

January 7th, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with
the State of Oregon, Department of Consumer and Business Services,
Senior Health Insurance Benefits Assistance (SHIBA)

Purpose/Outcomes	To provide grant funds for the Medicare Improvements for Patients and Providers Act (MIPPA) program to provide education for Medicare beneficiaries about public health
Dollar Amount and Fiscal Impact	\$6,500 revenue
Funding Source	The Oregon Department of Human Services' State Unit on Aging (SUA) received a Medicare Improvements for Patients and Providers Act (MIPPA) grant from the Administration for Community Living (ACL). This grant will support the continued partnership between the SUA, the Senior Health Insurance Benefits Assistance (SHIBA) program and Multnomah County Aging and Disability Services (MCADS) to expand and enhance outreach and application assistance for low income individuals who are potentially eligible for the Low Income Subsidy (LIS) or the Medicare Savings Program (MSP). No match requirements. No County General Funds are involved.
Duration	September 1, 2020 through August 31, 2021
Previous Board Action	N/A
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with H3S's strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Counsel Review	County Counsel reviewed and approved this document on 11/25/20
Procurement Review	<ol style="list-style-type: none"> 1. Was this time processed through Procurement? No 2. If no, provide brief explanation: This is a Revenue agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director – Social Services Division – (503)655-8641
Contract No.	State Grant #45G000232, H3S#9967

BACKGROUND:

The Social Services Division (SSD) of the Health, Housing and Human Services Department requests approval of an amendment to the Intergovernmental Grant Agreement (IGA) from the State of Oregon, Department of Consumer and Business Services, Senior Health Insurance Benefits Assistance (SHIBA). This IGA provides funding to educate Medicare beneficiaries

about public benefits, and enroll those who are eligible in limited-income Subsidy for Part D and Medicare Savings Programs.

SHIBA is designed to educate senior and other Medicare recipients of their rights, resources and needs relating to Medicare and other health insurance. These services are invaluable to our seniors and citizens with disabilities and provide a much needed resource for our most vulnerable populations.

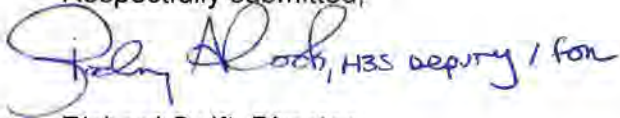
The Senior Medicare Patrol (SMP) grant funds help the Volunteer Connection SHIBA program improve and expand State efforts to provide Medicare/Medicaid beneficiaries education of healthcare fraud, errors and abuse. Outreach efforts focus on high populations in rural, Hispanic and tribal communities.

This agreement was received from the State on August 28, 2020. The agreement is for \$6,500 from September 1, 2020 to August 31, 2021. County Counsel reviewed and approved the amendment. There are no match requirements and no County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in blue ink that reads "Jody Alcock, H3S deputy / for". The signature is written in a cursive style.

Richard Swift, Director
Health, Housing and Human Services Department

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: H3S- Social Services Division Application for: Subrecipient funds Direct Grant
Grant Renewal? Yes No

Name of Funding Opportunity: Senior Health Insurance Benefit Assistance Program (SHIBA)

Funding Source: Federal State Local: _____

Requestor Information (Name of staff person initiating form): Kristina Babcock

Requestor Contact Information: x3929

Department Fiscal Representative: Jennifer Snook

Program Name or Number (please specify): 242 4345 05190 331067

Brief Description of Project:

The State of Oregon agrees to pay Clackamas County a yearly not to exceed amount of \$6,500.00. Clackamas County will be part of Oregon's effort to strengthen its capability to provide all Medicare eligible individuals, family members, and caregivers information, counseling and assistance on health insurance matters.

Name of Funding (Granting) Agency: Administration for Community Living (ACL)

Agency's Web Address for Grant Guidelines and Contact Information:
<https://acl.gov/>

OR

Application Packet Attached: Yes No

Completed By: Kristina Babcock 11/30/2020
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/Renewal Other Notification Date: 08/09/2017

CFDA(s), if applicable: _____

Announcement Date: _____ Announcement/Opportunity #: _____

Grant Category/Title: SHIBA - IGA Max Award Value: \$6,500

Allows Indirect/Rate: _____ Match Requirement: _____

Application Deadline: _____ Other Deadlines: _____

Grant Start Date: 09/01/2020 Other Deadline Description: _____

Grant End Date: 08/31/2020

Completed By: Kristina Babcock

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?

2. How does the grant support the Division's Mission/Purpose/Goals? (If applicable)

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

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

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?

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?

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?

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.)?

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.)?

Collaboration

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

Reporting Requirements

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

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?

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

Fiscal

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

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

3. Is there a match requirement? If yes, how much and what type of funding (CGF, Inkind, Local Grant, etc.)?

4. Is this continuous or one-time funding? If one-time funding, how will program funding be sustained?

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?

Program Approval:

Teresa Christopherson

11/30/2020

Teresa D. Christopherson
Digitally signed by Teresa D. Christopherson
Date: 2020.11.30 12:44:26 -0800

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)		
Brenda Durbin	11/30/2020	Brenda Durbin
Name (Typed/Printed)	Date	Signature

Digitally signed by Brenda Durbin
Date: 2020.11.30 14:47:49 -0800

DEPARTMENT DIRECTOR		
Richard Swift		
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.

INTERGOVERNMENTAL AGREEMENT

Agreement No. 45G000232

This Agreement is between the State of Oregon acting by and through its Department of Consumer and Business Services, Oregon Health Insurance Marketplace, Senior Health Insurance Benefit Assistance Program (“Agency”) and Clackamas County acting by and through its Health, Housing and Human Services Department, Social Services Division (“Local Government”), each a “Party” and, together, the “Parties”.

SECTION 1: AUTHORITY

This Agreement is authorized by ORS 190.110.

SECTION 2: PURPOSE

This Agreement is for the local implementation and delivery of the federal Medicare Improvements for Patients and Providers Act (MIPPA) grant HHS-2020-CIP-MI-20-001 and CFDA 93.071. Local Government will be part of Oregon’s effort to strengthen its capability to provide all Medicare eligible individuals, family members, and caregivers information, counseling and assistance on health insurance matters. This Agreement is 100% funded with Federal funds.

The MIPPA grant is a federal grant from the Administration for Community Living (ACL) funding opportunity number HHS-2020-CIP-MI-20-001 and is intended to support the objectives of the Medicare Improvements for Patients and Providers Act (MIPPA) to educate Medicare beneficiaries about public benefits, and enroll those who are eligible in Limited-Income Subsidy for Part D (also known as LIS or Extra Help) and Medicare Savings Programs (QMB, SMB, SMF). The grant requires involvement of the Senior Health Insurance Benefit Assistance Program (SHIBA), Aging and Disability Resource Connection (ADRC) and the Area Agency on Aging (AAA) programs statewide

Agency will coordinate efforts of SHIBA sponsors statewide. Multnomah County Aging, Disability and Veterans’ Services will coordinate efforts of ADRC and AAA programs, and conduct statewide outreach. Local Government is a SHIBA sponsor covering Clackamas County.

SECTION 3: EFFECTIVE DATE AND DURATION

The “Effective Date” of this Agreement is the later of (i) September 1, 2020, or (ii) the date this Agreement has been fully executed by each party and, approved as required by applicable law. Unless extended or terminated earlier in accordance with its terms, this Agreement terminates on August 31, 2021.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1 Agency’s Authorized Representative is:

Lisa Emerson, SHIBA Program Coordinator
 Department of Consumer and Business Services
 Oregon Health Insurance Marketplace
 350 Winter Street NE
 PO Box 14480
 Salem, OR 97309-0405
 503-947-7087
lisa.emerson@oregon.gov

4.2 Local Government’s Authorized Representative is:

Lois Orner, Human Services Manager, Volunteer Connection
 Clackamas County Social Services
 2051 Kaen Rd
 PO Box 2950
 Oregon City, OR 97045
 503-655-8269
lorner@co.clackamas.or.us

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 5: DEFINITION OF TERMS

- AAA - Area Agency on Aging
- ADRC - Aging and Disability Resource Connection
- CFDA - Catalog of Federal Domestic Assistance
- LIS - Low Income Subsidy
- MIPPA - Medicare Improvements for Patients and Providers Act
- MSP - Medicare Savings Program
- PMs – Performance Measures
- QMB - Medicare Savings Programs
- SHIBA - Senior Health Insurance Benefit Assistance Program
- SMB - Medicare Savings Programs

- SMF - Medicare Savings Programs

SECTION 6: RESPONSIBILITIES OF EACH PARTY

- 6.1** Local Government shall perform the work set forth in Exhibit A, attached hereto and incorporated herein by this reference.
- 6.2** Agency shall pay Local Government as described in Section 7.

SECTION 7: COMPENSATION AND PAYMENT TERMS

Not to Exceed Compensation

The maximum, not-to-exceed compensation payable to Local Government under this Agreement, which includes any allowable expenses, is \$6,500.00. Agency will not pay Local Government any amount in excess of the not-to-exceed compensation of this Agreement, and will not pay for Services performed before the Effective Date or after the expiration or termination of this Agreement. If the maximum compensation is increased by amendment of this Agreement, the amendment must be fully effective before Local Government performs Services subject to the amendment.

SECTION 8: REPRESENTATIONS AND WARRANTIES

Local Government represents and warrants to Agency that:

- 8.1** Local Government is a county duly organized and validly existing. Local Government has the power and authority to enter into and perform this Agreement;
- 8.2** The making and performance by Local Government of this Agreement (a) have been duly authorized by Local Government, (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 Local Government'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 Local Government is party or by which Local Government may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Local Government of this Agreement, other than those that have already been obtained;
- 8.3** This Agreement has been duly executed and delivered by Local Government and constitutes a legal, valid and binding obligation of Local Government enforceable in accordance with its terms;
- 8.4** Local Government has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this

Agreement, and Local Government will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and

- 8.5** Local Government shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by Local Government.

SECTION 9: 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 Agency or any other agency or department of the State of Oregon, or both, and Local Government that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion 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 State of Oregon 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, to or from any Claim or from the jurisdiction of any court. LOCAL GOVERNMENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 10: OWNERSHIP OF WORK PRODUCT

- 10.1** As used in this Section 9 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- 10.1.1** "**Local Government Intellectual Property**" means any intellectual property owned by Local Government and developed independently from the work under this Agreement.
- 10.1.2** "**Third Party Intellectual Property**" means any intellectual property owned by parties other than Local Government or Agency.
- 10.1.3** "**Work Product**" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that Local Government is required to deliver to Agency under this Agreement, and all intellectual property rights therein.
- 10.2** All Work Product created by Local Government under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of Agency. Agency and Local Government agree that any Work Product that is an original work of authorship created

by Local Government under this Agreement is a "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created by Local Government under this Agreement is not "work made for hire," Local Government hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all original Work Product created by Local Government under this Agreement, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, Local Government shall execute such further documents and instruments necessary to fully vest such rights in Agency. Local Government forever waives any and all rights relating to Work Product created by Local Government under this Agreement, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

If the Work Product created by Local Government under this Agreement is a derivative work based on Local Government Intellectual Property, or is a compilation that includes Local Government Intellectual Property, Local Government hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform, and display the pre-existing elements of the Local Government Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

If the Work Product created by Local Government under this Agreement is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Local Government shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing element of the Third party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

- 10.3** If Work Product is Local Government Intellectual Property, Local Government hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Local Government Intellectual Property, and to authorize others to do the same on Agency's behalf.
- 10.4** If Work Product is Third Party Intellectual Property, Local Government shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on Agency's behalf.
- 10.5** If state or federal law requires that Agency or Local Government grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires that Agency or the United States own the intellectual property in the Work Product, then Local Government shall execute such further documents and instruments as Agency may

reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

SECTION 11: CONTRIBUTION

- 11.1** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a “Third Party Claim”) against a Party (the “Notified Party”) with respect to which the other Party (the “Other Party”) may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party’s contribution obligation under this Section 10 with respect to the Third Party Claim.
- 11.2** With respect to a Third Party Claim for which Agency is jointly liable with Local Government (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of Local Government on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of Local Government on the other hand shall be determined by reference to, among other things, the Parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- 11.3** With respect to a Third Party Claim for which Local Government is jointly liable with Agency (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of Local Government on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Local Government on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Local Government’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

SECTION 12: LOCAL GOVERNMENT DEFAULT

Local Government will be in default under this Agreement upon the occurrence of any of the following events:

- 12.1** Local Government fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
- 12.2** Any representation, warranty or statement made by Local Government in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by Local Government is untrue in any material respect when made;
- 12.3** Local Government (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or
- 12.4** A proceeding or case is commenced, without the application or consent of Local Government, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Local Government, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Local Government or of all or any substantial part of its assets, or (c) similar relief in respect to Local Government under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Local Government is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 13: AGENCY DEFAULT

Agency will be in default under this Agreement if Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

SECTION 14: REMEDIES

In the event Local Government is in default under Section 11, and such default remains uncured 15 business days after written notice thereof to Local Government, Agency may, at its option,

pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that Local Government has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Local Government to perform, at Local Government's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

- 14.1** The Agency and Local Government shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Agency and Local Government may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. In the event Agency is in default under Section 12, and such default remains uncured 15 business days after written notice thereof to Agency, and whether or not Local Government elects to exercise its right to terminate this Agreement under Section 16.3.3, or in the event Agency terminates this Agreement under Sections 16.2.1, 16.2.2, 16.2.3, or 16.2.5, Local Government's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims Agency has against Local Government, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that Agency has against Local Government. In no event will Agency be liable to Local Government for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Local Government exceed the amount due to Local Government under this Section 13.2, Local Government shall promptly pay any excess to Agency.

SECTION 15: RECOVERY OF OVERPAYMENTS

The Agency and Local Government shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Agency and Local Government may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. If payments to Local Government under this Agreement, or any other agreement between Agency and Local Government, exceed the amount to which Local Government is entitled, Agency may, after notifying Local Government in writing, withhold from payments due Local Government under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

SECTION 16: LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN AGREEMENT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

SECTION 17: TERMINATION

- 17.1** This Agreement may be terminated at any time by mutual written consent of the Parties.
- 17.2** Agency may terminate this Agreement as follows:
- 17.2.1** Upon 30 days advance written notice to Local Government;
- 17.2.2** Immediately upon written notice to Local Government, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;
- 17.2.3** Immediately upon written notice to Local Government, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;
- 17.2.4** Immediately upon written notice to Local Government, if Local Government is in default under this Agreement and such default remains uncured 15 business days after written notice thereof to Local Government; or
- 17.2.5** As otherwise expressly provided in this Agreement.
- 17.3** Local Government may terminate this Agreement as follows:
- 17.3.1** Immediately upon written notice to Agency, if Local Government fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Local Government's reasonable administrative discretion, to perform its obligations under this Agreement;
- 17.3.2** Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Local Government's performance under this Agreement is prohibited or Local Government is prohibited from paying for such performance from the planned funding source;
- 17.3.3** Immediately upon written notice to Agency, if Agency is in default under this Agreement and

such default remains uncured 15 business days after written notice thereof to Agency; or

17.3.4 As otherwise expressly provided in this Agreement.

17.4 Upon receiving a notice of termination of this Agreement, Local Government will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, Local Government will deliver to Agency all documents, information, works-in-progress, Work Product and other property that are or would be deliverables under the Agreement. And upon Agency's reasonable request, Local Government will surrender all documents, research or objects or other tangible things needed to complete the work that was to have been performed by Local Government under this Agreement.

SECTION 18: INSURANCE

Local Government shall maintain insurance as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

SECTION 19: NONAPPROPRIATION

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

SECTION 20: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

SECTION 21: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 20. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

SECTION 22: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 9, 10, 14, 15 and 21 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 23: 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 will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 24: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 25: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law. Unless exempt, Local Government shall comply and, as indicated, cause all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to Local Government, or to the Services or deliverables, or to any combination of the foregoing.

25.1 Audits:

Local Government shall comply and, if applicable, cause subcontractors to comply with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations" as implemented by 45 CFR 92.26. The Agency reserves the right to audit, at the Agency's expense, all records pertinent to this Agreement.

25.2 Federal Terms and Conditions:

Local Government shall comply and cause all subcontractors to comply with all federal laws, including, without limitation, those set forth in Exhibit C, which is attached and incorporated by this reference.

SECTION 26: INDEPENDENT LOCAL GOVERNMENTS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Local Government is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

SECTION 27: INTENDED BENEFICIARIES

Agency and Local Government are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 28: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice

to Local Government after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 29: ASSIGNMENT AND SUCCESSORS IN INTEREST

Local Government may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Local Government to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Local Government's assignment or transfer of its interest in this Agreement will not relieve Local Government of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 30: SUBCONTRACTS

Local Government shall not, without Agency's prior written consent, enter into any subcontracts for any of the work required of Local Government under this Agreement. Agency's consent to any subcontract will not relieve Local Government of any of its duties or obligations under this Agreement.

SECTION 31: TIME IS OF THE ESSENCE

Time is of the essence in Local Government's performance of its obligations under this Agreement.

SECTION 32: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute 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 this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 33: RECORDS MAINTENANCE AND ACCESS

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

financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Local Government acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Local Government shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following 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. Subject to foregoing minimum records retention requirement, Local Government shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

SECTION 34: HEADINGS

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 35: ADDITIONAL REQUIREMENTS

Local Government shall comply with the additional requirements set forth in Exhibit D, attached hereto and incorporated herein by this reference.

SECTION 36: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (the Statement of Work), Exhibit B (Insurance), Exhibit C (Federal Terms and Conditions), Exhibit D (Additional Requirements), Exhibit E (MIPPA Request for Reimbursement Form).

Signatures on next page

SECTION 37: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

AGENCY: Clackamas County acting by and through its Health, Housing and Human Services Department, Social Services Division

By: _____

Printed Name: _____

Title: _____

Date: _____

FEIN: 93-6002286

Oregon Business Registry: 0502173-6

COBID: N/A

AGENCY: State of Oregon, Department of Consumer and Business Services, Oregon Health Insurance Marketplace, Senior Health Insurance Benefit Assistance Program

Reviewed by: _____
Chiqui Flowers

Title: Administrator

Date: _____

Executed by: _____
Nancy A. Cody

Title: Designated Procurement Officer

Date: _____

Approved Pursuant to ORS 279A.140

DEPARTMENT OF ADMINISTRATIVE SERVICES:

By: Not Required per OAR 125-246-0365(4)

Date: _____

Approved Pursuant to ORS 291.047

DEPARTMENT OF JUSTICE:

By: Not Required per ORS 190.430

Date: _____

EXHIBIT A

STATEMENT OF WORK

SECTION 1: DEFINITION OF TERMS

- AAA - Area Agency on Aging
- ADRC - Aging and Disability Resource Connection
- CFDA - Catalog of Federal Domestic Assistance
- LIS - Low Income Subsidy
- MIPPA - Medicare Improvements for Patients and Providers Act
- MSP - Medicare Savings Program
- PMs – Performance Measures
- QMB - Medicare Savings Programs
- SHIBA - Senior Health Insurance Benefit Assistance Program
- SMB - Medicare Savings Programs
- SMF - Medicare Savings Programs

SECTION 2: SERVICES

(A) Local Government Responsibilities:

1. SHIBA Counselor Coordination:

Local Government shall:

- a) Encourage counselors to actively screen and help clients apply for Low Income Subsidy (LIS) and Medicare Savings Program (MSP) programs. Counselors must complete LIS applications using www.BenefitsCheckup.org/Oregon or www.SSA.gov
- b) Encourage volunteers who lack time or computer access in their SHIBA appointments to refer clients to the Oregon Medicare Savings Connect toll-free helpline 1.855.447.0155.
- c) Ensure that all their volunteer counselors have participated in MIPPA training webinars facilitated by the national SHIPTACENTER.org (live or recordings) or trainings delivered by the SHIBA Field Officer/Trainers. Webinar trainings will count towards annual recertification credits.

2. Tracking and Outreach:

Local Government shall:

- a) Actively track data on clients screened and assisted with applications for LIS or MSP in the SHIP Tracking and Reporting System (STARS) per ACL guidance.

- b) Continue conducting LIS/MSP outreach as usual through your local agencies, and report MIPPA related outreach in the SHIP Tracking and Reporting System (STARS) per ACL guidance.
- c) Speak by phone individually with assigned State SHIBA staff to coordinate efforts and monitor data collection. Participate in coordinated statewide outreach events occurring in your area during each 12-month grant period. (Note: targeted areas to be determined by OMSC-Multnomah County SHIBA).
- d) Coordinate with 9 federally recognized local area Native American tribal programs (where applicable) on LIS, MSPs, or disease prevention and wellness outreach.
- e) Review and actively participate in Oregon’s statewide MIPPA project annual plan, including target goals, keeping mind four new national MIPPA Performance Measures (PMs):
 - i. **PM1: Overall MIPPA Contacts** - Percentage of total beneficiary contact forms per Medicare beneficiaries under 150% Federal Poverty Level (FPL) in the state
 - ii. **PM2: Overall Persons Reached through Outreach** - Total number of people reached as reported on group outreach and education forms
 - iii. **PM3: MIPPA Target Populations** - Total number of beneficiary contact forms by target beneficiary groups (Under 65, Rural, Native American, English as a Secondary Language)
 - iv. **PM4: Contacts with Applications Submitted** - Percentage of forms with applications submitted compared to overall MIPPA contacts reported in PM1

(B) Multnomah County Assistance:

Multnomah County Aging, Disability and Veterans’ Services will provide the following assistance to Local Government:

- a) Operate an incoming toll-free line (Oregon Medicare Savings Connect, 1-855-447-0155) to complete LIS applications online for eligible Medicare beneficiaries, and to directly assist in the process of applying for MSP throughout Oregon.
- b) Give priority to referrals from SHIBA volunteers statewide, to assist those who did not have sufficient time during their SHIBA appointment to complete LIS applications.
- c) Provide outreach materials for LIS, MSP and other public benefits programs.
- d) Conduct public outreach events in targeted areas of the State to increase awareness of LIS/MSP/public benefits.

- e) Coordinate with Food Banks, Low Income Home Assistance (LIHEAP) organizations, Gatekeeper programs, and other community partners to target outreach to Medicare beneficiaries.

(C) Agency Responsibilities

Agency shall:

1. Train volunteers statewide, in depth, on using www.BenefitsCheckUp.org/Oregon and www.SSA.gov to help SHIBA clients complete and submit applications to LIS; how to properly track LIS and MSP benefits screening, application assistance, outreach and education activities on Beneficiary Contact and Group Outreach Forms in the SHIP Tracking and Reporting System (STARS). Establish sub-grant performance criteria and award sub-grants to SHIBA sponsors involved in MIPPA activities.
2. Coordinate with Multnomah County Aging, Disability and Veterans' Services and the Dept. of Human Services, Aging and People with Disabilities division, Community Services Supports Unit on data collection, reporting statewide outreach strategies.

SECTION 3: PAYMENT TERMS

(A) Compensation

1. Agency agrees to pay Local Government a not-to-exceed amount of \$6,500.00 for performance of the work set forth in Section 1 for the period of September 01, 2020 through August 31, 2021. Funding for future years is dependent on Agency receiving grant awards from the Administration for Community Living (ACL).

(B) Invoices

1. Local Government shall submit detailed invoices quarterly for Services provided. Invoices must be submitted using attached Exhibit E – MIPPA Request for Reimbursement Form.
2. Invoices must include the total amount invoiced to date by Local Government prior to the current invoice.
3. Invoice(s) shall be submitted to the Agency Authorized Representative by email.
4. Agency shall pay Local Government following Agency's acceptance, review and approval of the invoice(s) submitted.

EXHIBIT B

INSURANCE REQUIREMENTS

TYPES AND AMOUNTS

SUBCONTRACTOR INSURANCE

Local Government shall require its first tier contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Local Government and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. Local Government shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Local Government shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Local Government shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Local Government permit a contractor to work under a Subcontract when the Local Government is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Local Government, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Local Government shall require and ensure that each of its subcontractors complies with these requirements. If Local Government is a subject employer, as defined in ORS 656.023, Local Government shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Local Government is an employer subject to any other state's workers' compensation law, Local Government shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY: **Required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Agreement, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

AUTOMOBILE LIABILITY INSURANCE: **Required** **Not required**

Automobile Liability Insurance covering Local Governments business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

EXCESS/UMBRELLA INSURANCE:

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL COVERAGE REQUIREMENTS:

Local Government's insurance shall be primary and non-contributory with any other insurance. Local Government shall pay for all deductibles, self-insured retention and self-insurance, if any.

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Agreement must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Local Government's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:

Local Government shall waive rights of subrogation which Local Government or any insurer of Local Government may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Local Government will obtain any endorsement that may be necessary to affect this waiver of

subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Local Government or the Local Government's insurer(s).

TAIL COVERAGE:

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Local Government shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Agreement, for a minimum of 24 months following the later of (i) Local Government's completion and Agency's acceptance of all Services required under this Agreement, or, (ii) Agency or Local Government's termination of Agreement, or, (iii) The expiration of all warranty periods provided under this Agreement.

SELF-INSURANCE:

Local Government may fulfill its insurance obligations herein through a program of self-insurance, provided that Agency determines that Local Government's self-insurance program complies with all applicable laws, and provides insurance coverage equivalent in both type and level of coverage to that required in this Exhibit B. Local Government shall furnish an acceptable insurance certificate to Agency for any insurance coverage required by this Agreement that is fulfilled through self-insurance.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Agency shall obtain from the Local Government a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Agreement. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Agreement. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:

Local Government or its insurer must provide at least 30 days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Local Government agrees to periodic review of insurance requirements by Agency under this Agreement and to provide updated requirements as mutually agreed upon by Local Government and Agency.

STATE ACCEPTANCE:

All insurance providers are subject to Agency acceptance. If requested by Agency, Local Government shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this Exhibit B.

EXHIBIT C

FEDERAL TERMS AND CONDITIONS

General Applicability and Compliance. Unless exempt under 45 Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Agency shall comply and, as indicated, cause all Local Governments to comply with the following federal requirements to the extent that they are applicable to this Agreement, to Agency, or to the grant activities, 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.

Agency shall comply and require all Local Governments to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of grant activities. Without limiting the generality of the foregoing, Agency expressly agrees to comply and require all Local Governments 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 Agency 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 grant activities in violation of 42 U.S.C. 14402

2. EQUAL EMPLOYMENT OPPORTUNITY.

If this Agreement, including amendments, is for more than \$10,000, then Agency shall comply and require all Local Governments 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 \$100,000 then Agency shall comply and require all Local Governments 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 Agency, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Agency

shall include and require all Local Governments to include in all Agreements with Local Governments receiving more than \$100,000, language requiring the Local Government to comply with the federal laws identified in this Section.

4. ENERGY EFFICIENCY.

Agency shall comply and require all Local Governments 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 Agency certifies, to the best of the Agency's knowledge and belief that:

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of Agency, 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 Agency shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c. The Agency 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 Local Governments and subLocal Governments 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 31 U.S.C. 1352. 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 Agency 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 Agency under this Agreement shall be used to pay the salary or expenses of any grant or contract Agency, or agent acting for such Agency, 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 Agency 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. RESOURCE CONSERVATION AND RECOVERY.

Agency shall comply and require all Local Governments 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.

7. AUDITS.

- i. Agency shall comply, and require all Local Governments to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
- j. If Agency expends \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, Agency shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Agency expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Agency shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to Agency within 30 days of completion. If Agency expends less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, Agency is exempt from Federal audit

requirements for that year. Records must be available as provided in Exhibit B, "Records Maintenance, Access".

8. DEBARMENT AND SUSPENSION.

Agency shall not permit any person or entity to be a Local Government if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension" (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and Local Governments declared ineligible under statutory authority other than Executive Order No. 12549. Local Governments with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

9. DRUG-FREE WORKPLACE.

Agency shall comply and cause all Local Governments to comply with the following provisions to maintain a drug-free workplace: (i) Agency 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 Agency's workplace or while providing services to Agency Clients. Agency's notice shall specify the actions that will be taken by Agency 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, Agency'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 AGENCY 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 41 U.S.C. 8104; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any Local Government to comply with subparagraphs (i) through (vii) above; (ix) Neither Agency, or any of Agency's employees, officers, agents or Local Governments 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 Agency or Agency's employee, officer, agent or Local Government has used a controlled substance, prescription or non-prescription medication that impairs the Agency or Agency's employee, officer, agent or Local Government's performance of essential job function or creates a direct threat to Agency Clients or others. Examples of abnormal behavior include, but are not

limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of the Agreement.

10. PRO-CHILDREN ACT.

Agency shall comply and require all Local Governments to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. 6081 et. seq.).

11. MEDICAID SERVICES.

Agency 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. 1396 et. seq., including without limitation:

- k. 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. 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
- l. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
- m. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 Subpart I.
- n. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Agency shall acknowledge Agency'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.
- o. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, Local Governments 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).

12. AGENCY-BASED VOTER REGISTRATION.

If applicable, Agency 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.

13. DISCLOSURE.

- p. 42 CFR Part 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 Local Government 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 Local Government 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
- q. 42 CFR Part 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
- r. 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.
- s. Local Government shall make the disclosures required by this Section to Agency. Agency reserves the right to take such action required by law, or where Agency 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.

14. FEDERAL INTELLECTUAL PROPERTY RIGHTS NOTICE.

The federal funding agency, as the awarding agency of the funds used, at least in part, for the activities performed 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 Agency 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:
 - (1) The copyright in any work developed under a grant, subgrant or Agreement under a grant or subgrant; and

- (2) Any rights of copyright to which a grantee, subgrantee or a Local Government 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, subgrant or contract under a grant or subgrant.

15. WHISTLEBLOWER PROTECTIONS.

This Agreement includes the requirements of the "Pilot Program for Enhancement of Local Government Employee Whistleblower Protections". See, 48 CFR 3.908 of the National Defense Authorization Act (NDAA). By reference, these requirements are a term and condition of the Agreement.

