14</b>																	
16.1	Questions During Bidding	476																	
<b>TOTAL Non-Contingency</b>	<b></b>	<b>27,802</b>																	

CONTINGENCY TASKS/DELIVERABLES

<b>C3</b>	<b>ENVIRONMENTAL SERVICES</b>	<b>882.07</b>																	
C3.2.2	Phase I Archaeological Investigation with Technical Rep																		
C3.6.2	Joint Permit Application for Impacts to Wetland/Waters	882																	

Enter Billing Rate Multipliers  
 These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and escalation at 4.5%.

**Global Transportation Engineering Corporation**

Certification: **DBE**

MULTIPLIERS		
% of budget in Current Year (CY)	80.00%	Accepted Overhead
% of budget in CY+1	20.00%	FCCM
% of budget in CY+2	0.00%	Negotiated Profit
% of budget in CY+3	0.00%	Annual Escalation Rate
Weighted Escalation Factor	1.007	

Enter Billing Rate Multipliers  
 These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and escalation at 4.5%.

**DATA ENTRY SECTION**

**CALCULATION SECTION**

Principal Project Manager	Sr. Project Engineer	Sr. Engineering Associate	Tech Y/V (CAD Support)	Hours	Escalated Direct Labor or NBR \$	Overhead	FCCM	Direct Expenses	Total Cost	Profit
\$140.00	\$140.00	\$120.00	\$75.00		\$140.00	\$140.00	\$120.00	\$75.00	\$95.00	\$0.00

**Heritage Research Associates, Inc.**

MULTIPLIERS		
% of budget in Current Year (CY)	80.00%	Accepted Overhead
% of budget in CY+1	20.00%	FCCM
% of budget in CY+2	0.00%	Negotiated Profit
% of budget in CY+3	0.00%	Annual Escalation Rate
Weighted Escalation Factor	1.007	

Enter Billing Rate Multipliers  
 These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and escalation at 4.5%.

**DATA ENTRY SECTION**

**CALCULATION SECTION**

GIS Project Manager	Sr. Archaeologist/Historian/Geologist	Project Archaeologist	Technical Specialist, MA	Asst Field/Lab Director/Field Crew	Office/Lab Support	Hours	Escalated Direct Labor or NBR \$	Overhead	FCCM	Direct Expenses	Total Cost	Profit
\$59.61	\$59.61	\$46.44	\$34.28	\$28.39	\$28.78		\$59.61	\$59.61	\$46.44	\$34.28	\$28.39	\$28.78
\$60.03	\$60.03	\$46.77	\$34.52	\$28.59	\$26.97	6	\$60.03	\$60.03	\$46.77	\$34.52	\$28.59	\$26.97
\$156.45	\$156.45	\$121.88	\$89.97	\$74.51	\$70.28	6	\$156.45	\$156.45	\$121.88	\$89.97	\$74.51	\$70.28

Breakdown of Costs - Dated: 3-18-2019

PA/ATA or Contract Number: 2018-103  
WOC Number: N/A  
PROJECT NAME: South End Road @ MP 3.8 Project

Cell Color Legend  
Yellow cells are for data entry  
Green cells have formulas (no data entry unless specified)  
Grey cells are section dividers (no data entry unless specified)

For Instructions, click on "Instructions" tab below.

Job Classifications (Individuals' names are optional)

Direct Salary Rate (Avg. Actual, Max) Current Year  
Annualized Direct Salary Rate (OR enter Negotiated Billing Rate)  
Fully Burdened Billing Rate

MULTIPLIERS table for Epic Land Solutions, Inc. showing budget percentages for CY, CY+1, CY+2, CY+3 and Weighted Escalation Factor of 1.007.

Enter Billing Rate Multipliers  
These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and escalation at 4.5%.

Epic Land Solutions, Inc.

Certification: Not Certified

Main data table for Epic Land Solutions, Inc. with columns for Job Classifications (Advisory Manager, Project Manager, etc.) and Calculation Section (Hours, Escalated Direct Labor, Overhead, FCCM, etc.).

MULTIPLIERS table for Global Transportation Engineering Corporation showing budget percentages and Weighted Escalation Factor of 1.007.

Enter Billing Rate Multipliers  
These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and escalation at 4.5%.

Global Transportation Engineering Corporation

Certification: DBE

Main data table for Global Transportation Engineering Corporation with columns for Job Classifications (Principal Project Manager, Sr. Project Engineer, etc.) and Calculation Section.

MULTIPLIERS table for Heritage Research Associates, Inc. showing budget percentages and Weighted Escalation Factor of 1.007.

Heritage Research Associates, Inc.

Main data table for Heritage Research Associates, Inc. with columns for Job Classifications (GIS Project Manager, Sr. Archaeologist, etc.) and Calculation Section.

TOTAL Non-Contingency + Contingency summary row for all three companies.

Breakdown of Costs - Dated: 3-18-2019

PA/ATA or Contract Number: 2018-103
WOC Number: N/A
PROJECT NAME: South End Road @ MP 3.8 Project

Enter Billing Rate
These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and

Table with columns for MULTIPLIERS and Enter Billing Rate Multipliers. Includes rows for % of budget in Current Year (CY), % of budget in CY+1, % of budget in CY+2, % of budget in CY+3, and Weighted Escalation Factor.

Call Color Legend
Yellow cells are for data entry
Green cells have formulas (no data entry unless specified)
Grey cells are section dividers (no data entry unless specified)

For instructions, click on "Instructions" tab below.

Certification: DBE

Shannon & Wilson

Certification: Not Certified

Project Summary

Main cost breakdown table with columns for Hours, Escalated Direct Labor or NBR \$, Overhead, FCCM, Direct Expenses, Total Cost, and Profit. Includes sections for PROJECT MANAGEMENT, SURVEY, ENVIRONMENTAL SERVICES, PUBLIC INVOLVEMENT SUPPORT, UTILITIES, GEOTECHNICAL/PAVEMENT SERVICES, HYDRAULICS RELATED SERVICES, TRAFFIC ENGINEERING AND MANAGEMENT, ROADWAY DESIGN, DESIGN ACCEPTANCE PACKAGE (30%), RIGHT OF WAY (ROW), PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E), and BID AND AWARD ASSISTANCE.

DATA ENTRY SECTION and CALCULATION SECTION tables. Includes columns for various job classifications (Sr. VP, VP, Sr. Assoc., Assoc., Sr. Prof. III, Sr. Prof. II, Sr. Prof. I, Prof. IV, Prof. III, Sr. Tech Services, Prof. II, Sr. Office Services, Office Services IV, Office Services III, Office Services 1) and summary columns for Hours, Escalated Direct Labor or NBR \$, Overhead, FCCM, Direct Expenses, Total Cost, and Profit.

GRAND TOTAL CALCULATION SECTION table. Summary table with columns for Hours, Escalated Direct Labor or NBR \$, Overhead, FCCM, Direct Expenses, Total Cost, Profit, Cost + Profit, and % of Total Non-Contingency Labor Costs.



## EXHIBIT C - INSURANCE

All insurance required by this Contract shall be maintained with insurers with an A.M. Best Financial Strength Rating of no less than A-. Insurers must be legally authorized to transact the business of insurance and issue coverage in the State of Oregon. Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions and self-insurance. Prior to beginning work and during the term of this Contract, including any extensions or warranty period, Consultant shall maintain in force at its own expense each insurance set forth below:

1. **Workers' Compensation** insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (Consultants with one or more employees, unless exempt under ORS 656.027).
2.  **Required by County**  **Not required by County.**  
**Professional Liability** insurance with a per claim, incident or occurrence limit, or the equivalent, of not less than  \$1,000,000, or  \$2,000,000. Any annual aggregate limits must not be less than  \$1,000,000, or  \$2,000,000. This insurance must cover damages caused by negligent acts, errors or omissions of Consultant and Consultant's subcontractors, agents, officers or employees related to the professional Services to be provided under the Contract. If this insurance is provided on a "claims made" basis, Consultant shall continue the same coverage for  **2 years**,  **3 years**, or  **6 years** after completion of the Services or acquire "tail" coverage or an Extended Reporting Period endorsement for the foregoing extended period beyond Contract expiration or termination. Evidence of any required extended period coverage will be a condition of final payment under the Contract.
3.  **Required by County**  **Not required by County.**  
**Commercial General Liability** insurance must be issued on an occurrence basis with per occurrence limit, or the equivalent, of not less than \$1,000,000 covering "bodily injury" and "property damage." Any annual aggregate limits shall not be less than \$2,000,000.
4.  **Required by County**  **Not required by County.**  
**Automobile Liability** insurance covering Consultant's business-related automobile use, with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for "bodily injury" and "property damage," including coverage for all owned, non-owned, rented or hired vehicles.
5. **Notice of change or cancellation.** There shall be no cancellation, material change (one that would adversely impact the protection of County provided through the insurance coverages required in this **Exhibit C**), reduction of limits or intent not to renew the insurance coverage(s) without 30 calendar days prior written notice from Consultant or its insurer(s) to County. **All policies and certificates of insurance, including Workers' Compensation, must include a notice of cancellation or nonrenewal clause as required under ORS 742.700 to 742.710.**
6. **Certificates of Insurance.** As evidence of the insurance coverages required by this Contract, Consultant shall furnish acceptable insurance certificates to County prior to Contract execution. Throughout the life of this Contract, Consultant shall submit updated certificates of insurance prior to the policy expiration date(s) indicated for the required coverages. If requested by County, Consultant shall either: a) provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to County; or b) make such insurance policies, endorsements, self-insurance documents and related insurance documents available for inspection by County's representatives at a location in the State of Oregon that is reasonably convenient for County's representatives responsible for verification of the insurance coverages required under the Contract.
7. **Additional Insureds.** Insurance certificates for Automobile and Commercial General Liability must include an endorsement physically attached to the certificate specifying the County, the State of Oregon, the OTC, the Oregon Department of Transportation, and their respective officers, members, agents and employees as Additional Insureds and must expressly provide that the interest of the Additional Insureds shall not be affected by Consultant's breach of policy provisions.

**8. Subcontractors.** Consultant shall: (i) obtain proof of the above insurance coverages, as applicable, from any subcontractor providing Services related to this Contract, or (ii) include subcontractors within Consultant's coverage for the duration of the subcontractor's Services related to this Contract.

## EXHIBIT D - TITLE VI NON-DISCRIMINATION PROVISIONS

During the performance of this Contract, Consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "Consultant") agrees as follows:

- a. **Compliance with Regulations:** Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- b. **Nondiscrimination:** Consultant, with regard to the work performed by it during the Contract, shall not discriminate on the grounds or race, color, sex, or national origin in the selection and retention of subconsultants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- c. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant or supplier shall be notified by Consultant of Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
- d. **Information and Reports:** Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County, ODOT, FHWA or the Federal Transit Administration (FTA) as appropriate, to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to County, ODOT, FHWA or FTA as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. **Sanctions for Noncompliance:** In the event of Consultant's noncompliance with the nondiscrimination provisions of this Contract, County shall impose such Contract sanctions as it, ODOT, FHWA or FTA may determine to be appropriate, including, but not limited to:
  - (i) Withholding of payments to Consultant under the Contract until Consultant complies, and/or
  - (ii) Cancellation, termination or suspension of the Contract, in whole or in part.
- f. **Incorporation of Provisions:** Consultant shall include the provisions of paragraphs (a) through (e) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as County, ODOT, FHWA or FTA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event Consultant becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, Consultant may request County, ODOT, and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

## EXHIBIT E - DISADVANTAGED BUSINESS ENTERPRISE (“DBE”) PROVISIONS (Goal)

The DBE program is administered by the ODOT Office of Civil Rights (“OCR”). As the County is entering into this Contract under authority granted by ODOT, the DBE Provisions apply the same as if ODOT were the contracting agency.

“Consultant” and “Contractor” are hereinafter referred to as “Contractor”. See sections d and i for specific documentation and reporting requirements of Contractor.

- a. **Policy and Program Authorities:** ODOT and Contractor agree to abide by and take all necessary and reasonable steps to comply with these DBE Provisions and the following, which are incorporated in this Contract with the same force and effect as though fully set forth in this Contract:

- o [ODOT DBE Policy Statement](#)
- o [ODOT DBE Program Plan](#), and
- o Requirements of [Title 49, Code of Federal Regulations, Part 26](#) - Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

ODOT’s DBE Program authorities are set forth in the ODOT DBE Program Plan.

- b. **DBE Goals:** ODOT’s overall goal for DBE participation is 11.6% for FHWA funded contracting and 6% (proposed) for FTA funded contracting. For FHWA funded contracting, ODOT may assign DBE Contract goals to increase participation by DBEs. For any Contract with an assigned DBE goal, Contractor shall select a portion of work available under the Contract for DBE participation. Contractor may use DBE subcontractors, suppliers, manufacturers, or Professional Services and Related Services providers to fulfill the assigned DBE Contract goal as long as the DBE is certified in the types of work selected. The assigned DBE Contract goal remains in effect throughout the life of the Contract. Dollar values of participation shall be credited toward meeting the assigned DBE Contract goal based on DBE gross earnings.

- A separate DBE Contract goal, as set forth on page 1 of the WOC or project-specific Contract (as applicable), has been assigned for this procurement.

- c. **Nondiscrimination Requirement:** Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as ODOT deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR § 26.13(b)).
- d. **Documentation of Proposed Participation:** Contractor shall document sufficient DBE participation to meet an assigned Contract goal or, alternatively, document adequate good faith efforts to do so (see 49 CFR § 26.53). All work committed to a DBE firm toward meeting the assigned participation goal must be performed under a written subcontract. The subcontract must fully describe any work committed to be performed by the DBE and shall include all required flow-down provisions of the primary Contract. Contractor must complete and submit the following documentation, as applicable:

1. **Subcontractor Solicitation and Utilization Report (SSUR)** - submitted with proposal in response to formal and informal Requests for Proposals (RFPs).



2. **Breakdown of Costs (“BOC”) or (“BOC-NBR”), as applicable** - submitted prior to negotiation and execution of the Contract and each amendment that changes the scope of work and costs under the Contract. The BOC forms and BOC Requirements are available from the Internet at:  
<https://www.oregon.gov/ODOT/Business/Procurement/Pages/PSK.aspx>. The BOC or BOC-NBR must clearly list any tasks or subtasks to be performed by subcontractors (DBEs and non-DBEs), each subcontractor’s Federal Tax ID and identification of any required personnel. Include in the Expense Detail tab any required equipment and supplies furnished by the DBE, any of the prime contractor’s resources that will be provided for the DBE’s use, and identification of any second or lower tier subcontractors with the dollar amounts for each.
  3. **Committed DBE Breakdown and Certification Form(s)-AE**. Required for all Contracts with assigned goals and completed prior to Contract execution and any proposed substitution. See submittal instructions on the Instructions tab of the form.
  4. **Subcontractor Reporting**: Complete and submit an initial **Paid Summary Report** [form 734-2882] per the instructions on the form.
- e. **Good Faith Efforts**: Contractor shall make good faith efforts, as set forth in 49 CFR § 26.53, Appendix A to Part 26, and ODOT DBE Program Plan, to obtain and support DBE participation that could reasonably be expected to produce and maintain a level of DBE participation sufficient to meet the Contract goal. Good faith efforts are required during solicitation, upon Contract award, and continue throughout the performance of the Contract to maximize DBE participation. The Agency (or local agency when applicable) Project Manager (“APM”) may request Contractor to submit evidence of good faith efforts prior to Contract execution or at any time during the course of the Contract and Contractor shall promptly submit such evidence. Contractor shall use the specific DBEs listed in the Committed DBE Breakdown and Certification form(s) to perform the work and supply the materials for which each is listed unless the contractor obtains ODOT’s prior written consent to terminate and replace a DBE as provided in section j. below. Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBEs as required by this provision.
- f. **Commercially Useful Function (“CUF”)**: Contractor is responsible to ensure the DBE performs a commercially useful function on the Contract. A DBE performs a CUF when it is responsible for execution of the work of the Contract/subcontract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. Additional detail regarding CUF requirements and other conditions for counting participation by DBE contractors is set forth in 49CFR § 26.55. The APM will review the proposed DBE participation and may provide written comments as to whether the activities and type of work identified for DBEs complies with program regulations. In those instances where proposed activity and type of work violates applicable regulations, written comments will be offered as to corrective action required in order to comply with the regulations. ODOT may perform a CUF review at any time during the performance of the Contract.
- g. **Changes in Work Committed to DBE**: ODOT will consider the impact on DBE participation in instances where the prime Contract is amended to reduce, or delete work committed to the DBE. In such instances, Contractor shall not be required to replace the work but is encouraged to do so to the maximum extent practicable.
- h. **Prompt Payment and Retainage**: Contractor shall pay each subcontractor for satisfactory performance under its contract no later than 10 calendar days from receipt of each payment Contractor receives from ODOT (or local agency when applicable) for the subcontracted work. In addition, within 10 calendar days of receipt of retainage from ODOT (or local agency when applicable), Contractor shall pay to each subcontractor the retainage that pertains to the work of that subcontractor.

