



July 9, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Revised Amendment to an Intergovernmental Agreements with the
State of Oregon Related to Funding for a Future County Courthouse

Purpose/Outcome	Approval of a revised amendment to an intergovernmental agreement with the State of Oregon related to the planning phase for a future county courthouse.
Dollar Amount and Fiscal Impact	No financial impact as a result of this amendment. The existing agreements facilitate the receipt of approximately \$95.7 million in state funds towards the design and construction of a new County Courthouse.
Funding Source	County staff anticipates that the future county courthouse will be funded using a combination of local funds from the County's general fund and matching funds from the State of Oregon.
Duration	The existing Phase 1 agreement will expire upon the completion of the benchmarks described in the agreement, which County staff anticipates will occur by June 30, 2021.
Previous Board Action/Review	The Board had previously approved the amendment as provided by the State at their Business Meeting on June 25, 2020.
Strategic Plan Alignment	<ul style="list-style-type: none">• Build public trust through good government• Ensure safe, healthy and secure communities
Contact Person	Gary Barth, (503) 754-2050

Project Background

At its June 25, 2020 Business Meeting the Board approved an amendment to an Intergovernmental Agreement which had been provided by the State with county counsel input and approval.

On June 29, 2020 the State contacted the County and informed the County that the State had provided the County with an incorrect amendment and that they would be providing a correct amendment for County approval. That correct and final amendment with all appropriate state agency signatures was received by the County on June 30, 2020. County Counsel reviewed the final amendment and determined that while it clarified a few provisions it is not substantively different than what was previously approved by the Board on June 25, 2020.

This correct and final amendment is being included as a consent agenda item for the July 9, 2020 Business Meeting so that the Board can formally accept and ratify the updated version

RECOMMENDATION

Staff respectfully recommends the Board accept and ratify the attached corrected amendment to the Phase 1 intergovernmental agreement with the State of Oregon.

Sincerely,

Gary Schmidt
Clackamas County Administrator

**SECOND AMENDMENT TO
CLACKAMAS COUNTY COURTHOUSE
PHASE 1 FUNDING AGREEMENT**

This Second Amendment ("Amendment") to Clackamas County Courthouse Funding Agreement – Phase I ("Original Agreement") is by and among the State of Oregon, acting by and through its Department of Administrative Services ("DAS") and the Oregon Judicial Department ("OJD") (together referred to as the "State"), and Clackamas County, Oregon ("County"). OJD, DAS and County are each referred to individually as a "Party" and collectively as the "Parties."

RECITALS

- A. On February 28, 2019, the Parties entered into the Original Agreement.
- B. On June 27, 2019, the Parties entered into Amendment No. 1 to the Original Agreement to extend the Project Completion Date. The Original Agreement and the Amendment No. 1 are collectively referred to as the "Phase I Agreement."
- C. The Parties now desire to further amend the Phase I Agreement to extend the Phase Completion Date and revise requirements related to State Funds for Phase I during the extended period.

AGREEMENT

In consideration of the above Recitals which are incorporated in this Amendment and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

- 1. Any reference in the Phase 1 Agreement to the "Phase Completion Date" shall mean July 1, 2021.
- 2. Section 4(c) of the Phase 1 Agreement is deleted in its entirety and replaced with the following:

"(c) 'Phase Completion Date' means July 1, 2021 (or as may be extended by the written agreement of the parties.)"
- 3. In the Project Summary section of the Phase I Agreement the line for State Funds for Phase I is deleted in its entirety and replaced with the following:

"State Funds for Phase I: \$1,200,000.00"
- 4. Section 5 of the Phase I Agreement is deleted in its entirety and replaced with the following:

"(a) Although the Phase Completion Date is extended to July 1, 2021, the State Funds for Phase I are available only through June 30, 2020. The availability of the State Funds for Phase I after June 30, 2020, is contingent upon the issuance of State Bonds in 2021.