16. DOMA: IMPLEMENTATION OF UNITED STATES V. WINDSOR AND FEDERAL RECOGNITION OF SAME-SEX SPOUSES/MARRIAGES:

United States v. Windsor, 133 S.Ct. 2675 (June 26, 2013); section 3 of the Defense of Marriage Act, codified at 1 USC § 7. All grantees are expected to recognize any same-sex marriage legally entered into in a U.S. jurisdiction that recognizes their marriage, including one of the 50 states, the District of Columbia, or a U.S. territory, or in a foreign country so long as that marriage would also be recognized by a U.S. jurisdiction. This applies regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. However, this does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under the law of the jurisdiction of celebration as something other than a marriage. Accordingly, recipients must review and revise, as needed, any policies and procedures which interpret or apply Federal statutory or regulatory references to such terms as "marriage," "spouse," "family," "household member" or similar references to familiar relationships to reflect inclusion of same-sex spouse and marriages. Any similar familial terminology references in HHS statutes, regulations, or policy transmittals will be interpreted to include same-sex spouses and marriages legally entered into as described herein.

17. TRAFFICKING VICTIMS PROTECTION ACT.

Agency shall comply and require all Local Governments to comply with Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104).

18. THE DEPARTMENT OF DEFENSE AND LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT, 2019 AND CONTINUING APPROPRIATIONS ACT, 2019.

Although consistent with the HHS GPS, any applicable statutory or regulatory requirements, including 45 CFR Part 75, directly apply to this Agreement apart from any coverage in the HHS GPS. Also, the general provisions from "The Department of Defense and Labor, Health and

Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019," Pub. L. No 115-245, signed into law on September 28, 2018.

19. FEDERAL FINANCIAL ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA).

The Federal Financial Accountability and Transparency Act (FFATA) requires data entry at the FFATA Subaward Reporting System located at <http://www.FSRS.gov> for all sub-awards and sub-contracts issued for \$25,000 or more as well as addressing executive compensation for both grantee and sub-award organizations.

20. SECURITY AND PRIVACY.

Should the collection of information require the use of an information technology system (2 CFR 200.58), the grant recipient and subrecipient(s) will be expected to adhere to the NIST Cybersecurity Framework to help ensure the security of any system used or developed by the grant recipient or subrecipient(s). In particular, if the data to be collected includes Personally Identifiable Information (PII, 2CFR 200.79) or Protected PII (2 CFR 200.82), the grant recipient and subrecipient(s) must apply the appropriate security controls required to protect the privacy and security of the collect PII and/or Protected PII.

EXHIBIT D

ADDITIONAL REQUIREMENTS

CONFIDENTIAL INFORMATION:

Local Government shall comply with ORS 646A and require subcontractors or subgrantees to comply with the information security requirements imposed under this sections. "Information Asset" means all confidential information in any form (e.g., written, verbal, oral or electronic) which Agency determines requires security measures, including confidential information created by Agency, gathered by Agency or stored by Agency for external parties.

All requirements imposed on Local Government under this section also apply to its officers, employees, agents and subcontractors that have access to any SHIBA Information Asset, and Local Government shall include these requirements in any subcontract that may provide such access by a subcontract Government, its officers, employees or agents to any SHIBA computer system or other SHIBA Information Asset.

Local Government shall:

- a. Cooperate with Agency in identifying Information Assets that will be utilized in the performance of Services or for the delivery of Goods and applicable security measures that will be undertaken to protect the Information Assets, and provide updated information to Agency with fourteen (14) calendar days of the date such information changes for any reason.
- b. Implement security measures that reasonably and appropriately provide administrative, physical and technical safeguards that protect the confidentiality, integrity and availability of the Information Assets that it creates, receives, maintains or transmits on behalf of Agency. Local Government security measures must be documented in writing and be available for review by Agency request. Agency's review of the reasonableness of security measures, as well as Local Government's compliance with Agency's assigned access control or security requirements, will take into account Local Government's physical, administrative and technical capabilities related to security measures and the potential risk of unauthorized use or disclosure of Information Assets by Local Government, its officers, employees, agents or subcontract Governments.
- c. Prevent any unauthorized access to or disclosure of Agency's information systems and information assets. Take necessary actions to comply with Agency's determinations of the level of access that may be granted, as well as changes in levels of access, or suspension or termination of access as determined by Agency.
- d. Keep any Agency assigned access control requirements such as identification of authorized user(s) and access-control information in a secure location until access is terminated; monitor and securely maintain access by Local Government and its agents or subcontract Governments in accordance with security requirements or access controls assigned by Agency; and make available to Agency, upon request, all information about Local Government's use or application of Agency access-controlled computer systems or Information Assets.
- e. Report to Agency any privacy or security incidents by Local Government, its officers, employees or subcontract Governments that compromise, damage or cause a loss of protection

to Agency Information Assets. Local Government shall report in the following manner:

- 1) Report to Agency in writing within five (5) business days of the date on which Local Government becomes aware of such incident; and
- 2) Provide Agency the results of the incident assessment findings and resolution strategies. Local Government shall comply with Agency requests for corrective action concerning a privacy or security incident, and with laws requiring mitigation of harm caused by the unauthorized use or disclosure of confidential information, if any. If Agency determines that Local Government's security measures or actions required under this section are inadequate to address the security requirements of Agency, Agency will notify Local Government. Agency and Local Government may meet to discuss appropriate security measures or actions. If security measures or corrective actions acceptable to Agency cannot be agreed upon, Agency may take such actions as it determines appropriate under the circumstances. Actions may include, but are not limited to restricting access to computer systems or Information Assets, or Agency amending or terminating the Agreement.
- 3) Agency may request additional information from Local Government related to security measures, and may change, suspend or terminate access to or use of an Agency computer system or Information Assets by Local Government, its officers, employees, agents or subcontract Governments.
- 4) Wrongful use of Agency computer systems, wrongful use or disclosure of Information Assets by Local Government, its officers, employees, agents or subcontractors may cause the immediate suspension or revocation of any access granted through this Agreement, in the sole discretion of Agency. Agency may also pursue other legal remedies provided under the law.

Exhibit E MIPPA REQUEST FOR REIMBURSEMENT FORM

Quarterly Date Range: _____

Sponsor Name: _____
 Counties Served: _____
 Agreement Number: _____ (MIPPA grant contract no.)
 Amount Requested: \$ _____

Required Information

SHIBA Sponsor Payee Name: _____
 Street Address/PO Box _____
 City, ST, Zip: _____
 Federal Employer Identification Number: _____

1) **Summary of Expenditures:**

Provide a detail of expenditures for the reimbursement period.

Object Class Category	Federal Funds	Expense Justification Details
Personnel		
Fringe Benefits		
Travel		For mileage incl. (total travelers, total miles, rate per mile)
Equipment		
Supplies		
Contractual		
Construction		
Other		
Indirect		
TOTAL	\$ _____	

Submitter's Signature _____ **Date** _____

2) **Highlights of your organization's accomplishments and lessons learned. (highlights should correlate with expenditure details above and also relate to the Sub-grant contract's Key Objectives and Statement of Work (attach separate page).**

Please sign, scan and email your completed reimbursement request form to Lisa Emerson at lisa.emerson@oregon.gov and cc dawn.shaw@oregon.gov

January 7, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Grant Renewal Agreement from Department of Housing and
Urban Development (HUD),
Supportive Housing Program for the Housing Our Families Project
for the Purpose of Providing Permanent Supportive Housing to Families

Purpose/Outcome	This is a grant renewal from HUD for the purpose of providing permanent housing and services for families that are houseless
Dollar Amount and Fiscal Impact	Agreement is for an amount not to exceed \$181,480
Funding Source	HUD – The grant requires a 25% match of in-kind contribution which is met through state Emergency Housing Account (EHA) funds. No County General Funds are involved.
Duration	October 1, 2020 to September 30, 2021
Previous Board Action/Review	BCC Agenda Item #A.1 dated 8/1/2019 Approval of Application
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with the Social Services Division’s strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Counsel Review	The amendment was approved by Counsel on 7/23/20 AN
Procurement Review	Was the item processed through Procurement? No, this is a grant revenue agreement
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	H3S# 9997

BACKGROUND:

Social Services Division of the Health, Housing & Human Services Department requests the approval of a grant agreement from the U.S. Department of Housing and Urban Development, Supportive Housing Program for the Housing Our Families Project to provide permanent housing and services for families that are houseless

This program will provide housing assistance, supportive services, and case management to homeless households. These funds provide the Social Services Division resources to procure permanent housing through the payment of deposits and rental assistance. Approximately 15 households will be assisted

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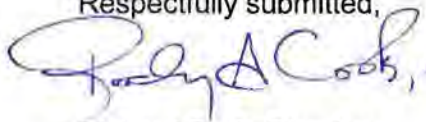
annually.

The value of this grant agreement is \$181,480. The agreement is effective October 1, 2020 through September 30, 2021. This agreement was approved by County Counsel on July 23, 2020.

RECOMMENDATION:

Staff recommends the approval of this renewal amendment and that Richard Swift, Director of Health, Housing & Human Services, be authorized to sign all documents necessary on behalf of the Board of Commissioners.

Respectfully submitted,

 Kelly A. Cook, HHS deputy / for

Richard Swift, Director
Health, Housing and Human Services Department



U.S. Department of Housing and Urban Development
Office of Community Planning and Development
1220 SW 3rd Avenue
Suite 400
Portland, OR 97204-2830

Grant Number: OR0237L0E071903
Tax ID Number: 93-6002286
DUNS Number: 096992656

CONTINUUM OF CARE PROGRAM (CDFA# 14.267) GRANT AGREEMENT

This Grant Agreement (“this Agreement”) is made by and between the United States Department of Housing and Urban Development (“HUD”) and Clackamas County Department of Health, Housing and Human Services (the “Recipient”).

This Agreement is governed by title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11301 et seq. (the “Act”); the Continuum of Care Program rule (the “Rule”), as amended from time to time; and the Notice of Funds Availability for the fiscal year competition in which the funds were awarded.

The terms “Grant” or “Grant Funds” mean the funds that are provided under this Agreement. The term “Application” means the application submissions on the basis of which the Grant was approved by HUD, including the certifications, assurances, technical submission documents, and any information or documentation required to meet any grant award condition. All other terms shall have the meanings given in the Rule.

The Application is incorporated herein as part of this Agreement, except that only the project (those projects) listed below are funded by this Agreement. In the event of any conflict between any application provision and any provision contained in this Agreement, this Agreement shall control.

HUD’s total funding obligation for this grant is \$181,480, allocated between the projects listed below and, within those projects, between budget line items, as shown below.

Project No.	Grant Term	Performance Period	Total Amount
OR0237L0E071903	12 months	10-01-2020 - 09-30-2021	\$181,480
a. Continuum of Care planning activities			\$0
b. Acquisition			\$0
c. Rehabilitation			\$0
d. New construction			\$0
e. Leasing			\$0
f. Rental assistance			\$161,484
g. Supportive services			\$7,702
h. Operating costs			\$0
i. Homeless Management Information System			\$0
j. Administrative costs			\$12,294
k. Relocation Costs			\$0
l. HPC homelessness prevention activities:			
Housing relocation and stabilization services			\$0
Short-term and medium-term rental assistance			\$0

If any new projects funded under this Agreement are for project-based rental assistance for a term of fifteen (15) years, the funding provided under this Agreement is for the performance period stated herein only. Additional funding is subject to the availability of annual appropriations.

The performance period of renewal projects funded by this Agreement will begin immediately at the end of the performance period under the grant agreement being renewed. Eligible costs incurred between the end of Recipient's final operating year under the grant agreement being renewed and the date of this Agreement is executed by both parties may be reimbursed with funds from the first operating year of this Agreement. No funds for renewal projects may be drawn down by Recipient before the end date of the project's final operating year under the grant that has been renewed.

For any transition project funded under this Agreement the performance period of the transition project(s) will begin immediately at the end of the Recipient's final operating year under the grant being transitioned. Eligible costs, as defined by the Act and the Rule incurred between the end of Recipient's final operating year under the grant being renewed and the execution of this Agreement may be paid with funds from the first operating year of this Agreement.

HUD designations of Continuums of Care as High-performing Communities (HPCS) are published in the HUD Exchange in the appropriate Fiscal Years' CoC Program Competition Funding Availability page. Notwithstanding anything to the contrary in the Application or this Agreement, Recipient may only use grant funds for HPC Homelessness Prevention Activities if the Continuum that designated the Recipient to apply for the grant was designated an HPC for the applicable fiscal year.

The Recipient must complete the attached "Indirect Cost Rate Schedule" and return it to HUD with this Agreement. The Recipient must provide HUD with a revised schedule when any change is made to the rate(s) included in the schedule. The schedule and any revisions HUD receives from the Recipient will be incorporated into and made part of this Agreement, provided that each rate included satisfies the applicable requirements under 2 CFR part 200 (including appendices).

This Agreement shall remain in effect until the earlier of 1) written agreement by the parties; 2) by HUD alone, acting under the authority of 24 CFR 578.107; 3) upon expiration of the performance periods for all projects funded under this Agreement; or 4) upon the expiration of the period of availability of funds for all projects funded under this Agreement.

HUD notifications to the Recipient shall be to the address of the Recipient as stated in the Application, unless the Recipient changes the address and key contacts in e-snaps. Recipient notifications to HUD shall be to the HUD Field Office executing the Agreement. No right, benefit, or advantage of the Recipient hereunder may be assigned without prior written approval of HUD.

The Agreement constitutes the entire agreement between the parties, and may be amended only in writing executed by HUD and the Recipient.

By signing below, Recipients that are states and units of local government certify that they are following a current HUD approved CHAS (Consolidated Plan).

This agreement is hereby executed on behalf of the parties as follows:

**UNITED STATES OF AMERICA,
Secretary of Housing and Urban Development**

By:



(Signature)

Renee Ryles, Director

(Typed Name and Title)

September 14, 2020

(Date)

RECIPIENT

Clackamas Dept. Health, Housing & Human Svcs

(Name of Organization)

By:

(Signature of Authorized Official)

(Typed Name and Title of Authorized Official)

(Date)

Indirect Cost Schedule

Agency/Dept./Major Function	Indirect Cost Rate	Direct Cost Base
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

This schedule must include each indirect cost rate that will be used to calculate the Recipient's indirect costs under the grant. The schedule must also specify the type of direct cost base to which each included rate applies (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rate information for subrecipients.

For government entities, enter each agency or department that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR §200.414), and the type of direct cost base to which the rate will be applied.

For nonprofit organizations that use the Simplified Allocation Method for indirect costs or elects to use the de minimis rate of 10% of Modified Total Direct Costs in accordance with 2 CFR §200.414, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

For nonprofit organizations that use the Multiple Base Allocation Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.

To learn more about the indirect cost requirements, see 24 CFR 578.63; 2 CFR part 200, subpart E; Appendix IV to Part 200 (for nonprofit organizations); and Appendix VII to Part 200 (for state and local governments).

January 7, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #1 to a Federal Subrecipient Grant Agreement with
Clackamas Women's Services for
Emergency Shelter Services

Purpose/Outcomes	Agency will provide emergency shelter bednight services to serve un-housed individuals and families in Clackamas County who are survivors of domestic violence, and connect these individuals and families with permanent housing and other positive exit destinations.
Dollar Amount and Fiscal Impact	Amendment #1 increases the agreement by \$24,521.
Funding Source	Federal Department of Homeland Security Emergency Food and Shelter Program (EFSP) grant funds, Phase 37.
Duration	Amendment #1 allows expenditures from July 1, 2020 to May 31, 2021.
Previous Board Action	None.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with the Social Services Division's strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Counsel Review	The original grant agreement was approved in March 2020. The amendment was approved 12/21/20 (AK)
Procurement Review	<ol style="list-style-type: none"> 1. Was this item processed through Procurement? No 2. If no, provide brief explanation: This is a grant amendment. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	#20-027, H3S#9625

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services Department requests approval of Federal Subrecipient Grant Amendment #1 with Clackamas Women's Services (CWS). A competitive Notice of Funding Opportunity (NOFO) was released in August 2019 for Emergency Shelter services, in partnership with Community Development. CWS was one of two applicants that met the requirements in the NOFO to receive an award. Agreements under the NOFO award have been issued by both Social Services and Community Development using various funding sources.

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January 7, 2021

The Federal Department of Homeland Security, Emergency Food and Shelter Program (EFSP), Phase 37 is the funding source of this Grant Amendment. The NOFO allows for the award of funding from July 1, 2019 to June 30, 2021 with the possibility of an extension through June 30, 2023. Amendment #1 extends the agreement to May 31, 2021, adding additional compensation of \$24,521, and an allowable expenditure period of July 1, 2020 to May 31, 2021 to the existing agreement, for a total amount of \$82,827. No County General Funds are required.

RECOMMENDATION:

Staff recommends the Board approval of this grant amendment and that Richard Swift, H3S Director, or his designee; be authorized to sign on behalf of Clackamas County.

Respectfully submitted,



Richard Swift, H3S DEPUTY / FOR

Richard Swift, Director
Health, Housing and Human Services Department

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #:	9625	Division: SS	<input checked="" type="checkbox"/> Subrecipient
Board Order #:		Contact: Diridoni, Jessica	<input type="checkbox"/> Revenue
		Program Contact: Christopherson, Teresa	<input checked="" type="checkbox"/> Amend # 1 \$ 24,521.00
			<input type="checkbox"/> Procurement Verified
			<input type="checkbox"/> Aggregate Total Verified

Non BCC Item BCC Agenda **Date:** Thursday, January 7, 2021

CONTRACT WITH: Clackamas Women's Services

CONTRACT AMOUNT: \$82,827.00

TYPE OF CONTRACT

- | | |
|---|--|
| <input type="checkbox"/> Agency Service Contract | <input type="checkbox"/> Memo of Understanding/Agreement |
| <input type="checkbox"/> Construction Agreement | <input type="checkbox"/> Professional, Technical & Personal Services |
| <input type="checkbox"/> Intergovernmental Agreement | <input type="checkbox"/> Property/Rental/Lease |
| <input type="checkbox"/> Interagency Services Agreement | <input type="checkbox"/> One Off |

DATE RANGE

- | | |
|--|---|
| <input checked="" type="checkbox"/> Full Fiscal Year _____ - _____ | <input type="checkbox"/> 4 or 5 Year _____ - _____ |
| <input checked="" type="checkbox"/> Upon Signature _____ - 5/31/2021 | <input type="checkbox"/> Biennium _____ - _____ |
| <input type="checkbox"/> Other _____ - _____ | <input type="checkbox"/> Retroactive Request? _____ - _____ |

INSURANCE What insurance language is required?

- Checked Off N/A
- Commercial General Liability:** Yes No, not applicable No, waived
If no, explain why: _____
- Business Automobile Liability:** Yes No, not applicable No, waived
If no, explain why: _____
- Professional Liability:** Yes No, not applicable No, waived
If no, explain why: _____
- Approved by Risk Mgr _____

Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?

- No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)

If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Amanda Keller Date Approved: Monday, December 21, 2020

OR

This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE: _____

Date: _____

H3S Admin Only	Date Received: _____
	Date Signed: _____
	Date Sent: _____

AGREEMENTS/CONTRACTS

New Agreement/Contract

X Amendment/Change Order Original Number

ORIGINATING COUNTY

DEPARTMENT: Health, Housing Human Services
Social Services

PURCHASING FOR: Contracted Services

OTHER PARTY TO

CONTRACT/AGREEMENT: Clackamas Women's Services

BOARD AGENDA ITEM

NUMBER/DATE:

DATE: 1/7/2021

PURPOSE OF

CONTRACT/AGREEMENT: This agreement will allow Clackamas Women's Services to provide temporary shelter bed nights for homeless women and children who are survivors of domestic violence and connect these individuals and families with permanent housing and other positive exit destinations.

Amendment #1 extends the agreement to May 31, 2021, and adds an allowable expenditure term and additional compensation using EFSP Phase 37 funds.

H3S CONTRACT NUMBER: 9625

Subrecipient Amendment (FY 20-21)
Clackamas County, Department of Health, Housing and Human Services

<u>Subrecipient Agreement Number: 20-027</u>	<u>Board Order Number:</u>
<u>Department/Division: H3S, Social Services Division</u>	<u>Amendment No. 1</u>
<u>Subrecipient: Clackamas Women's Services</u>	<u>Amendment Requested By: Brenda Durbin</u>
Changes: <input type="checkbox"/> Scope of Service	<input checked="" type="checkbox"/> Agreement Budget
<input checked="" type="checkbox"/> Agreement Time	<input type="checkbox"/> Other:

Justification for Amendment:

This agreement provides for temporary emergency shelter bednight services at a confidential location, operated by SUBRECIPIENT, to un-housed individuals and families in Clackamas County who are survivors of domestic violence, and connect these individuals and families with permanent housing and other positive exit destinations as quickly as possible.

This amendment extends the agreement to May 31, 2021, adds a new agreement term within the agreement of July 1, 2020 to May 31, 2021, and adds additional compensation of \$24,521, to allow Clackamas Women's Services (CWS) to continue serving additional households.

A competitive Notice of Funding Opportunity (NOFO) was released in August 2019 for Emergency Shelter services, in partnership with Community Development. This is the second year of funding to CWS from the Emergency Food and Shelter Program (EFSP).

Maximum compensation is increased by \$24,521 to a revised value of \$82,827. This amendment is effective upon signature and continues through May 31, 2021.

Except as amended hereby, all other terms and conditions of the contract remain in full force and effect. The County has identified the changes with "***bold/italic***" font for easy reference.

AMEND:

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 **March 31, 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.

TO READ:

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 **March 31, 2020**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof.

Clackamas Women's Services (9625)

Subrecipient Agreement 20-027 – Amendment # 1

Page 2 of 8

This amendment extends the agreement to May 31, 2021. This amendment also adds additional compensation of \$24,521 to allow SUBRECIPIENT to continue serving additional households. Additional funds may be used to reimburse CWS for eligible expenses incurred during the time period between July 1, 2020 and May 31, 2021.

No grant funds are available for expenditures after the expiration date of this Agreement.

AMEND:

4. **Grant Funds.** The COUNTY's funding for this Agreement is the EFSP 36 (Catalogue of Federal Domestic Assistance [CFDA] #: 97.024) issued to the COUNTY by the United Way on behalf of the U.S. Department of Homeland Security. The maximum, not to exceed, grant amount that the COUNTY will pay is **\$58,306**. This is a fixed unit price grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.

TO READ:

4. **Grant Funds.** The COUNTY's funding for this Agreement is the EFSP 36 (Catalogue of Federal Domestic Assistance [CFDA] #: 97.024) **and EFSP 37 [CFDA] #: 97.024** issued to the COUNTY by the United Way on behalf of the U.S. Department of Homeland Security. The maximum, not to exceed, grant amount that the COUNTY will pay is **\$82,827**. This is a fixed unit price grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request and **Exhibit D.2 Required Financial Reporting and Reimbursement Request**. Failure to comply with the terms of this Agreement may result in withholding of payment. **Total funding for this Agreement is divided between funding periods as follows:**
 - a. **July 1, 2019 and not later than March 31, 2020: \$58,306, EFSP Phase 36**
 - b. **July 1, 2020 and not later than May 31, 2021: \$24,521, EFSP Phase 37**

AMEND:

9.
 - g) **Budget.** The SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.

TO READ:

9.
 - g) **Budget.** The SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. **SUBRECIPIENT will track and account for program expenditures for each award, EFSP Phase 36, and EFSP Phase 37, separately by each program budget within SUBRECIPIENT's financial system(s).** SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.

REPLACE:

Exhibit B: SUBRECIPIENT Program Budget

WITH:

**EXHIBIT B
SUBRECIPIENT Program Budget**

PROJECT NAME: Temporary Emergency Shelter Federal Emergency Food and Shelter Program (EFSP) EFSP Phase 36 Funds, CFDA # 97.024	AGREEMENT No. 20-027
PROJECT NAME: Temporary Emergency Shelter Federal Emergency Food and Shelter Program (EFSP) EFSP Phase 37 Funds, CFDA # 97.024	
SUBRECIPIENT: CLACKAMAS WOMEN'S SERVICES	

Total maximum compensation under this contract shall not exceed \$82,827 of EFSP funds for emergency temporary shelter.

Total funding for this Agreement is divided between funding periods as follows:

- a. **July 1, 2019 and not later than March 31, 2020: \$58,306.** The EFSP *Phase 36* funds equate to 4,664.48 bed nights at \$12.50 per person in residence per night.
- b. **July 1, 2020 and not later than May 31, 2021: \$24,521.** The EFSP *Phase 37* funds equate to 1,961.68 bed nights at \$12.50 per person in residence per night.

Clackamas County and the Federal government retain the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient that are pertinent to this Agreement.

CERTIFICATION

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of this contract. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Prepared by: _____
Phone: _____ E-mail: _____
Authorized Signer: _____
Date: _____

Department Review - County use only

Project Officer Name: _____ Department: _____
Signature: _____ Date: _____

Department: Forward to Grant Accountant for review and processing Grant Accountant Initial/Date:

Items below linked to P.1

Subrecipient Name: Clackamas Women's Services
Subrecipient Grant Number: 20-027, A#1
H35 Contract #: 9625
Federal Award #: 37-708000-005
CFDA #: 97.024
Invoice Period (Mo./Yr.): 0
Invoice Number: 0

AMEND:

EXHIBIT E: Award Special Terms and Conditions, Table 1

TO READ:

**EXHIBIT E
Award Special Terms and Conditions**

PROJECT NAME: Temporary Emergency Shelter Federal Emergency Food and Shelter Program (EFSP) EFSP Phase 36 Funds, CFDA # 97.024	AGREEMENT No. 20-027
PROJECT NAME: Temporary Emergency Shelter <i>Federal Emergency Food and Shelter Program (EFSP)</i> <i>EFSP Phase 37 Funds, CFDA # 97.024</i>	
SUBRECIPIENT: CLACKAMAS WOMEN'S SERVICES	

AMEND:

EXHIBIT E: Award Special Terms and Conditions

7. Emergency Shelter Notice of Funding Opportunity (NOFO)

a. COUNTY's NOFO Emergency Shelter Announcement released on August 28, 2019, including subsequent addenda and FAQ postings, and SUBRECIPIENT'S application, including Appendix A, Certifications and Assurances Form, submitted to COUNTY in response to the NOFO posting are incorporated by reference into this agreement.

TO READ:

7. Emergency Shelter Notice of Funding Opportunity (NOFO)

a. COUNTY's NOFO Emergency Shelter Announcement released on August 28, 2019, including subsequent addenda and FAQ postings, and SUBRECIPIENT'S application, including Appendix A, Certifications and Assurances Form, submitted to COUNTY in response to the NOFO posting are incorporated by reference into this agreement.

b. This NOFO resulted in multiple grant award agreements by two COUNTY Divisions. SUBRECIPIENT shall coordinate Reimbursement Requests or billings for all agreements with COUNTY Social Services and Community Development Divisions prior to submittal by SUBRECIPIENT. The purpose of coordinating is to ensure appropriate method of billing is applied, and avoid double payment or overpayment for services provided, and to align with the NOFO award.

AMEND:

Exhibit F: EFSP Phase 35 Manual & EFSP Phase 36 Addendum

TO READ:

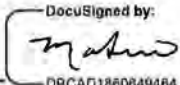
EXHIBIT F
EFSP Phase 35 Manual
&
EFSP Phase 36 Addendum
&
Phase 37 and CARES Addendum to the
Phase 35 Responsibilities and Requirements Manual
and the Phase 36 Addendum

PROJECT NAME: Temporary Emergency Shelter Federal Emergency Food and Shelter Program (EFSP) EFSP Phase 36 Funds, CFDA # 97.024 PROJECT NAME: Temporary Emergency Shelter Federal Emergency Food and Shelter Program (EFSP) EFSP Phase 37 Funds, CFDA # 97.024	AGREEMENT No. 20-027
SUBRECIPIENT: CLACKAMAS WOMEN'S SERVICES	

Incorporated by reference. ***The Phase 35 Emergency Food and Shelter Program Responsibilities and Requirements Manual (Phase 35 EFSP Manual) and Phase 36 Addendum are being used, in conjunction with the Phases 37 and CARES Addendum, for the administration of Phases 37 and CARES. This addendum provides updates to the Phase 35 EFSP Manual currently on the EFSP website to guide implementation of the program.***

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

SUBRECIPIENT

By:  _____
Authorized Signature
Melissa Erlbaum, Executive Director
Clackamas Women's Services

12/11/2020

Dated

CLACKAMAS COUNTY

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

**Signing on Behalf of the Board
County Signatures:**

Richard Swift, Director
Health, Housing and Human Services
Clackamas County

Dated

Recording Secretary

Dated

Approved to Form:


County Counsel

12/21/2020

Dated

January 7, 2021

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with City of Sandy, Oregon, for
Support for the Mt Hood Express Bus Service

Purpose/Outcomes	Intergovernmental Agreement with City of Sandy, Oregon, for support for the Mt Hood Express bus service
Dollar Amount and Fiscal Impact	The total agreement is \$67,260 and will be used by the City of Sandy to provide staffing to support the operations of the Mt Hood Express, facility rental for the bus service, shop supplies, and vehicle use fees for the Mt Hood Express
Funding Source	Local funds, 5311 FTA Small Rural Transportation funds, 5310 FTA funds, Federal Lands Access Funds, Statewide Transportation Improvement Funds and state Special Transportation Funds
Duration	Effective July 1, 2020, and terminates on June 30, 2021
Previous Board Action	072618-A3 and Previous Agreement approved
Strategic Plan Alignment	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 transportation needs for seniors, persons with disabilities and low income job seekers.
Counsel Review	County Counsel reviewed and approved this document on 10/26/20 AN
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S#10010

BACKGROUND

The Social Services Division of the Department of Health, Housing and Human Services requests approval of an agreement with City of Sandy, Oregon, to support the Mt Hood Express bus service. The Mt Hood Express provides public transit bus service between the City of Sandy, Government Camp and Timberline, along with other locations in the Mt. Hood area, increasing access to employment and recreation opportunities.