- i. **Reporting Requirements:** Contractor must report payment information for all subcontractors and suppliers used under the Contract throughout the period of performance. Contractor shall complete and submit initial, interim and final Paid Summary Report(s) [form 734-2882] per the instructions included on the form.
- j. **Termination of DBE Notification Requirement:** Contractor shall comply with all requirements set forth in 49 CFR § 26.53 regarding termination of DBEs including, without limitation, documentation of good cause, 5-day notice to the DBE subcontractor and ODOT, DBE responses, ODOT’s prior written consent of DBE termination, and replacement of DBEs. ODOT will provide such written consent only if it agrees the prime contractor has good cause to terminate the DBE in accordance with 49 CFR 26.53(f)(3).
- k. **Remedies:** Contractor’s failure to comply with these DBE Provisions and the requirements of 49 CFR Part 26 may result in one or more of the following administrative actions as deemed appropriate by ODOT: non-compliance documented in ODOT evaluation of Contractor performance, a corrective action plan prepared by Contractor, ODOT (or local agency when applicable) withholding of retainage, suspension of work, reporting of non-compliance to the federal System for Award Management (“SAM”) available at <https://sam.gov>, any other remedies provided under the Contract.
- l. **Information/Questions:** The DBE program is administered by the ODOT Office of Civil Rights (“OCR”). Questions related to the DBE Program may be sent via email to [ocrinforequest@odot.state.or.us](mailto:ocrinforequest@odot.state.or.us) or otherwise directed to: Oregon Department of Transportation Office of Civil Rights 3930 Fairview Industrial Drive SE (MS 23), Salem, OR 97302; Phone: 503-986-4350 Fax: 503-986-6382.
- m. **Directory of Certified Firms:** A searchable database for active certified firms (by NAICS code, NIGP code, ODOT code, certification type, location or project ethnicity goals) is available on line at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.

**Related Web Sites:**

All forms, documents and CFR citations referenced or linked in these DBE Provisions are available on line at:

- o **Forms:** <https://www.oregon.gov/ODOT/Business/OCR/Pages/Forms.aspx>
- o **Documents:** <https://www.oregon.gov/ODOT/Business/OCR/Pages/Disadvantaged-Business-Enterprise.aspx>
- o **49 CFR Part 26:** <https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=34ea04c7ed3d45b0e41f82a5646f1c15&rgn=div5&view=text&node=49:1.0.1.1.20&idno=49>

**Acronyms & Definitions Applicable to Exhibit E**

APM	ODOT’s or local agency’s Project Manager
BOC	Breakdown of Costs
BOC-NBR	Breakdown of Costs for Negotiated Billing Rates
CFR	Code of Federal Regulations
CUF	Commercially useful function
DBE	Disadvantaged Business Enterprise
OCR	ODOT Office of Civil Rights
ODOT	Oregon Dept. of Transportation
RFP	Request for Proposals
SSUR	Subcontractor Solicitation and Utilization Report
USDOT	United States Department of Transportation

## EXHIBIT F - SPECIAL TERMS & CONDITIONS

Provisions in this Exhibit F are in addition to and do not supersede the terms and conditions set forth in the Contract.

## EXHIBIT G - RESERVED

## EXHIBIT H - RESERVED

## EXHIBIT I - ERRORS & OMISSIONS (“E&O”) CLAIMS PROCESS

**Exhibit I** is not physically attached but is incorporated into this Contract with the same force and effect as though fully set forth herein. For purposes of this Contract, the term “Agency”, as used in the E&O Claims Process, means “local public agency”. The E&O Claims Process (as may be revised from time to time by ODOT) is available at the following Web address as Exhibit I:

<http://www.oregon.gov/ODOT/Business/Procurement/DocsPSK/xbti.pdf>

**EXHIBIT J - CONTACT INFORMATION and KEY PERSONS**

**1. Party Contact Information.**

<b>a.1 * County's Project Manager (APM) Name:</b>	Joel Howie
<b>Ph:</b>	503-742-4658
<b>E-mail:</b>	<a href="mailto:jhowie@clackamas.us">jhowie@clackamas.us</a>

**a.2 \*: County Contract Administrator for contractual matters:**

<b>Name:</b>	
<b>Ph:</b>	
<b>E-mail:</b>	

**a.3 County's address for invoicing:**

<b>Mailing Address:</b>	150 Beaver Creek Road, Oregon City, OR 97045
<b>E-mail:</b>	<a href="mailto:jhowie@clackamas.us">jhowie@clackamas.us</a>

**b. \*\*Consultant's Project Manager (PM) for this Contract is:**

<b>Name:</b>	Joel Tubbs, PE
<b>Ph:</b>	503-223-6663
<b>E-mail:</b>	<a href="mailto:Joel.tubbs@deainc.com">Joel.tubbs@deainc.com</a>

**c. Consultant's remit address for payments and contact for billings:**

<b>Name:</b>	Davin Evans and Associates, Inc.
<b>Address:</b>	2100 SW River Parkway Portland, Oregon 97201
<b>Ph:</b>	503-223-6663
<b>E-mail:</b>	<a href="mailto:Joel.tubbs@deainc.com">Joel.tubbs@deainc.com</a>

\* County may change the Contract Administrator or Project Manager designation by promptly sending written notice (e-mail acceptable) to Consultant, with a copy to ODOT Procurement Office.

\*\*Any changes to Consultant's Project Manager must be approved in writing (e-mail acceptable) by County.

## 2. Key Persons

Consultant acknowledges and agrees that County selected Consultant, and is entering into the Contract because of the special qualifications of Consultant's key personnel ("Key Persons" or "Key Personnel"), which may include specific staff agreed to during Contract negotiations. In particular, County, through the Contract is engaging the expertise, experience, judgment and personal attention of the Key Persons identified in the Contract.

Each Key Person shall not delegate performance of any management powers or other responsibilities he or she is required to provide under the Contract to another of Consultant's or subconsultant's personnel without first obtaining the written consent of County. Further, Consultant shall not re-assign or transfer any Key Person to other duties or positions such that the Key Person is no longer available to provide County with his or her expertise, experience, judgment, and personal attention according to any schedule established under the Contract without first obtaining County's prior written consent to such re-assignment or transfer. Notification of request to change a Key Person shall be in writing (via e-mail or other form as may be required by County.) Throughout the term of the Contract, Consultant shall provide updated information (if requested by County) to demonstrate the continuing qualifications of any staff working on County projects, including those approved as Key Persons.

In particular, County, through the Contract is engaging the expertise, experience, judgment and personal attention of the following Key Persons:

Name	Role
Joel Tubbs, PE, SE	Project Manager
Guido Partier, PE	Structures
John Macklin	Environmental
Rick Smith, PE	Construction PM/Constructability Review
Park Piao, PE, GE	Geotechnical

## 3. Reassignment or Transfer of Key Person

In the event Consultant requests that County approve a reassignment or transfer of a Key Person:

- Consultant shall provide a resume for the proposed substitute demonstrating that the proposed replacement has qualifications that are equal to or better than the qualifications of the person being replaced.
- County shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person.
- Any substitute or replacement for a Key Person must be approved in writing (e-mail acceptable) and shall be deemed to be a Key Person under the Contract.

Consultant agrees that the time/costs associated with the transfer of knowledge and information for a Key Person replacement is not a cost borne by County and shall not be billed to County. This includes labor hours spent reviewing project documentation, participation in meetings with personnel associated with the Contract/project, and participating in site visits to become familiar with the project.



CHRISTA BOSSERMAN WOLFE, CPA  
DIRECTOR

**DEPARTMENT OF FINANCE**  
PUBLIC SERVICES BUILDING  
2051 KAEN ROAD | OREGON CITY, OR 97045

May 16, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Amendment to the Assessor's CAFFA  
Grant Application for FY 2019-20

<b>Purpose/Outcome</b>	This is an annual requirement to accompany the application for a grant from the State of Oregon Department of Revenue to the Clackamas County Assessor's Office. The amendment includes a new position in the Assessor's office, which was not included in the first application approved on 4-25-19.
<b>Dollar Amount and Fiscal Impact</b>	The grant provides approximately 18% of the revenue for the Assessor's Office.
<b>Funding Source</b>	The State of Oregon
<b>Duration</b>	Effective July 1, 2019 to June 30, 2020
<b>Previous Board Action</b>	Original application was approved at the 4-25-19 business meeting. This amendment completes the grant application.
<b>County Counsel Review</b>	Reviewed and approved by County Counsel on 4-17-2019.
<b>Strategic Plan Alignment</b>	Build public trust through good government
<b>Contact Person</b>	Tami Little, County Assessor 503-655-8302 Jeff Aldridge, Finance Department 503-742-5420

**BACKGROUND:**

County Assessment Function Funding Assistance (CAFFA) is a grant from the State of Oregon to Clackamas County Assessor's Office. The grant provides approximately 18% of the revenue for the Assessor's Office. All documents required to be included in the grant application are attached. They include a summary of expense, two staffing reports, two narrative reports, and two work activity forms, Grant Application and Racial and Ethnic Impact Statement. The application and accompanying documents must be received in Salem by June 1, 2019, and this material has been reviewed and approved by County Counsel.

The amendment includes a new position in the Assessor's office increasing the amount of the grant by approximately \$10,000. The attached summary of expenses, form 7 outlines this change.

**RECOMMENDATION:**

Staff respectfully recommends the Board of Commissioners approve this amendment to the CAFFA grant application.

Respectfully submitted,

Jeff Aldridge  
Grants Manager



# Form 7 Summary of Expenses

**2019-2020**

County CLACKAMAS

	A. Assessment Administration	B. Valuation	C. BOPTA	D. Tax Collection & Distribution	E. Cartography*	F. Dedicated IT services for A&T	Totals
<b>Current operating expenses</b>							
1. Personnel services	2,026,035	2,966,190	109,128	756,244	600,749	105,935	6,564,281
2. Materials and services	708,168	911,609	38,622	252,529	222,630	38,000	2,171,558
3. Transportation	0	19,000	0	0	0	0	19,000
4. Total current operating expenses (Total direct expenses)	2,734,203	3,896,799	147,750	1,008,773	823,379	143,935	8,754,839

\* Include approved grant funding for ORMAP

**Indirect expenses**

5. Total direct expenses (line 4) .....	8,754,839
6. If you use the 5 percent method to calculate your indirect expenses, enter 0.05 in this box. ....	0.05
<b>Total indirect expenses</b> (line 5 multiplied by line 6) .....	437,742
6A. If you use a percent amount approved by a federal granting agency to calculate your indirect expenses, enter that percentage in this box.....	0.00000
<b>Total indirect expenses</b> (line 6A multiplied by the direct expense amount for the category/categories that your certificate allows)	0
7. <b>Total indirect expenses</b> .....	437,742

**Capital outlay**

	Assessment Administration	Valuation	BOPTA	Tax Collection & Distribution	Cartography	Data Processing Support (IT, AT)	Total capital outlay without regard to limitation
8. Enter the actual capital outlay without regard to limitation.	0	122,947	0	0	0	0	122,947
9. Total direct and indirect expenses (sum of lines 4 and 7) .....							9,192,581
10. Direct and indirect expenses multiplied by 0.06 .....							551,555
11. The greater of line 10 or \$50,000.....							551,555
12. Capital outlay (the lesser of line 8 or line 11) .....							122,947
13. Total expenditures for CAFFA consideration (sum of lines 4, 7, and 12) .....							9,315,528



# Form 7 Summary of Expenses

**2019-2020**

County CLACKAMAS

	A. Assessment Administration	B. Valuation	C. BOPTA	D. Tax Collection & Distribution	E. Cartography*	F. Dedicated IT services for A&T	Totals
<b>Current operating expenses</b>							
1. Personnel services	2,026,409	2,856,812	109,136	756,379	600,860	105,935	6,455,531
2. Materials and services	722,466	897,988	38,881	257,673	226,870	38,000	2,181,878
3. Transportation	0	19,000	0	0	0	0	19,000
4. Total current operating expenses (Total direct expenses)	2,748,875	3,773,800	148,017	1,014,052	827,730	143,935	8,656,409

\* Include approved grant funding for ORMAP

**Indirect expenses**

5. Total direct expenses (line 4) .....	8,656,409
6. If you use the 5 percent method to calculate your indirect expenses, enter 0.05 in this box. ....	0.05
<b>Total indirect expenses</b> (line 5 multiplied by line 6) .....	432,820
6A. If you use a percent amount approved by a federal granting agency to calculate your indirect expenses, enter that percentage in this box.....	0.00000
<b>Total indirect expenses</b> (line 6A multiplied by the direct expense amount for the category/categories that your certificate allows)	0
7. <b>Total indirect expenses</b> .....	432,820

**Capital outlay**

	Assessment Administration	Valuation	BOPTA	Tax Collection & Distribution	Cartography	Data Processing Support (IT, AT)	Total capital outlay without regard to limitation
8. Enter the actual capital outlay without regard to limitation.	0	122,947	0	0	0	0	122,947
9. Total direct and indirect expenses (sum of lines 4 and 7) .....							9,089,229
10. Direct and indirect expenses multiplied by 0.06 .....							545,354
11. The greater of line 10 or \$50,000.....							545,354
12. Capital outlay (the lesser of line 8 or line 11) .....							122,947
13. Total expenditures for CAFFA consideration (sum of lines 4, 7, and 12).....							9,212,176

County Administrator Approval



DRAFT

Approval of Previous Business Meeting Minutes:

April 11, 2019

April 18, 2019

# BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

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

**Thursday, April 11, 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 Paul Savas  
Commissioner Martha Schrader

## **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

## **I. CITIZEN COMMUNICATION**

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

1. Les Poole, Gladstone – road issues, VRF.

**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. Public Hearing on the Proposed Housing and Community Development 2019 Action Plan  
Chuck Robbins, Community Development presented the staff report.

*~Board Discussion~*

Chair Bernard opened the public hearing and asked if anyone would like to speak.

1. Destin Ferdun, NW Housing Alternatives – spoke in support.
2. Angela Mullins, NW Housing Alternatives – spoke in support.
3. Amy Hamilton, NEDW – spoke in support.
4. Ann Wilkinson, Next Steps Strategies – spoke in support.

There is no Board Action on this time today. This item will come back before the Board at the May 2, 2019 regular scheduled Business meeting.

2. **Resolution No. 2019-39** for a Clackamas County Supplemental Budget (Greater than 10% and Budget Reduction) for Fiscal Year 2018-2019

Christa Wolfe, Finance presented the staff report.

*~Board Discussion~*

Chair Bernard opened the public hearing and asked if anyone would like to speak, seeing none he asked for a motion.

## **MOTION:**

Commissioner Humberston: I move we approve the Resolution for a Clackamas County Supplemental Budget greater than 10% and Budget Reduction for Fiscal Year 2018-2019.

Commissioner Fischer: Second.

all those in favor/opposed:

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

Chair Bernard announced the Board would recess as the Board of County Commissioners and convene as the Board of Health for the next items.

### **III. BOARD OF HEALTH**

#### **BOARD OF HEALTH PRESENTATION**

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

1. Emerging Public Health Issues in Clackamas County – Declining Vaccination Coverage  
Dr. Sarah Present, Julie Albers, Public Health presented the staff report including a PowerPoint presentation.

#### **BOARD OF HEALTH PUBLIC COMMENT** NONE

Chair Bernard Adjourn as the Board of Health Reconvene as the Board of County Commissioners for the remainder of the meeting.