- (b) Subject to all the terms, conditions, and limitations contained in this Section 5, the State of Oregon has agreed to contribute the State Funds to the Project. The State Funds are available for expenditure for Phase 1 through a biennial appropriation by the Oregon Legislative Assembly from the State's General Fund only through June 30, 2020. However, if State Bonds are issued in 2021 for the purpose of funding Phase 1 of the Project, , the State will contribute the proceeds of such bonds to Phase 1.
 - (c) OJD may authorize the use of General Funds after June 30, 2020 for Phase 1, if General Funds are appropriated and legally available to OJD for such expenditure and OJD may request the State Treasurer to sell State Bonds in 2021 for Phase 1, but OJD has no present obligations of any kind to provide any funding after June 30, 2020.
 - (d) The Oregon Legislative Assembly may authorize additional funding for the Project, but the State has no present obligation of any kind to provide additional funding, other than the State Funds.
 - (e) The parties may enter into a Funding Agreement for Phase II subject to the provisions of Section 13 below."
5. Sections 6.a.(ii) and (iii) of the Phase I Agreement are deleted in their entirety and replaced with the following:
- "(ii) Subject to the terms, conditions, and limitations in Section 5 above, the State has taken all actions required by law for the State to acquire and use the State Funds pursuant to an appropriation from the Oregon Legislative Assembly, and the State Funds are available or will be available as provided in such appropriation, to be spent on this Phase pursuant to this Agreement and the Master Agreement.
- (iii) Subject to the terms, conditions, and limitations in Section 5 above, the State will contribute the full amount of the State Funds to the Project."
6. Section 8(a) of the Phase I Agreement is deleted in its entirety and replaced with the following:
- "(a) To the extent State Funds are derived from an appropriation of the State's General Funds instead of State Bonds, the provisions in this Section 8 shall apply to those State Funds that are derived from State General Funds and the respective County Contribution."
7. Except as provided in this Amendment, all other terms and conditions of the Phase I Agreement are still in full force and effect.
8. This Amendment may be executed in two or more counterparts (by electronic signature, facsimile, or otherwise), each of which is an original and all of which when taken together are deemed one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.

[SIGNATURES FOLLOW ON NEXT TWO PAGES]

The State and the County, by execution of this Amendment, each hereby acknowledge each has read this Amendment, understands it and agrees to be bound by its terms and conditions. The Parties agree that by the exchange of this Amendment electronically, each has agreed to the use of electronic means, if applicable, instead of the exchange of physical documents and manual signatures. By inserting an electronic or manual signature below, each authorized representative acknowledges that it is their signature, that each intends to execute this Amendment, and that their electronic or manual signature should be given full force and effect to create a valid and legally binding agreement.

The State of Oregon,
acting by and through its Department of Administrative Services (DAS):

Print Name: George Naughton
Title: CFO
Signature: [Handwritten Signature]
Date: June 30, 2020

The State of Oregon,
acting by and through its Judicial Department (OJD):

Print Name: Phillip Lemman
Title: Deputy State Court Administrator
Signature: [Handwritten Signature]
Date: 6/30/20

Approved as to Legal Sufficiency for the State:

By: email on June 25, 2020
Cynthia Byrnes, Assistant Attorney General

Approved as to all provisions relating to the Department of Human Services, as Colocation Agency hereunder:

The State of Oregon,
acting by and through its Department of Human Services (Colocation Agency):

Print Name: GLEN BASON
Title: ADMINISTRATOR OF FACILITIES
Signature: [Handwritten Signature]
Date: 06/30/2020

Approved as to all provisions relating to the Office of Public Defense Services, as Colocation Agency hereunder:

**The State of Oregon,
acting by and through its Office of Public Defense Services (Colocation Agency):**

Print Name: Eric Deitrick

Title: General Counsel

Signature: 

Date: 6/30/20


Clackamas County, Oregon (County):

Print Name: _____

Title: _____

Signature: _____

Approved as to legal sufficiency for the County:

By: 
Nathan Boderman, Assistant County Attorney