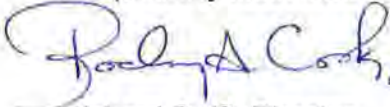
This agreement provides funding to the City of Sandy to provide staffing to support the operations of the Mt Hood Express, facility rental for the bus service, reimbursement for shop supplies and vehicle use fees for the Mt Hood Express to address temporary fleet shortages. The City and County are now using a shared operations contractor to provide direct service.

The agreement is effective July 1, 2020 and continues until June 30, 2021. The maximum amount of the agreement is \$67,260.

RECOMMENDATION

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

Respectfully submitted

 *Richard A. Swift, H3S Deputy / FSM*

Richard Swift, Director
Health, Housing and Human Services

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY, OREGON
AND
CITY OF SANDY, OREGON**

1. Purpose. This agreement (“Agreement”) is entered into between Clackamas County (“COUNTY”) and City of Sandy (“CITY”) for the cooperation of units of local government under the authority of ORS 190.010. This agreement provides the basis for a cooperative working relationship for the purpose of providing administrative support to the COUNTY’s Mt. Hood Express (“MHX”) transit service in partnership with the CITY’s SAM transit service to increase operational efficiencies, collaboration and cost effective management of both services.

2. Scope of Work and Cooperation.
 - 2.1. Subject to the terms of this Agreement, CITY agrees to provide the following support functions for the MHX:
 - 2.1.1. Partner with the County to oversee the coordination of the Sandy/Mount Hood Express semiannual rider surveys as required by grants and compile results for analysis.
 - 2.1.2. Work with the County on mutually agreeable policy and program development.
 - 2.1.3. Work with COUNTY for operational issues requiring county input.
 - 2.1.4. Assist with planning and coordination of events.
 - 2.1.5. Assist with finding meeting space for the Mt Hood Transportation Alliance, including booking the Sandy Operations Center if needed and arrangement of meeting space and accommodations.
 - 2.1.6. Update the MHX website, post notices to DoubleMap and respond to information requests.
 - 2.1.7. Interact with public, including sending information requests that dispatch can’t answer to county staff and handling on-site complaints if necessary.
 - 2.1.8. Post notices and display schedules at the Sandy Operation Center and other locations upon request
 - 2.1.9. General office and clerical duties as needed.
 - 2.1.10. Continue oversight, maintenance and updates to the DoubleMap system app and equipment on the MHX service, including posting notices as needed.
 - 2.1.11. Provide space for office staff, program materials, parking space for riders, parking of buses, vehicle equipment and shop supplies.
 - 2.1.12. Provide a vehicle for use by the Mt Hood Express in emergencies when existing Clackamas County owned vehicles are out of service.
 - 2.1.13. Act as on sight liaison on behalf of the County with the Operations Contractor, providing immediate communication for the contractor and their employees of policy and contractor functions.
 - 2.1.14. Other tasks and projects as needed.

 - 2.2. Subject to the terms of this Agreement, COUNTY agrees to provide the following:

- 2.2.1. Provide ongoing fiscal support to the Mt Hood Express, as set forth in Section 3 of this Agreement. Changes in funding requiring changes in service levels will be communicated to CITY when notification is received from the funder, and the parties will negotiate in good faith to address those changes.
- 2.2.2. Complete and submit required reports to funders in a timely manner.
- 2.2.3. Participate in ongoing planning and coordination efforts, including participation in the Mt Hood Transportation Alliance.
- 2.2.4. Reimburse CITY for shop supplies and maintenance purchased by CITY.
- 2.2.5. Pay a vehicle use fee of \$50 per day for the back-up bus if needed.
- 2.2.6. COUNTY will be responsible for all costs associated with accidents, including insurance deductibles, repairs not covered by insurance and towing for CITY-owned MHX back up bus for incidents occurring during its use for MHX routes.
- 2.2.7. Provide administrative and operational support as needed.

3. Compensation and Record Keeping.

- 3.1. Compensation. COUNTY shall compensate the CITY for satisfactorily performing the services identified in Section 2 as described in *Exhibit B: Budget*, attached hereto and incorporated by this reference herein. Total maximum compensation under this Agreement shall not exceed \$67,260. Any continuation or extension of this Agreement after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Agreement, as determined by the COUNTY in its sole administrative discretion.
- 3.2. Method of Payment. To receive payment, CITY shall submit invoices and accompanying progress reports as required in *Exhibit A: Reporting Requirements*, attached hereto and incorporated by this reference herein.
- 3.3. Withholding of Contract Payments. Notwithstanding any other payment provision of this Agreement, should CITY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY may immediately withhold payments hereunder. The COUNTY may continue to withhold payment until CITY 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 CITY.
- 3.4. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this Agreement and all other pending matters are closed.
- 3.5. Access to Records. COUNTY, the State of Oregon and the federal government and their duly authorized representatives shall have access to the books, documents, papers, and records of CITY that are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, and transcripts. Likewise, CITY, the State of Oregon and the federal government and their duly authorized representatives shall have access to the

books, documents, papers, and records of COUNTY that are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, and transcripts.

4. Manner of Performance.

4.1. Compliance with Applicable Laws and Regulations, and Special Federal Requirements. CITY and COUNTY shall comply with all federal laws and regulations, Oregon laws and regulations, local ordinances and rules applicable to this Agreement, including, but not limited to, all applicable federal and Oregon civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit 4, attached and incorporated into this Agreement.

4.2. Precedence. When a requirement is listed both in the Agreement and in an exhibit to it, the requirement in the exhibit shall take precedence.

4.3. Subcontracts. CITY shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from COUNTY.

5. General Provisions.

5.1. Contact. All routine correspondence and communication regarding this Agreement, as well as requests for written acknowledgment, shall be directed to the following representatives:

For COUNTY: Teresa Christopherson, 2051 Kaen Rd, Oregon City, OR 97045
(teresachr@clackamas.us) (503-650-5718)

For CITY: Andi Howell, Transit Director, City of Sandy, 16610 Champion Way,
Sandy, OR 97055 (ahowell@ci.sandy.or.us) (503-489-0925)

Either party may change the contact or its associated information by giving prior written notice to the other party.

5.2. Indemnification. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, commissioners, councilors, agents and employees, against all claims, demands, actions and suits of any kind or nature for personal injury, death or damage to property arising out of this Agreement where the loss or claim is attributable to the negligent acts or omissions of the indemnitor or the indemnitor's officers, commissioners, councilors, employees, agents, subcontractors, or anyone over which the party has a right to control. Each party shall give the other party immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.

- 5.3. Severability. If any provision of this Agreement is found to be unconstitutional, illegal or otherwise unenforceable by a Court or authority of competent jurisdiction, 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 intentions of the parties to the maximum extent possible.
- 5.4. Modifications. Any modification or change to the terms of this Agreement shall be effective only when reduced to writing and approved by the governing bodies of both parties. Any modification or change, including any additional agreement providing descriptions of tasks, standards of performance or costs, shall be in writing, shall refer specifically to this Agreement and shall be valid only when approved by the governing bodies of both parties.
- 5.5. Integration. This Agreement contains the entire agreement between the parties concerning its subject matter.
- 5.6. Third-Party Beneficiaries. The CITY and COUNTY are the only parties to this Agreement and are the only parties entitled to enforce its terms.
- 5.7. Applicable Law. The laws of the State of Oregon govern this Agreement without respect to conflict of laws principles. Any litigation between the parties arising out of or related to this Agreement will be conducted exclusively in the Circuit Court for the State of Oregon, Clackamas County. The parties accept the personal jurisdiction of this court.
- 5.8. Dispute Resolution.
- 5.8.1. Subject to mutually agreed upon extensions of time in writing, failure or unreasonable delay by any party to substantially perform any material provision of this Agreement shall constitute default. In the event of an alleged default or breach of any term or condition of this Agreement, the party alleging such default or breach shall give the other party not less than 30 days written notice specifying the nature of the alleged default and the manner in which the default may be cured satisfactorily. During this 30-day period, the party shall not be considered in default for purposes of termination or instituting legal proceedings.
- 5.8.2. The parties shall negotiate in good faith to resolve any dispute arising under this Agreement. Should any dispute arise between the parties concerning this Agreement that cannot be resolved by mutual agreement, the parties may mutually agree to mediate the dispute prior to a party commencing litigation. The mediation shall take place in Clackamas County, Oregon. The parties will equally bear the mediator's fees and costs.
- 5.9. Term and Termination.
- 5.9.1. Term. This Agreement is effective on July 1, 2020 and will terminate on June 30, 2021, unless the parties agree in writing to extend the Agreement.

- 5.9.2. Termination For Convenience. Either party may terminate this Agreement by providing at least 30 days prior written notice to the other party.
- 5.9.3. Termination For Cause. Either party may immediately terminate this Agreement if that party complied with Section 5.8.1 of this Agreement and the other party did not cure its default within the time provided by Section 5.8.1.
- 5.9.4. Termination for Lack of Appropriation. Either party may terminate this Agreement in the event that party fails to receive expenditure authority, including but not limited to receipt of state or federal funds, sufficient to allow the 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 party is prohibited from paying for such work from the planned funding source.
- 5.10. Effective Date. This Agreement will only become effective upon approval by the governing bodies of COUNTY and CITY. Work shall be performed and eligible for reimbursement under this contract from July 1, 2020 to June 30, 2021.
- 5.11. 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 including, but not limited to, any additional requirements imposed by state or federal funding sources.
- 5.12. 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.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF SANDY
Stan Pulliam, Mayor

Signing on Behalf of the Mayor & Council



Jordan Wheeler, City Manager

12/16/2020

Date

CLACKAMAS COUNTY

Signing on behalf of the Board
Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humberston
Commissioner: Paul Savas
Commissioner: Martha Schrader

Richard Swift, Director
Health, Housing & Human Services

Date

EXHIBIT A

REPORTING REQUIREMENTS

Reporting:

CITY shall submit on a quarterly basis a narrative summary of the work performed on behalf of the Mt Hood Express, including progress on any planning or special projects.

Invoicing

CITY, through designated staff, shall submit to COUNTY a monthly invoice for project management services, bus rental and reimbursement of shop supplies and preventative maintenance and repairs. Any bus rental fees will include a summary of rental use. Preventative maintenance and shop supply reimbursement will require back documentation sufficiently detailed to allow for reimbursement from the applicable funding source.

Invoices and required reports may be submitted electronically via e-mail as an attachment and shall be received by COUNTY on or before the 15th of each quarter following the billing period.

E-mail address: teresachr@clackamas.us

COUNTY shall make payment to CITY within 30 days of receipt of each invoice submitted.

EXHIBIT B

BUDGET

\$13,320	Staff support for MHX project
\$23,940	Space for staff, program materials, and bus parking
\$1,500	Vehicle rental
\$2,000	Shop supplies, misc. equipment or program expenses
\$10,000	Reimbursement of preventative maintenance and repair paid by City
\$18,500	ITS equipment and/or service fees

Total maximum compensation under this contract shall not exceed \$67,260

EXHIBIT D
SPECIAL REQUIREMENTS

1. CITY certifies to the best of its knowledge and belief that neither it nor any of its principals:
 - (a) Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or CITY;
 - (b) Have within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
 - (d) Have within a three-year period preceding this agreement had one or more public transactions (federal, state or local) terminated for cause or default.

Where the CITY is unable to certify to any of the statements in this certification, such CITY shall attach an explanation to this proposal.

2. In case of suspected fraud by applicants, employees, or vendors, CITY shall cooperate with all appropriate investigative agencies, and shall assist in recovering invalid payments.
3. CITY shall protect the confidentiality of all information concerning applicants for and recipients of services funded by this agreement and shall not release or disclose any such information except as directly connected with the administration of the particular Clackamas County program(s) or as authorized in writing by the applicant or recipient. All records and files shall be appropriately secured to prevent access by unauthorized persons.

CITY shall ensure that all officers, employees, and agents are aware of and comply with this confidentiality requirement.

4. CITY shall ensure that no person or group of persons shall, on the ground of age, race, color, national origin, primary language, sex, religion, handicap, political affiliation or belief, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part by funds delegated under this agreement.
5. CITY will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity covered by this contract.
6. CITY will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60).
7. CITY will establish safeguards to prohibit employees and volunteers from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

8. CITY certifies, to the extent required by federal law, that it will provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in CITY's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
 - (b) Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) CITY's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations.
 - (c) Making it a requirement that each employee to be engaged in the performance of this contract be given a copy of the statement required by subsection (a) above.
 - (d) Notifying the employee in the statement required by subsection (a) that as a condition of employment on such contract, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
 - (e) Notifying the County within 10 days after receiving notice under subsection (d)(2) from an employee or otherwise receiving actual notice of such conviction.
 - (f) Imposing a sanction on, or requiring 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.
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of subsections (a) through (f).

Exhibit E: ODOT 5311 Contract
Exhibit F: FTA assurances

January 7, 2021

Board of Commissioners
Clackamas County

Members of the Board:

Approval to Apply for a Continuation Grant for Oregon Department of Transportation 5310 Enhanced Mobility Funds through Tri-County Metropolitan Transportation District of Oregon (TriMet) for Preventative Maintenance, and Operations Funding for Mt Hood Express, Transportation Reaching People and Transportation Services to Boring

Purpose/Outcomes	Agreement with Oregon Department of Transportation Rail and Public Transit Division to fund preventative maintenance and operations for the Mt Hood Express bus service, preventative maintenance and a replacement vehicle for the Transportation Reaching People Program and purchased services providing elderly and disabled transportation to the Boring area.
Dollar Amount and Fiscal Impact	The maximum agreement is \$236,880. These funds will be used to pay for preventative maintenance and operations for the Mt Hood Express, preventative maintenance for the Transportation Reaching People program, and to provide community-based elderly and disabled transportation services in the Boring area coordinated by the Sandy Senior and Community Center. Match funds will be provided by Special Transportation Formula funds and a public-private partnership with businesses in the Mt. Hood area.
Funding Source	Federal Transit Administration 5310 Elderly and Disabled Transportation grant. No county general funds are involved.
Duration	Effective July 1, 2021 and terminates on June 30, 2023
Previous Board Action	None
Strategic Plan Alignment	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 transportation needs for seniors, persons with disabilities and low income job seekers.
County Counsel	This is a Grant application. Not subject to County Counsel Review
Procurement Review	1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is a Grant application. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	

BACKGROUND

The Social Services Division of the Department of Health, Housing and Human Services requests approval to apply to Oregon Department of Transportation Rail and Public Transit Division to fund preventative maintenance and operations for the Mt Hood Express buses. The Mt Hood Express provides public transit bus service between the City of Sandy, Government Camp and Timberline, along with other locations in the Mt. Hood area, increasing access to medical and social services to

elderly and disabled residents. Clackamas County Social Services has received 5310 rural transit funds since it took over operating the Mountain Express/Mt Hood Express bus service in 2007. Match is provided through private contributions.

The Transportation Reaching People program provides rides to seniors and persons with disabilities throughout Clackamas County who have limited transportation options to get to medical appointments and other needed services. Preventative maintenance funds are also sought for vehicles operated by the Transportation Reaching People program. Match is provided with Special Transportation Funds.

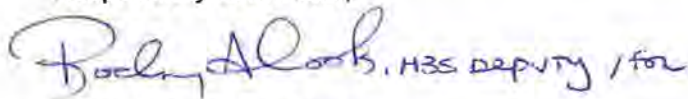
This grant also funds the continuation of the community-based elderly and disabled transportation services in the Boring area. These services will be coordinated by the Sandy Senior and Community Center. The county has received funding for this service since 2013. Match will continue to be provided with Special Transportation Funds.

Total amount of the application is \$236,880. \$116,649 for preventative maintenance costs on the Mt Hood Express and Transportation Reaching People, \$35,735 for Mt Hood Express Operations, and \$84,496 for community based elderly and disabled transportation services in Boring. No County General Funds are involved.

RECOMMENDATION

We recommend the approval to apply for this grant and further recommend the acceptance of the award if funded, and that Richard Swift, H3S Director; or his designee, be authorized to sign all documents necessary to accomplish this action on behalf of the Board of Commissioners.

Respectfully submitted,

Handwritten signature in blue ink that reads "Rachel Alcock, H3S DEPUTY / for".

Richard Swift, Director
Health Housing & Human Services

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: H3S/SSD Application for: Subrecipient funds Direct Grant
Grant Renewal? Yes No
If renewal, complete sections 1, 2, & 4 only

Name of Funding Opportunity: FY22-23 5310 Formula Funds
Funding Source: Federal State Local: _____
Requestor Information (Name of staff person initiating form): Kristina Babcock
Requestor Contact Information: 971-349-0481 kbabcock@clackamas.us
Department Fiscal Representative: Teresa Christopherson
Program Name or Number (please specify): Various (05339, 05353)
Brief Description of Project:

Continuation grant for Oregon Department of Transportation 5310 funds for vehicle maintenance and operations for MHX, vehicle maintenance for TRP and rides for seniors and persons with disabilities residing in the Boring area (purchased service).

Name of Funding (Granting) Agency: ODOT

Agency's Web Address for Grant Guidelines and Contact Information:

<https://trimet.org/meetings/stfac/grants.htm>

OR

Application Packet Attached: Yes No

Completed By: Kristina Babcock 12/16/2020
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: 11/20/2020
CFDA(s), if applicable: 20.513 (5310 funds only)
Announcement Date: 11/20/2020 Announcement/Opportunity #: N/A
Grant Category/Title: 5310 Transportation Max Award Value: \$236,880
Allows Indirect/Rate: _____ Match Requirement: Yes
Application Deadline: 1/6/2021 Other Deadlines: _____
Grant Start Date: 7/1/2021 Other Deadline Description: _____
Grant End Date: 6/30/2023
Completed By: Kristina Babcock Program Income Requirement: None
Pre-Application Meeting Schedule: _____ N/A

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?

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

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

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

Organizational Capacity:

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

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

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.)?

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.)?

Collaboration

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

Reporting Requirements

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

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?

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

Fiscal

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

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

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

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?

Program Approval:

Teresa Christopherson

12/17/2020

Teresa Christopherson

Name (Typed/Printed)

Date

Signature

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

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

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Brenda Durbin	12/17/2020	Brenda Durbin
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
Richard Swift	12/17/20	
Name (Typed/Printed)	Date	Signature

FINANCE GRANT MANAGER (or designee, if applicable; FOR FEDERALLY-FUNDED APPLICATIONS ONLY)		
Matt Westbrook	12/17/20	Matt Westbrook <small>Digitally signed by Matt Westbrook Date: 2020.12.17 14:27:45 -05'00'</small>
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.**

January 7th, 2020

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18854 with Ride Connection, Inc.
to Provide Funding for Vehicle Maintenance of Ride Connection owned
Vehicles Operated by Social Services-Transportation Reaching People and Community
Center based transportation

Purpose/Outcomes	Vehicle Maintenance support to the Social Services-Transportation Reaching People and Community Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Agreement Amounts: \$45,000. The contract is funded through the agreements with State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 Grant.
Funding Source	Federal 5311 Transportation Funds –up to \$5,150 in matching funds are deducted from the vehicle maintenance reimbursements to meet the match requirement. No County General Funds are involved.
Duration	Effective July 1, 2020 and terminates on June 30, 2021
Previous Board Action	None
Strategic Plan Alignment	<ol style="list-style-type: none"> 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.
Counsel Review	County Counsel reviewed and approved the agreement on 10/19/20
Procurement Review	<ol style="list-style-type: none"> 1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S/SSD # 9982

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18854 with Ride Connection, Inc. to provide pass through funding for vehicle maintenance of the vehicles owned by Ride Connection and operated by the rural and urban community-based members of the Clackamas County Transportation Consortium. These agreements will provide reimbursement funding to Consortium members for the routine maintenance of specified vehicles used for transportation services provided to seniors and persons with disabilities.

Transportation services are offered to area seniors and persons with disabilities who have limited or no access to public transportation. Any disabled adult, or person over the age of 60, living in Clackamas has access to transportation services through either their local Adult/Senior Community

Healthy Families. Strong Communities.

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www.clackamas.us/community_health

Centers or the Social Services Transportation Reaching People (TRP) program. Transportation services provide a link for residents to access other services that meet their individual needs. This helps them to remain independent and involved in the community as long as possible.

This contract is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their contract and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its contracts for FY20-21. The maximum funding for agreement #18854 is \$45,000. The term of the agreements is July 1, 2020 to June 30, 2021. County Council reviewed and approved both agreements on October 19, 2020. No County General Funds are involved. Matching funds are deducted from the vehicle maintenance reimbursements to meet the match requirement. This agreement provides the first year of the two-year grant funding that was awarded during the January 2019 application cycle.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in blue ink that reads "Felicity Alcock, H3S Deputy / for". The signature is written in a cursive style.

Richard Swift, Director
Health, Housing and Human Services

SERVICES AGREEMENT No. 18854
BETWEEN
Ride Connection, Inc., and Clackamas County Social Services

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County, a political subdivision of the State of Oregon, on behalf of its Health, Housing & Human Services Department, by and through the Social Services Division ("Contractor")

RECITALS:

1. Ride Connection and Contractor enter into this Agreement (the "Agreement") for the purpose of procuring Contractor's services, for which payment in part shall be from Federal Transit Administration, Enhanced Mobility of Seniors with Disabilities Program (49 U.S.C 5310) 5310 Funds.

AGREEMENTS:

1. General

- A. Scope of Agreement - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Contractor during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Contractor, other than the initial scope of Services attached in Exhibit A.
 - 1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Contractor shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (1) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (2) OMB Circular 2 CFR 200 (3) FTA Master Agreement, (4) Annual Certifications and Assurances, (5) FTA C 9070.1G.
 - 2) Contractor agrees to comply with all Contractor monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>).
- B. Scope of Services and Changes - Contractor is responsible for compliance with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to Federal Requirements, attached as Exhibit B. Contractor agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or

amended from time to time. Contractor must rely on its own independent judgment to ensure compliance with this section. Oral or written statements by Ride Connection are not to be relied on as a substitute for Contractor's independent obligation to follow all applicable laws as required by this section.

- C. Schedule - Contractor and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
- D. Audit Right - Contractor agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Contractor's financial records, management and program systems and any associated records associated with this Agreement. Contractor shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

Subcontracts and Procurements –

- 1) Contractor shall review and adhere to the Best Practices Procurement & Lessons Learned Manual, a technical assistance manual prepared by the FTA, available on their website: www.transit.dot.gov.
- 2) Contractor shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A.
 - i. All subagreements must be in writing executed by Contractor and must incorporate and pass through all of the applicable requirements and Exhibits of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Contractor of its responsibilities under this Agreement.
 - ii. Contractor agrees to provide Ride Connection with a copy of any signed subagreement upon request by Ride Connection. Any substantial breach of a term or condition of a subagreement relating to funds covered by this Agreement must be reported by Contractor to Ride Connection within ten (10) days of its being discovered.
- 3) Contractor shall not be relieved of any responsibility for performance of Contractor's duties under this Agreement, regardless of any subcontract entered into. Contractor agrees that any subcontractor performing services under this Agreement shall comply with the applicable requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier.
- 4) Any delay or defect in the performance of any part of a subcontractor's Services shall not relieve Contractor of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.
- 5) Program Fraud

- (i) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Contractor acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
 - (ii) Contractor also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Contractor, to the extent the Federal Government deems appropriate.
 - (iii) Contractor agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
- 6) Subagreement insurance - Contractor shall require the other party, or parties, to each of its subagreements to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this agreement. Any insurance obtained by the other party to Contractor's subagreements, if any, shall not relieve Contractor of the requirements of Exhibit C to this Agreement. The other party to any subagreement with Contractor, if the other party employs subject workers as defined in ORS 657.027, must obtain Workers Compensation Coverage as described in Exhibit C.
- F. ODOT Not A Party - Contractor and Ride Connection acknowledge and agree that notwithstanding any concurrence by ODOT in or approval of the solicitation or award of this Agreement, absent the express written consent by ODOT , ODOT is not a party to this Agreement and shall not be subject to any obligations or liabilities to Contractor, Ride Connection or any other party (whether or not a party to this Agreement or any Agreement awarded pursuant hereto) pertaining to any matter resulting from this Agreement.
- G. Drug-Free Workplace Agreement - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution,

dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

2. Inspection of Records and Services

- A. Recordkeeping Term - Contractor shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, ODOT or Ride Connection may require. Contractor shall permit Ride Connection, ODOT or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Contractor relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the Agreement, if expiration is later. Upon request by Ride Connection, Contractor shall provide Ride Connection access to records maintained by Contractor under this Agreement.
- B. Annual Self-Audit - Contractor shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. if Contractor expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Contractor is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions.
- 1) Contractor shall, at Contractor's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Contractor responsible for the financial management of funds received under this Agreement.
 - 2) Contractor shall also at its expense, submit to Ride Connection at the foregoing address, a copy of the management letter that accompanies an annual audit covering the funds expended under this Agreement by Contractor or any subcontractor of Contractor receiving funds as a result of this Agreement.
- C. Audit Pass through to Subcontractors - Contractor further agrees to include in any third party contract under this Agreement a provision to the effect that the subcontractor must retain and grant Ride Connection, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- 1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (a) disputes between Ride Connection and Contractor, (b) litigation or settlement of claims arising out of the performance of this contract, or (c) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of their duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been

resolved. Contractor agrees to include in any third party contract under this Agreement a provision to this effect.

- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Contractor agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the **20th** day after the end of the preceding month.
- B. Reports may include any of the following types of information required by FTA Circular 5010.1C, Chapter 1, Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Contractor.

4. Compensation

- A. The total Project Cost is estimated at **\$50,150**. In accordance with the terms and conditions of this agreement, Ride Connection shall provide Contractor an amount not to exceed **\$45,000** in Grant Funds for eligible costs. Contractor shall provide matching funds for all Project Costs as described in Exhibit A, in the amount of **\$5,150**.
- B. Ride Connection shall pay Contractor for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from ODOT for Contractor's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. The Grant Funds shall be solely used for the Project described in Exhibit A and shall not be used for any other purpose. No other costs, rates, or fees shall be payable to the Contractor. Except as set forth in this Agreement, Contractor shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- C. Payment Terms - Contractor shall submit to Ride Connection all vehicle maintenance invoices and any other documentation requested by Ride Connection. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Contractor shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Contractor, and its lower-tier subcontractors and suppliers of any tier, for any portion of Contractor's Services.
- D. Withholding - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Contractor if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Contractor's performance. Contractor shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to ODOT, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may

be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Independent Contractor

Contractor is an independent contractor for all purposes under this Agreement, and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes, and state and federal income tax withholdings. Contractor shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Contractor nor its officers, directors, employees, subcontractors or drivers are officers, employees, or agents of Ride Connection as those terms are used in ORS 30.265. Contractor, its directors, officers, employees, subcontractors, or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Contractor acknowledges that it and its employees and agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to Ride Connection or other agencies. Any and all confidential information that Ride Connection, or other agencies provide to Contractor or its employees or agents in the performance of this Agreement, regardless of whether they are designated in writing as "confidential" shall be deemed to be confidential information ("Confidential Information").

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, 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 purposes whatsoever, other than the provision of Services hereunder. Contractor shall advise Ride Connection immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Contractor shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

A. Indemnified Conditions – To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Contractor shall fully indemnify, defend, save, and hold harmless the State of Oregon, Ride Connection and their directors, officers, employees, and agents (the "Indemnitees") from and against any and all claims, actions, liabilities, damages, losses, and expenses of any nature whatsoever arising out of, or relating to the negligent acts or omissions of Contractor or its officers, employees, subcontractors, or agents under this Agreement.

- B. Indemnity by Contractor's Subcontractors - Contractor agrees to include in any third party contract under this Agreement a provision to the effect that the subcontractor(s) shall fully indemnify, hold harmless and defend the State of Oregon, Ride Connection, and their directors, 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 investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the negligent acts or omissions of subcontractor, its officers, employees or agents under the contract between Contractor and such subcontractor(s) procured pursuant to this Agreement.

Any such indemnification clause shall also provide that the subcontractor(s), nor any attorney engaged by the subcontractor(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State, at any time at its election, assume its own defense and settlement in the event that it determines that Contractor's subcontractor is prohibited from defending State or that Contractor's subcontractor is not adequately defending State's interests, or that an important governmental principle is at issue or it is in the best interests of the State to do so. State reserves all rights to pursue claims it may have against Contractor's subcontractor if State assumes to elect its own defense.

Any such indemnification clause shall also provide that the subcontractor(s), nor any attorney engaged by the subcontractor(s), shall defend any claim in the name of Ride Connection, nor purport to act as legal representative of Ride Connection, without the prior written consent from Ride Connection. Ride Connection, at any time at its election, assume its own defense and settlement in the event that it determines that Contractor's subcontractor is prohibited from defending Ride Connection or that Contractor's subcontractor is not adequately defending Ride Connection's interests, or that it is in the best interests of Ride Connection to do so. Ride Connection reserves all rights to pursue claims it may have against Contractor's subcontractor if Ride Connection assumes to elect its own defense.

- C. Indemnitee Consent - Contractor shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, Ride Connection, without the prior written consent of the Oregon Attorney General, or Ride Connection.
- D. Limitation on Indemnification - Contractor's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Contractor pursuant to this Agreement shall operate to amend the Contractor's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.
- E. No Consequential Damages – Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Contractor regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue

or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss. However, Contractor's obligations under this Agreement are conditioned on receiving the funds from Ride Connection.