### **IV. CONSENT AGENDA**

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

#### **MOTION:**

- |                             |   |
|-----------------------------|---|
| Commissioner Fischer:       | I move we approve the Consent Agenda.           |
| Commissioner Schrader:      | Second.   |
| all those in favor/opposed: |   |
| Commissioner Fischer:       | Aye.  |
| Commissioner Humberston:    | Aye.  |
| Commissioner Savas:         | Aye.  |
| Commissioner Schrader:      | Aye.  |
| Chair Bernard:              | Aye – the Ayes have it, the motion carries 5-0. |

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

1. Approval of Amendment No.1 to Agency Services Contract with Lifeworks Northwest for Early Assessment and Support Alliance (EASA) Services – *Behavioral Health*
2. Approval of an Intergovernmental Sub-recipient Agreement with the City of Sandy/Sandy Senior & Community Center to Provide Social Services for Clackamas County Residents age 60 and over – *Social Services*

#### **B. Department of Transportation & Development**

1. **Board Order No. 2019-40** Accepting the Final Report and Setting a Public Hearing for Final Assessments for the Starview Lane Local Improvement District
2. Approval of a Contract with Parametrix, Inc. for the Oak Grove-Lake Oswego Pedestrian/Bicycle Bridge Feasibility Study - *Procurement*
3. Approval of a Contract with Murraysmith, Inc. for Design Services for ADA Improvements - *Procurement*

#### **C. Finance Department**

1. **Resolution No. 2019-41** for a Clackamas County Supplemental Budget (Less Than Ten Percent) for Fiscal Year 2018-2019

2. **Resolution No. 2019-42** for Clackamas County for Budgeting of New Specific Purpose Revenue for Fiscal Year 2018-2019
3. **Resolution No. 2019-43** for Clackamas County for Transfer of Appropriations for FY 2018-2019

**D. Elected Officials**

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

**E. County Counsel**

1. Approval of an intergovernmental Agreement between Clackamas and Multnomah Counties for HIPAA and Part 2 Privacy Officer

**F. Disaster Management**

1. Approval of a Goods and Services Contract with Lodox NA LLC for a Whole Body Digital X-Ray Scanning System - *Procurement*

**V. SERVICE DISTRICT NO. 5**

1. **Resolution No. 2019-44** for Clackamas County Service District No. 5 for Transfer of Appropriations for Fiscal Year 2018-2019

**VI. COUNTY ADMINISTRATOR UPDATE**

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

**VII. COMMISSIONERS COMMUNICATION**

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

**MEETING ADJOURNED 11:58 AM**

# BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

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

**Thursday, April 18, 2019 – 10:00 AM**

**Public Services Building**

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

**PRESENT:** Commissioner Jim Bernard, Chair  
Commissioner Sonya Fischer  
Commissioner Paul Savas  
Commissioner Martha Schrader

**EXCUSED:** Commissioner Ken Humberston

## **CALL TO ORDER**

■ Roll Call

Commissioner Humberston is out of the office and will not be in attendance today.

■ Pledge of Allegiance

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

1. Proclaiming April 14-20<sup>th</sup>, 2019 as National Public Safety Telecommunicators Week in Clackamas County

Cheryl Bledsoe, C-COM presented the staff report and read the proclamation. Members of C-Com came up for a picture with the Commissioners.

~Board Discussion~

2. National County Government Month – Connecting the Unconnected

Scott Anderson, Public & Government Affairs presented the staff report and introduced a video.

~Board Discussion~

## **II. CITIZEN COMMUNICATION**

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

1. Les Poole, Gladstone – Taxes, Budget, Evening Business Meetings for better government access and public notice requirements.
2. Jason Ellerby, Oak Grove – Vehicle Registration fee and asked the Commissioners for a request to create an exemption for low and fixed income residents.

~Board Discussion~

## **III. PUBLIC HEARING**

1. **Board Order No. 2019-45** Accepting a Transfer of Jurisdiction from Clackamas County to the City of Estacada of Portion of Darrow Road, County Road No. 799

Mike Bays, DTD presented the staff report.

~Board Discussion~

Chair Bernard opened the public hearing and asked if anyone would like to speak, seeing none he closed the public hearing and asked for a motion.

### **MOTION:**

Commissioner Schrader: I move we approve the Board Order Accepting a Transfer of Jurisdiction from Clackamas County to the City of Estacada of Portion of Darrow Road, County Road No. 799.

Commissioner Fischer: Second.

all those in favor/opposed:

Commissioner Fischer: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 4-0.

#### **IV. CONSENT AGENDA**

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

##### **MOTION:**

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

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

1. Approval of Amendment No. 4 to the Intergovernmental Subrecipient Agreement with Canby Adult Center to Provide Social Services for Clackamas County Residents – *Social Services*
2. Approval of Amendment No. 4 to the Intergovernmental Subrecipient Agreement with the Foothills community Church/Molalla Adult Community Center to Provide Social Services for Clackamas County Residents – *Social Services*
3. Approval of Amendment No. 3 to the Intergovernmental Subrecipient Agreement with the City of Gladstone/Gladstone Senior Center to Provide Social Services for Clackamas County Residents – *Social Services*
4. Approval of Amendment No. 1 to the Agency Services Agreement with Hillside Christian Fellowship for Warming Center Services – *Social Services*
5. Approval of Amendment No. 4 to the Intergovernmental Subrecipient Agreement with the City of Oregon City/Pioneer Community Center to Provide Socials Services for Clackamas County Residents – *Social Services*

#### **B. Department of Transportation & Development**

1. Approval to Apply for a Metro 2040 Planning and Development Grant

#### **C. Elected Officials**

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

#### **D. Department of Human Resources**

1. Approval of the Labor Contract between Clackamas County and the AFSCME Water Environment Services (AFSCME-WES)

#### **V. COUNTY ADMINISTRATOR UPDATE**

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

#### **VI. COMMISSIONERS COMMUNICATION**

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

**MEETING ADJOURNED 11:04 AM**



Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Contract with GreenWorks P.C. for the  
Master Plan for Barton Park Complex**

<b>Purpose/Outcomes</b>	To provide a Master Plan for the Barton Park Complex located on the Clackamas River just off of Highway 224 outside of the unincorporated community of Boring, Oregon
<b>Dollar Amount and Fiscal Impact</b>	Contract value is \$181,559.00
<b>Funding Source</b>	213-7641-06613-481160-64072 County Funds
<b>Duration</b>	Contract execution through June 30, 2020.
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	Build public trust through good government
<b>Counsel Review</b>	May 6, 2019
<b>Contact Person</b>	Rick Gruen, County Parks & Forest Manager 503-742-4345

**Background:**

This project involves the preparation of a master plan for Barton Park and associated properties to guide the long-term vision for the park. The master plan shall address the public's outdoor recreation needs including connectivity to the Cazadero Trail, integration of undeveloped lands into Barton Park and assess the feasibility of a Barton Park/Carver Boat Ramp shuttle system. The consultant shall work with the County, Metro, community members, and parks and recreation stakeholders to master plan the future of Barton Park and how adjoining lands should be incorporated into the larger complex.

The project includes concept planning for three undeveloped "sites" totaling approximately 49 acres contiguous to the existing Barton Park property: Cazadero Natural Area, a 24-acre Metro owned property, Barton Quarry, a former rock quarry site north of the existing park and the Fandrich Property, a former residential property bought by Clackamas County located east of the existing RV campground. The planning process will ensure that the existing park and transportation infrastructure can be enhanced to meet the growing needs and demands for public recreation use.

The project work is anticipated to begin immediately following contract signing. Completion is anticipated to be June 30, 2020.

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on December 17, 2018. Proposals were opened on January 31, 2019. The County received six (6) proposals: Walker Macy, GreenWorks P.C., WHPacific, 2.Ink Studio, Harper Houf Peterson Righellis, and Cameron McCarthy. After review, scoring, and Evaluation Committee discussions, it was determined that GreenWorks P.C. was the highest scoring proposer.

**Recommendation:**

Staff respectfully recommends that the Board approves and signs the contract with GreenWorks P.C. for the Master Plan for Barton Park Complex.

Sincerely,

A handwritten signature in cursive script that reads "Laura Zentner".

Laura Zentner, Director

Placed on the BCC Agenda \_\_\_\_\_ by Procurement.





CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this "Contract") is entered into between GreenWorks, P.C. ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of Business and Community Services.

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 June 30, 2020. 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: #2018-122 Master Plan for Barton Park Complex ("Work"), further described in Exhibit A.

3. Consideration. The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed One hundred eighty-one thousand five hundred fifty-nine dollars (\$181,559.00), 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: [ ] Yes [X] 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.

GreenWorks, P.C.

Address: 24 NW 2nd Avenue, Suite 100
Portland, Oregon 97209

Contractor Contract Administrator: Mike Faha

Phone No.: 503-222-5612

Email: mikef@greenworkspc.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. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default.
- (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. KEY PERSONS.** Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.

**29. 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.

GreenWorks, P.C.

Clackamas County

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

\_\_\_\_\_  
Chair    Date

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

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

545644-80  
Oregon Business Registry #

Approved as to Form:

DPC/Oregon  
Entity Type / State of Formation

\_\_\_\_\_  
County Counsel    Date

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

**SCOPE OF WORK**

Contractor shall provide master plan services for the Barton Park Complex as outlined in the Request for Proposal #2018-122, issued December 17, 2018, hereby attached as incorporated as **Exhibit D**; the Vendors Response/Negotiated Statement of Work and Delivery Schedule hereby attached and incorporated as **Exhibit E**; and the Fee Schedule hereby attached and incorporated as **Exhibit F**.

The County Contract administrator for this Contract is: Rick Gruen

**CONSIDERATION**

- a. Consideration Rates – Time and Material as detailed in 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 maximum sum of \$172,829.00 Invoices shall be submitted to: 150 Beaver creek Road, Oregon City, Oregon 97045 or via email at [rgruen@clackamas.us](mailto:rgruen@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 #2018-122**  
**MASTER PLAN FOR BARTON PARK COMPLEX**  
**Issued December 17, 2018**

**EXHIBIT E**  
**VENDORS RESPONSE/STATEMENT OF WORK**

**NEGOTIATED STATE OF WORK AND DELIVERY SCHEDULE**

**EXHIBIT F  
FEE SCHEDULE**



NANCY S. BUSH  
DIRECTOR

DEPARTMENT OF DISASTER MANAGEMENT

COMMUNICATIONS AND EMERGENCY OPERATIONS CENTER  
2200 KAEN ROAD OREGON CITY, OR 97045

May 16, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval to Apply for FY2019 Emergency Management Performance Grant  
between Clackamas County and the State of Oregon

<b>Purpose/Outcomes</b>	The FY2019 Emergency Management Performance Grant (EMPG) will reimburse Clackamas County Disaster Management (CCDM) for up to 50% of pre-identified program costs.
<b>Dollar Amount and Fiscal Impact</b>	The grant agreement total value is anticipated to be similar to FY18, around \$165,000; however, the exact award amount is not yet known. The grant is a 50% federal share grant that will reimburse CCDM for up to fifty percent of salaries and benefits of six employees.
<b>Funding Source</b>	FY 2019 Emergency Management Performance Grant via the State of Oregon Military Department, Office of Emergency Management
<b>Duration</b>	Estimated to be effective July 1, 2019 and terminate on June 30, 2020
<b>Previous Board Action</b>	The Board approved the application for the FY18 EMPG grant on May 24, 2018. The FY18 EMPG agreement was approved by the Board on February 7, 2019, agenda item E.1.
<b>Strategic Plan Alignment</b>	1. Coordination and Integration of Planning and Preparedness 2. Ensure Safe, Healthy and Secure Communities
<b>Counsel Review</b>	Not applicable
<b>Contact Person</b>	Nancy Bush, Director – Disaster Management Department, 503-655-8665
<b>Contract No.</b>	Unknown

**BACKGROUND:**

County emergency management programs are required by Oregon Revised Statutes 401. The EMPG is a recurring federal grant program providing limited reimbursement of a portion of the costs incurred in operating local emergency management programs. The funds provided are for the development of an all-hazard emergency management capability to promote preparedness, mitigation, response and recovery.

**RECOMMENDATION:**

Staff respectfully recommends Board approval of the Disaster Management FY2019 EMPG application.

Respectfully submitted,

Nancy Bush, Director

# Grant Application Lifecycle Form

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

Lead Department: Disaster Management Application for:  Subrecipient funds  Direct Grant  
Grant Renewal?  Yes  No

Name of Funding Opportunity: FY2019 Emergency Management Performance Grant  
Funding Source:  Federal  State  Local: \_\_\_\_\_  
Requestor Information (Name of staff person initiating form): Sarah Stegmuller Eckman  
Requestor Contact Information: 503-650-3381, sarahste@clackamas.us  
Department Fiscal Representative: Michael Morasko  
Program Name or Number (please specify): FY19 EMPG  
Brief Description of Project:

The FY19 Emergency Management Performance Grant will reimbursement Clackamas County for up to 50% of staff salaries and benefits. Disaster Management will include the entire departmental salary and benefit amount in the grant application; however, grant award is anticipated to be approximately \$165,000, similar to the FY18 award.

Name of Funding (Granting) Agency: Federal Emergency Management Agency via Oregon Emergency Management

Agency's Web Address for Grant Guidelines and Contact Information:

**OR**

Application Packet Attached:  Yes  No

Completed By: Sarah Stegmuller Eckman Date: 05/06/2019

## \*\* 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/Renewal  Other Notification Date: \_\_\_\_\_  
CFDA(s), if applicable: 97.042  
Announcement Date: 05/03/2019 Announcement/Opportunity #: FY19 Invitation to Apply  
Grant Category/Title: FY19 Emergency Mgt. Performance Grant Max Award Value: approximately \$165,000  
Allows Indirect/Rate: N/A Match Requirement: 50%  
Application Deadline: 06/17/2019 Other Deadlines: \_\_\_\_\_  
Grant Start Date: Estimated 7/1/19 Other Deadline Description: \_\_\_\_\_  
Grant End Date: Estimated 6/30/20  
Completed By: Sarah Stegmuller Eckman  
Pre-Application Meeting Schedule: \_\_\_\_\_



**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's Mission/Purpose/Goals?

The grant reimburses salary and benefit costs for Disaster Management personnel.

2. How does the grant support the Division's Mission/Purpose/Goals? (If applicable)

Provides funding for personnel, resulting in support for Disaster Management programmatic activities.

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

None

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

The grant requires that each county has a dedicated emergency manager, is National Incident Management System (NIMS) compliant, has an Emergency Operations Plan (EOP) consistent with Comprehensive Preparedness Guidance 101, has a current and FEMA approved Natural Hazard Mitigation Plan, has an identified and functional Emergency Operations Center (EOC) and has an established incident command structure. Disaster Management personnel are tasked with ensuring these objectives and requirements are met.

5. Does the grant proposal fund an existing program? If yes, which program? If no, what should the program be called and what is its purpose?

Yes, the grant funds existing personnel costs for the Disaster Management Department.

**Organizational Capacity:**

1. Does the organization have adequate and qualified staff? If yes, what types of staff are required? If no, can staff be hired within the grant timeframe?

Yes, the Disaster Management Department has six staff who are qualified to carry out the work required by the EMPG grant.

2. Is there partnership efforts required? If yes, who are we partnering with, what are their roles and responsibilities, and are they committed to the same goals?

N/A

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

N/A

4. If funding creates a new program, does the department intend that the program continue after initial funding is exhausted? If so, how will the department ensure funding (e.g. request new funding during the budget process, discontinue or supplant a different program, etc.)?

N/A

**Collaboration**

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

None

**Reporting Requirements**

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

The grant requires quarterly performance reports and requests for reimbursement.

2. What is the plan to evaluate grant performance? 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?

The Disaster Management evaluates grant performance on a quarterly basis in conjunction with the required performance reports. Performance data is gathered from department personnel and input into the required report template.

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

This grant requires quarterly reimbursement requests from the county to the state. Disaster Management's fiscal contact inside the Finance Department prepares these reports and all required supporting documentation.

**Fiscal**

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

Yes. This grant provides funding for personnel and the award amount is sufficient enough that it brings greater benefit than the cost to administer the grant.

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

This grant is a 50% match reimbursement grant, so county general funds are required to be spent for personnel. The grant reimburses up to 50% of the costs for personnel salary and benefits; however, the grant award amount is anticipated to be approximately \$165,000, a small portion of the total departmental salary and benefit costs.

3. Is there a match requirement? If yes, how much and what type of funding (CGF, Inkind, Local Grant, etc.)?

Yes, this grant is a 50% match reimbursement grant. The county match portion is met with the departmental salary and benefit costs covered by the general fund.

4. Is this continuous or one-time funding? If one-time funding, how will program funding be sustained?

This grant has historically been received each year; however, the future stability of the grant is unknown and future funding cannot be expected. The program will be sustained with general fund dollars.

5. 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 indirect costs; however, the Disaster Management Department is not applying to use any indirect costs.

Program Approval:

Sarah Stegmuller Eckman

05/06/2019

Name (Typed/Printed)

Date

Signature

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

**Section IV: Approvals**

DIVISION DIRECTOR OR ASSISTANT DIRECTOR (or designee, if applicable)		
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR		
Nancy Bush	05/06/2019	
Name (Typed/Printed)	Date	Signature

**IF APPLICATION IS FOR FEDERAL FUNDS, PLEASE SEND COPY OF THIS DOCUMENT BY EMAIL TO FINANCE (FinanceGrants@clackamas.us). ROUTE ORIGINAL OR SCANNED VERSION TO COUNTY ADMIN.**

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

*(Required for all grant applications. 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:**

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
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:

County Administration Attestation

**County Administration: re-route to department contact when fully approved.**

**Department: keep original with your grant file.**



# Oregon

Kate Brown, Governor

**Military Department**  
Office of Emergency Management  
PO Box 14370  
Salem, OR 97309-5062  
Phone: (503) 378-2911  
Fax: (503) 373-7833

**DATE:** May 2, 2019

**TO:** Local and Tribal Emergency Program Managers

**FROM:** Clint Fella, Mitigation and Recovery Services Section Manager  
Oregon Office of Emergency Management

**SUBJECT: FY2019 EMERGENCY MANAGEMENT PERFORMANCE GRANT**

You are invited to apply for FY19 (July 1, 2019 - June 30, 2020) financial and technical assistance provided through the Federal Emergency Management Agency's (FEMA) Emergency Management Performance Grant (EMPG). These funds are provided for the development and maintenance of an all-hazard emergency management capability to promote preparedness, mitigation, response and recovery.