8. Insurance

- A. While this Agreement is in effect, Contractor agrees that it shall maintain in effect the insurance coverage set forth in Exhibit C to this Agreement, as well as to require any subcontractors it uses to agree to comply with the aforementioned insurance requirements.

Failure of Ride Connection to demand evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to require such insurance from its subcontractors.

- B. Workers Compensation** - All employers, including Contractor, 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 626.126. Employer's liability insurance of coverage limits of not less than \$500,000 must be included.

Contractor shall ensure that each of its subcontractors complies with these requirements.

- C. The Contractor or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

9. Claims, Notice.

- A. Notice Period - Contractor shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to ODOT.
- B. Notice Content - Any claim by Contractor must set forth in detail the entitlement and quantum basis for Contractor's claim with supporting data and/or the entitlement basis to Ride Connection.
- C. Requirement to Continue Services - Whether or not Contractor has a claim pending with Ride Connection, Contractor shall continue performing Services under this Agreement. Any suspension of Services by Contractor, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing. However, Contractor's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.

10. Termination

Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Contractor, or at such later date as may be established by Ride Connection, under any of the following conditions:

- (i) Contractor fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- (ii) Contractor fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
- (iii) Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
- (iv) Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
- (v) Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
- (vi) Contractor takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.

Contractor may terminate the Agreement, in whole or in part, upon 30 days written notice to Ride Connection.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

11. Compliance with Laws

- A. **Governing law** - This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.
- B. **Federal laws and regulations** - In addition to those elsewhere specified, Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, executive orders, and ordinances applicable to the Agreement or to the implementation of the Project, as applicable without limitation as described in Exhibit B. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable:
 - (i) Title VI of the Civil Rights Act of 1964;
 - (ii) Section V of the Rehabilitation Act of 1973;
 - (iii) Americans with Disabilities Act of 1990 and ORS 659a.142;

- (iv) All other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations;
- (v) Clean Air Act (42 U.S.C. 7401-7671q);
- (vi) Water Pollution Control Act as amended (33 U.S.C. 1251-1387);
- (vii) Executive Order 11738;
- (viii) Environmental Protection Agency regulations (40 CFR part 15); and
- (ix) All applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.

- C. Payment of taxes and business license** - Contractor shall pay all filing fees and federal, state, and local taxes applicable to Contractor's business as the same will become due; and comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Contractor's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Contractor that it is in compliance with the foregoing, and Contractor will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Contractor's compliance with this Section.
- D. ODOT Conflict of Interest Guidelines** - If required applicable by ODOT, Contractor and its subcontractors shall comply with the ODOT Conflict of Interest ("COI") Guidelines and COI Disclosure Form. Contractor and, to the best of the undersigned's information, knowledge and Contractor's Associates (as defined in the COI Guidelines) are in compliance with and have no disclosures required per the COI Guidelines (available at: <http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx>); Contractor also confirms that no Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of 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.
- E. Certificate of Oregon Tax Law Compliance** - By execution of this contract, Contractor certifies under penalty of perjury as provided in ORS 305.385(6), that it is, to the best of its knowledge, not in violation of any Oregon tax law. For purposes of this certification, "Oregon Tax Laws" are ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session); the Elderly Rental Assistance Program under ORS 310.630 to 310.706; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620.

12. Term

This Agreement shall begin on **7/1/2020** and shall remain in effect through **6/30/2021** unless terminated sooner under the provisions of this Agreement.

13. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' as indicated below:

Ride Connection:
John Whitman
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Clackamas County Social Services:
Stefanie Reid
Clackamas County Social Services
2051 Kaen Rd
Oregon City, OR 97045

14. No Third Party Beneficiary

Ride Connection and Contractor are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

15. Assignment

Contractor may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

16. Dispute Resolution

- A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.
- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted

to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

17. Prompt Payment

Contractor shall make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the work provided for in the contract. At a minimum, Contractor shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection.

18. Duplicate Payment

Contractor is not entitled to compensation or any other form of duplicate, overlapping, or multiple payments for the same work performed under this Agreement from Ride Connection or any other party, organization, or individual.

19. Agreement Documents

This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

- Exhibit A: Scope of Work
- Exhibit B: Federal Requirements
- Exhibit C: Insurance Requirements
- Exhibit D: Asset Inventory Reporting Requirements
- Exhibit E: Funding Information
- Exhibit F: Reporting Requirements

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit B, this Agreement without Exhibits, Exhibit A, Exhibit C, Exhibit F, Exhibit E, Exhibit D.

20. Amendments

This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.

21. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such

provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

22. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Insurance); 11A (Governing Law); 16 (Dispute Resolution); and 22 (Surviving Provisions).

23. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute 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 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 Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

24. 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.

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WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Julie Wilkie-Pilmer
Printed Name

CEO
Title

Date

CLACKAMAS COUNTY

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

Signing on Behalf of the Board:

Richard Swift, Director
Health Housing & Human Services Dept.

Date

Approved as to Form:

By: via email by Kathleen Rastetter
Clackamas County Counsel

Date: 10/19/2020

EXHIBIT A

SCOPE OF WORK

Preventative maintenance reimbursed in this Agreement is for assets identified in Exhibit D.

Project deliverables, tasks, schedule, and performance measures

All preventative maintenance tasks must be completed on schedule and prior to the expiration date of this agreement.

Preventative maintenance expenses include activities, supplies, materials, labor, services, and associated costs required to preserve or extend the functionality and serviceability of the asset in a cost effective manner. Preventative maintenance includes, but is not limited to the following: oil changes; engine tune-ups; tire purchases; tire maintenance; annual vehicle inspections; scheduled or routine maintenance; and associated parts, supplies, and labor.

Preventative maintenance under this Agreement does not include repairs resulting from motor vehicle accidents, theft, vandalism, or any expense covered by insurance; repairs on vehicles or components under warranty; or repairs paid for in other agreements or contracts.

Project Funding, Duration and Performance Goals

Project	Performance Goal	Funding Source	Project Amount	Grant Amount	Match 10.27%
Preventative Maintenance	150 van/sedan rides per month 300 bus rides per month	5310(CFDA 20.513) Federal	\$50,150	\$45,000	\$5,150
Totals:			\$50,150	\$45,000	\$5,150

EXHIBIT A

VEHICLE PREVENTIVE MAINTENANCE PROGRAM

Per Federal Transit Administration and Rail and Public Transit Division requirements for managing federally-funded assets, agencies must have a documented Vehicle Maintenance Program approved and in place. All vehicles used to provide public transportation must be included in the program, which will include a comprehensive written Vehicle Maintenance Plan. Regardless of vehicle fleet funding, it is important for all agencies providing public transportation to have a strong vehicle maintenance program since well-maintained vehicles are essential to providing a safe and secure ride for passengers. Preventive maintenance is required to ensure vehicles remain in a state of good repair. Preventive maintenance also helps to avoid breakdowns that may jeopardize passenger safety; helps ensure that all equipment, such as wheelchair lifts, is functioning properly; and conserves vehicle maintenance budgets by reducing avoidable unplanned major repairs.

The purpose of a vehicle maintenance program is to:

1. Ensure that the fleet is in a state of good repair;
2. Ensure that a sufficient number of agency vehicles are available to meet daily service needs;
3. Ensure that agency vehicles are safe, serviced regularly, and clean; and
4. Ensure that good vehicle maintenance is provided at a reasonable cost.

Significant components of an effective vehicle maintenance program include:

1. A comprehensive Vehicle Maintenance Plan;
2. An established vehicle service preventive maintenance schedule based on manufacturer's recommendations and warranty requirements;
3. A thorough and documented inspection program including daily driver pre-trip vehicle inspections and post-trip inspections (documentation should include how to report problems, who to report problems to, and who assigns the corrective actions taken);
4. Mileage or time-period based periodic mechanical vehicle service and inspections and corrective actions as required;
5. Required annual vehicle safety inspection schedule for each vehicle, to be performed by a certified mechanic;
6. A regular vehicle exterior and interior cleaning program;
7. A cost-effective vehicle repair function for unplanned break-downs, which may include both in-house and out-sourced repair services;
8. A facility for safe and secure off-hour vehicle storage;
9. A vehicle management information system to schedule and track vehicle maintenance activities, as well as vehicle labor and parts costs, by vehicle; and
10. Maintenance records of all service and repairs (invoices, or in-house reports if agencies

EXHIBIT A

perform services) for each vehicle. Maintain these records throughout the life of the vehicle and retain records for three years following the disposal of the vehicle.

I. CAPITALIZED VEHICLE PREVENTIVE MAINTENANCE

Preventive maintenance projects are reimbursable at the capital match rate in the FTA 5310 and 5311 grant program. Capitalized preventive maintenance allowable costs include:

1. Scheduled or routine maintenance, such as changing belts, hoses, and distributor parts;
2. Oil changes and tune-ups;
3. Tire purchases and tire maintenance;
4. Wheelchair lift servicing and repairs;
5. Annual safety inspections performed by a certified mechanic; and
6. Associated maintenance labor, parts, and supplies.

Preventive maintenance in a capital grant is limited to one major component rebuild or planned overhaul per vehicle included in the grant. Agencies considering a major vehicle re-build, should complete a brief cost-benefit analysis to determine if the additional vehicle life secured by a re-build justifies the re-build cost, and whether the same funds applied towards a new vehicle would provide the agency greater value.

Unauthorized capitalized maintenance expenses include:

1. Vehicle fuel;
2. Vehicle oil, lubrication, or engine fluids purchased for inventory;*
3. Vehicle parts and other expendables purchased for inventory;*
4. Shop supplies;
5. Repairs resulting from accidents covered by insurance;
6. Insurance policy deductibles, or other costs covered by insurance; and
7. Repairs that should be charged to warranties or service agreements.

** The cost of lubrication, oil, engine fluids, and parts that are expended in the course of a specific vehicle service are allowable as capitalized preventive maintenance, as a portion of the total vehicle servicing cost.*

II. VEHICLE MAINTENANCE PLAN

Publicly owned transportation vehicle assets represent a significant investment of public funds. It

EXHIBIT A

is the goal of the FTA to ensure that all public transit assets, including vehicles, are preserved and maintained cost-effectively, in a state of good repair, and that they remain in safe condition. RPTD's responsibility is to see that this goal is met.

Ride Connection has a *Vehicle Maintenance Plan*. The Vehicle Maintenance Plan is an agency policy document that addresses and includes:

1. Goals and objectives of the agency's maintenance program, and how these were established;
2. An inventory of the agency's vehicle assets, and a schedule and process for periodically updating the inventory;
3. A description of maintenance responsibilities within the agency, encompassing management, supervision, drivers, and maintenance staff;
4. A preventive maintenance plan with the following components:
 - a) A preventive maintenance servicing schedule for each vehicle in the agency fleet, based on manufacturers' recommendations for the size, type and components or equipment contained on that specific vehicle;
 - b) A process for managing and monitoring vehicle warranties and, if applicable, service agreements, to ensure all service requirements are met;
 - c) A vehicle daily servicing plan designed to prepare the vehicle for daily revenue service (typically includes interior cleaning and key fluids checks);
 - d) A vehicle inspection procedure which should include both driver's daily pre-trip inspections and post-trip inspections, reports;
 - e) Mechanic's mileage-based service and inspections;
 - f) A procedure for follow-up for repairs arising from pre-trip and post-trip inspections, and documentation regarding any vehicle being pulled from service until required repairs are made;
 - g) A schedule for periodic exterior vehicle cleaning and more thorough interior cleaning, that takes into account seasonal and environmental conditions;
 - h) An annual vehicle safety inspection by a certified mechanic. This inspection must include all safety components and is not complete unless it includes inspection of ADA-related equipment such as lifts, securements, handrails, etc; and
 - i) New driver vehicle orientations, to ensure proper and safe use of the vehicle and any installed equipment.
5. A vehicle repair policy for unplanned mechanical breakdowns, whether repairs are performed in-house or are contracted out;
6. A vehicle storage procedure for safe and secure vehicle storage off-hours;
7. The agency's vehicle management information system (VMIS) established to document vehicle inspections, maintenance and repair activities. The system should track actual dates,

EXHIBIT A

services performed, parts used, costs incurred, and when the next service/inspection is due (miles and/or date).

III. INDIVIDUAL VEHICLE PREVENTIVE MAINTENANCE SCHEDULE AND RECORDS

All grant recipient agencies are required to prepare a preventive maintenance schedule for every grant-funded vehicle. Base vehicle preventive maintenance schedules on manufacturer's recommendations for the specific vehicle.

Vehicle Condition Definitions: RPTD has established vehicle condition definitions that comply with FTA guidelines, and are useful to agencies for assessing and documenting the status of their vehicle fleet. These definitions can be found in the Asset Management section.

Forms and Checklists: For agencies that do not have their own forms and checklists, please request copies from Ride Connection.

Records Retention Requirement: Retain all individual vehicle records, including maintenance and repair records for three years after disposition of the vehicle.

Scheduled Service Intervals: The preventive maintenance schedule should include expected service triggers for maintenance services to be performed. These may be either time periods (example: every three months), or miles elapsed (example: every 3,000 miles). Establish service intervals for different types of maintenance as multiples of a common denominator, whether mileage-based or time-based. This minimizes the frequency of preventive maintenance servicing, and optimizes vehicle in-service operation.

For example, if oil is changed every 3,000 miles, schedule tire rotations every 6,000 miles and transmission fluid changes every 24,000 miles (as long as these intervals meet manufacturer recommendations). For a time-based service interval program, this example could equate to every three months, six months, and twelve months.

The scheduled service should address every component included in the manufacturer's warranty requirements schedule, including all safety equipment and ADA-accessibility equipment such as wheelchair lifts.

Service intervals should also take into consideration seasonal and environmental factors, such as winter conditions, salted or sanded roads, rough road conditions, city-versus-rural driving, coastal fog and sea salt conditions, regular hill or mountain driving, etc.

Wheelchair Lift Maintenance: A survey of major wheelchair lift dealers in Oregon indicates that because of widely varying lift usage rates, manufacturers recommend that preventive maintenance for powered lifts be scheduled based on lift cycles, rather than on time-based intervals. For instance, if a dial-a-ride bus deploys the lift 30 times a day, it would require more

EXHIBIT A

frequent service than a limited-route van requiring eight deployments a day. Oregon began using cycle counters on vehicle lifts in April 2005.

Agencies should include a vehicle lift preventive maintenance section in the Vehicle Maintenance Plan. The lift preventive maintenance section should address the following:

1. A preventive maintenance schedule based on lift cycles, according to manufacturers' recommendations;
2. Regularly scheduled visual lift inspections by drivers, and by mechanics during in-shop maintenance; and
3. New staff orientation and training on operation of the lift and of the cycle counter (for drivers and shop technicians).

Vehicle Preventive Maintenance Records: Maintain vehicle maintenance records for each vehicle, verifying maintenance has been performed according to vehicle manufacturers' established preventive maintenance schedule. The maintenance records will also show that recommended repairs are made on a timely basis.

Vehicle maintenance and repair documentation is an FTA and ODOT requirement for all federally or state funded assets. All vehicle maintenance records must be made available when requested by RPTD staff or its representatives.

Keep vehicle maintenance records for each vehicle in separate files, these include:

1. Vehicle Maintenance Schedule for each vehicle (see above);
2. Documentation of annual safety inspections, including ADA components, performed by a certified mechanic with manufacturer-certified training for the vehicle and for specialized, on-board ADA components;
3. Completed daily pre-trip and post-trip driver checklists documenting that all safety features are functioning. The driver's pre-trip checklist must include deploying any wheelchair lift equipment and interlock features. The post-trip checklist must include indications of service or repairs required, action taken to do the work, and whether or not the vehicle must be taken out of service until repair or service is done, based on agency maintenance policies and safe operation standards;
4. Copies of all invoices, or internal repair orders, documenting that the maintenance and repairs performed.

IV. VEHICLE REPAIRS AS PART OF PREVENTIVE MAINTENANCE

Vehicle repairs include planned major parts replacements (one instance per vehicle per biennium may be reimbursed in a capital preventive maintenance grant); repairs arising out of pre-trip, post-trip, or mileage/time-based inspections (including annual safety inspections); and wear and tear

EXHIBIT A

repairs or replacements (e.g., nicks and minor windshield chips, cracked light covers, individual seat tears, tires, planned brake jobs, lift repairs, bus washing and detailing, etc.).

Although defined as maintenance repairs, warranty/recall servicing, warranty/recall parts replacement, and repairs resulting from accidents, are not eligible expenses in RPTD capitalized preventive maintenance grants. Warranty work should be performed in a timely manner, and agencies should access the manufacturer's warranty via the vendor if assistance is needed to determine what is covered. Any warranty work not covered should be reimbursed as an operating expense, not in the capitalized preventive maintenance grant. Accident repairs are covered by insurance. Any deductibles or charges resulting from an accident are considered operating expenses that cannot be reimbursed from a capital preventive maintenance grant.

Agencies should use some form of Vehicle Repair Work Order form or sheet to record the repair activities. It should include, at a minimum, the start and end date of repairs; the reason for the repair (for example, bus wouldn't start, check engine light came on, inspection finding, or accident); what repairs were made; labor hours; parts used; and who did the work. A Work Order should be used whenever the agency performs the repair service in-house. If a vendor does work, agencies should require work orders or invoices from the company performing the maintenance or repair that, at a minimum, state the issue, parts installed and separate labor charges.

Once the work is completed, the repairs should be documented on the Vehicle Maintenance Chart (see above) and the Work Order should be kept in the individual vehicle maintenance file, where it becomes part of the historical record for that vehicle. These documents are also provided either as required reimbursement documents, or as the basis for completing the vehicle Preventive Maintenance Reimbursement Request attachment form (the Excel spreadsheet developed for use in lieu of providing copies of vendor receipts).

V. VEHICLE CLEANING

It is important that vehicles be regularly cleaned inside and out.

Regular vehicle cleaning helps prevent premature vehicle aging, protects exterior paint, extends the life of protective coatings, and helps prevent rust. It also increases passenger comfort and maintains a positive agency image. Smaller vehicles may be washed at a car wash or with a portable vehicle-washing unit; larger buses may require use of a washing facility (wash rack) or a trip to the nearest truck wash facility. Washing should include periodic washing or steam cleaning the vehicle engine and undercarriage, and application of a protective coating to the painted surfaces, if recommended, and as specified by the manufacturer.

An interior and exterior cleaning schedule should be developed, which specifies cleaning activities to be performed at specified intervals.

EXHIBIT A

VEHICLE STORAGE AND SAFETY

Every transit agency is responsible for protecting its vehicle fleet through good storage and safety practices. Safe and secure vehicle storage encompasses several aspects:

1. **A secured vehicle parking area.** This may be a parking lot with adequate lighting and security, such as security fencing, perimeter motion-detector lighting, or door/window alarms, or a covered bus parking shelter, or a bus barn, also with adequate security.
2. **Security surveillance.** In areas more prone to crime, vandalism, or gang-related activity such as graffiti tagging, some form of additional surveillance may be desirable. This can take the form of electronic surveillance (monitored security cameras), or a routine private patrol service, or both. Security camera monitoring during hours the agency is closed can often be contracted to a commercial security company.
3. **Safety procedures.** Proper storage also incorporates safety procedures such as no-exception brake setting and transmission-in-park requirements of drivers; and setting up the parking area to maximize forward driving and avoid operating vehicles in reverse. Backing up is a frequent accident-generating activity. Entering and exiting safely at the storage facility is also important. Requiring procedures such as 10 MPH maximum driving speeds, and stop signs or markings at intersection points, will help to minimize unnecessary vehicle damage or collisions.
4. **Key Control.** Keys are a vulnerability point for all vehicles. A policy and procedure for locking vehicles and assigned responsibilities for vehicle keys at shift-end should be established.

VI. RESOURCES

Federal Publications

Code of Federal Regulations (CFR) 49

- Part 37, Transportation Services for Individuals with Disabilities (ADA) [49CFR37](#)
- Part 38, ADA Accessibility Specifications for Transportation Vehicles [49CFR38](#)
- Part 393, Parts and Accessories Necessary for Safe Operation [49CFR393](#)
- Part 396, Inspection, Repair, and Maintenance [49CFR396](#)
- Part 571, Federal Motor Vehicle Safety Standards (FMVSS) [49CFR571](#)

Other Useful National Organization Publications

- Community Transportation Association of America (CTAA) – ADA Resources

EXHIBIT A

VII. EMERGENCY AFTER HOURS CONTACT(S)

Please list at least one emergency contact to reach after hours for vehicle issues.

Name	Phone
1. _____	
2. _____	
3. _____	

**Ride Connection, Inc.
Services**

Clackamas County Social

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

EXHIBIT B

Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement ("Master Agreement")

Contractor's subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at www.transit.dot.gov. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Contractor must submit to Ride Connection on or before October 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing and completing the form and sending it to Ride Connection. The form is available at:

<https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>.

Contractor agrees to comply with the following provisions and require in its subagreements that the subcontractors comply with all applicable requirements included in the Master Agreement that is signed and attested to by the State of Oregon as if the subcontractors were Contractor. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at www.transit.dot.gov.

Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the funds described in Exhibit A:

1. Contractor shall comply with Title VI of the Civil Rights Act of 1964 (78 Stat 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Contractor will report to Ride Connection on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Contractor shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Contractor's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this

EXHIBIT B

program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

4. Contractor must include the following language in each subagreement Contractor signs with a subcontractor:

The subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor or subcontractor 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 Ride Connection deems appropriate.

5. By executing the Agreement, contractors receiving in excess of \$100,000 in federal funds, certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other federal award as well as the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, cooperative agreement, or other federal award. 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. If non-federal funds have been used to support lobbying activities in connection with the Project, Contractor **shall** complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

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EXHIBIT C

INSURANCE REQUIREMENTS

General

Contractor shall obtain and provide:

- i. Insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance of this Agreement and of any sub agreement commences, and
- ii. Maintain the insurance in full force throughout the duration of this Agreement. Proof of sufficient self-insurance shall satisfy this requirement.

The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Ride Connection. Contractor shall not commence work under this Agreement, and shall not authorize work to begin under a subcontract until the insurance is in full force. Thereafter, Contractor shall monitor continued compliance with the insurance requirements on an annual or more frequent basis.

Contractor shall comply with any requirements of Ride Connection with respect to Contractor's compliance with these insurance requirements, including but not limited to Ride Connection issued stop work orders (or the equivalent) until the insurance is in full force, or terminating the Contract as permitted by this Contract, or pursuing legal action to enforce the insurance requirements.

While this Agreement is in effect, Contractor agrees that it shall maintain in effect the insurance coverage set forth below. Prior to commencement of work under this Agreement, Contractor shall furnish to Ride Connection a certificate(s) of insurance executed by a duly authorized representative of each insurer showing compliance with the insurance requirements below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation.

Contractor shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:

Types and Amounts

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$126,200/\$630,800 property damage and \$1,538,000 total damages per occurrence.

Contractor's subcontractors, if any, shall obtain and provide insurance in the types and amounts as follows:

EXHIBIT C

- I. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).

The employer's liability limit shall not be less than \$500,000 each accident for bodily injury by an accident and \$500,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.

- II. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to Ride Connection. This insurance shall include personal injury liability, products, and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

- III. **AUTOMOBILE LIABILITY:** Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence). Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).

Additional Insured

The Commercial General Liability Insurance and Automobile Liability insurance must include Ride Connection, ODOT, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"Tail" Coverage

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor and the subcontractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement for Contractor, and the effective date of the sub agreement for subcontractors, for a minimum of 24 months following the later of:

EXHIBIT C

- i. The Contractor's completion and Ride Connection's acceptance of all services required under this Agreement, and the subcontractors completion and Contractor's acceptance of all services required under the sub agreement or,
- ii. The expiration of all warranty periods provided under this Agreement with respect to Contractor and the sub agreement with respect to the subcontractor.

Notwithstanding the foregoing 24-month requirement, if the Contractor or subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor or subcontractor may request and Ride Connection may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Ride Connection approval is granted, the Contractor or subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

Notice of Cancellation or Change

The Contractor or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

Certificate(s) of Insurance

Contractor shall submit to Ride Connection a certificate(s) of insurance for all required insurance before the commencement of performance of services, and upon expiration/renewal of any coverage type. The certificate(s) or an attached endorsement must specify:

- i. All entities and individuals who are endorsed on the policy as Additional Insured and
- ii. For insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

EXHIBIT F

Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the **20th** of each month.

Reports:

- Service Summary Reports
 - Trip Data
 - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to:
partner_reporting@rideconnection.org.

EXHIBIT E

Clackamas County Social Services
Contract #18854

Federal laws, regulations, or circulars that are expressly applicable to the funding source and project (but not limited to):

- A. Master Agreement (49 U.S.C. Chapter 53 and Title 23) – The FTA Master Agreement contains the standard terms and conditions that apply to the Underlying Agreement.
- B. Grant Management Requirements (Circular 5010.1E) – These requirements are intended to assist recipients in administering FTA-funded projects and in meeting reward responsibilities and reporting requirements. Recipients have a responsibility to comply with regulatory requirements and to be aware of all pertinent material to assist in the management of all federally assisted rewards.
- C. *Enhanced Mobility of Seniors and Individuals with Disabilities Grant Program (Circular 5010.1G) – This circular issues guidance on the administration of the Enhanced Mobility of Seniors and Individuals with Disabilities Program under 49 U.S.C. 5310.*
- D. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Title 2 – Grants and Agreements; Subtitle A – Office of Management and Budget Guidance for Grants and Agreements; Chapter II – Office of Management and Budget Guidance; Part 200). Establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities and establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are designed that Federal awards bear their fair share of costs.

EXHIBIT E

Clackamas County Social Services
Contract #18854

PASS-THROUGH FUNDING INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) 2 CFR 200.

This agreement is financed by the funding source indicated below:

Assistance Listings or Title: *Enhanced Mobility of Seniors with Disabilities Program (49 U.S.C 5310)*

Assistance Listings Number and Name: *20.513 (5310)*

Federal Award Identification Number (FAIN): *OR-2020-038-00*

Subrecipient DUNS Number: *96992656*

Project Cost (total before required match): *\$50,150*

Expected Federal Funding: *\$45,000*

Approved Indirect Cost Rate: *0%*

Federal Award Date: *Obligation Date: 06/29/2020*

Award R&D? (Yes/No): *No*

Federal Funding Agency (or other pass-through agency if different):

ODOT
Rail and Public Transit Division
555 13th Street NE
Salem, OR 97301

U.S. Department of Transportation
Federal Transit Administration
1200 New Jersey Ave, SE
4th & 5th Floors - East Building
Washington, DC 20590

U.S. Department of Transportation
Federal Transit Administration
Region X Suite 3142
Federal Building
915 Second Avenue
Seattle, WA 98174

Exhibit D Clackamas County Social Services

As of 2020-07-01 15:42:31 Pacific Standard Time/PST • Generated by Dean Orr • Sorted by License Plate (Ascending)

Project: Project Name ↑	Year	Make	Model	License Plate	Asset Nickname	VIN#	Grant Amount	Start Date	End Date	
Canby Adult Center CCC - 20/21 ODOT #33590	2015	Dodge	ElDorado	Amerivan	464JFY	2C7WDGBG8FR705616	\$2,250.00	7/1/2020	6/30/2021	
	2017	Ford	Starcraft	Allstar	CN04236	1FDEE3FS6HDC29364	\$2,250.00	7/1/2020	6/30/2021	
Subtotal	Count	2								
Estacada Senior Center CCC - 20/21 ODOT #33590	2013	Ford	Elkhart	EC II	CN03725	1FDFE4FS8DDA50893	\$2,250.00	7/1/2020	6/30/2021	
Subtotal	Count	1								
Foothills Community Center CCC - 20/21 ODOT #33590	2011	Ford	Champion	Challenger	CN03384	1FDFE4FS2BDA39224	\$2,250.00	7/1/2020	6/30/2021	
	2017	Ford	Starcraft	Allstar	CN04253	1FDEE3FS8HDC29365	\$2,250.00	7/1/2020	6/30/2021	
Subtotal	Count	2								
Gladstone Senior Center CCC - 20/21 ODOT PM #33590	2017	Ford	Starcraft	Allstar	CN04239	1FDEE3FS7HDC29342	\$2,250.00	7/1/2020	6/30/2021	
Subtotal	Count	1								
Hoodland Senior Center CCC - 20/21 ODOT #33590	2014	Ford	Goshen	GC-II	CN03822	1FDEE3FL1EDA23762	\$2,250.00	7/1/2020	6/30/2021	
Subtotal	Count	1								
Milwaukie Center CCC - 20/21 ODOT PM #33590	2010	Ford	StarTrans	Senator	CN03243	1FDFE45SX9DA92863	\$2,250.00	7/1/2020	6/30/2021	
	2014	Ford	Champion	Challenger	CN03945	1FDFE4FS0EDA04525	\$2,250.00	7/1/2020	6/30/2021	
	2015	Ford	Elkhart	EC II	CN04000	1FDFE4FS0FDA15851	\$2,250.00	7/1/2020	6/30/2021	
	2017	Ford	Starcraft	Allstar	CN04237	1FDFE4FS0HDC07466	\$2,250.00	7/1/2020	6/30/2021	
Subtotal	Count	4								
Pioneer Community Center CCC - 20/21 ODOT PM #33590	2013	Ford	Elkhart	EC II	CN03741	1FDFE4FS2DDA64191	\$2,250.00	7/1/2020	6/30/2021	
	2014	Ford	Elkhart	EC II	CN03823	1FDEE4FL4EDA05701	\$2,250.00	7/1/2020	6/30/2021	
	2017	Ford	Starcraft	Allstar	CN04240	1FDEE3FSXHDC30100	\$2,250.00	7/1/2020	6/30/2021	
Subtotal	Count	3								
Sandy Senior Center CCC - 20/21 ODOT #33590	2016	Mobility Ventures LLC	MV - MV1	095JQD	Marshmallow	57WMD2C60GM100101	\$2,250.00	7/1/2020	6/30/2021	
	2013	Ford	Elkhart	EC II	CN03663	1FDFE4FS6CDB38243	\$2,250.00	7/1/2020	6/30/2021	
Subtotal	Count	2								
Transportation Reaching People CCC - 20/21 ODOT PM #33590	2012	Dodge		Braun Entervan	793FSQ	STF 01 12-8914	2C4RDGBG0CR225818	\$2,250.00	7/1/2020	6/30/2021
	2013	Dodge		Braun Entervan	887GBY	STF 02 13-8917	2C4RDGCGXDR543669	\$2,250.00	7/1/2020	6/30/2021
	2013	Hyundai		Sonata Hybrid	972HJB	13-8931	KMHEC4A46DA089820	\$2,250.00	7/1/2020	6/30/2021
	2019	Dodge	ElDorado	Amerivan	984LHU	19-8969	2C7WDGBG1KR521404	\$2,250.00	7/1/2020	6/30/2021
Subtotal	Count	4					\$45,000.00			
Total	Count	20								

January 7, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18862 with Ride Connection, Inc. to Provide Funding for
Dedicated Dialysis Rides Provided by Social Services,
Transportation Reaching People

Purpose/Outcomes	Funding for Social Services-Transportation Reaching People to provide Dedicated Dialysis Rides to assist older and disabled county residents in meeting their transportation needs to receive dialysis treatment.
Dollar Amount and Fiscal Impact	The total agreement is \$72,610. State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 Grant.
Funding Source	Federal 5311 Transportation Funds - \$8,311 of Social Services-Transportation Reaching People Special Transportation Formula (STF) Funds are used to meet match requirements.
Duration	Effective July 1, 2020 and terminates on June 30, 2021
Previous Board Action	011719-A1, 092619-A2
Strategic Plan Alignment	<ol style="list-style-type: none"> 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.
Counsel Review	County Counsel reviewed and approved the agreement on 10/19/20
Procurement Review	<ol style="list-style-type: none"> 1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S/SSD #9984

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services requests approval of Agreement #18862 with Ride Connection, Inc. This agreement pass through funding State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 funding specifically for dedicated dialysis rides provided by the Social Services Transportation Reaching People (TRP) program. This agreement provides continuation funding for the portion of the rides that are provided inside the TriMet District to areas that have been designated high equity needs area by the TriMet HD2017 Transit Advisory Committee. This project helps riders to remain independent in meeting their dialysis treatment needs for as long as possible.

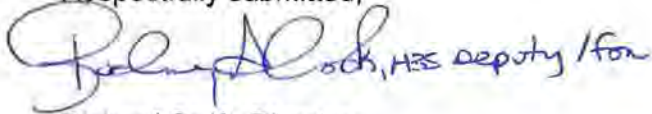
The TRP program provides rides in either a lift equipped mini-buses or mini-vans driven by paid staff as well as with volunteer drivers providing rides in their own vehicles. TRP provides transportation to dialysis clinics located throughout the county and in the greater Portland-metro area in these vehicles. When possible, riders with a similar destination and arrival times ride together to increase program efficiencies. Generally, transportation is provided weekdays between 8:00 am and 5:00pm.

This contract is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their contract and approved the Subrecipient agreements issued by Ride Connection. The maximum funding for this agreement is \$72,610. The term of the agreement is July 1, 2020 to June 30, 2021. County Council reviewed and approved these modifications on October 19, 2020. No County General Funds are involved. Matching funds of \$8,311 are provided by TRP's Special Transportation Formula (STF) Agreement. This agreement provides the second year of the two-year grant funding that was originally awarded during the January 2019 application cycle.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and that Richard Swift, H3S Director, or his designee; be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Richard Swift, H3S Deputy / for". The signature is written in a cursive style.

Richard Swift, Director
Health Housing & Human Services

SERVICES AGREEMENT No. 18862
BETWEEN
Ride Connection, Inc., and Clackamas County Social Services

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County, a political subdivision of the State of Oregon, on behalf of its Health, Housing & Human Services Department, by and through the Social Services Division ("Contractor")

RECITALS:

1. Ride Connection and Contractor enter into this Agreement (the "Agreement") for the purpose of procuring Contractor's services, for which payment in part shall be from Federal Transit Administration, Enhanced Mobility of Seniors with Disabilities Program (49 U.S.C 5310) 5310 Funds.

AGREEMENTS:

1. General

- A. Scope of Agreement - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Contractor during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Contractor, other than the initial scope of Services attached in Exhibit A.
 - 1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Contractor shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (1) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (2) OMB Circular 2 CFR 200 (3) FTA Master Agreement, (4) Annual Certifications and Assurances, (5) FTA C 9070.1G.
 - 2) Contractor agrees to comply with all Contractor monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>).
- B. Scope of Services and Changes - Contractor is responsible for compliance with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to Federal Requirements, attached as Exhibit B. Contractor agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or

amended from time to time. Contractor must rely on its own independent judgment to ensure compliance with this section. Oral or written statements by Ride Connection are not to be relied on as a substitute for Contractor's independent obligation to follow all applicable laws as required by this section.

- C. Schedule - Contractor and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
- D. Audit Right - Contractor agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Contractor's financial records, management and program systems and any associated records associated with this Agreement. Contractor shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

Subcontracts and Procurements –

- 1) Contractor shall review and adhere to the Best Practices Procurement & Lessons Learned Manual, a technical assistance manual prepared by the FTA, available on their website: www.transit.dot.gov.
- 2) Contractor shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A.
 - i. All subagreements must be in writing executed by Contractor and must incorporate and pass through all of the applicable requirements and Exhibits of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Contractor of its responsibilities under this Agreement.
 - ii. Contractor agrees to provide Ride Connection with a copy of any signed subagreement upon request by Ride Connection. Any substantial breach of a term or condition of a subagreement relating to funds covered by this Agreement must be reported by Contractor to Ride Connection within ten (10) days of its being discovered.
- 3) Contractor shall not be relieved of any responsibility for performance of Contractor's duties under this Agreement, regardless of any subcontract entered into. Contractor agrees that any subcontractor performing services under this Agreement shall comply with the applicable requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier.
- 4) Any delay or defect in the performance of any part of a subcontractor's Services shall not relieve Contractor of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.

5) Program Fraud

- (i) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Contractor acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
 - (ii) Contractor also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Contractor, to the extent the Federal Government deems appropriate.
 - (iii) Contractor agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
- 6) Subagreement insurance - Contractor shall require the other party, or parties, to each of its subagreements to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this agreement. Any insurance obtained by the other party to Contractor's subagreements, if any, shall not relieve Contractor of the requirements of Exhibit C to this Agreement. The other party to any subagreement with Contractor, if the other party employs subject workers as defined in ORS 657.027, must obtain Workers Compensation Coverage as described in Exhibit C.
- F. ODOT Not A Party - Contractor and Ride Connection acknowledge and agree that notwithstanding any concurrence by ODOT in or approval of the solicitation or award of this Agreement, absent the express written consent by ODOT, ODOT is not a party to this Agreement and shall not be subject to any obligations or liabilities to Contractor, Ride Connection or any other party (whether or not a party to this Agreement or any Agreement awarded pursuant hereto) pertaining to any matter resulting from this Agreement.
- G. Drug-Free Workplace Agreement - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

2. Inspection of Records and Services

- A. Recordkeeping Term - Contractor shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, ODOT or Ride Connection may require. Contractor shall permit Ride Connection, ODOT or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Contractor relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the Agreement, if expiration is later. Upon request by Ride Connection, Contractor shall provide Ride Connection access to records maintained by Contractor under this Agreement.
- B. Annual Self-Audit - Contractor shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. if Contractor expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Contractor is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions.
- 1) Contractor shall, at Contractor's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Contractor responsible for the financial management of funds received under this Agreement.
 - 2) Contractor shall also at its expense, submit to Ride Connection at the foregoing address, a copy of the management letter that accompanies an annual audit covering the funds expended under this Agreement by Contractor or any subcontractor of Contractor receiving funds as a result of this Agreement.
- C. Audit Pass through to Subcontractors - Contractor further agrees to include in any third party contract under this Agreement a provision to the effect that the subcontractor must retain and grant Ride Connection, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- 1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (a) disputes between Ride Connection and Contractor, (b) litigation or settlement of claims arising out of the performance of this contract, or (c) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of their duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been

resolved. Contractor agrees to include in any third party contract under this Agreement a provision to this effect.

- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Contractor agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the **20th** day after the end of the preceding month.
- B. Reports may include any of the following types of information required by FTA Circular 5010.1C, Chapter 1, Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Contractor.

4. Compensation

- A. The total Project Cost is estimated at **\$80,921**. In accordance with the terms and conditions of this agreement, Ride Connection shall provide Contractor an amount not to exceed **\$72,610** in Grant Funds for eligible costs. Contractor shall provide matching funds for all Project Costs as described in Exhibit A, in the amount of **\$8,311**.
- B. Ride Connection shall pay Contractor for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from ODOT for Contractor's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. The Grant Funds shall be solely used for the Project described in Exhibit A and shall not be used for any other purpose. No other costs, rates, or fees shall be payable to the Contractor. Except as set forth in this Agreement, Contractor shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- C. Payment Terms - Contractor shall submit to Ride Connection all vehicle maintenance invoices and any other documentation requested by Ride Connection. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Contractor shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Contractor, and its lower-tier subcontractors and suppliers of any tier, for any portion of Contractor's Services.
- D. Withholding - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Contractor if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Contractor's performance. Contractor shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to ODOT, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may

be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Independent Contractor

Contractor is an independent contractor for all purposes under this Agreement, and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes, and state and federal income tax withholdings. Contractor shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Contractor nor its officers, directors, employees, subcontractors or drivers are officers, employees, or agents of Ride Connection as those terms are used in ORS 30.265. Contractor, its directors, officers, employees, subcontractors, or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Contractor acknowledges that it and its employees and agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to Ride Connection or other agencies. Any and all confidential information that Ride Connection, or other agencies provide to Contractor or its employees or agents in the performance of this Agreement, regardless of whether they are designated in writing as "confidential" shall be deemed to be confidential information ("Confidential Information").

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, 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 purposes whatsoever, other than the provision of Services hereunder. Contractor shall advise Ride Connection immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Contractor shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

A. Indemnified Conditions – To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Contractor shall fully indemnify, defend, save, and hold harmless the State of Oregon, Ride Connection and their directors, officers, employees, and agents (the "Indemnitees") from and against any and all claims, actions, liabilities, damages, losses, and expenses of any nature whatsoever arising out of, or relating to the negligent acts or omissions of Contractor or its officers, employees, subcontractors, or agents under this Agreement.

- B. Indemnity by Contractor's Subcontractors - Contractor agrees to include in any third party contract under this Agreement a provision to the effect that the subcontractor(s) shall fully indemnify, hold harmless and defend the State of Oregon, Ride Connection, and their directors, 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 investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the negligent acts or omissions of subcontractor, its officers, employees or agents under the contract between Contractor and such subcontractor(s) procured pursuant to this Agreement.

Any such indemnification clause shall also provide that the subcontractor(s), nor any attorney engaged by the subcontractor(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State, at any time at its election, assume its own defense and settlement in the event that it determines that Contractor's subcontractor is prohibited from defending State or that Contractor's subcontractor is not adequately defending State's interests, or that an important governmental principle is at issue or it is in the best interests of the State to do so. State reserves all rights to pursue claims it may have against Contractor's subcontractor if State assumes to elect its own defense.

Any such indemnification clause shall also provide that the subcontractor(s), nor any attorney engaged by the subcontractor(s), shall defend any claim in the name of Ride Connection, nor purport to act as legal representative of Ride Connection, without the prior written consent from Ride Connection. Ride Connection, at any time at its election, assume its own defense and settlement in the event that it determines that Contractor's subcontractor is prohibited from defending Ride Connection or that Contractor's subcontractor is not adequately defending Ride Connection's interests, or that it is in the best interests of Ride Connection to do so. Ride Connection reserves all rights to pursue claims it may have against Contractor's subcontractor if Ride Connection assumes to elect its own defense.

- C. Indemnitee Consent - Contractor shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, Ride Connection, without the prior written consent of the Oregon Attorney General, or Ride Connection.
- D. Limitation on Indemnification - Contractor's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Contractor pursuant to this Agreement shall operate to amend the Contractor's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.
- E. No Consequential Damages – Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Contractor regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue

or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss. However, Contractor's obligations under this Agreement are conditioned on receiving the funds from Ride Connection.

8. Insurance

- A. While this Agreement is in effect, Contractor agrees that it shall maintain in effect the insurance coverage set forth in Exhibit C to this Agreement, as well as to require any subcontractors it uses to agree to comply with the aforementioned insurance requirements.

Failure of Ride Connection to demand evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to require such insurance from its subcontractors.

- B. **Workers Compensation** - All employers, including Contractor, 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 626.126. Employer's liability insurance of coverage limits of not less than \$500,000 must be included.

Contractor shall ensure that each of its subcontractors complies with these requirements.

- C. The Contractor or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

9. Claims, Notice.

- A. **Notice Period** - Contractor shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to ODOT.
- B. **Notice Content** - Any claim by Contractor must set forth in detail the entitlement and quantum basis for Contractor's claim with supporting data and/or the entitlement basis to Ride Connection.
- C. **Requirement to Continue Services** - Whether or not Contractor has a claim pending with Ride Connection, Contractor shall continue performing Services under this Agreement. Any suspension of Services by Contractor, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing. However, Contractor's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.

10. Termination

Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Contractor, or at such later date as may be established by Ride Connection, under any of the following conditions:

- (i) Contractor fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- (ii) Contractor fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
- (iii) Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
- (iv) Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
- (v) Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
- (vi) Contractor takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.

Contractor may terminate the Agreement, in whole or in part, upon 30 days written notice to Ride Connection.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

11. Compliance with Laws

- A. Governing law** - This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.
- B. Federal laws and regulations** - In addition to those elsewhere specified, Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, executive orders, and ordinances applicable to the Agreement or to the implementation of the Project, as applicable without limitation as described in Exhibit B. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable:
 - (i) Title VI of the Civil Rights Act of 1964;
 - (ii) Section V of the Rehabilitation Act of 1973;
 - (iii) Americans with Disabilities Act of 1990 and ORS 659a.142;

- (iv) All other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations;
- (v) Clean Air Act (42 U.S.C. 7401-7671q);
- (vi) Water Pollution Control Act as amended (33 U.S.C. 1251-1387);
- (vii) Executive Order 11738;
- (viii) Environmental Protection Agency regulations (40 CFR part 15); and
- (ix) All applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.

C. Payment of taxes and business license - Contractor shall pay all filing fees and federal, state, and local taxes applicable to Contractor's business as the same will become due; and comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Contractor's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Contractor that it is in compliance with the foregoing, and Contractor will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Contractor's compliance with this Section.

D. ODOT Conflict of Interest Guidelines - If required applicable by ODOT, Contractor and its subcontractors shall comply with the ODOT Conflict of Interest ("COI") Guidelines and COI Disclosure Form. Contractor and, to the best of the undersigned's information, knowledge and Contractor's Associates (as defined in the COI Guidelines) are in compliance with and have no disclosures required per the COI Guidelines (available at: <http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx>); Contractor also confirms that no Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of 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.

E. Certificate of Oregon Tax Law Compliance - By execution of this contract, Contractor certifies under penalty of perjury as provided in ORS 305.385(6), that it is, to the best of its knowledge, not in violation of any Oregon tax law. For purposes of this certification, "Oregon Tax Laws" are ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session); the Elderly Rental Assistance Program under ORS 310.630 to 310.706; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620.

12. Term

This Agreement shall begin on 7/1/2020 and shall remain in effect through 6/30/2021 unless terminated sooner under the provisions of this Agreement.

13. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' as indicated below:

Ride Connection:

John Whitman

Ride Connection

9955 NE Glisan St.

Portland, OR 97220

Clackamas County Social Services:

Stefanie Reid

Clackamas County Social Services

2051 Kaen Rd

Oregon City, OR 97045

14. No Third Party Beneficiary

Ride Connection and Contractor are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

15. Assignment

Contractor may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

16. Dispute Resolution

- A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.
- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted

to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

17. Prompt Payment

Contractor shall make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the work provided for in the contract. At a minimum, Contractor shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection.

18. Duplicate Payment

Contractor is not entitled to compensation or any other form of duplicate, overlapping, or multiple payments for the same work performed under this Agreement from Ride Connection or any other party, organization, or individual.

19. Agreement Documents

This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

- Exhibit A: Scope of Work
- Exhibit B: Federal Requirements
- Exhibit C: Insurance Requirements
- Exhibit D: Reporting Requirements
- Exhibit E: Funding Information

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit B, this Agreement without Exhibits, Exhibit A, Exhibit C, Exhibit D.

20. Amendments

This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.

21. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

22. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Insurance); 11A (Governing Law); 16 (Dispute Resolution); and 22 (Surviving Provisions).

23. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute 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 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 Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

24. 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.

Remainder of Page Intentionally Left Blank

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Signature

Julie Wilcke-Pilmer
Printed Name

CEO
Title

Date

CLACKAMAS COUNTY

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

Signing on Behalf of the Board:

Signature

Richard Swift, Director
Health Housing & Human Services Dept.
Printed Name/ Title

Date

Approved as to Form:

By: via email by Kathleen Rastetter
Clackamas County Counsel

Date: 10/19/2020

EXHIBIT A

SCOPE OF WORK

July 1, 2020

Dedicated Dialysis Transportation in Clackamas County

Contractor will provide dedicated dialysis service to customers living inside the Clackamas County TriMet service district. Rides must originate inside the Clackamas County TriMet service district, but can go to a destination anywhere in the metro region. This program is open to older adults and people with disabilities who have limited access to transportation for treatment to and from dialysis.

In addition to adhering to Ride Connection's Operational Manual for transportation Managers, the following service standards will be met by Contractor:

A Contractor will maintain and operate three wheelchair accessible vans, two wheelchair accessible buses, and a non-wheelchair accessible sedan. All six vehicles will be operated by paid drivers on staff with Contractor. Contractor's volunteer drivers will also provide rides in their personal vehicle. Taxi services will be utilized under the project in a limited capacity when Contractor's driver/vehicle, paid or volunteer, is not available.

B Customers will call the Contractor directly to request a ride. Whenever possible, contractor will provide customers with two business days' advance notice of whether or not their ride request will be accommodated.

C Participate in Cost Savings Activities:

Clackamas County agrees to participate in coordination activities with Ride Connection and other Transportation providers Ride Connection contracts with to provide transportations services ("Service Partners") in the network to meet the demand for service in a cost effective manner.

D Establish and Maintain Customer Confidentiality:

Service Partners agree to maintain the confidentiality of all customer records exchanged with Ride Connection or accessed through Ride Connection coordination, scheduling and dispatch software. In the process of providing service, Service Partners agree to provide only the customer information that is necessary in order for the driver to provide the appropriate level of service for the trip being provided.

E Provide Shared Capacity Trips:

With increased coordination among service partners, opportunities arise for providers to serve customers who reside in, or have trips originating or ending in areas outside the defined Service Area specified in this contract. Such activity is encouraged to reduce deadhead time on longer distance trips and maximize available capacity. STF Formula funds can be used to cover the costs associated with Shared Capacity Trips.

Rides will be grouped whenever possible to increase cost-effectiveness of transportation and provide a means of socialization to persons who may otherwise be socially isolated.

EXHIBIT A

- F Maintain a sufficient number of qualified, approved paid and volunteer drivers and concierge and administrative hours to meet project goals.
- G Recruit volunteer drivers to drive Ride Connection vehicles, or who are willing to provide proof of coverage if driving their own vehicles and who will meet the criteria necessary to allow them to drive for a Ride Connection program.
- H Participate with Ride Connection, TriMet and other partners in the development of local, regional and Contractor specific service plans. Help recruit customers to actively participate in planning processes and service design.
- I Increase coordination between Ride Connection, other services partners, and TriMet to increase transportation options for older adults and people with disabilities. Share information on customers, trips, and destinations with Ride Connection, TriMet, and other partners and jointly plan new services or service changes as appropriate.
- J Coordinate outreach activities with Ride Connection. Perform effective marketing and outreach to community points that are key destinations for older adults and people with disabilities. Participate in Ride Connection sponsored events.
- K Increase transportation options available to TriMet ADA eligible individuals who, because of their mobility impairment, geographic barriers, or trip destination, may be difficult for LIFT to serve or may require more personalized attention.
- L Encourage older adults and people with disabilities to become aware of and connect with available transportation and community-based services as an alternative to LIFT ADA paratransit services for some or all of their trips.
- M Provide Ride Connection with back up documentation for billing line items upon request.
- N Orient drivers to the Contractor's transportation program and ensure they comply with required training and are aware of other specialized training opportunities available through Ride Connection to maintain safety of operations.
- O Attend regular coordination and training meetings to be conducted by Ride Connection.
- P Allow TriMet, ODOT, or Ride Connection representatives to contact a random sample of customers for monitoring and service verification purposes. Customers will be contacted by mail or phone. Contractor will be given a copy of the questionnaire in advance of mailing.
- Q Notify Ride Connection as soon as possible of unusual conditions that will affect the delivery of services.
- R Implement Ride Connection's customer donation policy to seek rider donations comparable to the TriMet LIFT fare, when appropriate.
- S Cooperate in the mutually agreed upon submission of requests for additional public or private funds for program expansion and enhancement.
- T Cooperate in transportation coordination efforts with other organizations such as churches, schools, businesses, and transportation providers.
- U Implement customer feedback (i.e. complaint, compliment) procedures for individuals using community-based transportation.

EXHIBIT A

V Provide service throughout the contract term.

Funding Source Definitions and Restrictions

FTA 5310 - Federal Transit Administration 5310 funding is a Federal funding source. This funding can be applied to program operations for both volunteer and paid driver services that are specific to the designated project(s). This Agreement covers contracted public transportation provision, as defined under the 49 USC § 5310 program, as described in Circular 9070.1G, Section III-14-e.

Project Funding, Duration and Performance Goals

Project	Performance Goals	Funding Source	Project Amount	Grant Amount	Match 10.27%
Dedicated Dialysis	50 unduplicated riders * 2,225 total ridership delivered ** 1,340 paid driver hours * 830 volunteer driver hours * 37,700 vehicle miles*	5310 (CFDA 20.513) Federal	\$80,921	\$72,610	\$8,311
Totals:			\$80,921	\$72,610	\$8,311

* Source: Clackamas County Social Services proposal 2019-512

** Source: ODOT agreement 33590. Ridership is defined as the actual or estimated one-way passenger trips provided to seniors and individuals with disabilities. A passenger trip is a unit of service counted each time a passenger enters a vehicle, is transported, and then exits the vehicle. Each unique destination constitutes a passenger trip.

Project Service Areas

Project	Service Area
Dedicated Dialysis	Clackamas County TriMet service district. <i>A majority of customers served must reside within high equity needs areas identified by the TriMet HD2017 Transit Advisory Committee. Customers will be screened for eligibility per Ride Connection's Operation Manual for Transportation Managers.</i>

Project Service Days and Times

Project	Service Day(s)	Service Hours
Dedicated Dialysis	M-F	8:00 AM – 5:00 PM

Project Customer Attributes and Levels of Service

Project	Customer Attributes	Level of Service
Dedicated Dialysis	Older Adults and People with Disabilities	Door to Door

EXHIBIT B

Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements (“Certifications and Assurances”) and Federal Transit Administration Master Agreement (“Master Agreement”)

Contractor’s subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at www.transit.dot.gov. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Contractor must submit to Ride Connection on or before October 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing and completing the form and sending it to Ride Connection. The form is available at: <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>.

Contractor agrees to comply with the following provisions and require in its subagreements that the subcontractors comply with all applicable requirements included in the Master Agreement that is signed and attested to by the State of Oregon as if the subcontractors were Contractor. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at www.transit.dot.gov.

Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the funds described in Exhibit A:

1. Contractor shall comply with Title VI of the Civil Rights Act of 1964 (78 Stat 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Contractor will report to Ride Connection on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Contractor shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Contractor's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this

EXHIBIT B

program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

4. Contractor must include the following language in each subagreement Contractor signs with a subcontractor:

The subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor or subcontractor 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 Ride Connection deems appropriate.

5. By executing the Agreement, contractors receiving in excess of \$100,000 in federal funds, certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other federal award as well as the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, cooperative agreement, or other federal award. 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. If non-federal funds have been used to support lobbying activities in connection with the Project, Contractor shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

END OF EXHIBIT B

EXHIBIT C
INSURANCE REQUIREMENTS

General

Contractor shall obtain and provide:

- i. Insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance of this Agreement and of any sub agreement commences, and
- ii. Maintain the insurance in full force throughout the duration of this Agreement. Proof of sufficient self-insurance shall satisfy this requirement.

The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Ride Connection. Contractor shall not commence work under this Agreement, and shall not authorize work to begin under a subcontract until the insurance is in full force. Thereafter, Contractor shall monitor continued compliance with the insurance requirements on an annual or more frequent basis.

Contractor shall comply with any requirements of Ride Connection with respect to Contractor's compliance with these insurance requirements, including but not limited to Ride Connection issued stop work orders (or the equivalent) until the insurance is in full force, or terminating the Contract as permitted by this Contract, or pursuing legal action to enforce the insurance requirements.

While this Agreement is in effect, Contractor agrees that it shall maintain in effect the insurance coverage set forth below. Prior to commencement of work under this Agreement, Contractor shall furnish to Ride Connection a certificate(s) of insurance executed by a duly authorized representative of each insurer showing compliance with the insurance requirements below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation.

Contractor shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:

Types and Amounts

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$126,200/\$630,800 property damage and \$1,538,000 total damages per occurrence.

Contractor's subcontractors, if any, shall obtain and provide insurance in the types and amounts as follows:

EXHIBIT C

- I. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).

The employer's liability limit shall not be less than \$500,000 each accident for bodily injury by an accident and \$500,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.

- II. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to Ride Connection. This insurance shall include personal injury liability, products, and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

- III. **AUTOMOBILE LIABILITY:** Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence). Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).

Additional Insured

The Commercial General Liability Insurance and Automobile Liability insurance must include Ride Connection, ODOT, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"Tail" Coverage

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor and the subcontractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement for Contractor, and the effective date of the sub agreement for subcontractors, for a minimum of 24 months following the later of:

EXHIBIT C

- i. The Contractor's completion and Ride Connection's acceptance of all services required under this Agreement, and the subcontractors completion and Contractor's acceptance of all services required under the sub agreement or,
- ii. The expiration of all warranty periods provided under this Agreement with respect to Contractor and the sub agreement with respect to the subcontractor.

Notwithstanding the foregoing 24-month requirement, if the Contractor or subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor or subcontractor may request and Ride Connection may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Ride Connection approval is granted, the Contractor or subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

Notice of Cancellation or Change

The Contractor or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

Certificate(s) of Insurance

Contractor shall submit to Ride Connection a certificate(s) of insurance for all required insurance before the commencement of performance of services, and upon expiration/renewal of any coverage type. The certificate(s) or an attached endorsement must specify:

- i. All entities and individuals who are endorsed on the policy as Additional Insured and
- ii. For insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

EXHIBIT D

Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the **20th** of each month.

Reports:

- Service Summary Reports
 - Trip Data
 - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to:
partner_reporting@rideconnection.org.

EXHIBIT E

Clackamas County Social Services
Contract #18862

PASS-THROUGH FUNDING INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) 2 CFR 200.

This agreement is financed by the funding source indicated below:

Federal Program or Title: *Enhanced Mobility of Seniors with Disabilities Program (49 U.S.C 5310)*

Federal Catalogue (CFDA) Number and Name: *20.513 (5310)*

Federal Award Identification Number (FAIN): *OR-2020-038-00*

Subrecipient DUNS Number:

Project Cost (total before required match): *\$80,921*

Expected Federal Funding: *\$72,610*

Approved Indirect Cost Rate: *0%*

Federal Award Date: *Obligation Date: 06/29/2020*

Award R&D? (Yes/No): *No*

Federal Funding Agency (or other pass-through agency if different):

ODOT
Rail and Public Transit Division
555 13th Street NE
Salem, OR 97301

U.S. Department of Transportation
Federal Transit Administration
1200 New Jersey Ave, SE
4th & 5th Floors - East Building
Washington, DC 20590

U.S. Department of Transportation
Federal Transit Administration
Region X Suite 3142
Federal Building
915 Second Avenue
Seattle, WA 98174

EXHIBIT E

Clackamas County Social Services
Contract #18862

Federal laws, regulations, or circulars that are expressly applicable to the funding source and project (but not limited to):

- A. Master Agreement (49 U.S.C. Chapter 53 and Title 23) – The FTA Master Agreement contains the standard terms and conditions that apply to the Underlying Agreement.
- B. Grant Management Requirements (Circular 5010.1E) – These requirements are intended to assist recipients in administering FTA-funded projects and in meeting reward responsibilities and reporting requirements. Recipients have a responsibility to comply with regulatory requirements and to be aware of all pertinent material to assist in the management of all federally assisted rewards.
- C. *Enhanced Mobility of Seniors and Individuals with Disabilities Grant Program (Circular 5010.1G) – This circular issues guidance on the administration of the Enhanced Mobility of Seniors and Individuals with Disabilities Program under 49 U.S.C. 5310.*
- D. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Title 2 – Grants and Agreements; Subtitle A – Office of Management and Budget Guidance for Grants and Agreements; Chapter II – Office of Management and Budget Guidance; Part 200). Establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities and establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are designed that Federal awards bear their fair share of costs.