This is a 50% federal funds - 50% non-federal funds match grant.

FY 2019 Notice of Funding (NOFO) states that Oregon's funding will be very close to last years (FY 2018) funding.

**Criteria for Eligibility:**

**Counties and Tribes:**

- Dedicated Emergency Manager
- NIMS compliant (as of November 30, 2019 documented via the NIMS Assessment Tool)
  - ***New applicants must demonstrate NIMS Compliance via hard copy documentation during FY19 to be eligible for grant funding***
- EOP consistent with Comprehensive Preparedness Guide (CPG) 101
- Natural Hazard Mitigation Plan (NHMP) current and FEMA approved
  - ***New applicants must complete in FY19 if one does not exist to be eligible for grant funding***
- Identified/Functional Emergency Operations Center
- An established incident command structure

**Cities:**

- Population must be greater than 85,000
- Must meet same criteria as Counties and Tribes



## **Deadline for Submission: June 17, 2019**

The FY19 program and submission requirements are outlined in this memorandum. **PLEASE READ INSTRUCTIONS CAREFULLY** to prevent late or erroneous submissions which could affect timely program funding support.

*Oregon Administrative Rule (OAR) 104 Division 10: Participation of Local and Tribal Governments in EMPG states:*

“OAR 104-010 requires cities participating in the EMPG Program to coordinate program activities with their respective county emergency managers. Similarly, the rules require counties with participating cities to coordinate their program activities with the city emergency managers.

To meet this requirement, each participating city must have its proposed annual work plan and quarterly program reports reviewed by its county emergency manager or managers if the city limits are within more than one county. Conversely, each county with a participating city or cities must have its proposed annual work plan and quarterly program reports reviewed by the emergency manager of the participating city or cities.”

While Tribal Nations are not required to do so, coordination with their surrounding counties on program activities is encouraged.

### **Programmatic Reporting Dates:**

- |   |                               |
|---|-------------------------------|
| • July 1 <sup>st</sup> – September 30 <sup>th</sup>   | Due: October 15 <sup>th</sup> |
| • October 1 <sup>st</sup> – December 31 <sup>st</sup> | Due: January 15 <sup>th</sup> |
| • January 1 <sup>st</sup> – March 31 <sup>st</sup>    | Due: April 15 <sup>th</sup>   |
| • April 1 <sup>st</sup> – June 30 <sup>th</sup>       | Due: July 15 <sup>th</sup>    |

When completion of an activity involves production of a tangible product, i.e., Exercise Report (EMERS), Emergency Operations Plan, any kind of Plan or Annex, etc., the jurisdiction will provide an electronic copy of that product to OEM’s EMPG Programmatic Staff upon completion.

Copies of training certificates are only required to document the completion of the federally mandated *National Incident Management System (NIMS)* and *Professional Development Series (PDS)* courses for new EMPG funded staff.

### **Potential Fiscal Penalties (as outlined in OAR 104 Division 10):**

A failure to meet all requirements in the Work Plan, or for submitting fiscal and/or programmatic reports late, may result in:

- Ineligibility for EMPG funding for FY19;
- OEM recouping part, or all, of the awarded FY19 funds;
- Suspension from the EMPG Program; or
- Any combination thereof.

## **Required Activities for 2019 Work Plans:**

### **Planning Requirements:**

1. Convene Mitigation Plan Steering Committee (or equivalent) at least twice per year to work on plan implementation and maintenance.
2. Complete OEM's annual Capability Assessment Tool.
3. Complete NIMS Assessment.
4. Update the Emergency Operations Plan (EOP)
5. Schedule and report on at least one other Planning Activity.

***Note: Only Planning activities outlined in the EMPG Planning functional areas are eligible for reimbursement in FY19. Please see the individual Planning tabs in the application.***

### **Training Requirements:**

1. Complete a minimum of 20 hours of emergency management professional development training.
2. Complete *NIMS* training (four independent study courses: IS-100, 200, 700 and 800), if not already accomplished.
3. Complete *PDS* (seven independent study courses: IS-120, 230, 235, 240, 241, 242 and 244), if not already accomplished.
4. Report Public Education and Outreach activities.
5. Report, as applicable, training courses conducted or hosted not funded via the DHS Consortium

*Note: Only Training activities identified in the State and jurisdictional Training and Exercise Plan (TEP) or those which are considered "Emergency Management Professional Development" will be eligible for reimbursement in FY19.*

### **Exercise Requirements:**

1. Develop and conduct two exercises. One must be a full scale exercise.
2. EMPG funded staff must participate in three exercises.
3. Submit EMERS reports within 30 days, or with the quarterly report, whichever is sooner. After Action Reports and Corrective Action/Improvement Plans must be submitted within 60 days. All exercise reports should be sent to the State Exercise Officer.

4. Report on Amateur Radio activities.

In order to receive quarterly exercise credit, your exercise must:

- Test a portion of your jurisdictional EOP and/or Annexes;
- Reflect some level of EOC (fixed or mobile) activation for functional and full scale exercises; and
- Must have more than one participant. Reports received showing only one participant will not be given credit for the exercise.

**Budget Request:**

**ALL** capital outlay and/or equipment items require screening through the environmental planning/historical preservation (EHP) process. Please see copy of Information Bulletin 329 and the EHP screening memo, both attached.

You must have this approval in writing from OEM and FEMA **BEFORE** the funds can be expended. Your request to OEM must include an electronic version of the EHP screening memo. Please ensure that you allow adequate time for OEM to process your request and obtain FEMA approval for the purchase, which could take up to 60+ days once the EHP is submitted.

*Note: OEM cannot submit FY19 EHP requests to FEMA Headquarters until we have a signed FY19 grant agreement with FEMA, which could occur as late as October 2019.*

Any capital outlay/equipment purchased without pre-approval from OEM/FEMA (*and this includes issuing a purchase order prior to approval*) will not be reimbursed under the EMPG grant program. Once purchases have been approved, requests for reimbursement must be supported by vendor invoices along with a General Ledger or other financial report from your jurisdiction. The equipment must also be maintained on your local government capital/fixed assets reporting system.

You must have approval in writing from OEM **BEFORE** any budget reallocation occurs. Reallocation of funds may require a grant amendment.

**Indirect Facilities and Administration (F&A) Costs:** If your agency wishes to request indirect costs be included in your EMPG sub-award, please note the following:

1. The amount of your EMPG sub-award allocation will remain the same – it will not increase by the amount of indirect you are requesting.
2. You will need to submit a copy of your **approved federally recognized indirect cost rate** negotiated between you (the sub-recipient) and the Federal government with your EMPG application, or
3. If no such rate exists, you may:
  - a. Submit with your EMPG sub-award application an indirect cost rate proposal to this office in compliance with 2 CFR 200.331(a)(4).

Requirements for development and submission of indirect (F&A) cost rate proposals and cost allocation plans are contained in Appendices III-VII of 2 CFR 200.

- b. If your agency has never received an indirect cost rate, and receives less than \$35 million in direct federal awards, you may elect to request a de minimis indirect cost rate of 10% of modified total direct costs (MTDC) as defined in 2 CFR 200.414.
  - i. To receive the de minimis indirect cost rate you must include a certification with your EMPG application that your agency has never received an indirect cost rate.
  - ii. As described in 2 CFR 200.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. **If chosen, this methodology once elected must be used consistently for all Federal awards until such time as your agency chooses to negotiate for an indirect cost rate** [2 CFR 200.414(f)].
  - iii. See 2 CFR 200.68 for definition of Modified Total Direct Cost (MTDC).

#### **Fiscal Reporting Dates:**

Requests for Reimbursement (RFRs) must be submitted monthly. For example:

July 2019 is due no later than August 30, 2019

August 2019 is due no later than September 30, 2019

#### **Application/Work Plan Required Submission:**

- Application Cover Sheet (Must be signed in several locations)
- FY19 Work Plan (submit in original Excel format – not PDF)
- Federally approved cost allocation plan, if applicable
- De Minimis request in budget, if applicable
- County cost allocation plan, if applicable
- Discrimination findings letter, if applicable
- FY19 Budget Request Form – **This should reflect your actual budget and fiscal needs.**

Jurisdictions should work with OEM's EMPG team to develop these documents and to receive feedback on their 2019 work plan as it is developed. **Applicants may submit these documents at any time, they do not have to be submitted as a complete package.** Applicants will receive a formal review letter approving their Work Plan submission once all documents have been received and reviewed by OEM.



**Grant Agreements:**

Grant agreements will be issued upon receipt of all required FY19 EMPG application documents and with the approval of OEM's EMPG staff. The local/tribal agreements cannot be issued until OEM has a signed agreement with FEMA, which could occur as late as October 2019.

**Coordination Calls:**

OEM has scheduled several conference calls during May and June to explain the application and answer questions. However, you may contact the EMPG staff directly at any time with questions and do not need to wait for a scheduled call.

**EMPG Grant Team:**

Programmatic:

Jim Jungling      [jim.jungling@state.or.us](mailto:jim.jungling@state.or.us)      503-378-3552

Fiscal:

Nicki Powers      [nicki.powers@state.or.us](mailto:nicki.powers@state.or.us)      503-378-3734

**Deadline for Submission: June 17, 2019**

Attachments:

- FY19 Application (Excel document)
- EHP Form
- IB 329
- Coordination Call Schedule



NANCY S. BUSH  
DIRECTOR

DEPARTMENT OF DISASTER MANAGEMENT

COMMUNICATIONS AND EMERGENCY OPERATIONS CENTER  
2200 KAEN ROAD OREGON CITY, OR 97045

May 16, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Subrecipient Agreement between the City of Portland and Clackamas County for purchase and reimbursement activities related to the use of the FY18 United States Department of Homeland Security's Urban Area Security Initiative (UASI) grant program

<b>Purpose/Outcomes</b>	The Subrecipient Agreement between the City of Portland and Clackamas County is to allow Clackamas County and its sub-recipients to purchase and receive reimbursement for approved expenditures under the FY18 UASI grant program.
<b>Dollar Amount and Fiscal Impact</b>	\$2,353,665 of FY18 UASI funds will directly benefit law enforcement, fire, public works and emergency management within the Portland Urban Area in the form of funding equipment and planning. \$527,281 will directly benefit Clackamas County.
<b>Funding Source</b>	The funding source for the FY18 UASI grant is the United States Department of Homeland Security via the Oregon Military Department.
<b>Duration</b>	The agreement is effective from the date both parties have signed and shall end, unless otherwise terminated or extended, on February 28, 2021.
<b>Previous Board Action/Review</b>	The Board of County Commissioners approved the FY17 UASI Intergovernmental Agreement with the City of Portland on May 24, 2018, agenda item E.2. This is a reoccurring grant with the City of Portland.
<b>Strategic Plan Alignment</b>	1. Coordination and Integration of Planning and Preparedness 2. Ensure Safe, Healthy and Secure Communities
<b>Counsel Review</b>	May 2, 2019
<b>Contact Person</b>	Nancy Bush, Director – Emergency Management - 655-8665
<b>Contract No.</b>	N/A

**BACKGROUND:**

The Urban Area Security Initiative (UASI) is comprised of the City of Portland and the contiguous counties of Clackamas, Multnomah, Washington, Columbia and Clark County, Washington. In FY17, \$2,837,000 was awarded to the UASI region. \$800,000 of the total directly benefited Clackamas County. The FY18 grant will bring \$2,353,665 to the Portland Urban Area. A minimum of \$527,281 of that total will directly benefit Clackamas County agencies. The County will benefit from UASI-funded regional projects related to training, exercise, and equipment, as well as the continued support of a regional Intelligence Fusion Center.

**RECOMMENDATION:**

Staff respectfully recommends the Board approve this agreement.

Respectfully submitted,

Nancy Bush, Director

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## 2018 Urban Area Security Initiative

THIS AGREEMENT is between **City of Portland** ("City"), a municipal corporation organized under the laws of the State of Oregon, and **Clackamas County** ("Grantee").

### A. Background

1. City of Portland, through its Portland Bureau of Emergency Management (PBEM), is the subrecipient of United States Department of Homeland Security (DHS) Urban Area Security Initiative (UASI) grant funds passed through the Oregon Military Department Office of Emergency Management (OEM) and wishes to enter into this Agreement with Grantee as a subrecipient of the federal funds.

2. The following exhibits are attached and incorporated into this Agreement by reference.

Exhibit A: **Scope of Work**

Exhibit B: **Federal Requirements and Certifications (including Attachments A, B, and C)**

Exhibit C: **Information required by 2 CFR 200.331**

Exhibit D: **Subrecipient Insurance**

Exhibit E: **Request for Reimbursement (RFR)**

Exhibit F: **OEM and City UASI 2018 grant award (including Exhibits A, B, C, and D)**

Exhibit G: **Equipment Transfer and Disposition form**

Exhibit H: **Equipment Inventory Report**

3. City selected Grantee, through a process created by the Regional Disaster Preparedness Organization (RDPO) that serves in the capacity of Urban Area Work Group (UAWG) to coordinate program development and decision-making processes for allocating UASI sub-grants, to receive funding.

### B. Effective Date and Duration

This Agreement is effective from the date both parties have signed until, and including, February 28, 2021) unless terminated or extended as provided in this Agreement. Grantee may not spend grant funds after the Agreement terminates or expires.

### C. Scope of Work

Grantee shall provide all services and materials specified in **Exhibit A** ("Scope of Work") which is incorporated into this Agreement by this reference as if set forth in full as described in grant documents approved by OEM. Grantee shall provide all services and materials in a competent and professional manner in accordance with the Scope of Work.

### D. Compensation

The total Agreement amount is \$527,281. Funds may only be used for the specific budget line items they were awarded. See Exhibit A for detail. City may only distribute funds under this Agreement to Grantee to perform the work specified in Exhibit A.

## E. Reimbursement

1. City will reimburse Grantee its qualified costs incurred in carrying out the Scope of Work, as identified in this Agreement, not to exceed \$527,281. All invoice payments are conditional upon presentation of properly documented reimbursement requests. Reimbursements will be made upon approval by City of a Request for Reimbursement (RFR) as specified in **Exhibit E**. RFRs shall be submitted bimonthly on or before 30 days following the end of the billing period. Final RFR shall be submitted no later than 30 days following the end of the grant. Reimbursements for expenses will be withheld if Performance Reports are not submitted by the dates as listed in **Exhibit A**.

2. Qualified costs are direct project costs incurred by Grantee, its personal services contractor(s), and Grantee's subrecipients eligible to receive federal funds during the term of this Agreement. City will reimburse Grantee for qualified costs for work described in **Exhibit A** and eligible under the following:

- a. 2 CFR 200.420-475 (General Provisions for Selected Items of Cost);
- b. Department of Homeland Security, Notice of Funding Opportunity DHS-18-GPD-067-00-01, viewable at: [https://www.fema.gov/media-library-data/1526578809767-7f08f471f36d22b2c0d8afb848048c96/FY\\_2018\\_HSGP\\_NOFO\\_FINAL\\_508.pdf](https://www.fema.gov/media-library-data/1526578809767-7f08f471f36d22b2c0d8afb848048c96/FY_2018_HSGP_NOFO_FINAL_508.pdf);
- c. Exhibit F, the OEM and City UASI 2018 grant award

3. Reimbursement requests shall display one hundred percent (100%) of the total project costs incurred during the period of the reimbursement, and identify any required matching amounts, if applicable. See **Exhibit E** for a detailed checklist for types and sources of acceptable documentation required before payment can be made. In addition, City may require a more detailed budget breakdown, and Grantee shall provide the supplementary budget information in a timely manner in the form and content reasonably prescribed by City. Any amendments to the budget must be approved in writing by both City and OEM.

## F. Recovery of Grant Funds

Grantee shall return to City, within fifteen (15) days after the City's written request, any funds disbursed to Grantee under this Agreement that, in City's sole judgment, are spent in violation of the provisions of this Agreement or that remain unspent upon termination or expiration of this Agreement.

## G. Representations and Warranties

Grantee represents and warrants to City as follows:

1. **Organization and Authority.** Grantee has full power, authority, and legal right to enter into this Agreement and to incur and perform its obligations hereunder, and the making and performance by Grantee of this Agreement (1) have been duly authorized by all necessary action of Grantee and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Grantee is a party or by which Grantee or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Grantee of this Agreement.