January 7, 2021

Board of County Commissioner
 Clackamas County

Members of the Board:

Approval of Agreement #18863 with Ride Connection, Inc. to Provide Funding for non-Emergency Medical Rides Provided by Social Services,
Transportation Reaching People

Purpose/Outcomes	Funding for Social Services-Transportation Reaching People to provide non-Emergency Medical Rides to assist older and disabled county residents in meeting their transportation needs to conduct medical appointments.
Dollar Amount and Fiscal Impact	The total agreement is \$74,353. State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 Grant.
Funding Source	Federal 5311 Transportation Funds - \$8,510 of Social Services-Transportation Reaching People Special Transportation Formula (STF) Funds are used to meet match requirements.
Duration	Effective July 1, 2019 and terminates on June 30, 2020
Previous Board Action	011719-A1, 092619-A1
Strategic Plan Alignment	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.
Counsel Review	County Counsel reviewed and approved the agreement on 10/19/20
Procurement Review	1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S/SSD #9983

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services requests approval of Agreement #18863 with Ride Connection, Inc. This agreement provides pass through funding State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 funding specifically for non-emergency medical rides provided by the Social Services Transportation Reaching People (TRP) program. This agreement provides continuation funding for the portion of the rides that are provided inside the TriMet District to areas that have been designated high equity needs area by the TriMet HD2017 Transit Advisory Committee. This project helps riders to remain independent in meeting their medical treatment needs for as long as possible.

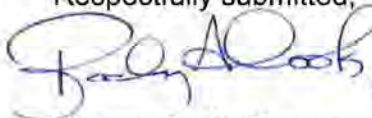
The TRP program provides rides in either a lift equipped mini-buses or mini-vans driven by paid staff as well as with volunteer drivers providing rides in their own vehicles. TRP provides transportation to medical facilities located throughout the county and in the greater Portland-metro area in these vehicles. When possible, riders with a similar destination and arrival times ride together to increase program efficiencies. Generally, transportation is provided weekdays between 8:00 am and 5:00pm.

This contract is late due to Ride Connection not being able to release agreements/modifications to its sub-contractors until their funding source released their contract and approved the Subrecipient agreements issued by Ride Connection. The maximum funding for this agreement is \$74,353. The term of the agreement is July 1, 2020 to June 30, 2021. County Council reviewed and approved these modifications on October 19, 2020. No County General Funds are involved. Matching funds of \$8,510 are provided by TRP's Special Transportation Formula (STF) Agreement. This agreement provides the second year of the two-year grant funding that was awarded during the January 2019 application cycle.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, H3S Deputy / for

Richard Swift, Director
Health Housing & Human Services

SERVICES AGREEMENT No. 18863
BETWEEN
Ride Connection, Inc., and Clackamas County Social Services

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County, a political subdivision of the State of Oregon, on behalf of its Health, Housing & Human Services Department, by and through the Social Services Division ("Contractor")

RECITALS:

1. Ride Connection and Contractor enter into this Agreement (the "Agreement") for the purpose of procuring Contractor's services, for which payment in part shall be from Federal Transit Administration, Enhanced Mobility of Seniors with Disabilities Program (49 U.S.C 5310) 5310 Funds.

AGREEMENTS:

1. General

- A. Scope of Agreement - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Contractor during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Contractor, other than the initial scope of Services attached in Exhibit A.
 - 1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Contractor shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (1) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (2) OMB Circular 2 CFR 200 (3) FTA Master Agreement, (4) Annual Certifications and Assurances, (5) FTA C 9070.1G.
 - 2) Contractor agrees to comply with all Contractor monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>).
- B. Scope of Services and Changes - Contractor is responsible for compliance with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to Federal Requirements, attached as Exhibit B. Contractor agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or

amended from time to time. Contractor must rely on its own independent judgment to ensure compliance with this section. Oral or written statements by Ride Connection are not to be relied on as a substitute for Contractor's independent obligation to follow all applicable laws as required by this section.

- C. Schedule - Contractor and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
- D. Audit Right - Contractor agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Contractor's financial records, management and program systems and any associated records associated with this Agreement. Contractor shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.

Subcontracts and Procurements –

- 1) Contractor shall review and adhere to the Best Practices Procurement & Lessons Learned Manual, a technical assistance manual prepared by the FTA, available on their website: www.transit.dot.gov.
- 2) Contractor shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A.
 - i. All subagreements must be in writing executed by Contractor and must incorporate and pass through all of the applicable requirements and Exhibits of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Contractor of its responsibilities under this Agreement.
 - ii. Contractor agrees to provide Ride Connection with a copy of any signed subagreement upon request by Ride Connection. Any substantial breach of a term or condition of a subagreement relating to funds covered by this Agreement must be reported by Contractor to Ride Connection within ten (10) days of its being discovered.
- 3) Contractor shall not be relieved of any responsibility for performance of Contractor's duties under this Agreement, regardless of any subcontract entered into. Contractor agrees that any subcontractor performing services under this Agreement shall comply with the applicable requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier.
- 4) Any delay or defect in the performance of any part of a subcontractor's Services shall not relieve Contractor of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7.

5) Program Fraud

- (i) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Contractor acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
 - (ii) Contractor also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Contractor, to the extent the Federal Government deems appropriate.
 - (iii) Contractor agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
- 6) Subagreement insurance - Contractor shall require the other party, or parties, to each of its subagreements to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this agreement. Any insurance obtained by the other party to Contractor's subagreements, if any, shall not relieve Contractor of the requirements of Exhibit C to this Agreement. The other party to any subagreement with Contractor, if the other party employs subject workers as defined in ORS 657.027, must obtain Workers Compensation Coverage as described in Exhibit C.
- F. ODOT Not A Party - Contractor and Ride Connection acknowledge and agree that notwithstanding any concurrence by ODOT in or approval of the solicitation or award of this Agreement, absent the express written consent by ODOT, ODOT is not a party to this Agreement and shall not be subject to any obligations or liabilities to Contractor, Ride Connection or any other party (whether or not a party to this Agreement or any Agreement awarded pursuant hereto) pertaining to any matter resulting from this Agreement.
- G. Drug-Free Workplace Agreement - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution,

dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

2. Inspection of Records and Services

- A. Recordkeeping Term - Contractor shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, ODOT or Ride Connection may require. Contractor shall permit Ride Connection, ODOT or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Contractor relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the Agreement, if expiration is later. Upon request by Ride Connection, Contractor shall provide Ride Connection access to records maintained by Contractor under this Agreement.
- B. Annual Self-Audit - Contractor shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. if Contractor expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Contractor is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions.
- 1) Contractor shall, at Contractor's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Contractor responsible for the financial management of funds received under this Agreement.
 - 2) Contractor shall also at its expense, submit to Ride Connection at the foregoing address, a copy of the management letter that accompanies an annual audit covering the funds expended under this Agreement by Contractor or any subcontractor of Contractor receiving funds as a result of this Agreement.
- C. Audit Pass through to Subcontractors - Contractor further agrees to include in any third party contract under this Agreement a provision to the effect that the subcontractor must retain and grant Ride Connection, ODOT, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later.
- 1) The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (a) disputes between Ride Connection and Contractor, (b) litigation or settlement of claims arising out of the performance of this contract, or (c) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of their duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been

resolved. Contractor agrees to include in any third party contract under this Agreement a provision to this effect.

- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Contractor agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the **20th** day after the end of the preceding month.
- B. Reports may include any of the following types of information required by FTA Circular 5010.1C, Chapter 1, Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Contractor.

4. Compensation

- A. The total Project Cost is estimated at **\$82,863**. In accordance with the terms and conditions of this agreement, Ride Connection shall provide Contractor an amount not to exceed **\$74,353** in Grant Funds for eligible costs. Contractor shall provide matching funds for all Project Costs as described in Exhibit A, in the amount of **\$8,510**.
- B. Ride Connection shall pay Contractor for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from ODOT for Contractor's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. The Grant Funds shall be solely used for the Project described in Exhibit A and shall not be used for any other purpose. No other costs, rates, or fees shall be payable to the Contractor. Except as set forth in this Agreement, Contractor shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- C. Payment Terms - Contractor shall submit to Ride Connection all vehicle maintenance invoices and any other documentation requested by Ride Connection. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Contractor shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Contractor, and its lower-tier subcontractors and suppliers of any tier, for any portion of Contractor's Services.
- D. Withholding - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Contractor if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Contractor's performance. Contractor shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to ODOT, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may

be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.

5. Independent Contractor

Contractor is an independent contractor for all purposes under this Agreement, and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes, and state and federal income tax withholdings. Contractor shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Contractor nor its officers, directors, employees, subcontractors or drivers are officers, employees, or agents of Ride Connection as those terms are used in ORS 30.265. Contractor, its directors, officers, employees, subcontractors, or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Contractor acknowledges that it and its employees and agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to Ride Connection or other agencies. Any and all confidential information that Ride Connection, or other agencies provide to Contractor or its employees or agents in the performance of this Agreement, regardless of whether they are designated in writing as “confidential” shall be deemed to be confidential information (“Confidential Information”).

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity’s prior written consent, 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 purposes whatsoever, other than the provision of Services hereunder. Contractor shall advise Ride Connection immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Contractor shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

A. Indemnified Conditions – To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Contractor shall fully indemnify, defend, save, and hold harmless the State of Oregon, Ride Connection and their directors, officers, employees, and agents (the “Indemnitees”) from and against any and all claims, actions, liabilities, damages, losses, and expenses of any nature whatsoever arising out of, or relating to the negligent acts or omissions of Contractor or its officers, employees, subcontractors, or agents under this Agreement.

- B. Indemnity by Contractor's Subcontractors - Contractor agrees to include in any third party contract under this Agreement a provision to the effect that the subcontractor(s) shall fully indemnify, hold harmless and defend the State of Oregon, Ride Connection, and their directors, 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 investigations and defense, but not limited to the liabilities enumerated above, resulting from or arising out of the negligent acts or omissions of subcontractor, its officers, employees or agents under the contract between Contractor and such subcontractor(s) procured pursuant to this Agreement.

Any such indemnification clause shall also provide that the subcontractor(s), nor any attorney engaged by the subcontractor(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State, at any time at its election, assume its own defense and settlement in the event that it determines that Contractor's subcontractor is prohibited from defending State or that Contractor's subcontractor is not adequately defending State's interests, or that an important governmental principle is at issue or it is in the best interests of the State to do so. State reserves all rights to pursue claims it may have against Contractor's subcontractor if State assumes to elect its own defense.

Any such indemnification clause shall also provide that the subcontractor(s), nor any attorney engaged by the subcontractor(s), shall defend any claim in the name of Ride Connection, nor purport to act as legal representative of Ride Connection, without the prior written consent from Ride Connection. Ride Connection, at any time at its election, assume its own defense and settlement in the event that it determines that Contractor's subcontractor is prohibited from defending Ride Connection or that Contractor's subcontractor is not adequately defending Ride Connection's interests, or that it is in the best interests of Ride Connection to do so. Ride Connection reserves all rights to pursue claims it may have against Contractor's subcontractor if Ride Connection assumes to elect its own defense.

- C. Indemnitee Consent - Contractor shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, Ride Connection, without the prior written consent of the Oregon Attorney General, or Ride Connection.
- D. Limitation on Indemnification - Contractor's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Contractor pursuant to this Agreement shall operate to amend the Contractor's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.
- E. No Consequential Damages – Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Contractor regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue

or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss. However, Contractor's obligations under this Agreement are conditioned on receiving the funds from Ride Connection.

8. Insurance

- A. While this Agreement is in effect, Contractor agrees that it shall maintain in effect the insurance coverage set forth in Exhibit C to this Agreement, as well as to require any subcontractors it uses to agree to comply with the aforementioned insurance requirements.

Failure of Ride Connection to demand evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to require such insurance from its subcontractors.

- B. **Workers Compensation** - All employers, including Contractor, 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 626.126. Employer's liability insurance of coverage limits of not less than \$500,000 must be included.

Contractor shall ensure that each of its subcontractors complies with these requirements.

- C. The Contractor or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

9. Claims, Notice.

- A. **Notice Period** - Contractor shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to ODOT.
- B. **Notice Content** - Any claim by Contractor must set forth in detail the entitlement and quantum basis for Contractor's claim with supporting data and/or the entitlement basis to Ride Connection.
- C. **Requirement to Continue Services** - Whether or not Contractor has a claim pending with Ride Connection, Contractor shall continue performing Services under this Agreement. Any suspension of Services by Contractor, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing. However, Contractor's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.

10. Termination

Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Contractor, or at such later date as may be established by Ride Connection, under any of the following conditions:

- (i) Contractor fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- (ii) Contractor fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
- (iii) Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
- (iv) Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
- (v) Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
- (vi) Contractor takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.

Contractor may terminate the Agreement, in whole or in part, upon 30 days written notice to Ride Connection.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

11. Compliance with Laws

- A. Governing law** - This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.
- B. Federal laws and regulations** - In addition to those elsewhere specified, Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, executive orders, and ordinances applicable to the Agreement or to the implementation of the Project, as applicable without limitation as described in Exhibit B. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable:
 - (i) Title VI of the Civil Rights Act of 1964;
 - (ii) Section V of the Rehabilitation Act of 1973;
 - (iii) Americans with Disabilities Act of 1990 and ORS 659a.142;

- (iv) All other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations;
 - (v) Clean Air Act (42 U.S.C. 7401-7671q);
 - (vi) Water Pollution Control Act as amended (33 U.S.C. 1251-1387);
 - (vii) Executive Order 11738;
 - (viii) Environmental Protection Agency regulations (40 CFR part 15); and
 - (ix) All applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.
- C. Payment of taxes and business license** - Contractor shall pay all filing fees and federal, state, and local taxes applicable to Contractor's business as the same will become due; and comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Contractor's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Contractor that it is in compliance with the foregoing, and Contractor will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Contractor's compliance with this Section.
- D. ODOT Conflict of Interest Guidelines** - If required applicable by ODOT, Contractor and its subcontractors shall comply with the ODOT Conflict of Interest ("COI") Guidelines and COI Disclosure Form. Contractor and, to the best of the undersigned's information, knowledge and Contractor's Associates (as defined in the COI Guidelines) are in compliance with and have no disclosures required per the COI Guidelines (available at: <http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx>); Contractor also confirms that no Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of 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.
- E. Certificate of Oregon Tax Law Compliance** - By execution of this contract, Contractor certifies under penalty of perjury as provided in ORS 305.385(6), that it is, to the best of its knowledge, not in violation of any Oregon tax law. For purposes of this certification, "Oregon Tax Laws" are ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session); the Elderly Rental Assistance Program under ORS 310.630 to 310.706; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620.

12. Term

This Agreement shall begin on **7/1/2020** and shall remain in effect through **6/30/2021** unless terminated sooner under the provisions of this Agreement.

13. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' as indicated below:

Ride Connection:
John Whitman
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Clackamas County Social Services:
Stefanie Reid
Clackamas County Social Services
2051 Kaen Rd
Oregon City, OR 97045

14. No Third Party Beneficiary

Ride Connection and Contractor are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

15. Assignment

Contractor may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

16. Dispute Resolution

- A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.
- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted

to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

17. Prompt Payment

Contractor shall make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the work provided for in the contract. At a minimum, Contractor shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection.

18. Duplicate Payment

Contractor is not entitled to compensation or any other form of duplicate, overlapping, or multiple payments for the same work performed under this Agreement from Ride Connection or any other party, organization, or individual.

19. Agreement Documents

This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

- Exhibit A: Scope of Work
- Exhibit B: Federal Requirements
- Exhibit C: Insurance Requirements
- Exhibit D: Reporting Requirements
- Exhibit E: Funding Information

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit B, this Agreement without Exhibits, Exhibit A, Exhibit C, Exhibit D.

20. Amendments

This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.

21. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

22. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Insurance); 11A (Governing Law); 16 (Dispute Resolution); and 22 (Surviving Provisions).

23. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute 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 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 Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

24. 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.

Remainder of Page Intentionally Left Blank

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

Signature

Julie Wilkie-Pilmer
Printed Name

CEO
Title

Date

CLACKAMAS COUNTY

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

Signing on Behalf of the Board:

Richard Swift, Director
Health Housing & Human Services Dept.

Date

Approved as to Form:

By: via email by Kathleen Rastetter
Clackamas County Counsel

Date: 10/19/2020

EXHIBIT A
SCOPE OF WORK

July 1, 2020

Dedicated Medial Non-Dialysis Transportation in Clackamas County

Contractor will provide transportation to medical or life-sustaining medical care, excluding dialysis, to customers living inside the Clackamas County TriMet service district. Rides must originate inside the Clackamas County TriMet service district, but can go to a destination anywhere in the metro region. This program is open to older adults (age 60+) and people with disabilities who are not on Medicaid and have limited access to transportation for their medical treatment needs.

In addition to adhering to Ride Connection's Operational Manual for transportation Managers, the following service standards will be met by Contractor:

A Contractor will maintain and operate three wheelchair accessible vans, two wheelchair accessible buses, and a non-wheelchair accessible sedan. All six vehicles will be operated by paid drivers on staff with Contractor. Contractor's volunteer drivers will also provide rides in their personal vehicle. Taxi services will be utilized under the project in a limited capacity when Contractor's driver/vehicle, paid or volunteer, is not available.

B Customers will call the Contractor directly to request a ride. Whenever possible, contractor will provide customers with two business days' advance notice of whether or not their ride request will be accommodated.

C Participate in Cost Savings Activities:

Clackamas County agrees to participate in coordination activities with Ride Connection and other Transportation providers Ride Connection contracts with to provide transportation services (Service Partners") in the network to meet the demand for service in a cost effective manner.

D Establish and Maintain Customer Confidentiality:

Service Partners agree to maintain the confidentiality of all customer records exchanged with Ride Connection or accessed through Ride Connection coordination, scheduling and dispatch software. In the process of providing service, Service Partners agree to provide only the customer information that is necessary in order for the driver to provide the appropriate level of service for the trip being provided.

E Provide Shared Capacity Trips:

With increased coordination among service partners, opportunities arise for providers to serve customers who reside in, or have trips originating or ending in areas outside the defined Service Area specified in this contract. Such activity is encouraged to reduce deadhead time on longer distance trips and maximize available capacity. STF Formula funds can be used to cover the costs associated with Shared Capacity Trips.

Rides will be grouped whenever possible to increase cost-effectiveness of transportation and provide a means of socialization to persons who may otherwise be socially isolated.

EXHIBIT A

- F Maintain a sufficient number of qualified, approved paid and volunteer drivers and concierge and administrative hours to meet project goals.
- G Recruit volunteer drivers to drive Ride Connection vehicles, or who are willing to provide proof of coverage if driving their own vehicles and who will meet the criteria necessary to allow them to drive for a Ride Connection program.
- H Participate with Ride Connection, TriMet and other partners in the development of local, regional and Contractor specific service plans. Help recruit customers to actively participate in planning processes and service design.
- I Increase coordination between Ride Connection, other services partners, and TriMet to increase transportation options for older adults and people with disabilities. Share information on customers, trips, and destinations with Ride Connection, TriMet, and other partners and jointly plan new services or service changes as appropriate.
- J Coordinate outreach activities with Ride Connection. Perform effective marketing and outreach to community points that are key destinations for older adults and people with disabilities. Participate in Ride Connection sponsored events.
- K Increase transportation options available to TriMet ADA eligible individuals who, because of their mobility impairment, geographic barriers, or trip destination, may be difficult for LIFT to serve or may require more personalized attention.
- L Encourage older adults and people with disabilities to become aware of and connect with available transportation and community-based services as an alternative to LIFT ADA paratransit services for some or all of their trips.
- M Provide Ride Connection with back up documentation for billing line items upon request.
- N Orient drivers to the Contractor's transportation program and ensure they comply with required training and are aware of other specialized training opportunities available through Ride Connection to maintain safety of operations.
- O Attend regular coordination and training meetings to be conducted by Ride Connection.
- P Allow TriMet, ODOT, or Ride Connection representatives to contact a random sample of customers for monitoring and service verification purposes. Customers will be contacted by mail or phone. Contractor will be given a copy of the questionnaire in advance of mailing.
- Q Notify Ride Connection as soon as possible of unusual conditions that will affect the delivery of services.
- R Implement Ride Connection's customer donation policy to seek rider donations comparable to the TriMet LIFT fare, when appropriate.
- S Cooperate in the mutually agreed upon submission of requests for additional public or private funds for program expansion and enhancement.
- T Cooperate in transportation coordination efforts with other organizations such as churches, schools, businesses, and transportation providers.
- U Implement customer feedback (i.e. complaint, compliment) procedures for individuals using community-based transportation.

EXHIBIT A

V Provide service throughout the contract term.

Funding Source Definitions and Restrictions

FTA 5310 - Federal Transit Administration 5310 funding is a Federal funding source. This funding can be applied to program operations for both volunteer and paid driver services that are specific to the designated project(s). This Agreement covers contracted public transportation provision, as defined under the 49 USC § 5310 program, as described in Circular 9070.1G, Section III-14-e.

Project Funding, Duration and Performance Goals

Project	Performance Goals *	Funding Source	Project Amount	Grant Amount	Match 10.27%
Dedicated Medial Non-Dialysis Transportation in Clackamas County	400 unduplicated riders	5310 (CFDA 20.513) Federal	\$82,863	\$74,353	\$8,510
	4,000 total ridership delivered **				
	1,525 paid driver hours				
	2,550 volunteer driver hours				
	58,800 vehicle miles				
Totals:			\$82,863	\$74,353	\$8,510

* Source: Clackamas County Social Services proposal 2019-513

** Source: ODOT Agreement 33590. Ridership is defined as the actual or estimated one-way passenger trips provided to seniors and individuals with disabilities. A passenger trip is a unit of service counted each time a passenger enters a vehicle, is transported, and then exits the vehicle. Each unique destination constitutes a passenger trip.

Project Service Areas

Project	Service Area
Dedicated Dialysis	Clackamas County TriMet service district. <i>A majority of customers served must reside within high equity needs areas identified by the TriMet HD2017 Transit Advisory Committee. Customers will be screened for eligibility per Ride Connection's Operation Manual for Transportation Managers.</i>

Project Service Days and Times

Project	Service Day(s)	Service Hours
Dedicated Non-Emergency Transportation	M-F	8:00 AM – 5:00 PM

EXHIBIT A

Project Customer Attributes and Levels of Service

Project	Customer Attributes	Level of Service
Dedicated Non-Emergency Transportation	Older Adults and People with Disabilities	Door to Door

EXHIBIT B

Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements (“Certifications and Assurances”) and Federal Transit Administration Master Agreement (“Master Agreement”)

Contractor’s subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at www.transit.dot.gov. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Contractor must submit to Ride Connection on or before October 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing and completing the form and sending it to Ride Connection. The form is available at: <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>.

Contractor agrees to comply with the following provisions and require in its subagreements that the subcontractors comply with all applicable requirements included in the Master Agreement that is signed and attested to by the State of Oregon as if the subcontractors were Contractor. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at www.transit.dot.gov.

Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the funds described in Exhibit A:

1. Contractor shall comply with Title VI of the Civil Rights Act of 1964 (78 State 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Contractor will report to Ride Connection on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Contractor shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Contractor's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this

EXHIBIT B

program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

4. Contractor must include the following language in each subagreement Contractor signs with a subcontractor:

The subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor or subcontractor 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 Ride Connection deems appropriate.

5. By executing the Agreement, contractors receiving in excess of \$100,000 in federal funds, certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other federal award as well as the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, cooperative agreement, or other federal award. 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. If non-federal funds have been used to support lobbying activities in connection with the Project, Contractor shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

END OF EXHIBIT B

EXHIBIT C

INSURANCE REQUIREMENTS

General

Contractor shall obtain and provide:

- i. Insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance of this Agreement and of any sub agreement commences, and
- ii. Maintain the insurance in full force throughout the duration of this Agreement. Proof of sufficient self-insurance shall satisfy this requirement.

The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Ride Connection. Contractor shall not commence work under this Agreement, and shall not authorize work to begin under a subcontract until the insurance is in full force. Thereafter, Contractor shall monitor continued compliance with the insurance requirements on an annual or more frequent basis.

Contractor shall comply with any requirements of Ride Connection with respect to Contractor's compliance with these insurance requirements, including but not limited to Ride Connection issued stop work orders (or the equivalent) until the insurance is in full force, or terminating the Contract as permitted by this Contract, or pursuing legal action to enforce the insurance requirements.

While this Agreement is in effect, Contractor agrees that it shall maintain in effect the insurance coverage set forth below. Prior to commencement of work under this Agreement, Contractor shall furnish to Ride Connection a certificate(s) of insurance executed by a duly authorized representative of each insurer showing compliance with the insurance requirements below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation.

Contractor shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:

Types and Amounts

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$126,200/\$630,800 property damage and \$1,538,000 total damages per occurrence.

Contractor's subcontractors, if any, shall obtain and provide insurance in the types and amounts as follows:

EXHIBIT C

- I. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).

The employer's liability limit shall not be less than \$500,000 each accident for bodily injury by an accident and \$500,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.

- II. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to Ride Connection. This insurance shall include personal injury liability, products, and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

- III. **AUTOMOBILE LIABILITY:** Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by Ride Connection:

Bodily Injury, Death, and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence). Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).

Additional Insured

The Commercial General Liability Insurance and Automobile Liability insurance must include Ride Connection, ODOT, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"Tail" Coverage

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor and the subcontractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement for Contractor, and the effective date of the sub agreement for subcontractors, for a minimum of 24 months following the later of:

EXHIBIT C

- i. The Contractor's completion and Ride Connection's acceptance of all services required under this Agreement, and the subcontractors completion and Contractor's acceptance of all services required under the sub agreement or,
- ii. The expiration of all warranty periods provided under this Agreement with respect to Contractor and the sub agreement with respect to the subcontractor.

Notwithstanding the foregoing 24-month requirement, if the Contractor or subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor or subcontractor may request and Ride Connection may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If Ride Connection approval is granted, the Contractor or subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

Notice of Cancellation or Change

The Contractor or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

Certificate(s) of Insurance

Contractor shall submit to Ride Connection a certificate(s) of insurance for all required insurance before the commencement of performance of services, and upon expiration/renewal of any coverage type. The certificate(s) or an attached endorsement must specify:

- i. All entities and individuals who are endorsed on the policy as Additional Insured and
- ii. For insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

EXHIBIT D

Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the **20th** of each month.

Reports:

- Service Summary Reports
 - Trip Data
 - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to:
partner_reporting@rideconnection.org.

EXHIBIT E

Clackamas County Social Services
Contract #18863

PASS-THROUGH FUNDING INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) 2 CFR 200.

This agreement is financed by the funding source indicated below:

Federal Program or Title: ***Enhanced Mobility of Seniors with Disabilities Program (49 U.S.C 5310)***

Federal Catalogue (CFDA) Number and Name: ***20.513 (5310)***

Federal Award Identification Number (FAIN): ***OR-2020-038-00***

Subrecipient DUNS Number:

Project Cost (total before required match): ***\$82,863***

Expected Federal Funding: ***\$74,353***

Approved Indirect Cost Rate: ***0%***

Federal Award Date: ***Obligation Date: 06/29/2020***

Award R&D? (Yes/No): ***No***

Federal Funding Agency (or other pass-through agency if different):

ODOT
Rail and Public Transit Division
555 13th Street NE
Salem, OR 97301

U.S. Department of Transportation
Federal Transit Administration
1200 New Jersey Ave, SE
4th & 5th Floors - East Building
Washington, DC 20590

U.S. Department of Transportation
Federal Transit Administration
Region X Suite 3142
Federal Building
915 Second Avenue
Seattle, WA 98174

EXHIBIT E

Clackamas County Social Services
Contract #18863

Federal laws, regulations, or circulars that are expressly applicable to the funding source and project (but not limited to):

- A. Master Agreement (49 U.S.C. Chapter 53 and Title 23) – The FTA Master Agreement contains the standard terms and conditions that apply to the Underlying Agreement.
- B. Grant Management Requirements (Circular 5010.1E) – These requirements are intended to assist recipients in administering FTA-funded projects and in meeting reward responsibilities and reporting requirements. Recipients have a responsibility to comply with regulatory requirements and to be aware of all pertinent material to assist in the management of all federally assisted rewards.
- C. *Enhanced Mobility of Seniors and Individuals with Disabilities Grant Program (Circular 5010.1G) – This circular issues guidance on the administration of the Enhanced Mobility of Seniors and Individuals with Disabilities Program under 49 U.S.C. 5310.*
- D. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Title 2 – Grants and Agreements; Subtitle A – Office of Management and Budget Guidance for Grants and Agreements; Chapter II – Office of Management and Budget Guidance; Part 200). Establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities and establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are designed that Federal awards bear their fair share of costs.



Richard Swift
Director

January 7, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

**Approval of Agreement #18892 with
Ride Connection, Inc. to Provide Funding for Rides Provided
by Members of the Clackamas County Transportation Network**

Purpose/Outcomes	Funding for Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Amount \$197,856. This agreement is funded through the agreements with TriMet and Ride Connection for TriMet General Fund dollars and/or 5310 FTA/ODOT Funds
Funding Source	TriMet General Funds and/or 5310 Pass-through funds. No County General Funds are involved
Duration	Effective July 1, 2020 and terminates on June 30, 2021
Previous Board Action	N/A
Strategic Plan Alignment	<ol style="list-style-type: none"> 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.
Counsel Review	County Counsel reviewed and approved the agreement on 12/14/20
Procurement Review	<ol style="list-style-type: none"> 1. Was this processed through Procurement? No 2. In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S# 10003

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18892 with Ride Connection, Inc. This Agreement provides funding for rides that originate inside the TriMet service district. All rides are provided throughout the County by members of the Clackamas County Community-based transportation network. This agreement provides the funding for the core base-services that are provided inside the TriMet district. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas has access to transportation services either through their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. The Centers located in Estacada, Gladstone, Lake Oswego, Milwaukie, and Oregon City provide rides in lift equipped mini-buses and/or vans to

Healthy Families. Strong Communities.