2. **NIMS Compliance.** By accepting FY 2018 funds, Grantee certifies that it has met National Incident Management System (NIMS) compliance activities outlined in the Oregon NIMS Requirements located through OEM at [http://www.oregon.gov/oem/emresources/Plans Assessments/Pages/NIMS.aspx](http://www.oregon.gov/oem/emresources/Plans_Assessments/Pages/NIMS.aspx)

The warranties set forth in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

## H. Universal Identifier and Contract Status

Grantee shall apply for a unique universal identification number using the Data Universal Numbering System (DUNS) as required for receipt of funding. In addition, Grantee shall maintain an active registration in the Central Contractor Registration database, located at [www.sam.gov](http://www.sam.gov).

## I. Program Income

Grantee shall report monthly on all program income (as defined by 2 CFR 200.80) generated by activities carried out with the grant funds made available under this Agreement. The use of program income by Grantee shall comply with the requirements set forth by 2 CFR 200.307.

## J. Procurement

The parties shall comply with all applicable procurement procedures and regulations, including applicable federal and state laws. In addition, the parties shall comply with the applicable provisions of 2 CFR Part 200. This agreement also authorizes City to procure on Grantee's behalf for costs related to Scope of Work.

### 1. Subcontracts.

- a. Grantee may enter into subcontracts for the performance of this grant. Grantee must comply with all terms outlined in **Exhibit F** and contained in this Agreement.
- b. City's consent to any subcontract shall not relieve Grantee of any of its duties or obligations under this Agreement. Payment under the terms of this Agreement will be made to Grantee, and subcontractors have no right to payment directly from City.
- c. Grantee is solely responsible for paying Grantee's subcontractors and nothing contained herein shall create, or be construed to create, any contractual relationship between any subcontractor and City.
- d. All subcontracts, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition and use small, minority, or women-owned or disadvantaged business to the extent practicable.
- e. Grantee agrees to include all relevant provisions of this Agreement in all subcontracts entered into as part of the activities undertaken in furtherance of this Agreement and will take appropriate action pursuant to any subcontract upon a finding that the subcontractor is in violation of regulations issued by any federal agency or the State of Oregon.

2. **Suspension and Debarment.** Grantee agrees not to subcontract with an entity where it has notice or knowledge that the latter has been found in violation of regulations under 2 CFR 200.213 "Suspension and Debarment." Grantee is responsible for further requiring this inclusion of a similar term or condition in any subsequent lower tier covered transactions. Grantee may access the Excluded Parties List System at [www.sam.gov](http://www.sam.gov).

3. **Conflict of Interest.** Grantee must establish a Conflict of Interest policy applicable to any procurement contract or subawards made under this Agreement in accordance with 2 CFR 200.112. Conflicts of Interest must be disclosed in writing to City within five (5) calendar days of discovery including any information regarding measures to eliminate, neutralize, mitigate or otherwise resolve the conflict of interest.

**4. City Procurement Delegation.** Grantee may, upon written request, authorize City to procure goods and services on behalf of Grantee and solely for purposes of performing the work described in Exhibit A. If City is procuring on Grantee's behalf, City's procurement policies will be followed. When City has purchased goods or services for Grantee or Grantee's subrecipient, arrangements for delivery will be made between the parties. Grantee or Grantee's subrecipient shall be the Owner of said goods or services and shall be responsible for complying with all applicable requirements as outlined in the Code of Federal Regulations (CFR) and Office of Management and Budget (OMB) Circulars, the State grant agreement, and this Agreement. For equipment purchases where City takes initial receipt, an Asset Transfer Form will be completed to document transfer of ownership. See **Exhibit G**.

## **K. Records Maintenance – Access**

1. Grantee shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles ("GAAP"). In addition, Grantee shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Grantee's performance.
2. Grantee acknowledges and agrees that City, the Federal Awarding Agency, the Comptroller General of the United States or their duly authorized representatives shall have access to such fiscal records and other books, documents, timesheets, papers, plans and writings of Grantee that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts.
3. Grantee shall retain and keep accessible all such fiscal records, books, documents, timesheets, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final expenditure report and termination of this Agreement or final disposition of asset, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Consistent with 2 CFR 200.333 through 200.337, grantee is required to retain the records relating to this Agreement.

## **L. Audits**

If Grantee spends \$750,000 or more in Federal funds (from all sources) in its fiscal year, Grantee shall have a single organization-wide audit conducted in accordance with provisions of 2 CFR 200 Subpart F.

A copy of the audit shall be submitted to City within thirty (30) days of completion.

## **M. Lobbying**

Grantee certifies that none of the funds provided under this Agreement will be used to pay any person to influence or attempt to influence an officer or employee of any agency, Member of Congress, an officer or employee of Congress in connection with any Federal action concerning the award or renewal.

## **N. Mandatory Disclosures**

Grantee must immediately notify City in writing of all violations of local, state and federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the funds under this Agreement as provided in 2 CFR 200.113.

## **O. Ownership**

Grantee shall be the owner of all equipment and supplies purchased under this Agreement, unless otherwise outlined in a Grantee subcontract.

## **P. Equipment – Cooperative Use**

All equipment purchased with funds under this Agreement will be made available to all eligible regional partners [per 2 CFR 200.313\(c\)\(2\)](#). All reasonable requests must be met when sufficient notice is given, and no reasonable conflict exists. Owners may not charge “rental” fees for equipment but may seek reimbursement for normal expenses (not already covered by grant funds) such as fuel, vehicle damage, maintenance for wear and tear, when appropriate.

## **Q. Equipment Tracking and Reporting Requirements**

Grantee agrees to comply with all property and equipment tracking and monitoring processes required by the grant, this Agreement, City, and State policies and procedures, to treat all single items of equipment valued over \$5,000 as capital assets, to provide City with a list of such equipment on a biennial basis falling on even years, using PBEM’s Equipment Inventory Report (see **Exhibit H**), and to complete and return the report to PBEM on or before June 30th of the reporting year. The list shall include, but is not limited to, status and condition, asset number, funding source (including the federal award identification number), who holds the title, date of purchase and cost, equipment description, serial number, location where the equipment is housed or stored, and disposition information (date of disposal and sale price of the property). All requirements for the tracking, monitoring, disposition, and transfer of fixed assets are set forth in 2 CFR 200.313, which can be found here:

[http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8d75f90044e30262070fe0bc233c337f&mc=true&n=pt2.1.200&r=PART&ty=HTML#\\_top](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8d75f90044e30262070fe0bc233c337f&mc=true&n=pt2.1.200&r=PART&ty=HTML#_top)

Grantee or Grantee’s subrecipient shall maintain and store all equipment and supplies, provided or purchased, in the manner that will keep it safe, secure, and prolong its useful life and be maintained in good working condition throughout its useful life.

## **R. Amendment.**

This Agreement may be modified or amended only by the written agreement of both parties but must remain consistent with the requirements of the UASI program and the Agreement between the State and City.

## **S. Termination**

**1. Termination by Failure to Receive Funding.** Either party may terminate this Agreement if it fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow that part, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement; or if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Scope of Work is no longer allowable or no longer eligible for funding under this Agreement.

**2. Cause for Termination; Cure Period.** It shall be a material breach and cause for termination of this Agreement if Grantee uses grant funds outside of the scope of this Agreement, or if either party fails to comply with any other term or condition or to perform any obligations under this Agreement within thirty (30) days after written notice and opportunity to cure from the other party. If the breach is of such nature that it cannot be completely remedied within the thirty (30) days cure period, the breaching party shall commence cure within the thirty (30) days, notify the non-breaching party of the steps for cure and estimated time table for full correction and compliance, proceed with due diligence and good faith to correct any failure or noncompliance, and obtain written consent from the non-breaching party for a reasonable extension of the cure period.

**3 No Payment Authorized During Cure Period.** During the cure period, City is under no obligation to continue providing additional grant funds notwithstanding any payment schedule indicated in this Agreement, and Grantee shall not perform services or take actions that would require City to pay additional grant funds to Grantee. Grantee shall not spend unused grant funds, and such unused funds shall be deemed held in trust for City. Grantee shall be solely responsible for any expenses associated with cure of its noncompliance or failure to perform.

**4. Termination for Cause.** Termination for cause based on Grantee's misuse of grant funds shall be effective upon notice of termination. Termination for cause based on failure to comply or perform other obligations shall be effective at the end of the thirty (30) days period unless a written extension of cure period is granted by the non-breaching party. Grantee shall return all grant funds to City that had not been spent as of the date of the termination notice. All finished or unfinished documents, data, studies, and reports prepared by Grantee under this Agreement shall, at the option of City, become the property of City; and Grantee may be entitled to receive just and equitable compensation for any satisfactory work completed on such documents up until the time of notice of termination in City's sole discretion, in a sum not to exceed the grant funds already expended.

**5. Penalty for Termination for Cause.** If this Agreement is terminated for cause, Grantee shall repay grant funds tendered under this Agreement to City, and City, in its sole discretion, may decline to approve or award future grant funding requests to Grantee.

**6. Termination by Agreement or for Convenience of City or Grantee.** City and Grantee may terminate this Agreement at any time by mutual written agreement. Alternatively, City or Grantee may, upon thirty (30) days written notice, terminate this agreement for any reason deemed appropriate in its sole discretion. If the Agreement is terminated as provided in this paragraph, Grantee shall return any unspent grant funds within thirty days after the effective date of termination. Unless the parties agree otherwise, Grantee shall finish any work and services covered by any grant funds already paid and shall not commence any new work or services which would require payment from any unused grant funds. City shall not be liable for indirect or consequential damages. Termination by City for convenience shall not waive any claim or remedies it may have against Grantee.

## **T. Hold Harmless**

1. Grantee shall hold harmless, defend, and indemnify Oregon Emergency Management, and its officers, agents and employees against all claims, demands, actions and suits (including all attorney fees and costs) brought against any of them and arising solely from the negligent actions or omissions of Grantee and its contractors in the performance of this Agreement.

2. The obligations of Oregon public bodies, as defined by ORS 30.260(4), under this section are limited by, and subject to, the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 to 30.300).

## **U. Independent Contractor Status**

1. Grantee shall be an independent Contractor for all purposes and shall be entitled only to the compensation provided in this Agreement. Under no circumstances shall Grantee be considered an employee of City.

2. Grantee shall provide all tools or equipment necessary to carry out this Agreement and shall exercise complete control in achieving the results specified in the Scope of Work.

3. Grantee is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement.



## **V. Choice of Law**

The situs of this Agreement is Portland, Oregon. Any litigation over this Agreement shall be governed by the laws of the State of Oregon and shall be conducted in the Circuit Court of the State of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

## **W. No Waiver of Claims**

The failure to enforce any provision of this Agreement shall not constitute a waiver by either party of that or any other provision.

## **X. Modification**

Notwithstanding and succeeding any and all prior agreements or practices, this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing, signed by both parties.

## **Y. Severability**

If any clause, sentence or any other portion of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.

## **Z. Third Party Beneficiaries**

There are no third-party beneficiaries to this Agreement and it may only be enforced by the Parties.

# Subrecipient Agreement

City of Portland

GRANTEE, BY EXECUTION OF THIS AGREEMENT, ACKNOWLEDGES THAT GRANTEE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

## Clackamas County

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

Printed: \_\_\_\_\_

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

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

## City of Portland

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

Printed: \_\_\_\_\_

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

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

## Approved as to Legal Sufficiency *(if required for Grantee)*

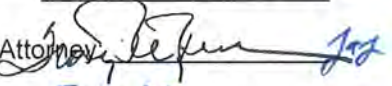
By: Approved as to form

Legal Counsel 

Date: 05/02/2019

## City of Portland

By: APPROVED AS TO FORM

City Attorney 

Date: CITY ATTORNEY

## Grantee Program Contact

Name \_\_\_\_\_

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

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

## City of Portland Program & Fiscal Contact

Name: Beth Crane

Title: Grant Coordinator

Address: 9911 SE Bush, Portland,  
Oregon 97266

Phone: (503) 823-2027

Email:

[PBEM-UASIGrants@portlandoregon.gov](mailto:PBEM-UASIGrants@portlandoregon.gov)

## Grantee Fiscal Contact

Name \_\_\_\_\_

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

Phone: \_\_\_\_\_

# Exhibit A – Scope of Work

## This scope of work is comprised of the projects described below

1. The Emergency Fuel Planning

This project will improve coordination and planning efforts for Clackamas and Multnomah counties to manage fuel supplies, delivery and storage in a sustained emergency that impacts normal fuel operations.

2. Cybersecurity

This project is an extension of previous investments to conduct a comprehensive cybersecurity technical risk and vulnerability assessment of the hardware, network and software systems for the Public Safety Answering Systems within the region.

3. Regional Information Sharing Enhancements

The project completes the final phase of previous investments in the Enterprise Service Bus for 9-1-1 and ambulance agencies that improves automation and information sharing capabilities for public safety answering points within the region.

4. Citizen Corps

This project will improve preparedness and response capabilities at the local level and cultivate community resilience and safety.

5. Disaster Debris Management Equipment

This project will improve the region’s ability to safely collect, remove and store disaster debris.

## Goals and Performance Measures

Project	Milestones	Estimated Completion Date (following execution of this agreement)
Emergency Fuel Planning Project	<ol style="list-style-type: none"> <li>1. Procure consultant services</li> <li>2. Engage stakeholders</li> <li>3. Draft Plan</li> <li>4. Final Approved Plan</li> </ol>	2 months Ongoing over project period 18 months 22 months
Cybersecurity	<ol style="list-style-type: none"> <li>1. Provide a detailed project plan with timelines and deliverables for City review and approval</li> </ol>	3 months
Regional Information Sharing Enhancements	<ol style="list-style-type: none"> <li>1. Stakeholder engagement</li> <li>2. Weekly project meetings and status reports</li> <li>3. Test interconnectivity and resolve barriers</li> <li>4. Go live with migration onto the new Enterprise Service Bus</li> </ol>	Ongoing over project period Weekly over project period Ongoing over project period August 30, 2019
Citizen Corps	<ol style="list-style-type: none"> <li>1. Complete purchase of equipment, supplies and printed materials</li> <li>2. Complete delivery of trainings</li> </ol>	1-12 months 22 months
Disaster Debris Management Equipment	<ol style="list-style-type: none"> <li>1. Procurement of this asset is delegated to City. Collaborate with City in procurement and equipment purchase.</li> <li>2. Asset Delivery and Transfer</li> <li>3. Training</li> </ol>	4 months 7 or 8 months 8-9 months

# Exhibit A – Scope of Work

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## Performance Reports

Grantee agrees to submit Performance Reports by April 15th, July 15th, October 15th, and January 15<sup>th</sup> each year during the term of the Agreement. Performance Reports shall include a narrative description of progress, barriers, milestones achieved or unfulfilled as well as fiscal information related to spending and projected costs or savings. Performance Reports shall be sent to the designated City Program and Fiscal Contact and provided in the format requested by City. Late Performance Reports could result in the suspension and/or termination of the grant.

## Grant Total Budget – All Projects

<b>Budget Line-Item</b>	<b>Budget by Project</b>	<b>Federal Funds by Project Area</b>
UA18-006	Emergency Fuel Planning Project	\$50,000
UA18-010	Cybersecurity Assessment Project	\$50,000
UA18-011	Regional Information Sharing Enhancements	\$250,000
UA18-025	Citizen Corps	\$27,281
UA18-015	Disaster Debris Management Equipment Procurement of this asset is delegated to City; therefore, Grantee will not independently expend these funds.	\$150,000
	<b>Totals</b>	<b>\$527,281</b>

Federal Awarding Agency grant funds to be dispersed to Grantee not to exceed \$527,281

## Exhibit B – Federal Requirements and Certifications

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Grantee and its subrecipients, contractors or subcontractors shall comply with the OEM and City Agreement attached as **Exhibit F** and all applicable federal requirements, including, but not limited to, the following:

**Non-Discrimination and Civil Rights Compliance, Equal Employment Opportunity Program, and Services to Limited English Proficient (LEP) Persons.** Grantee assures compliance with all applicable nondiscrimination laws, including but not limited to:

- a. **Title VI of the Civil Rights Act of 1964** (USC § 2000d et seq)
- b. **Age Discrimination Act of 1975** (42 USC § 6101 et seq)
- c. **Americans with Disabilities Act of 1990** (42 USC §§ 12101-12213; Title I, II, and III)
- d. **Civil Rights Act of 1968** (42 USC § 3601 et seq), which prohibits
- e. **Title IX, Education Amendments of 1972** (20 USC § 1681 et seq),
- f. **Section 504 of the Rehabilitation Act of 1973** (29 USC § 794),

**Services to Limited English Proficient (LEP) Persons.** Grantee agrees to comply with the requirements Title VI of the Civil Rights Act of 1964 and Executive Order 13166, improving Access to Services for Persons with Limited English Proficiency (LEP). To ensure compliance with Title VI, Grantee shall take reasonable steps to develop and implement a system to provide those services so LEP persons can have meaningful access to them. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. For additional information regarding LEP obligations, please see [www.lep.gov](http://www.lep.gov).

**Drug-Free Workplace Requirement.** Grantee agrees to comply with the requirements of the Drug Free Workplace Act of 1988, 41 USC § 701 et seq., which requires that all organizations receiving grants (or subgrants) from any Federal agency agree to maintain a drug-free workplace. Grantee shall notify City within ten (10) days if an employee of Grantee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment.

**Whistleblower Protection.** Grantee agrees to comply with the requirements under the Whistleblower Protection Act, 41 USC § 4712, as applicable.

**Personally Identifiable Information (PII).** Grantee, if it collects PII, is required to have a publicly available privacy policy that described what PII they collect, how they use it, whether they share it with third parties and how individuals may have their PII corrected where appropriate.

**False Claims Act & Program Fraud Civil Remedies,** 31 USC 3729, prohibiting recipients of federal payments from submitting a false claim for payment. *See* 38 USC 3801-3812 detailing administrative remedies for false claims and statements made.

**Debarment, Suspension, Ineligibility and Voluntary Exclusion.** Grantee certifies by accepting funds under this Agreement that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any Federal department or agency.

**Standard Assurances and Certifications Regarding Lobbying.** Grantee is required to comply with 2 CFR 200.450 and the authorities cited therein, including 31 USC § 1352.

**Procurement of Recovered Materials.** Grantee agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery act and in accordance with Environmental Protection Agency guidelines at 40 CFR Part 247.

# Exhibit B – Federal Requirements and Certifications

## Attachment A – Debarment Certification

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### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTION

By signing and submitting this Agreement, Grantee certifies as follows:

Grantee has not been debarred, suspended, ineligible or voluntarily excluded from receiving federal funds or participating in programs supported by Federal funding.

The certification in this clause is a material representation of fact relied upon by **City of Portland**. If it is later determined that Grantee knowingly rendered an erroneous certification, in addition to remedies available to **City of Portland**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Grantee agrees to comply with the requirements of Executive Order [12549](#) and [2 CFR part 180](#), throughout the period of this Agreement. Grantee further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Organization \_\_\_\_\_

Date \_\_\_\_\_

# Exhibit B – Federal Requirements and Certifications

## Attachment B – Lobbying Certification

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### CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned **Grantee** certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall 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 shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such expenditure or failure.

Grantee certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Grantee understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Grantee's Authorized Official

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Exhibit C – Information Required by 2 CFR 200.331

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1. Federal Award Identification:
  - (i) Subrecipient name (which must match registered name in DUNS):  
Clackamas County
  - (ii) Subrecipient's DUNS number:  
Clackamas County 096992656
  - (iii) Federal Award Identification Number (FAIN):  
DHS-18-GPD-067-00-01
  - (iv) Federal Award Date:  
June 29, 2018
  - (v) Sub-award Period of Performance:  
Date of Agreement Execution through February 15, 2021
  - (vi) Amount of Federal Funds Obligated by the Agreement between the Oregon Military Department and the City:  
\$2,353,665
  - (vii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this Agreement:  
\$549,281
  - (viii) Total Amount of Federal Award:  
\$2,500,000
  - (ix) Federal award project description:  
The Portland Urban Area Security Initiative funding is provided to the Portland regional area to prepare for, prevent, mitigate, respond to and recover from natural and human caused threats, including terrorism.
  - (x) Name of Federal Awarding Agency:  
Department of Homeland Security, Federal Emergency Management Agency
  - (xi) Name of Pass-through Entity:  
Oregon Military Department through Oregon Emergency Management to the City of Portland, Portland Bureau of Emergency Management, on behalf of the Regional Disaster Preparedness Organization
  - (xii) Contact information for Awarding Official:  
Courtney Patterson, Interim Director Portland Bureau of Emergency Management  
9911 SE Bush, Portland Oregon 97266
  - (xiii) CFDA Number and Program Name:  
CFDA 97.067, Urban Area Security Initiative
  - (xiv) Is Award Research & Development (R&D)?  
No
  - (xv) Indirect cost rate for the Federal award:  
Not specified



# Exhibit C – Information Required by 2 CFR 200.331

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(xvi) Match required:  
No

2. Subrecipient's indirect cost rate:   N/A

## Exhibit D – Subrecipient Insurance

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Grantee and any subrecipients shall obtain and maintain in full force at its expense, throughout the duration of the Agreement and any extension periods, the required insurance identified below. City reserves the right to require additional insurance coverage as required by statutory or legal changes to the maximum liability that may be imposed on Oregon cities during the term of this Agreement.

1. Workers' Compensation Insurance: Grantee, its contractors and all employers working under this Agreement shall comply with ORS Chapter 656 and as it may be amended from time to time. Unless exempt under ORS Chapter 656, Grantee, its contractors and any employers working under this Agreement shall maintain coverage for all subject workers.
2. Commercial General Liability Insurance: Grantee shall have commercial general liability insurance covering bodily injury, personal injury, property damage, including coverage for independent contractor's protection (required if any work will be subcontracted), premises/operations, contractual liability, products and completed operations, in a per occurrence limit of not less than \$ 1,000,000, and aggregate limit of not less than \$2,000,000.
3. Automobile Liability Insurance: Grantee shall have automobile liability insurance with coverage of not less than \$1,000,000 each accident. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned autos. This coverage may be combined with the commercial general liability insurance policy.
4. Additional Insured: The liability insurance coverages, except Professional Liability, Errors and Omissions, or Workers' Compensation where applicable, shall be without prejudice to coverage otherwise existing, and shall name City and its bureaus, officers, agents and employees as Additional Insureds, with respect to Grantee's or its contractor's activities to be performed or services to be provided. Grantee shall provide proof of additional insured coverage in the form of an additional insured endorsement form or a policy coverage document acceptable to City. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.
5. Continuous Coverage: Notice of Cancellation: Grantee shall maintain continuous, uninterrupted coverage for the duration of the Agreement. There shall be no termination, cancellation, material change, potential exhaustion of aggregate limits or non-renewal of coverage without thirty (30) days written notice from Grantee to City. If the insurance is canceled or terminated prior to termination of the Agreement, Grantee shall immediately notify City and provide a new policy with the same terms. Any failure to comply with this clause shall constitute a material breach of the Agreement and shall be grounds for immediate termination of this Agreement.

Proof of Insurance: City acknowledges Grantee is self-insured in an amount sufficient to satisfy its obligations under this Agreement. Grantee will require its subrecipients, contractors, or subcontractors to comply with the insurance requirements set forth in this Agreement. Grantee shall furnish a declaration that Grantee is self-insured for public liability and property damage for a minimum of the amounts set forth in ORS 30.272 and 30.273.

# Exhibit E – Request for Reimbursement (RFR)

INVOICE VOUCHER NO.			DATE:		
<b>SUBMIT INVOICE TO</b>			<b>INSTRUCTIONS TO VENDOR:</b> Submit this form to claim payments/reimbursement for equipment, materials or services. Show complete detail for each item and include all backup documentation (checklist definitions on page 2).		
PORTLAND BUREAU OF EMERGENCY MANAGEMENT ATTN: FINANCE & GRANTS 9911 SE BUSH ST PORTLAND, OR 97266					
SUB-RECIPIENT OR CLAIMANT NAME & ADDRESS (Check is to be payable to)					
SUB-RECIPIENT IGA NO.			GRANT NUMBER:		
DATE	DESCRIPTION	BUDGET LINE-ITEM	BUDGET AMOUNT	AMOUNT OF REIMBURSEMENT	
PREPARED BY (PRINT NAME) & SIGNATURE			PREPARER'S EMAIL		PREPARER'S TELEPHONE NUMBER

I certify that all payments requested are for appropriate purposes in accordance with the grant agreement and set forth in the application award documents and that all backup documentation submitted, as checked on page two (2) accurately represents items or services purchased.

\_\_\_\_\_  
Approver Name & Signature

\_\_\_\_\_  
Date Approved

# Exhibit E – Request for Reimbursement (RFR)

PLEASE CHECK BOXES FOR THE FOLLOWING BACKUP DOCUMENTS ATTACHED:

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1. **Regional Staffing Reimbursement** - Includes personnel cost, mileage and parking, telecom, space rental, office supplies.
  - Mileage reimbursement backup document includes google maps showing the total miles travel and the meeting agenda.
  - Receipts or invoices.
  - Payroll Reports/Approved timesheets.
2. **Travel Reimbursements** - Lodging and meals must meet the Federal per diem rate. Please visit [www.gsa.gov/portal/content/104877](http://www.gsa.gov/portal/content/104877) for allowable GSA rates
  - Registration form.
  - Travel authorization form.
  - Conference or training agenda.
  - Receipts and proof of payment for all expenses except meals.
  - SAM exclusion ([www.sam.gov](http://www.sam.gov)) (A printout must be submitted).
  - Training report, if applicable.

Please Note: Food and beverages provided during the event must be deducted from per diem allowance. Receipts should be itemized and cannot include tips for food or services and alcohol. The UASI Training Report form found at <https://www.portlandoregon.gov/pbem/53958> must be submitted within 30 days after the training occurred.

3. **Supplies and Equipment Purchase Reimbursements**
  - Quotes.
  - Solicitations (Request for proposals, invitation to bid and responses, proposals, bids).
  - Copy of procurement contract.
  - Purchase order.
  - Price quote summary, if applicable.
  - SAM exclusion ([www.sam.gov](http://www.sam.gov)) (A printout must be submitted).
  - Insurance & Worker compensation, if applicable.
  - Vendor invoices signed “ok to pay” by the individual authorized to do so.
  - Proof of payment to vendor.
- ONLY City of Portland**
  - EEO Certification <https://procure.portlandoregon.gov/> if applicable.
  - Business registration <http://www.portlandoregon.gov/revenue/lookup/index.cfm?accountID=758095>.
4. **Overtime or Backfill Reimbursement for Exercise or Training** - Only OT or backfill wages plus FICA, worker’s compensation, unemployment and retirement benefits are eligible for reimbursement.
  - Overtime & Backfill Rate Sheet found at <https://www.portlandoregon.gov/pbem/62178>
  - Payroll reports and approved time sheets.

5. **Use of Internal Labor for Installation** -To reimburse for expenses for use of agencies’ internal labor for REGULAR installations. Wages and Benefits ONLY.
  - Payroll report.
  - Internal labor charge form found at <http://www.portlandoregon.gov/pbem/62178> summary showing employee’s name, hours worked, hourly rate, benefits, total compensation received and description of work performed. Please Note: A Project Manager who oversees the installation needs to certify the worksheet.

6. **Training and Conference**
  - Sign-in roster.
  - Registration information.
  - Copies of invoice for expenses incurred for meeting space.
  - Facilitation costs.
  - Receipts or invoices for materials and supplies.
  - Copies of the contract, if applicable.
  - SAM exclusion [www.sam.gov](http://www.sam.gov) (A printout must be submitted), if applicable.

# Exhibit G – Equipment Transfer and Disposition Form

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## UASI Equipment Transfer and Disposition Form

For all grant purchased assets that are sold, transferred or disposed of, equipment records must be maintained in accordance with 2 CFR 200: ([http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) ). In addition to maintaining these records, this form must be completed and submitted to the Portland Bureau of Emergency Management: [elizabeth.crane@portlandoregon.gov](mailto:elizabeth.crane@portlandoregon.gov)

**Asset Property Tag ID/#:**

**Serial Number:**

**Federal Grant Identifier:**

**Percentage of Federal Funds Used in Purchase:**

**Equipment Category:** Choose AEL Category

**Item Description:**

**Make/Model #:**

**Location where property is currently housed:**

**If transferred, Location where property will be housed:**

**If Transferring - (receiving agency):**

**Acquisition Date:**

**Purchase Cost: \$**

**Last Inventory Date:**

**Condition:**

**Disposition Type:** Choose an item.

**Current Market Value: \$**

**Received by (Agency Name):**

**Name and Title of Receiver:**

**Signature of Receiver:** \_\_\_\_\_

**Date Received:**

**Reason why the item is being transferred:**



**NANCY S. BUSH**  
DIRECTOR

**DEPARTMENT OF EMERGENCY MANAGEMENT**  
**COMMUNICATIONS AND EMERGENCY OPERATIONS CENTER**  
2200 KAEN ROAD OREGON CITY, OR 97045

**May 16, 2019.**

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Grant Application for Hazard Mitigation Grant Program Funds:  
Voluntary Residential Property Acquisition in the Channel Migration Zone of the Sandy River

<b>Purpose/Outcome</b>	<i>The project is a property acquisition (buyout) inside the Channel Migration Zone along the upper Sandy River, in the Timberline Rim neighborhood.</i>
<b>Dollar Amount and Fiscal Impact</b>	<i>Total project costs are estimated at \$533,735 with the FEMA federal 75% share being \$400,301 and the local 25% match by the homeowners being \$133,434. County Disaster Management will cover administrative costs.</i>
<b>Funding Source</b>	<i>Federal Emergency Management Agency (FEMA), Hazard Mitigation Grant Program (HMGP) grant</i>
<b>Duration</b>	<i>Period of Performance is three years from the close of application period, May 4, 2022.</i>
<b>Previous Board Action/Review</b>	<i>Since the 2011 Sandy River flood, the Board has been briefed annually on channel migration zone issues and the County's efforts to reduce risk. This project aligns with the recently updated Natural Hazard Mitigation Plan.</i>
<b>Strategic Plan Alignment</b>	<i>1. Department: Provide planning and preparedness as well as response, recovery, and mitigation services to the Clackamas County community. 2. County: Ensure safe, healthy and secure communities.</i>
<b>Counsel Review</b>	<i>NA</i>
<b>Contact Person</b>	<i>Jay Wilson, Resilience Coordinator, 503-723-4848</i>
<b>Contract No.</b>	<i>Unknown</i>

**BACKGROUND:** This is an unusual case of a homeowner voluntarily reaching out to the County to seek a FEMA "buyout" of their residential property before it is damaged from channel migration. The owners would prefer to transition the property to open space instead of having another owner buy it in this high hazard area, or see the house undermined by channel migration and fall into the Sandy River.

Attached is the County's Grant Application Lifecycle Form that capture the basic information regarding the funding source, amount being requested for the grant, breakdown of federal share, and local match, to be covered by the homeowners, and period of performance.

**RECOMMENDATION:** Staff recommends approval from the Board to pursue this hazard mitigation grant.

Respectfully submitted,

Nancy S. Bush, Director

# Grant Application Lifecycle Form

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

Lead Department: Disaster Management Application for:  Subrecipient funds  Direct Grant  
Grant Renewal?  Yes  No

**If renewal, complete sections 1, 2, & 4 only**

Name of Funding Opportunity: Hazard Mitigation Grant Program-FM-5195  
Funding Source:  Federal  State  Local: \_\_\_\_\_  
Requestor Information (Name of staff person initiating form): Jay Wilson  
Requestor Contact Information: [jaywilson@clackama](mailto:jaywilson@clackama)  
Department Fiscal Representative: Sarah Eckman, DM/Michael Morasko, Finance  
Program Name or Number (please specify): Hazard Mitigation Grant Program-FM-5195  
Brief Description of Project:

The project is a property acquisition inside the Channel Migration Zone along the upper Sandy River, in the Timberline Rim neighborhood. The funding (if awarded) will be provided as reimbursement from the HMGP FM-5195, a federal grant for 75% share to acquire high flood risk residential property, remove/demolish all improvements, and restore to open space, with deed restriction for no future improvements into perpetuity. The local match of 25% for project expenses will be covered by the homeowner.

Name of Funding (Granting) Agency: Federal Emergency Management Agency (FEMA)

Agency's Web Address for Grant Guidelines and Contact Information:

<https://www.fema.gov/hazard-mitigation-grant-program>

<https://www.fema.gov/hazard-mitigation-grant-program-post-fire>

**OR**

Application Packet Attached:  Yes  No

Completed By: Jay Wilson 04/30/2019  
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: \_\_\_\_\_  
CFDA(s), if applicable: 04/06/1900  
Announcement Date: 04/17/2019 Announcement/Opportunity #: \_\_\_\_\_  
Grant Category/Title: HMGP Max Award Value: \_\_\_\_\_  
Allows Indirect/Rate: \_\_\_\_\_ Match Requirement: 25%  
Application Deadline: 05/04/2019 Other Deadlines: \_\_\_\_\_  
Grant Start Date: TBD Other Deadline Description: \_\_\_\_\_  
Grant End Date: 05/04/2022 Program Income Requirement: \_\_\_\_\_  
Completed By: \_\_\_\_\_  
Pre-Application Meeting Schedule: \_\_\_\_\_

**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?

Disaster Management seek's to reduce risk and mitigate natural hazards to protect lives, property and promote a healthy environment. This grant provides funding and federal guidance to implement local, state, and federal mitigation objectives.