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

www.clackamas.us/community_health

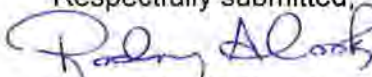
residents in their service area. The transportation services provided by senior centers are primarily to the centers for participation in the nutrition programs and the various services and recreational programs offered at the centers. However, the Centers also provide group transportation for shopping, personal business, and medical appointments in their local area. The TRP program utilizes this funding to provide rides provided by volunteer drivers driving their privately owned autos. TRP provides transportation throughout the county and to medical facilities located in the Portland-metro area. The majority of TRP rides are for medical transportation or personal business. TRP's rides for residents to conduct other personal business includes accessing food banks and grocery stores. In general, all programs offer transportation weekdays between 8:00 am and 5:00pm.

This agreement is late due to Ride Connection not being able to release agreements to its sub-contractors until TriMet released their agreement and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its agreements for FY20-21. County Council reviewed and approved this agreement on 12/14/20. No County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,

 Rodney Alcock, H3S Deputy / FOM

Richard Swift, Director
Health, Housing and Human Services

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #: 10003	Division: SS	<input type="checkbox"/> Subrecipient
Board Order #: N/A (Under \$150,000)	Contact: Reid, Stefanie	<input checked="" type="checkbox"/> Revenue
	Program Contact: Reid, Stefanie	<input type="checkbox"/> Amend # \$
		<input type="checkbox"/> Procurement Verified
		<input type="checkbox"/> Aggregate Total Verified

Non BCC Item **BCC Agenda**

CONTRACT WITH: 20-21 Ride Connection (TriMet Base) Agree#18892

CONTRACT AMOUNT: \$197,856.00

TYPE OF CONTRACT

<input type="checkbox"/> Agency Service Contract	<input type="checkbox"/> Memo of Understanding/Agreement
<input type="checkbox"/> Construction Agreement	<input type="checkbox"/> Professional, Technical & Personal Services
<input type="checkbox"/> Intergovernmental Agreement	<input type="checkbox"/> Property/Rental/Lease
<input checked="" type="checkbox"/> Interagency Services Agreement	<input type="checkbox"/> One Off

DATE RANGE

<input type="checkbox"/> Full Fiscal Year _____ - _____	<input checked="" type="checkbox"/> 4 or 5 Year _____ - _____
<input type="checkbox"/> Upon Signature _____ - _____	<input type="checkbox"/> Biennium _____ - _____
<input type="checkbox"/> Other _____ - _____	<input checked="" type="checkbox"/> Retroactive Request? 7/1/2020 - 6/30/2021

INSURANCE What insurance language is required?

Checked Off N/A

Commercial General Liability: Yes No, not applicable No, waived
If no, explain why: _____

Business Automobile Liability: Yes No, not applicable No, waived
If no, explain why: _____

Professional Liability: Yes No, not applicable No, waived
If no, explain why: _____

Approved by Risk Mgr _____
Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?

No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)

If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Rastetter, Kathleen Date Approved: Monday, December 14, 2020

OR

This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE: Approved via email by Teresa Christopherson
Date: 12/17/2020

H3S Admin Only	Date Received: _____
	Date Signed: _____
	Date Sent: _____

AGREEMENTS/CONTRACTS

N/A (Under \$150,000)

<input checked="" type="checkbox"/>	New Agreement/Contract
<input type="checkbox"/>	Amendment/Change Order Original Number _____

ORIGINATING COUNTY

DEPARTMENT: Health, Housing Human Services
Social Services

PURCHASING FOR: Contracted Services

OTHER PARTY TO

CONTRACT/AGREEMENT: 20-21 Ride Connection (TriMet Base) Agree#18892

PURPOSE OF

CONTRACT/AGREEMENT:

Ongoing funding for Community-based elderly & disabled transportation services provided inside the TriMet District boundary.

DATE OF EXECUTION: _____

H3S CONTRACT NUMBER: 10003

SERVICES AGREEMENT #18892
BETWEEN
Ride Connection and Clackamas County Social Services

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Social Services ("Subrecipient")

RECITALS:

1. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved TriMet general funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$197,856. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
2. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to **Clackamas County Social Services** which provides transportation services inside the TriMet services District.
3. Ride Connection and Subrecipient enter into this Subrecipient Agreement (the "Agreement") for the purpose of procuring Subrecipient's services, for which payment in part shall be from 5310 Funds.

AGREEMENTS:

1. General

- A. Scope of Agreement - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Subrecipient during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Subrecipient, other than the initial scope of Services attached in Exhibit A.
 - (1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Subrecipient shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (a) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (b) OMB Circular 2 CFR 200 (c) FTA Master Agreement, (d) Annual Certifications and Assurances, and (e) FTA C 9070.1G.
 - (2) Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance and the Ride Connection Operation Manual for

Transportation Managers (<https://rideconnection.org/partner>).

- B. Scope of Services and Changes - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly. Similarly, if any change to the Services results in a material change to the project schedule, it shall also be accordingly determined and adjusted by Ride Connection after consultation with Subrecipient.
 - C. Schedule - Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
 - D. Audit Right - Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.
 - E. Subcontracts - Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7. Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.
- (1) Subrecipient also acknowledges that if it makes, or causes to be made a false,

fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.

- (2) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
- F. Drug-Free Workplace Agreement - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

2. Inspection of Records and Services

- A. Recordkeeping Term - Subrecipient shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, TriMet or Ride Connection may require. Subrecipient shall permit Ride Connection, TriMet, or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Subrecipient relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the Agreement, if expiration is later. Upon request by Ride Connection, Subrecipient shall provide Ride Connection access to records maintained by Subrecipient under this Agreement.
- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement. Subrecipient shall at Subrecipient's expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, a copy of any annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement that is performed due to state law or regulation or conducted as an independent activity. Subrecipient shall also at its expense, submit to Ride

Connection at the foregoing address, a copy of the management letter that accompanies an annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement.

- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later. The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the 20th day after the end of the preceding month.
- B. Reports shall include complete information required by FTA Circular 5010.1C, Chapter 1, Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

4. Compensation

- A. Agreed Price - The maximum funding to be disbursed to Subrecipient under this Agreement is **\$197,856**. Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- B. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly

final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

- C. Withholding - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in section 18. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.
- D. Subrecipient will use the indirect rate of 0% to recover costs that are not directly traceable to a particular project/program. This rate applies to all activities referenced in Exhibit A. Indirect cost rate should be applied to Modified Total Direct Costs (MTDC) after subtracting any donations received. MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participants support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs.

If the Subrecipient chooses to develop an indirect cost proposal to support a rate higher than the indirect rate in the future, it must be approved. Ride Connection will review the proposal to ensure compliance with Uniform Guidance requirements and negotiate with the Subrecipient if Federal requirements allow for a higher rate.

5. Independent Contractor

Subrecipient is an independent contractor for all purposes under this Agreement, and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes and state and federal income tax withholdings. Subrecipient shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Subrecipient, nor its officers, directors, employees, subcontractors or drivers, are officers, employees or agents of Ride Connection as those terms are used in ORS 30.265. Subrecipient, its directors, officers, employees, subcontractors or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, 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 purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

- A. Indemnified Conditions – To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the “Indemnitees”) from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- (i) Bodily injury or death to any person;
 - (ii) Property damage to any personal or real property owned by anyone;
 - (iii) Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - (iv) Infringement of any intellectual property or other third party rights;
 - (v) Discharge or causing the discharge of any hazardous or polluting substance; and
 - (vi) Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.
- B. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the “Indemnitees”) from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- C. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.

- D. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.
- E. No Consequential Damages – Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Subrecipient regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss. However, Subrecipient's obligations under this Agreement are conditioned on receiving the funds from Ride Connection.

8. Workers Compensation

Subrecipient, its subcontractors, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or employers that are exempt under ORS 656.126(2). Subrecipient expressly waives any statutory or common law immunity, in accordance with the Oregon Revised Statutes, Vol. 14, Section 656, Revised Code of Washington, Title 51, as amended, or any other applicable laws or regulations that would otherwise shield an employer from insurance subrogation or other claims.

9. Insurance

- A. While this Agreement is in effect, Subrecipient agrees that it shall maintain in effect the insurance coverage set forth below, as well as to require any subcontractors it uses to agree to comply with the insurance requirements provided below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Subrecipient's obligation to require such insurance from its subcontractors.

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$126,200/\$630,800 property damage and \$1,538,000 total damages per occurrence.

- B. Subrecipient's subcontractors, if any, shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:
 - 1) Commercial General Liability (CGL) Insurance covering bodily injury and property

damage with a limit of not less than \$2,000,000 each occurrence.

- 2) Business Auto Liability Insurance covering bodily injury and property damage with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).
- 3) Workers Compensation and Employer's Liability Insurance. The employer's liability limit shall not be less than \$1,000,000 each accident for bodily injury by an accident and \$1,000,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.
- 4) Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.
- 5) Tail Coverage, if any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the subcontractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the sub agreement for subcontractors, for a minimum of 24 months following the later of: (i) the Subrecipient's completion and TriMet's acceptance of all services required under this Agreement, and the subcontractors completion and Subrecipient's acceptance of all services required under the sub agreement or, (ii) the expiration of all warranty periods provided under the sub agreement with respect to the subcontractor. Notwithstanding the foregoing 24-month requirement, if the subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the subcontractor may request and TriMet may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If TriMet approval is granted, the subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
- 6) The insurance required under this Paragraph shall:
 - a) Include Ride Connection, TriMet, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement, and
 - b) The Subrecipient or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

10. Claims, Notice

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to TriMet pursuant to the Prime Contract (whichever is sooner).
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.

- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing. However, Subrecipient's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.

11. Termination

- A. Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection, under any of the following conditions:
 - 1) Subrecipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
 - 2) Subrecipient fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
 - 3) Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
 - 4) Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
 - 5) Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
 - 6) Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
 - 7) Subrecipient may terminate this Agreement, in whole or in part, upon 30 days written notice to Ride Connection
- B. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

12. Compliance with Laws

- A. Federal laws and regulations - In addition to those elsewhere specified, Subrecipient shall comply with any applicable federal, state and local laws, rules and regulations applicable to the project hereunder, including but not limited to the following: all federal, state and

local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services. Subrecipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable: (1) Title VI of the Civil Rights Act of 1964; (2) Title V and Section 504 of the Rehabilitation Act of 1973; (3) the Americans with Disabilities Act of 1990 and ORS 659a.142; (4) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (5) the Clean Air Act (42 U.S.C. 7401-7671q); (6) the Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (7) Executive Order 11738; (8) Environmental Protection Agency regulations (40 CFR part 15); and (9) and all applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.

- B. Payment of taxes and business license - Subrecipient shall comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Subrecipient's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Subrecipient that it is in compliance with the foregoing, and Subrecipient will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Subrecipient's compliance with this Section.

13. Term

This Agreement shall begin on **7/1/2020** and shall remain in effect through **6/30/2021** unless terminated sooner under the provisions of this Agreement.

14. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:
John Whitman
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Subrecipient:
Stefanie Reid
Clackamas County Social Services
2051 Kaen Rd
Oregon City, OR 97045-1819

15. No Third Party Beneficiary

Ride Connection and Subrecipient are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

16. Assignment

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this

Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

17. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

18. Dispute Resolution

- A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.
- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.
- C. Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

19. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute 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 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 Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

20. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

21. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Workers Compensation Insurance); 9 (Insurance); 17 (Governing Law); 18 (Dispute Resolution); and 21 (Surviving Provisions).

22. Prompt Payment

Subrecipient shall make payment promptly, as due, to all persons supplying to the Subrecipient labor or material for the performance of the work provided for in the contract. At a minimum, Subrecipient shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection. Subrecipient shall not hold retainage from subcontractors.

23. Agreement Documents

This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein reference:

- Exhibit A: Scope of Work
- Exhibit B: Federal Terms and Conditions
- Exhibit C: Funding Information
- Exhibit D: Lobbying Certificate (signature required)
- Exhibit E: Nondiscrimination Certificate
- Exhibit F: Reporting Requirements

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

CLACKAMAS COUNTY

Signature

Julie Wilcke Pilmer
Printed Name

Chief Executive Officer
Title

Date

- Commissioner: Tootie Smith, Chair
- Commissioner: Sonya Fischer
- Commissioner: Mark Shull
- Commissioner: Paul Savas
- Commissioner: Martha Schrader

Signing on Behalf of the Board:

By: _____
Richard Swift, Director
Health, Housing, and Human Services Dept.

Approved to Form:

By: _____
County Counsel

Dated: _____

EXHIBIT A

Clackamas County Social Services
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SCOPE OF WORK

July 1, 2020

The goods and/or services to be provided by Clackamas County include, but are not limited to the following:

A Participate in Cost Savings Activities:

B Clackamas County agrees to participate in coordination activities with Ride Connection and other transportation providers Ride Connection contracts with to provide transportation services ("Service Partners") in the network to meet the demand for service in a cost effective manner.

C Coordinate Customer Information, Referral, and Trip Scheduling Activities with the Ride Connection Service Center:

Service partners, who utilize the Ride Connection Service Center to coordinate trips, recognize that this service is currently being funded by dollars outside of this contract. Service Partners agree to work with Ride Connection to investigate opportunities and create solutions to recoup costs accrued for the service performed. Not currently applicable to the Clackamas County programs.

D Establish and Maintain Customer Confidentiality:

Service Partners agree to maintain the confidentiality of all customer records exchanged with Ride Connection or accessed through Ride Connection coordination, scheduling and dispatch software. In the process of providing service, Service Partners agree to provide only the customer information that is necessary in order for the driver to provide the appropriate level of service for the trip being provided.

E Maintain a sufficient number of qualified, approved paid and volunteer drivers and concierge and administrative hours to meet project goals.

F Recruit volunteer drivers to drive Ride Connection vehicles, or who are willing to provide proof of coverage if driving their own vehicles and who will meet the criteria necessary to allow them to drive for a Ride Connection program.

G Participate with Ride Connection, TriMet and other partners in the development of local, regional and agency specific service plans. Help recruit customers to actively participate in planning processes and service design.

H Coordinate outreach activities with Ride Connection. Perform marketing and outreach to community points that are key destinations for older adults and people with disabilities. Participate in Ride Connection sponsored events.

I Increase transportation options available to TriMet ADA eligible individuals who, because of their mobility impairment, geographic barriers, or trip destination, may be difficult for LIFT to serve or may require more personalized attention.

J Establish transportation options, for older adults or people with disabilities, in the community at large that encourage group trips to common community destinations such as shopping, recreation, senior centers, and nutrition sites.

EXHIBIT A

Clackamas County Social Services
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- K Encourage older adults and people with disabilities to become aware of and connect with available transportation and community-based services as an alternative to LIFT ADA paratransit services for some or all of their trips.
- L Provide Ride Connection with back up documentation for billing line items upon request.
- M Orient drivers to the agency's transportation program and ensure they comply with required training and are aware of other specialized training opportunities available through Ride Connection to maintain safety of operations.
- N Attend regular coordination and training meetings to be conducted by Ride Connection.
- O Allow TriMet, or Ride Connection representatives to contact a random sample of clients for monitoring and service verification purposes. Clients will be contacted by mail or phone. Agencies will be given a copy of the questionnaire in advance of mailing.
- P Notify Ride Connection as soon as possible of unusual conditions that will affect the delivery of services.
- Q Implement Ride Connection's client donation policy to seek rider donations comparable to the TriMet LIFT fare, when appropriate.
- R Cooperate in the mutually agreed upon submission of requests for additional public or private funds for program expansion and enhancement.
- S Cooperate in transportation coordination efforts with other organizations such as churches, schools, businesses, and transportation providers.
- T Implement customer feedback (i.e. complaint, compliment) procedures for individuals using community-based transportation.
- U Provide service throughout the contract term.

Funding Source Definitions and Restrictions

TriMet

TriMet funding is a local funding source contributed by the Tri-County Metropolitan Transit District. This funding may be used for program operations that involve volunteers. TriMet funding cannot be applied to paid driver operations.

FTA 5310

Federal Transit Administration 5310 funding is a Federal funding source. This funding may be used for program operations that involve volunteers. TriMet funding cannot be applied to paid driver operations.

Project Funding, Duration and Performance Goals

Contractor will report all rides, including those paid for with Agency Other money, to Ride Connection

EXHIBIT A

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Project	Agency	Performance Goal	Funding Source	Grant Amount
Clackamas County Base Service In District	Clackamas County Social Services	3,416 rides/month	TriMet General Fund and FTA 5310	\$197,856
Totals:				\$197,856

Service Areas

Project	Service Area
Operations- Clackamas Consortium Base Service (In district)	All of Clackamas County inside the TriMet District

Service Days and Times

Project	Service Day(s)	Service Hours
Operations- Clackamas Consortium Base Service (In district)	M-F	8:00 AM – 5:00 PM

Customer Attributes and Levels of Service

Project	Customer Attributes	Level of Service
Operations- Clackamas Consortium Base Service (In district)	Over 65 and People with Disabilities	Door to Door, Door through Door

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Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements (“Certifications and Assurances”) and Federal Transit Administration Master Agreement (“Master Agreement”)

Provider and Provider’s Subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/fta-fiscal-year-2019-certifications-and->. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Provider must submit to Ride Connection on or before July 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing the form available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>, completing the form and sending it to Ride Connection.

Provider shall comply with the following provisions and require in its subagreements that the subcontractors comply with all applicable requirements included in the Master Agreement that is signed and attested to by State as if the subcontractors were Provider.

Provider agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at <http://fta.dot.gov/documents/21-Master.pdf>.

Special Federal Terms and Conditions

1. No Government Obligation to Third Parties

Ride Connection and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to Ride Connection, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. Program Fraud and False or Fraudulent Statement and Related Acts

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986 as amended, 31 U.S.C 3801 et seq. And U.S. DOT regulations, “Program Fraud civil Remedies,” 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the

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contract, the Contractor certifies or affirms the truthfulness of any statement it has made, it makes, or causes to be made, that pertains to this contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. Audit and Inspection of Records

- A. Contractor shall maintain a complete set of records relating to this contract, in accordance with generally accepted accounting procedures. Contractor shall permit the authorized representatives of Ride Connection, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all work, materials, payrolls, books, accounts, and other data and records of Contractor relating to its performance under this contract until the expiration of three (3) years after final payment under this contract.
- B. Contractor further agrees to include in all of its subcontracts under this contract a provision to the effect that the subcontractor agrees that Ride Connection, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and other records of the subcontractor. The term "subcontract" as used in this Paragraph excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.
- C. The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Contractor, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals, and exceptions have been resolved.

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4. Right to Inventions(04/16)

If the contract meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

5. Federal Changes (10/16)

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives as they may be amended or promulgated from time to time during the term of this contract. Contractor’s failure to so comply shall constitute a material breach of this contract.

6. Equal Employment and Civil Rights (04/16)

A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

B. Equal Employment Opportunity – Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” must include the specifications set forth in §60-4.3, in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The following equal employment opportunity requirements apply to the underlying contract:

1) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees

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to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- 2) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- 3) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

C. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

7. Incorporation of Federal Transit Administration Terms

The preceding provisions include, in part, certain standard terms and conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Ride Connection requests which would cause Ride Connection to be in violation of the FTA terms and conditions.

8. Disadvantaged Business Enterprise (11/14)

A. Policy. Ride Connection participates in a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Ride Connection has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Ride Connection has signed an assurance that it will comply with 49 CFR Part 26. It is the policy of Ride Connection to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts.

B. Contractor and Subcontractor Obligation. Contractor and/or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this

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contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the 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 the recipient deems appropriate, which may include, but is not limited to:

- i. Withholding monthly progress payments;
- ii. Assessing sanctions;
- iii. Liquidated damages; and/or
- iv. Disqualifying the contractor from future bidding as non-responsible.

Any subcontracts or subagreements entered into pursuant to this agreement must include this assurance.

9. Debarment and Suspension (04/16)

The certification in this clause is a material representation of fact relied upon by Ride Connection. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Ride Connection, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions. A contract (or subcontract) award must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM) in accordance with OMB guidelines at 2 CFR 180.

10. Solid Waste Disposal Act (10/16)

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11. Procurement of Recovered Materials (04/16)

Ride Connection and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal

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year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

12. Recycled Products

The contractor agrees to comply with all the requirements of section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247

13. Byrd Anti-Lobbying Amendment (10/16)

Contractor shall not use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, the contractor agrees to comply with the following:

1. Laws, Regulations, Requirements, and Guidance. This includes:
 - a) The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended,
 - b) U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended, and
 - c) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature, and
2. Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.

A. Definitions. As used in this clause,

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (1) The awarding of any Federal contract;
- (2) The making of any Federal grant;
- (3) The making of any Federal loan;
- (4) The entering into of any cooperative agreement; and
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan. "Indian tribe" and "tribal

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"organization" have the meaning provided in section 4 of the Indian self-determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before 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 any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, U.S. Code, including a position under a temporary appointment;
- (2) A member of the uniformed services as defined in section 101(3), title 37, U.S. Code;
- (3) A special Government employee as defined in section 202, title 18, U.S. Code; and,
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, U.S. Code appendix 2.

"Person" means an individual, corporation, company association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector. "Recipient" includes all contractors and subcontractors at any tier in connection with a Federal contract. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the

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date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

B. Prohibition

(1) Section 1352 of title 31, U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: 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) The prohibition does not apply as follows:

(i) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(b) For purposes of paragraph B (2) (i) (a) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.

(c) For purposes of paragraph B (2) (i) (a) of this section the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) For purposes of paragraph B (2) (i) (a) of this section, the following

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agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

- (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
 - (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,
 - (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
- (e) Only those activities expressly authorized by paragraph B (2) (i) of this section are allowable under paragraph B (2) (i).
- (ii) Professional and technical services by Own Employees.
- (a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.
 - (b) For purposes of paragraph B (2) (ii) (a) of this section, "professional and technical services" shall be limited advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under

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this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
 - (d) Only those services expressly authorized by paragraph B (2) (ii) of this section are allowable under paragraph B (2) (ii).
- (iii) Reporting for Own Employees.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

- (iv) Professional and technical services by Other than Own Employees.
- (a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.
 - (b) For purposes of paragraph B (2) (iv) (a) of this section, "professional and technical services" shall be limited advice and analysis directly applying to any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under

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this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (d) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
- (e) Only those services expressly authorized by paragraph B (2) (iv) of this section are allowable under paragraph B (2) (iv).

C. Disclosure

- (1) Each person who requests or receives from an agency a Federal contract shall file with that agency a certification, set forth in this document, that the person has not made, and will not make, any payment prohibited by paragraph (b) of this clause.
- (2) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, Standard Form-LLL, "Disclosure of Lobbying Activities," if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (b) of this clause if paid for with appropriated funds.
- (3) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph C (2) of this section. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - (b) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
 - (c) A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered Federal action.
- (4) Any person who requests or receives from a person referred to in paragraph (C) (1) of this section a subcontract exceeding \$100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraph C (1) of this section. That person shall forward all disclosure forms to the agency.

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D. Agreement

In accepting any contract resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

E. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph B of this clause shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- (2) Any person who fails to file or amend the disclosure form to be filed or amended if required by this clause, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (3) Contractors may rely without liability on the representations made by their subcontractors in the certification and disclosure form.

F. Cost Allowability

Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

14. Dispute Resolution and Remedies

14.1 Disputes

Should any dispute arise between the parties concerning this agreement that is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this agreement agree to participate in good faith in a non-binding mediation process. The mediation shall take place in Portland, Oregon. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. The mediator's fees and costs shall be borne equally by the parties.

14.2 Performance During Dispute

Unless otherwise directed by Ride Connection, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

14.3 Remedies

All claims, counterclaims, disputes and other matters in question between TriMet and the Contractor arising out of or relating to this agreement or its breach will be decided by mediation if the parties mutually agree, or in a court of competent jurisdiction within the State of Oregon in which Ride Connection is located.

14.4 Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies

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available there under shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. In the event that Ride Connection or Contractor fail to act, such failure shall not constitute a waiver of any right or obligation afforded to either party under the Contractor or by law, nor shall any such action or failure to act constitute an approval of or acceptance of any breach there under, except as may be specifically agreed in writing by both parties.

15. Clean Water Requirements (04/16)

If the total value of this contract exceeds \$150,000:

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401-7671q). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). The Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

16. Clean Water Requirements (04/16)

If the total value of this contract exceeds \$150,000:

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401-7671q). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). The Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

17. Environmental Violations

For all contracts and subcontracts in excess of \$100,000.00, Contractor agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857(h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11378, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibit the use under nonexempt Federal contracts, grants, or loans, of facilities included on the EPA List for Violating Facilities. Contractor shall report violations to FTA and to the USEPA Assistant Administrator for Enforcement (ENO329).

18. Energy Conservation

The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC section 6321, et seq.).

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19. Privacy Act

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- (2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

20. Contract Work Hours and Safety Standards Act (04/16)

For contracts over \$100,000 involving mechanics or laborers. Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- A. Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

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- C. Withholding for unpaid wages and liquidated damages - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

21. Drug-Free Workplace

Contractor shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace:

- (1) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing services to the DHS Clients. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions;
- (2) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations;
- (3) Provide each employee to be engaged in the performance of Work under this Contract a copy of the statement mentioned in paragraph (1) above;
- (4) Notify each employee in the statement required by paragraph (1) that, as a condition of employment to perform Work under this Contract, 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;
- (5) Notify Ride Connection within ten (10) days after receiving notice under subparagraph (4) from an employee or otherwise receiving actual notice of such conviction;
- (6) 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;
- (7) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (1) through (6);
- (8) Require any subcontractor to comply with subparagraphs (1) through (7); and

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- (9) Neither Contractor, nor any of Contractor's employees, officers, agents or subcontractors may perform any Work required under this Contract while under the influence of drugs.

For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to the 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; Violation of any provision of this subsection may result in termination of the Contract.

22. HIPAA Compliance

If the Services provided under this Contract are covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Contractor agrees to deliver the Services in compliance with HIPAA to the extent applicable.

23. Pro-Children Act

Contractor shall comply and require anyone engaged in the performance of Work under this Contract to comply with the Pro-Children Act of 1994 (codified at 20 USC section 6081 et. Seq.).

24. Cargo Preference - Reserved

25. Fly America - Reserved

26. Davis-Bacon and Copeland Anti-Kickback Acts - Reserved

27. Seismic Safety - Reserved

28. Veterans Preference (04/16) - Reserved

29. Charter Service Operations (05/17)

The Contractor agrees to comply with applicable transit employee protective requirements as follows;

- a) General Transit Employee Protective Requirements – To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 USC A 5333(b), and U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the

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U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection, however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

- b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. §5310(a)(2) for Elderly Individuals and Individuals with Disabilities – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310 (a)(2),n and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body sub-recipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. §5333(b), U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.
- c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. §5311 in Non-urbanized Areas – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

The Contractor also agrees to include the applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

30. Charter Service Operations (05/17)

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and sub-recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

31. School Bus Operations (05/17)

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified

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under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub-recipients may not use federally funded equipment, vehicles, or facilities.

32. Buy America (03/06) - Reserved

33. Patent and rights in Data (05/17) - Reserved

END OF EXHIBIT B

EXHIBIT C

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PASS-THROUGH FUNDING INFORMATION FOR SUBRECIPIENTS

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) 2 CFR 200.

This agreement is financed by the funding source indicated below:

Assistance Listings Program or Title: *Enhanced Mobility of Seniors with Disabilities Program (49 U.S.C 5310)*

Assistance Listings Number and Name: *20.513 (5310)*

Federal Award Identification Number (FAIN): *OR-2020-060*

Subrecipient DUNS Number: *96992656*

Expected Federal Funding: *\$197,856*

Approved Indirect Cost Rate: *0%*

Federal Award Date: *9/18/2020*

Award R&D? (Yes/No): *No*

Subaward Period of Performance (Start and End Dates): *7/1/2020 - 6/30/2021*

Federal Funding Agency (or other pass-through agency if different):

TriMet
Budgets and Grants
1800 SW 1st Avenue
Portland, OR 97210

U.S. Department of Transportation
Federal Transit Administration
1200 New Jersey Ave, SE
4th & 5th Floors - East Building
Washington, DC 20590

U.S. Department of Transportation
Federal Transit Administration
Region X Suite 3142
Federal Building
915 Second Avenue
Seattle, WA 98174

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Federal laws, regulations, or circulars that are expressly applicable to the funding source and project (but not limited to):

- A. Master Agreement (49 U.S.C. Chapter 53 and Title 23) – The FTA Master Agreement contains the standard terms and conditions that apply to the Underlying Agreement.
- B. Grant Management Requirements (Circular 5010.1E) – These requirements are intended to assist recipients in administering FTA-funded projects and in meeting reward responsibilities and reporting requirements. Recipients have a responsibility to comply with regulatory requirements and to be aware of all pertinent material to assist in the management of all federally assisted rewards.
- C. *Enhanced Mobility of Seniors and Individuals with Disabilities Grant Program (Circular 5010.1G) – This circular issues guidance on the administration of the Enhanced Mobility of Seniors and Individuals with Disabilities Program under 49 U.S.C. 5310.*
- D. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Title 2 – Grants and Agreements; Subtitle A – Office of Management and Budget Guidance for Grants and Agreements; Chapter II – Office of Management and Budget Guidance; Part 200). Establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities and establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are designed that Federal awards bear their fair share of costs.

EXHIBIT D

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LOBBYING CERTIFICATE

The undersigned 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 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.

(2) 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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) **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 sub-recipients 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. 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.

Clackamas County Social Services.