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

Our department is the best suited for securing and administering this type of grant.

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

The HMGP objectives are to assist State, Tribal Territorial and local governments in reducing overall risk to the population and structures from future hazard events, while also reducing reliance on federal funding from future disasters. This project will permanently remove a highly vulnerable house and property from future risk of erosion hazard and falling into the Sandy River and possibly jeopardizing other properties and causing negative environmental

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

No

**Organizational Capacity:**

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

Disaster Management has repeated experience managing these types of projects, with six prior FEMA flood acquisitions completed in the past ten years. The project manager will be the Resilience Coordinator, Jay Wilson, who managed all of the prior projects, with grant administrative support from Sarah Eckman for fiscal assistance.

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

As in past projects, Disaster Management will contract technical support from County Transportation Engineering to oversee the contracting and site work of the demolition process.

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.)?

This is not a pilot project.

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.)?

This grant is only for the project-related costs and will not provide any direct program funding.



**Collaboration**

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

Project collaboration comes from Planning to provide necessary permits and plan review, Business and Community Services to assist with long-term maintenance as open space using local vounteers, and Finance for accounting and required reporting.

**Reporting Requirements**

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

As the HMGP grant sub-applicanet, Disaster Management and Finance will submit quaterly reports on project progress to Oregon Emergency Management (Applicant) who will then provide to FEMA, the grant administrator.

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?

FEMA has a period of performance and completion timelines for closing on real property and completion of demolition and site clearing. Disaster Management will be responsible for compliance with all facets of project performance.

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

Oregon Emergency Management requires quarterly fiscal reports be submitted to their Finance staff. Disaster Management, working with County Finance, will comply with these reporting requirements.

**Fiscal**

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

Yes, FEMA requires the completion of a benefit to cost analysis that must meet or exceed a 1:1 ratio. This project's benefits/cost ration is 2.20 for the reduction in risk and improvements to the natural environment.

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

The only other source of revenue will be the 25% match provided by the homeowners.

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

Total project costs are estimated at \$533,735 with the FEMA federal 75% share being \$400,301 and the local 25% match by the homeowners being \$133,434.

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?

No.

Program Approval:

Name (Typed/Printed)	Date	Signature
<b>** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR**</b>		
<b>**ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.**</b>		

**Section IV: Approvals**

DIVISION DIRECTOR (or designee, if applicable)		
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
Name (Typed/Printed)	Date	Signature

FINANCE GRANT MANAGER (or designee, if applicable; FOR FEDERALLY-FUNDED APPLICATIONS ONLY)		
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:**

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
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:

---

County Administration Attestation

**County Administration: re-route to department contact when fully approved.**

**Department: keep original with your grant file.**



**DAN JOHNSON**  
MANAGER

**DEVELOPMENT AGENCY**

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

May 16, 2019

Development Agency Board  
Board of County Commissioners  
Clackamas County

Members of the Board:

Granting of a Permanent Right of Way Easement for Road Purposes and  
a Permanent Slope, Wall, and Public Utility Easement

<b>Purpose/Outcome</b>	Authorization for the Chair to execute a Permanent Right of Way Easement for Road Purposes and a Permanent Slope, Wall, and Public Utility Easement in favor of Clackamas County to become part of SE Capps Road right of way.
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	Not applicable. No funding is required as part of this transaction.
<b>Duration</b>	Permanent upon execution.
<b>Previous Board Action/Review</b>	On May 9, 2019, the Board of County Commissioners approved a Resolution Declaring the Public Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property for the SE Capps Road Terminus Project.
<b>Strategic Plan Alignment</b>	"Build a strong infrastructure".
<b>Counsel Review</b>	Reviewed and Approved by County Counsel on May 8, 2019
<b>Contact Person</b>	Sharan Hams-LaDuca, Senior Right of Way Agent, Dept. of Transportation and Development, Engineering - 503-742-4675

**BACKGROUND:** The Development Agency is planning construction of the SE Capps Road Terminus Project (the Project). The Board of County Commissioners approved funding for the Project as part of the Development Agency's 2018-2019 Budget and a Resolution Declaring the Public Necessity and Purpose for Acquisition of Rights of Way, Easements and Fee Property. A Permanent Right of Way Easement and a Permanent Slope, Wall and Public Utility Easement is needed for the Project. The property from which these easements come is currently owned by the Agency, but will soon be sold for redevelopment purposes. The easements must be conveyed to Clackamas County prior to closing on

the sale. The easement areas are described in the attached Exhibits “A” and “B”.

The Agency is requesting the Board approve and execute the attached Permanent Right of Way Easement for Road Purposes and Permanent Slope, Wall, and Public Utility Easement to Clackamas County.

**RECOMMENDATION:** Staff respectfully recommends the Board, as the governing body of the Clackamas County Development Agency:

- Approve the Permanent Right of Way Easement for Road Purposes and the Permanent Slope, Wall, and Public Utility Easement
- Delegate authority to the Chair to execute the Permanent Right of Way Easement for Road Purposes and Permanent Slope, Wall, and Public Utility Easement
- Record the Permanent Right of Way Easement for Road Purposes and Permanent Slope, Wall, and Public Utility Easement

Respectfully submitted,

David Queener,  
Clackamas County Development Agency Program Supervisor

Grantor: Clackamas County Development Agency 150 Beaver creek Rd. Oregon City, OR 97045	State of Oregon
Grantee: Clackamas County 150 Beaver creek Rd. Oregon City, OR 97045	
After Recording Return to: Clackamas County Engineering 150 Beaver creek Rd. Oregon City, OR 97045	
Until a change is requested, all taxes shall be sent to: No Change	Accepted by Clackamas County by Act of the Road Official Acceptance Date: _____
Road Name: <u>SE Capps Road</u> DTD Rd. File No. _____	Authorized by Clackamas County Ordinance No. 02-2009 Project: _____

**PERMANENT RIGHT OF WAY EASEMENT FOR ROAD PURPOSES**  
(Corporate or Non Profit Grantor)

For value received, Clackamas County Development Agency, (Grantor), hereby grants, bargains, sells and conveys to Clackamas County, a political subdivision of the State of Oregon, its heirs, successors and assigns, (Grantee), a permanent easement dedicated to the public for road and right of way purposes, in, under, upon, and across Grantor's real property located in Clackamas County, State of Oregon.

Grantor's real property is more particularly described as follows: A tract of land located in the NE 1/4 of Section 15, T2S, R2E, WM, as more particularly described as Tract 1 in that Property Line Adjustment Deed recorded on April 19, 2019, as Document No. 2019-020590 in the Deed Records of Clackamas County, Oregon.

The Permanent Right of Way Easement for Road Purposes is more particularly described as follows: A strip of land described and depicted as Tract 1 in Exhibits "A" and "B" attached hereto and by this reference made a part hereof (the Easement Area).

Grantee's rights include, but are not limited to, Grantee's right to enter upon and utilize the Easement Area for the purposes described in this document. Grantee may remove trees, shrubs, brush, paving or other materials within the Easement Area whenever necessary to accomplish these purposes.

Grantor, Grantor's heirs, successors, assigns or representatives, shall not construct or maintain any building or other structures upon the above described Easement Area.

This easement does not obligate the public or Grantee to replace landscaping or improvements of any kind placed within the Easement Area and which interferes with Grantee's use of the Easement Area for the purposes described in this document.

Statutory Land Use Disclaimer: Before signing or accepting this instrument, the person transferring fee title should inquire about the person's rights, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and

regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest practices, as defined in ORS 30.930, and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY, the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY, a corporate body politic under ORS Chapter 457

By: \_\_\_\_\_  
Jim Bernard, Chair

STATE OF OREGON                    )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was signed and attested before me this \_\_\_\_\_ day of \_\_\_\_\_ 2019,

Jim Bernard as Chair of the Board of County Commissioners on behalf of Clackamas County Development Agency.

\_\_\_\_\_  
Notary Public for State of Oregon  
My Commission Expires: \_\_\_\_\_

EXHIBIT "A"

SE Capps Road Dedication  
Owner: Clackamas County  
Development Agency

Map No. 22E15A01700  
February 4, 2019  
Page 1 of 3

**TRACT 1  
PERMANENT RIGHT OF WAY EASEMENT FOR ROAD PURPOSES**

A tract of land located in Northeast one quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, State of Oregon, being a portion of that tract of land described as Tract 1 recorded as Document No. 2019-020590, Clackamas County Deed Records, as shown on Exhibit "B" attached hereto and by this reference made a part hereof, more particularly described as follows;

Beginning at the Southwest corner of Parcel 1, Partition Plat 1995-164; Thence along the west line of said Parcel 1, North 00°08'00" East, 23.24 feet; Thence departing the west line of Parcel 1, 31.02 feet along a non-tangent curve to the left with a radius of 58.00 feet, a delta of 30°38'34" and a long chord of South 51°15'53" West, 30.65 feet to a point of reverse curve; Thence 20.74 feet along a tangent curve to the right with a radius of 22.00 feet, a delta of 54°01'13" and long chord of South 62°57'13" West, 19.98 feet to a point of tangency; Thence South 89°57'49" West, 4.09 feet; Thence South 00°02'11" East, 46.04 feet; Thence 23.45 feet along a non-tangent curve to the right with a radius of 22.00 feet, a delta of 61°03'36" and a long chord of South 63°04'48" East, 22.35 feet to a point of reverse curve; Thence 74.95 feet along a tangent curve to the left with a radius of 58.00 feet, a delta of 74°02'11" and long chord of South 69°34'06" East, 69.84 feet; Thence North 00°27'26" East, 25.60 feet to a point on the southerly right of way of SE Capps Road, County Road No. 3393; Thence along the said southerly right of way, South 89°57'49" West, 40.04 feet; Thence leaving the said southerly right of way, North 00°10'06" East, 60.00 feet to the point of beginning.

Containing 4,357 square feet more or less.

Basis of bearings for this description is held from Record of Survey Number 2017-092 Clackamas County Surveyor Records.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

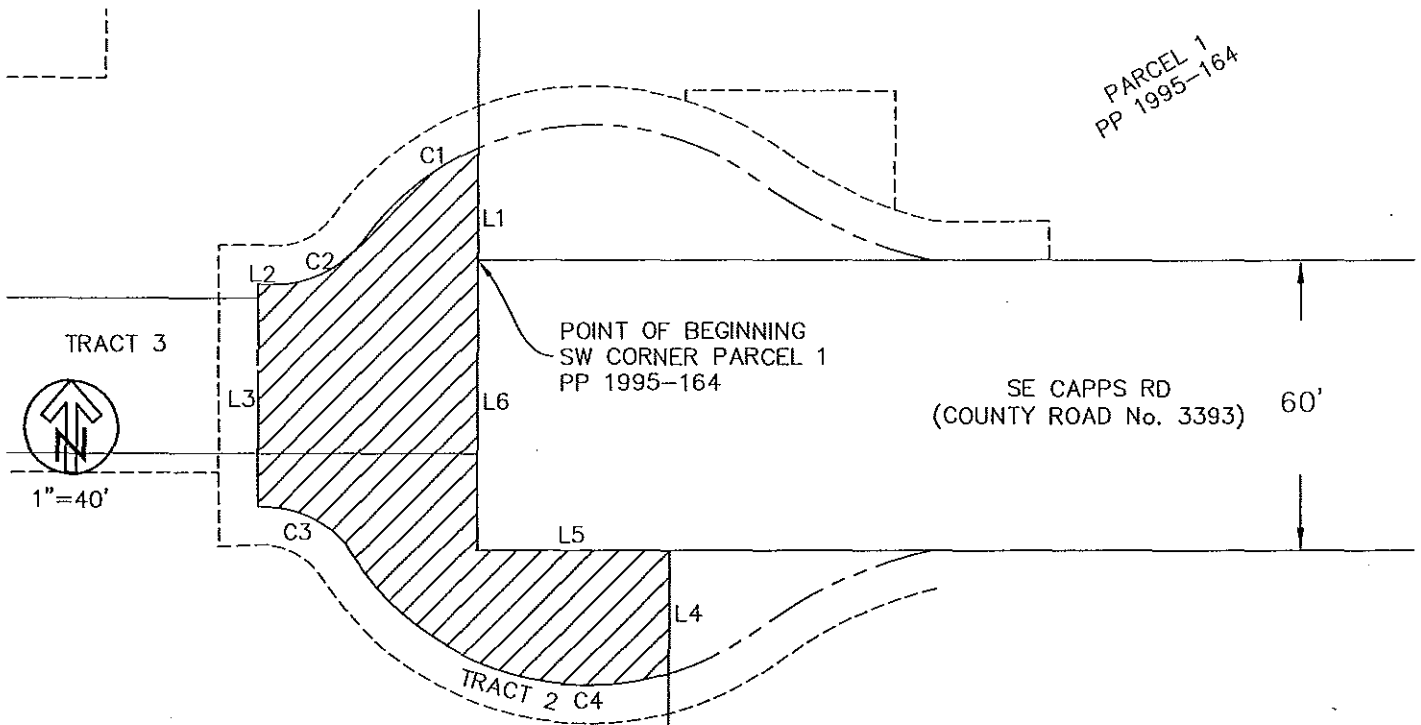
*Brian W. Paull*

OREGON  
MARCH 13, 2018  
BRIAN W. PAULL  
89074

EXPIRATION DATE: 12/31/20

LOCATED IN THE NE 1/4 OF SECTION  
15 T2S., R2E., W.M.  
CLACKAMAS COUNTY, OREGON

PARCEL 1  
PP 1995-164



TRACT 3



1"=40'

POINT OF BEGINNING  
SW CORNER PARCEL 1  
PP 1995-164

SE CAPPS RD  
(COUNTY ROAD No. 3393) 60'

TRACT 2 C4

CLACKAMAS COUNTY  
DEVELOPMENT AGENCY  
TAXMAP 22E15A 01700  
DOC# 2019-020590

Line Table		
Line #	Length	Bearing
L1	23.24'	N00° 08' 00"E
L2	4.09'	S89° 57' 49"W
L3	46.04'	S00° 02' 11"E
L4	25.60'	N00° 27' 26"E
L5	40.04'	S89° 57' 49"W
L6	60.00'	N00° 10' 06"E

Curve Table				
Curve #	Length	Radius	Delta	LongChord
C1	31.02'	58.00'	30°38'34"	S51°15'53"W 30.65'
C2	20.74'	22.00'	54°01'13"	S62°57'13"W 19.98'
C3	23.45'	22.00'	61°03'36"	S63°04'48"E 22.35'
C4	74.95'	58.00'	74°02'11"	S69°34'06"E 69.84'

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Brian Paull*

OREGON  
MARCH 13, 2018  
BRIAN W. PAULL  
89074

EXPIRATION DATE: 12/31/20



TRACT 1  
PERMANENT RIGHT OF WAY  
EASEMENT  
AREA = 4,357 Sq.Ft.±



DEPARTMENT OF  
TRANSPORTATION  
AND  
DEVELOPMENT

EXHIBIT "B"  
CAPPS ROAD PROJECT  
PROJECT NO. DB-57  
PAGE 1 OF 3

PERMANENT RIGHT OF WAY  
EASEMENT CLACKAMAS COUNTY  
DEVELOPMENT AGENCY

RD. FILE NO.	DRAWN BY	DESIGN BY	DATE:
DB-57	STAFF		02-04-19



Grantor: Clackamas County Development Agency	State of Oregon
Address: 150 Beaver Creek Rd. Oregon City, OR 97045	
Grantee: Clackamas County 150 Beaver Creek Rd. Oregon City, OR 97045	
After Recording Return to: Clackamas County Engineering 150 Beaver Creek Rd. Oregon City, OR 97045	
Until a change is requested, all taxes shall be sent to: No Change	Accepted by Clackamas County by Act of the Road Official Acceptance Date: _____
Road Name: <u>SE Capps Road</u> DTD Rd. File No.	Authorized by Clackamas County Ordinance No. 02-2009 Project:

**PERMANENT SLOPE, WALL, and PUBLIC UTILITY EASEMENT**

For value received, Clackamas County Development Agency, (Grantor), hereby grants and conveys to Clackamas County, a political subdivision of the State of Oregon, its heirs, successors and assigns, (Grantee), a permanent easement dedicated to the public for the construction, reconstruction, upgrade, replacement, repair, maintenance, and inspection of slopes, walls, public utilities, and related appurtenances, in, under, upon, and across Grantor's real property located in Clackamas County, State of Oregon.

Grantor's real property is more particularly described as follows: A tract of land located in the NE 1/4 of Section 15, T2S, R2E, WM, as more particularly described as Tract 1 in that Property Line Adjustment Deed recorded on April 19, 2019, as Document No. 2019-020590 in the Deed Records of Clackamas County, Oregon.

The Permanent Slope, Wall, and Public Utility Easement is more particularly described as follows: A strip of land as described and depicted as Tract 2 in Exhibits "A" and "B" attached hereto and by this reference made a part hereof (the Easement Area).

Grantee shall have the right to enter upon and utilize the Easement Area for the purposes described in this document. Grantee may remove trees, shrubs, brush, paving or other materials within the Easement Area whenever necessary to accomplish these purposes.

Grantor, Grantor's heirs, successors, assigns or representatives, shall not construct or maintain any building or other structures upon the above described Easement Area without prior written approval from the Clackamas County Department of Transportation and Development. In addition, Grantor, Grantor's heirs, successors, assigns or representatives shall not alter the configuration of the material forming the slope or the wall, including alteration by addition or removal of material, without prior written approval from the Clackamas County Department of Transportation and Development.

This easement does not obligate the public or Grantee to replace landscaping, fencing, shrubs, trees, or other improvements that may be placed within the Easement Area and which interferes with Grantee's use of the Easement Area for the purposes described in this document. Grantee or Grantee's designee, if for utility use, will stabilize and reseed the slope following any work in the Easement Area. Grantee or Grantee's utility designee agrees to repair any damage to the property caused by Grantee's or Grantee's utility designee's incidental use of the land outside the Easement Area.

Statutory Land Use Disclaimer: Before signing or accepting this instrument, the person transferring fee title should inquire about the person's rights, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest practices, as defined in ORS 30.930, and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and Sections 2 to 7, Chapter 8, Oregon Laws 2010.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

CLACKAMAS COUNTY DEVELOPMENT AGENCY, the URBAN RENEWAL AGENCY OF CLACKAMAS COUNTY, a corporate body politic under ORS Chapter 457

By: \_\_\_\_\_  
Jim Bernard, Chair

STATE OF OREGON                    )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was signed and attested before me this \_\_\_\_\_ day of \_\_\_\_\_ 2019,

Jim Bernard as Chair of the Board of County Commissioners on behalf of Clackamas County Development Agency.

\_\_\_\_\_  
Notary Public for State of Oregon  
My Commission Expires: \_\_\_\_\_

EXHIBIT "A"

SE Capps Road Dedication  
Owner: Clackamas County  
Development Agency

Map No. 22E15A01700  
February 4, 2019  
Page 2 of 3

**TRACT 2**  
**PERMANENT SLOPE, WALL AND PUBLIC UTILITY EASEMENT**

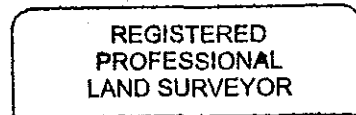
A tract of land located in Northeast one quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, State of Oregon, being a portion of that tract of land described as Tract 1 recorded as Document No. 2019-020590, Clackamas County Deed Records, as shown on Exhibit "B" attached hereto and by this reference made a part hereof, more particularly described as follows;

Commencing at the Southwest corner of Parcel 1, Partition Plat 1995-164; Thence along the west line of said Parcel 1, North 00°08'00" East, 23.24 feet; Thence departing the west line of Parcel 1, 31.02 feet along a non-tangent curve to the left with a radius of 58.00 feet, a delta of 30°38'34" and a long chord of South 51°15'53" West, 30.65 feet to a point of reverse curve; Thence 20.74 feet along a tangent curve to the right with a radius of 22.00 feet, a delta of 54°01'13" and long chord of South 62°57'13" West, 19.98 feet to a point of tangency; Thence South 89°57'49" West, 4.09 feet; Thence South 00°02'11" East, 2.94 feet to the True Point of Beginning;

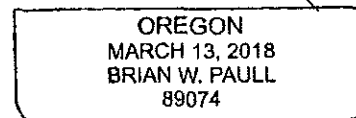
Thence South 89°58'02" West, 8.00 feet; Thence South 00°02'11" East, 51.35 feet; Thence North 88°11'42" East, 9.50 feet; Thence 13.93 feet along a tangent curve to the right with a radius of 14.06 feet, a delta of 56°59'32" and long chord of South 61°02'46" East, 13.36 feet to a point of reverse curve; Thence 82.84 feet along a tangent curve to the left with a radius of 66.00 feet, a delta of 71°55'08" and long chord of South 68°30'34" East, 77.51 feet; Thence North 00°27'26" East, 8.32 feet; Thence 74.95 feet along a non-tangent curve to the right with a radius of 58.00 feet, a delta of 74°02'11" and a long chord of North 69°34'06" West, 69.84 feet to a point of reverse curve; Thence 23.45 feet along a tangent curve to the left with a radius of 22.00 feet, a delta of 61°03'36" and long chord of North 63°04'48" West, 22.35 feet; Thence North 00°02'11" West, 46.04 feet to the point of beginning.

Containing 1,196 square feet more or less.

Basis of bearings for this description is held from Record of Survey Number 2017-092, Clackamas County Survey Records.



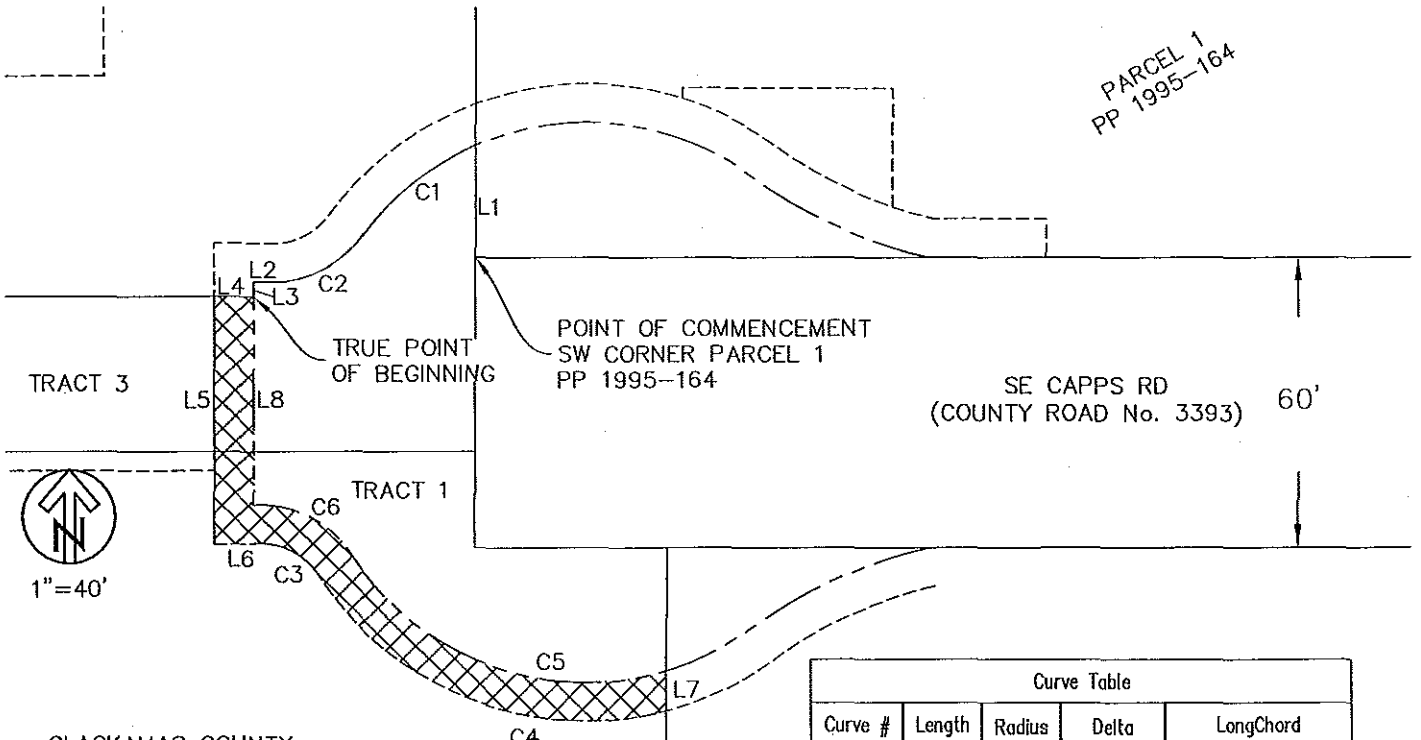
*Brian W. Paull*



EXPIRATION DATE: 12/31/20

LOCATED IN THE NE 1/4 OF SECTION  
15 T2S., R2E., W.M.  
CLACKAMAS COUNTY, OREGON

PARCEL 1  
PP 1995-164



TRACT 3

TRACT 1

SE CAPPS RD  
(COUNTY ROAD No. 3393) 60'



1"=40'

CLACKAMAS COUNTY  
DEVELOPMENT AGENCY  
TAXMAP 22E15A 01700  
DOC# 2019-020590

Line Table		
Line #	Length	Bearing
L1	23.24'	N00° 08' 00"E
L2	4.09'	S89° 57' 49"W
L3	2.94'	S00° 02' 11"E
L4	8.00'	S89° 58' 02"W
L5	51.35'	S00° 02' 11"E
L6	9.50'	N88° 11' 42"E
L7	8.32'	N00° 27' 26"E
L8	46.04'	N00° 02' 11"W

Curve Table				
Curve #	Length	Radius	Delta	LongChord
C1	31.02'	58.00'	30°38'34"	S51°15'53"W 30.65'
C2	20.74'	22.00'	54°01'13"	S62°57'13"W 19.98'
C3	13.93'	14.00'	56°59'32"	S61°02'46"E 13.36'
C4	82.84'	66.00'	71°55'08"	S68°30'34"E 77.51'
C5	74.95'	58.00'	74°02'11"	N69°34'06"W 69.84'
C6	23.45'	22.00'	61°03'36"	N63°04'48"W 22.35'

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Brian Paull*

OREGON  
MARCH 13, 2018  
BRIAN W. PAULL  
89074

EXPIRATION DATE: 12/31/20



TRACT 2  
PERMANENT SLOPE, WALL  
AND PUBLIC UTILITY  
EASEMENT = 1,196 Sq.Ft.±



DEPARTMENT OF  
TRANSPORTATION  
AND  
DEVELOPMENT

EXHIBIT "B"  
CAPPS ROAD PROJECT  
PROJECT NO. DB-57  
PAGE 2 OF 3

PERMANENT SLOPE, WALL AND PUBLIC  
UTILITY EASEMENT CLACKAMAS  
COUNTY DEVELOPMENT AGENCY

RD. FILE NO. DB-57	DRAWN BY STAFF	DESIGN BY	DATE: 02-04-19
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Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Contract with CH2M Hill Engineers, Inc. for the  
Tri-City Water Resource Recovery Facility (WRRF) Willamette River Outfall**

<b>Purpose/Outcomes</b>	Approval of Contract
<b>Dollar Amount and Fiscal Impact</b>	The maximum contract value is \$1,025,518
<b>Funding Source</b>	639-01-20100-481020-P632241
<b>Duration</b>	The contract will terminate on October 1, 2020
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"><li>1. This project supports the WES Strategic Plan goal to provide properly functioning infrastructure that supports healthy streams and reduces flooding.</li><li>2. This project supports the County's Strategic Plan of building a strong infrastructure that delivers services to customers and honors, utilizes, promotes and invests in our natural resources.</li></ol>
<b>Counsel Review</b>	5-7-2019
<b>Contact Person</b>	Jeff Stallard, Ext 4694

## **BACKGROUND**

Water Environment Services provides wastewater treatment to our service area in Clackamas County at the Tri-City Wastewater Resource Recovery Facility (TC WRRF). The District has identified the need for engineering consulting services to assist the District with the planning, permitting and design of a second outfall to convey treated wastewater from the TC WRRF to the Willamette River. Currently, peak wet weather flow to the TC WRRF is approaching the 75 MGD capacity of the existing plant outfall. Residential/commercial development and an expansion of I-205 are planned in the anticipated project area and are additional drivers for project development and schedule.

The District will contract for consultant services to deliver this project in multiple phases. This contract will cover Phase 1 which includes a routing study, hydraulic analysis, permitting assistance, route and in-water survey, rights-of-way/access/easement/acquisitions, conceptual level design and preliminary construction cost estimate. The future phases of the project include final design, permit application and construction services.

## **PROCUREMENT PROCESS:**

This project was advertised in accordance with ORS and LCRB Rules on November 14, 2018 and closed on December 5, 2018. One proposal was received and notice of intent to award after a full evaluation of the proposal was publicly posted on December 12, 2018. The negotiated total contract amount is not to exceed \$1,025,518.

The project schedule indicates the first phase of this project will be completed by October 1, 2020.

County Counsel has reviewed and approved this contract.

**RECOMMENDATION:**

Staff recommends the Board approve and sign the contract with CH2M Hill Engineers, Inc. to complete the first phase of the outfall project. The district is anticipating amendments to this contract for the future phases of this work.

Respectfully submitted,

Greg Geist, Director  
Water Environment Services

Placed on the \_\_\_\_\_ Agenda by the Purchasing Division



**PERSONAL/PROFESSIONAL SERVICES CONTRACT**

This Personal/Professional Services Contract (this “Contract”) is entered into between **CH2M Hill Engineers, Inc. dba, Jacobs** (“Contractor”), and Water Environment Services, a political subdivision of the State of Oregon (“District”).

**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 **December 31, 2020**. However, such expiration shall not extinguish or prejudice the District’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: to provide engineering services for the Tri City Water Resource Recovery Facility (“WRRF”) Willamette River Outfall (“Work”), further described in **Exhibit A**.

**3. Consideration.** The District agrees to pay Contractor, from available and authorized funds, a total contract value sum not to exceed **One Million Twenty Five Thousand Five Hundred Eighteen dollars (\$1,025,518.00)**, 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:  Yes     No

If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the Clackamas 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, F and G.

**6. Contractor Data.**

**CH2M Hill Engineers, Inc. dba Jacobs**

**Address:** 2020 SW Fourth Avenue, Suite 300, Portland, Oregon 97213

**Contractor Contract Administrator:** Mark Johnson, PE

**Phone No.:** 503-736-4225

**Email:** [Mark.Johnson6@jacobs.com](mailto:Mark.Johnson6@jacobs.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. District 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.** District 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 District'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 District 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 District 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 District 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 District prior to using products containing hazardous chemicals to which District employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon District'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 District and Clackamas County, and their 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 District 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, District 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 District 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 District 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 District 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 District. District and Contractor intend that such Work Product be deemed “work made for hire” of which District shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to District 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 District may reasonably request in order to fully vest such rights in District. 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 District 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 District. In addition to any provisions the District 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. District’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 District

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 District's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. District 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 District 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 District for convenience upon thirty (30) days' written notice to the Contractor; (B) District may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the District, 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 District 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 District 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 District, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the District (or from applicable federal, state, or other sources) to permit the District in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, District 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 District, less previous amounts paid and any claim(s) which the District 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 District on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the District 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 District expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to District all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon District's request, Contractor shall surrender to anyone District designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** District 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 District 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, District'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 District to enforce any provision of this Contract shall not constitute a waiver by District 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 District 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 District 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



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

**SCOPE OF WORK**

Contractor shall complete work as outlined in the Request for Proposal # 2018-92, Issued December 5, 2018, hereby included as **Exhibit D**, the Vendor's Response/Statement of Work hereby attached and incorporated as **Exhibit E**, the Vendor's Rate Schedule attached and incorporated as **Exhibit F**, and Project Schedule hereby attached and incorporated as **Exhibit G**.

Inclusive of all the following documents:

- National Pollutant Discharge Elimination System Waste Discharge Permit- Blue Heron
- National Pollutant Discharge Elimination System Waste Discharge Permit- Kellogg Creek
- National Pollutant Discharge Elimination System Waste Discharge Permit- Tri City
- Original Plant Record Drawings Tri-City WRRF (CH2M Hill, 1986)
- Willamette Interceptor 1A Outfall
- 1B Record Drawings (Brown and Caldwell, 1984)
- Tri-City Service District WPCP 48" Outfall Check Valve Installation Report (Northwest Underwater Construction, 2012)
- Tri-City WRRF Outfall Mixing Zone Study (MixZon, 2011)
- Preliminary Scope Outline

The District Contract administrator for this Contract is: Jeff Stallard

**CONSIDERATION**

- a. Consideration Rates – Time and Material as detailed in Exhibit F.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462. Invoices shall be submitted to: Jeff Stallard at 150 Beavercreek Road, Oregon City, Oregon 97045 or via email at [jstallard@clackamas.us](mailto:jstallard@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 District's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the District 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 District 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 District     Not required by District**

**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 District     Not required by District**

**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 District     Not required by District**

**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 District and Clackamas 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 District acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the District. 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 District 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 District 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 District; 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 #2018-92**  
**Tri City Water Resource Recovery Facility (WRRF) Willamette River Outfall**  
**Issued December 5, 2018**

**EXHIBIT E**  
**VENDOR'S RESPONSE/NEGOTIATED STATEMENT OF WORK**

**EXHIBIT F  
RATE SCHEDULE**

**EXHIBIT G  
WORK SCHEDULE**