Signature: _____

Name: (print) Richard Swift

Title: Director; Health, Housing & Human Services

Date: _____

NOTE: CONTRACTORS ARE REQUIRED, PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBRECIPIENT BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

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NONDISCRIMINATION CERTIFICATE

Subrecipient certifies compliance with the following nondiscrimination requirements:

Nondiscrimination

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Subrecipient assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Subrecipient receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Subrecipient retains ownership or possession of the project property, whichever is longer, the Subrecipient assures that:

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Subrecipient assures that it will submit the required information pertaining to its compliance with these provisions.
- (3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any Subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
- (4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which

EXHIBIT E

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the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

- (5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.
- (6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

Subrecipient acknowledges that it is subject to the requirements of FTA Circular 4702.1A "*Title VI and Title VI-Dependent Guidelines for FTA Recipients*" as a Subrecipient of federal funds under this Agreement. Further, Subrecipient shall provide Title VI compliance information and measures as may be determined by Ride Connection pursuant to the Circular.

Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Subrecipient assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Subrecipient assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

DBE

Subrecipient will comply with the applicable provisions of 49 CFR Part 26 related to Disadvantaged Business Enterprises and report quarterly to TriMet. This Agreement includes the following assurance by Subrecipient, and each contract Subrecipient signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contract, Subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FTA-assisted contracts. Failure by the 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 Ride Connection deems appropriate.

EXHIBIT F

Clackamas County Social Services
Contract# 18892

Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the 20th of each month.

Reports:

- Service Summary Reports
 - Trip Data
 - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to the Service Data Specialist:

Fax (503) 528-1755

partner_reporting@rideconnection.org

January 9, 2020

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Agreement #18893 with
Ride Connection, Inc. to Provide Funding for Rides Provided
by the Social Services Division-Transportation Reaching People Unit

Purpose/Outcomes	Funding for Social Services-Transportation Reaching People and transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Amount \$2,938. This agreement is funded through the agreements with TriMet and Ride Connection for TriMet General Fund dollars
Funding Source	TriMet General Funds. No County General Funds are involved
Duration	Effective July 1, 2020 and terminates on June 30, 2021
Previous Board Action	N/A
Strategic Plan Alignment	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.
Counsel Review	County Counsel reviewed and approved the agreement on 12/14/20
Procurement Review	1. Was this processed through Procurement? No 2. In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S# 10006

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18893 with Ride Connection, Inc. This Agreement provides funding for rides that originate inside the TriMet service district and are provided by volunteer drivers through the Transportation Reaching People ("TRP") program at Social Services. This is continued funding for FY2020-21 to pay a mileage reimbursement stipend to volunteer drivers of the Ride Together program within TRP. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services TRP program. The Ride Together program provides an additional flexible resource to these residents.

Someone in need of transportation services who has a friend or neighbor who is willing to meet some of their transportation needs can register with the Social Services TRP program. After completing a

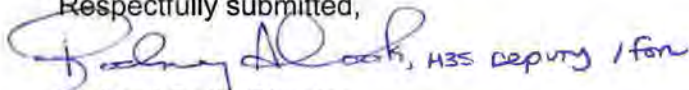
background check and training, the driver can be reimbursed for approved mileage. The Rider and Driver coordinate the dates and times of these rides which provides the flexibility to meet the Riders evening and weekend transportation needs that other programs cannot currently provide. These volunteer drivers undergo the same screening and receive the same training as all the other Clackamas County Transportation Consortium drivers.

This agreement is late due to Ride Connection not being able to release agreements to its sub-recipients until TriMet released their agreement and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its agreements for FY20/21. County Council reviewed and approved this agreement on 12/14/20. No County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,

Handwritten signature in blue ink, appearing to read "Richard Swift, H3S Deputy / for".

Richard Swift, Director
Health, Housing and Human Services

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #:	10006	Division:	SS
Board Order #:		Contact:	Reid, Stefanie
		Program Contact:	Reid, Stefanie
		<input type="checkbox"/> Subrecipient	
		<input checked="" type="checkbox"/> Revenue	
		<input type="checkbox"/> Amend #	\$
		<input type="checkbox"/> Procurement Verified	
		<input type="checkbox"/> Aggregate Total Verified	

Non BCC Item BCC Agenda **Date:** Thursday, January 7, 2021

CONTRACT WITH: 20-21 Ride Connection, Inc (RT) Agree#188913

CONTRACT AMOUNT: \$2,938.00

TYPE OF CONTRACT

<input type="checkbox"/> Agency Service Contract	<input type="checkbox"/> Memo of Understanding/Agreement
<input type="checkbox"/> Construction Agreement	<input type="checkbox"/> Professional, Technical & Personal Services
<input type="checkbox"/> Intergovernmental Agreement	<input type="checkbox"/> Property/Rental/Lease
<input checked="" type="checkbox"/> Interagency Services Agreement	<input type="checkbox"/> One Off

DATE RANGE

<input type="checkbox"/> Full Fiscal Year _____ - _____	<input type="checkbox"/> 4 or 5 Year _____ - _____
<input type="checkbox"/> Upon Signature _____ - _____	<input type="checkbox"/> Biennium _____ - _____
<input type="checkbox"/> Other _____ - _____	<input checked="" type="checkbox"/> Retroactive Request? 7/1/2020 - 6/30/2021

INSURANCE What insurance language is required?

Checked Off N/A

Commercial General Liability: Yes No, not applicable No, waived
If no, explain why: _____

Business Automobile Liability: Yes No, not applicable No, waived
If no, explain why: _____

Professional Liability: Yes No, not applicable No, waived
If no, explain why: _____

Approved by Risk Mgr _____
Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?

No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)

If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Rastetter, Kathleen Date Approved: Monday, December 14, 2020

OR

This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE: Approved via email by Teresa Christopherson

Date: 12/17/2020

H3S Admin Only	Date Received: _____
	Date Signed: _____
	Date Sent: _____

AGREEMENTS/CONTRACTS

X New Agreement/Contract
 Amendment/Change Order Original Number

ORIGINATING COUNTY

DEPARTMENT: Health, Housing Human Services
Social Services

PURCHASING FOR: Contracted Services

OTHER PARTY TO

CONTRACT/AGREEMENT: 20-21 Ride Connection, Inc (RT) Agree#18892

BOARD AGENDA ITEM

NUMBER/DATE: _____

DATE: 1/7/2021

PURPOSE OF

CONTRACT/AGREEMENT:

Ongoing funding for the volunteer driver program Ride Together.

H3S CONTRACT NUMBER: 10006

**SERVICES AGREEMENT #18893
BETWEEN
Ride Connection and Clackamas County Social Services**

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Social Services ("Subrecipient")

RECITALS:

1. Ride Connection and Subrecipient enter into this Agreement for the sole purpose of disbursing the approved TriMet general funds to Subrecipient for Subrecipient's accomplishment of the Project(s). **Maximum amount of Grant funds shall not exceed \$2,938. These funds shall be used solely for the Project(s) in Exhibit A, and not be used for any other purpose.**
2. Tri-County Metropolitan Transportation District of Oregon ("TriMet") has made general funds available to Ride Connection, to pass-through to **Clackamas County Social Services** which provides transportation services inside the TriMet services District.
3. Ride Connection and Subrecipient enter into this Subrecipient Agreement (the "Agreement") for the purpose of procuring Subrecipient's services, for which payment in part shall be from 5310 Funds.

AGREEMENTS:

1. General

- A. Scope of Agreement - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Subrecipient during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Subrecipient, other than the initial scope of Services attached in Exhibit A.
 - (1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Subrecipient shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (a) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (b) OMB Circular 2 CFR 200 (c) FTA Master Agreement, (d) Annual Certifications and Assurances, and (e) FTA C 9070.1G.
 - (2) Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance and the Ride Connection Operation Manual for

Transportation Managers (<https://rideconnection.org/partner>).

- B. Scope of Services and Changes - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly. Similarly, if any change to the Services results in a material change to the project schedule, it shall also be accordingly determined and adjusted by Ride Connection after consultation with Subrecipient.
 - C. Schedule - Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
 - D. Audit Right - Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.
 - E. Subcontracts - Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7. Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.
- (1) Subrecipient also acknowledges that if it makes, or causes to be made a false,

fictitious or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.

- (2) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
- F. Drug-Free Workplace Agreement - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

2. Inspection of Records and Services

- A. Recordkeeping Term - Subrecipient shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, TriMet or Ride Connection may require. Subrecipient shall permit Ride Connection, TriMet, or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Subrecipient relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the Agreement, if expiration is later. Upon request by Ride Connection, Subrecipient shall provide Ride Connection access to records maintained by Subrecipient under this Agreement.
- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement. Subrecipient shall at Subrecipient's expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, a copy of any annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement that is performed due to state law or regulation or conducted as an independent activity. Subrecipient shall also at its expense, submit to Ride

Connection at the foregoing address, a copy of the management letter that accompanies an annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement.

- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later. The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the 20th day after the end of the preceding month.
- B. Reports shall include complete information required by FTA Circular 5010.1C, Chapter 1, Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

4. Compensation

- A. Agreed Price - The maximum funding to be disbursed to Subrecipient under this Agreement is **\$2,938**. Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- B. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly

final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

- C. Withholding - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in section 18. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.
- D. Subrecipient will use the indirect rate of 0% to recover costs that are not directly traceable to a particular project/program. This rate applies to all activities referenced in Exhibit A. Indirect cost rate should be applied to Modified Total Direct Costs (MTDC) after subtracting any donations received. MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participants support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs.

If the Subrecipient chooses to develop an indirect cost proposal to support a rate higher than the indirect rate in the future, it must be approved. Ride Connection will review the proposal to ensure compliance with Uniform Guidance requirements and negotiate with the Subrecipient if Federal requirements allow for a higher rate.

5. Independent Contractor

Subrecipient is an independent contractor for all purposes under this Agreement, and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes and state and federal income tax withholdings. Subrecipient shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Subrecipient, nor its officers, directors, employees, subcontractors or drivers, are officers, employees or agents of Ride Connection as those terms are used in ORS 30.265. Subrecipient, its directors, officers, employees, subcontractors or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, 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 purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

- A. Indemnified Conditions – To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the “Indemnitees”) from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- (i) Bodily injury or death to any person;
 - (ii) Property damage to any personal or real property owned by anyone;
 - (iii) Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - (iv) Infringement of any intellectual property or other third party rights;
 - (v) Discharge or causing the discharge of any hazardous or polluting substance; and
 - (vi) Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.
- B. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the “Indemnitees”) from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- C. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.

- D. Limitation on Indemnification - Subrecipient's indemnification above shall not include any liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.
- E. No Consequential Damages – Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Subrecipient regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss. However, Subrecipient's obligations under this Agreement are conditioned on receiving the funds from Ride Connection.

8. Workers Compensation

Subrecipient, its subcontractors, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or employers that are exempt under ORS 656.126(2). Subrecipient expressly waives any statutory or common law immunity, in accordance with the Oregon Revised Statutes, Vol. 14, Section 656, Revised Code of Washington, Title 51, as amended, or any other applicable laws or regulations that would otherwise shield an employer from insurance subrogation or other claims.

9. Insurance

- A. While this Agreement is in effect, Subrecipient agrees that it shall maintain in effect the insurance coverage set forth below, as well as to require any subcontractors it uses to agree to comply with the insurance requirements provided below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Subrecipient's obligation to require such insurance from its subcontractors.

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$126,200/\$630,800 property damage and \$1,538,000 total damages per occurrence.

- B. Subrecipient's subcontractors, if any, shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:
 - 1) Commercial General Liability (CGL) Insurance covering bodily injury and property

damage with a limit of not less than \$2,000,000 each occurrence.

- 2) Business Auto Liability Insurance covering bodily injury and property damage with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).
- 3) Workers Compensation and Employer's Liability Insurance. The employer's liability limit shall not be less than \$1,000,000 each accident for bodily injury by an accident and \$1,000,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.
- 4) Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.
- 5) Tail Coverage, if any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the subcontractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the sub agreement for subcontractors, for a minimum of 24 months following the later of: (i) the Subrecipient's completion and TriMet's acceptance of all services required under this Agreement, and the subcontractors completion and Subrecipient's acceptance of all services required under the sub agreement or, (ii) the expiration of all warranty periods provided under the sub agreement with respect to the subcontractor. Notwithstanding the foregoing 24-month requirement, if the subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the subcontractor may request and TriMet may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If TriMet approval is granted, the subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
- 6) The insurance required under this Paragraph shall:
 - a) Include Ride Connection, TriMet, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement, and
 - b) The Subrecipient or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

10. Claims, Notice

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to TriMet pursuant to the Prime Contract (whichever is sooner).
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.

- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing. However, Subrecipient's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.

11. Termination

- A. Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection, under any of the following conditions:
- 1) Subrecipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
 - 2) Subrecipient fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
 - 3) Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
 - 4) Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
 - 5) Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
 - 6) Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
 - 7) Subrecipient may terminate this Agreement, in whole or in part, upon 30 days written notice to Ride Connection
- B. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

12. Compliance with Laws

- A. Federal laws and regulations - In addition to those elsewhere specified, Subrecipient shall comply with any applicable federal, state and local laws, rules and regulations applicable to the project hereunder, including but not limited to the following: all federal, state and

local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services. Subrecipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable: (1) Title VI of the Civil Rights Act of 1964; (2) Title V and Section 504 of the Rehabilitation Act of 1973; (3) the Americans with Disabilities Act of 1990 and ORS 659a.142; (4) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (5) the Clean Air Act (42 U.S.C. 7401-7671q); (6) the Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (7) Executive Order 11738; (8) Environmental Protection Agency regulations (40 CFR part 15); and (9) and all applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.

- B. Payment of taxes and business license - Subrecipient shall comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Subrecipient's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Subrecipient that it is in compliance with the foregoing, and Subrecipient will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Subrecipient's compliance with this Section.

13. Term

This Agreement shall begin on **7/1/2020** and shall remain in effect through **6/30/2021** unless terminated sooner under the provisions of this Agreement.

14. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:
John Whitman
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Subrecipient:
Stefanie Reid
Clackamas County Social Services
2051 Kaen Rd
Oregon City, OR 97045-1819

15. No Third Party Beneficiary

Ride Connection and Subrecipient are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

16. Assignment

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this

Agreement to any other party without the prior written consent of Ride Connection. Any assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

17. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

18. Dispute Resolution

- A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.
- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.
- C. Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

19. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute 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 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 Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

20. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

21. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Workers Compensation Insurance); 9 (Insurance); 17 (Governing Law); 18 (Dispute Resolution); and 21 (Surviving Provisions).

22. Prompt Payment

Subrecipient shall make payment promptly, as due, to all persons supplying to the Subrecipient labor or material for the performance of the work provided for in the contract. At a minimum, Subrecipient shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection. Subrecipient shall not hold retainage from subcontractors.

23. Agreement Documents

This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein reference:

- Exhibit A: Scope of Work
- Exhibit B: Federal Terms and Conditions
- Exhibit C: Funding Information
- Exhibit D: Lobbying Certificate (signature required)
- Exhibit E: Nondiscrimination Certificate
- Exhibit F: Reporting Requirements

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

CLACKAMAS COUNTY

Signature

Julie Wilcke Pilmer
Printed Name

Chief Executive Officer
Title

Date

- Commissioner: Tootie Smith, Chair
- Commissioner: Sonya Fischer
- Commissioner: Mark Shull
- Commissioner: Paul Savas
- Commissioner: Martha Schrader

Signing on Behalf of the Board:

By: _____
Richard Swift, Director
Health, Housing, and Human Services Dept.

Approved to Form:

By: Approved via email by K. Rastetter
County Counsel

Dated: 12/14/2020

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Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements (“Certifications and Assurances”) and Federal Transit Administration Master Agreement (“Master Agreement”)

Provider and Provider’s Subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/fta-fiscal-year-2019-certifications-and->. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Provider must submit to Ride Connection on or before July 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing the form available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>, completing the form and sending it to Ride Connection.

Provider shall comply with the following provisions and require in its subagreements that the subcontractors comply with all applicable requirements included in the Master Agreement that is signed and attested to by State as if the subcontractors were Provider.

Provider agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at <http://fta.dot.gov/documents/21-Master.pdf>.

Special Federal Terms and Conditions

1. No Government Obligation to Third Parties

Ride Connection and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to Ride Connection, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. Program Fraud and False or Fraudulent Statement and Related Acts

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986 as amended, 31 U.S.C 3801 et seq. And U.S. DOT regulations, “Program Fraud civil Remedies,” 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the

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contract, the Contractor certifies or affirms the truthfulness of any statement it has made, it makes, or causes to be made, that pertains to this contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. Audit and Inspection of Records

- A. Contractor shall maintain a complete set of records relating to this contract, in accordance with generally accepted accounting procedures. Contractor shall permit the authorized representatives of Ride Connection, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all work, materials, payrolls, books, accounts, and other data and records of Contractor relating to its performance under this contract until the expiration of three (3) years after final payment under this contract.
- B. Contractor further agrees to include in all of its subcontracts under this contract a provision to the effect that the subcontractor agrees that Ride Connection, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and other records of the subcontractor. The term "subcontract" as used in this Paragraph excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.
- C. The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Contractor, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals, and exceptions have been resolved.

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4. Right to Inventions(04/16)

If the contract meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5. Federal Changes (10/16)

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

6. Equal Employment and Civil Rights (04/16)

A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

B. Equal Employment Opportunity - Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" must include the specifications set forth in §60-4.3, in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The following equal employment opportunity requirements apply to the underlying contract:

- 1) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees

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to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- 2) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - 3) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- C. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

7. Incorporation of Federal Transit Administration Terms

The preceding provisions include, in part, certain standard terms and conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Ride Connection requests which would cause Ride Connection to be in violation of the FTA terms and conditions.

8. Disadvantaged Business Enterprise (II/14)

- A. Policy. Ride Connection participates in a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Ride Connection has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Ride Connection has signed an assurance that it will comply with 49 CFR Part 26. It is the policy of Ride Connection to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts.
- B. Contractor and Subcontractor Obligation. Contractor and/or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this

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contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the 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 the recipient deems appropriate, which may include, but is not limited to:

- i. Withholding monthly progress payments;
- ii. Assessing sanctions;
- iii. Liquidated damages; and/or
- iv. Disqualifying the contractor from future bidding as non-responsible.

Any subcontracts or subagreements entered into pursuant to this agreement must include this assurance.

9. Debarment and Suspension (04/16)

The certification in this clause is a material representation of fact relied upon by Ride Connection. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Ride Connection, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions. A contract (or subcontract) award must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM) in accordance with OMB guidelines at 2 CFR 180.

10. Solid Waste Disposal Act (10/16)

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11. Procurement of Recovered Materials (04/16)

Ride Connection and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal

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year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

12. Recycled Products

The contractor agrees to comply with all the requirements of section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247

13. Byrd Anti-Lobbying Amendment (10/16)

Contractor shall not use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, the contractor agrees to comply with the following:

1. Laws, Regulations, Requirements, and Guidance. This includes:
 - a) The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended,
 - b) U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended, and
 - c) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature, and
2. Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.

A. Definitions. As used in this clause,

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (1) The awarding of any Federal contract;
- (2) The making of any Federal grant;
- (3) The making of any Federal loan;
- (4) The entering into of any cooperative agreement; and
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan. "Indian tribe" and "tribal

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organization" have the meaning provided in section 4 of the Indian self-determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before 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 any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, U.S. Code, including a position under a temporary appointment;
- (2) A member of the uniformed services as defined in section 101(3), title 37, U.S. Code;
- (3) A special Government employee as defined in section 202, title 18, U.S. Code; and,
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, U.S. Code appendix 2.

"Person" means an individual, corporation, company association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector. "Recipient" includes all contractors and subcontractors at any tier in connection with a Federal contract. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the

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date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

B. Prohibition

(1) Section 1352 of title 31, U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: 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) The prohibition does not apply as follows:

(i) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(b) For purposes of paragraph B (2) (i) (a) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.

(c) For purposes of paragraph B (2) (i) (a) of this section the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) For purposes of paragraph B (2) (i) (a) of this section, the following

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agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

- (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
 - (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,
 - (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
- (e) Only those activities expressly authorized by paragraph B (2) (i) of this section are allowable under paragraph B (2) (i).
- (ii) Professional and technical services by Own Employees.
- (a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.
 - (b) For purposes of paragraph B (2) (ii) (a) of this section, "professional and technical services" shall be limited advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under

EXHIBIT B

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this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by paragraph B (2) (ii) of this section are allowable under paragraph B (2) (ii).

(iii) Reporting for Own Employees.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(iv) Professional and technical services by Other than Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.

(b) For purposes of paragraph B (2) (iv) (a) of this section, "professional and technical services" shall be limited advice and analysis directly applying to any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under

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this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (d) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
- (e) Only those services expressly authorized by paragraph B (2) (iv) of this section are allowable under paragraph B (2) (iv).

C. Disclosure

- (1) Each person who requests or receives from an agency a Federal contract shall file with that agency a certification, set forth in this document, that the person has not made, and will not make, any payment prohibited by paragraph (b) of this clause.
- (2) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, Standard Form-LLL, "Disclosure of Lobbying Activities," if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (b) of this clause if paid for with appropriated funds.
- (3) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph C (2) of this section. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - (b) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
 - (c) A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered Federal action.
- (4) Any person who requests or receives from a person referred to in paragraph (C) (1) of this section a subcontract exceeding \$100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraph C (1) of this section. That person shall forward all disclosure forms to the agency.

EXHIBIT B

Clackamas County Social Services
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D. Agreement

In accepting any contract resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

E. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph B of this clause shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- (2) Any person who fails to file or amend the disclosure form to be filed or amended if required by this clause, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (3) Contractors may rely without liability on the representations made by their subcontractors in the certification and disclosure form.

F. Cost Allowability

Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

14. Dispute Resolution and Remedies

14.1 Disputes

Should any dispute arise between the parties concerning this agreement that is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this agreement agree to participate in good faith in a non-binding mediation process. The mediation shall take place in Portland, Oregon. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. The mediator's fees and costs shall be borne equally by the parties.

14.2 Performance During Dispute

Unless otherwise directed by Ride Connection, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

14.3 Remedies

All claims, counterclaims, disputes and other matters in question between TriMet and the Contractor arising out of or relating to this agreement or its breach will be decided by mediation if the parties mutually agree, or in a court of competent jurisdiction within the State of Oregon in which Ride Connection is located.

14.4 Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies

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available there under shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. In the event that Ride Connection or Contractor fail to act, such failure shall not constitute a waiver of any right or obligation afforded to either party under the Contractor or by law, nor shall any such action or failure to act constitute an approval of or acceptance of any breach there under, except as may be specifically agreed in writing by both parties.

15. Clean Water Requirements (04/16)

If the total value of this contract exceeds \$150,000:

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401-7671q). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). The Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

16. Clean Water Requirements (04/16)

If the total value of this contract exceeds \$150,000:

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401-7671q). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). The Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

17. Environmental Violations

For all contracts and subcontracts in excess of \$100,000.00, Contractor agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857(h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11378, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibit the use under nonexempt Federal contracts, grants, or loans, of facilities included on the EPA List for Violating Facilities. Contractor shall report violations to FTA and to the USEPA Assistant Administrator for Enforcement (ENO329).

18. Energy Conservation

The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC section 6321, et seq.).

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19. Privacy Act

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- (2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

20. Contract Work Hours and Safety Standards Act (04/16)

For contracts over \$100,000 involving mechanics or laborers. Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- A. Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

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- C. Withholding for unpaid wages and liquidated damages - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

21. Drug-Free Workplace

Contractor shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace:

- (1) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing services to the DHS Clients. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions;
- (2) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations;
- (3) Provide each employee to be engaged in the performance of Work under this Contract a copy of the statement mentioned in paragraph (1) above;
- (4) Notify each employee in the statement required by paragraph (1) that, as a condition of employment to perform Work under this Contract, 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;
- (5) Notify Ride Connection within ten (10) days after receiving notice under subparagraph (4) from an employee or otherwise receiving actual notice of such conviction;
- (6) 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;
- (7) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (1) through (6);
- (8) Require any subcontractor to comply with subparagraphs (1) through (7); and

EXHIBIT B

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- (9) Neither Contractor, nor any of Contractor's employees, officers, agents or subcontractors may perform any Work required under this Contract while under the influence of drugs.

For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to the 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; Violation of any provision of this subsection may result in termination of the Contract.

22. HIPAA Compliance

If the Services provided under this Contract are covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Contractor agrees to deliver the Services in compliance with HIPAA to the extent applicable.

23. Pro-Children Act

Contractor shall comply and require anyone engaged in the performance of Work under this Contract to comply with the Pro-Children Act of 1994 (codified at 20 USC section 6081 et. Seq.).

24. Cargo Preference - Reserved

25. Fly America - Reserved

26. Davis-Bacon and Copeland Anti-Kickback Acts - Reserved

27. Seismic Safety - Reserved

28. Veterans Preference (04/16) - Reserved

29. Charter Service Operations (05/17)

The Contractor agrees to comply with applicable transit employee protective requirements as follows:

- a) General Transit Employee Protective Requirements – To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 USC A 5333(b), and U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the

EXHIBIT B

Clackamas County Social Services

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U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection, however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

- b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. §5310(a)(2) for Elderly Individuals and Individuals with Disabilities – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310 (a)(2),n and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body sub-recipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. §5333(b), U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.
- c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. §5311 in Non-urbanized Areas – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

The Contractor also agrees to include the applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

30. Charter Service Operations (05/17)

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and sub-recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

31. School Bus Operations (05/17)

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified

EXHIBIT B

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under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub-recipients may not use federally funded equipment, vehicles, or facilities.

32. Buy America (03/06) - Reserved
33. Patent and rights in Data (05/17) - Reserved

END OF EXHIBIT B

EXHIBIT A

Clackamas County Social Services
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SCOPE OF WORK

July 1, 2020

The goods and/or services to be provided by Clackamas County include, but are not limited to the following:

A Participate in Cost Savings Activities:

Clackamas County agrees to participate in coordination activities with Ride Connection and other transportation providers Ride Connection contracts with to provide transportation services ("Service Partners") in the network to meet the demand for service in a cost effective manner.

B Coordinate Customer Information, Referral, and Trip Scheduling Activities with the Ride Connection Service Center:

Service partners, who utilize the Ride Connection Service Center to coordinate trips, recognize that this service is currently being funded by dollars outside of this contract. Service Partners agree to work with Ride Connection to investigate opportunities and create solutions to recoup costs accrued for the service performed. Not currently applicable to the Clackamas County programs.

C Establish and Maintain Customer Confidentiality:

Service Partners agree to maintain the confidentiality of all customer records exchanged with Ride Connection or accessed through Ride Connection coordination, scheduling and dispatch software. In the process of providing service, Service Partners agree to provide only the customer information that is necessary in order for the driver to provide the appropriate level of service for the trip being provided.

D Maintain a sufficient number of qualified, approved paid and volunteer drivers and concierge and administrative hours to meet project goals.

E Recruit volunteer drivers to drive Ride Connection vehicles, or who are willing to provide proof of coverage if driving their own vehicles and who will meet the criteria necessary to allow them to drive for a Ride Connection program.

F Participate with Ride Connection, TriMet and other partners in the development of local, regional and agency specific service plans. Help recruit customers to actively participate in planning processes and service design.

G Coordinate outreach activities with Ride Connection. Perform marketing and outreach to community points that are key destinations for older adults and people with disabilities. Participate in Ride Connection sponsored events.

H Increase transportation options available to TriMet ADA eligible individuals who, because of their mobility impairment, geographic barriers, or trip destination, may be difficult for LIFT to serve or may require more personalized attention.

I Establish transportation options, for older adults or people with disabilities, in the community at large that encourage group trips to common community destinations such as shopping, recreation, senior centers, and nutrition sites.

EXHIBIT A

Clackamas County Social Services

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- J Encourage older adults and people with disabilities to become aware of and connect with available transportation and community-based services as an alternative to LIFT ADA paratransit services for some or all of their trips.
- K Provide Ride Connection with back up documentation for billing line items upon request.
- L Orient drivers to the agency's transportation program and ensure they comply with required training and are aware of other specialized training opportunities available through Ride Connection to maintain safety of operations.
- M Attend regular coordination and training meetings to be conducted by Ride Connection.
- N Allow TriMet, or Ride Connection representatives to contact a random sample of clients for monitoring and service verification purposes. Clients will be contacted by mail or phone. Agencies will be given a copy of the questionnaire in advance of mailing.
- O Notify Ride Connection as soon as possible of unusual conditions that will affect the delivery of services.
- P Implement Ride Connection's client donation policy to seek rider donations comparable to the TriMet LIFT fare, when appropriate.
- Q Cooperate in the mutually agreed upon submission of requests for additional public or private funds for program expansion and enhancement.
- R Cooperate in transportation coordination efforts with other organizations such as churches, schools, businesses, and transportation providers.
- S Implement customer feedback (i.e. complaint, compliment) procedures for individuals using community-based transportation.
- T Provide service throughout the contract term.

Funding Source Definitions and Restrictions

TriMet

TriMet funding is a local funding source contributed by the Tri-County Metropolitan Transit District. This funding may be used for program operations that involve volunteers. TriMet funding cannot be applied to paid driver operations.

FTA 5310

Federal Transit Administration 5310 funding is a Federal funding source. This funding may be used for program operations that involve volunteers. TriMet funding cannot be applied to paid driver operations.

Project Funding, Duration and Performance Goals

Contractor will report all rides, including those paid for with Agency Other money, to Ride Connection.

EXHIBIT A

Clackamas County Social Services
Contract No. 18893

Project	Agency	Performance Goal	Funding Source	Grant Amount
Ride Together	Clackamas County Social Services	3000 miles/month and 150 rides/month	TriMet General or FTA 5310	\$2,938
Totals:				\$2,938

Project Service Areas

Project	Service Area
Ride Together	Clackamas County (In TriMet District Only)

Project Service Days and Times

Project	Service Day(s)	Service Hours
Ride Together	All days	All hours

Project Customer Attributes and Levels of Service

Project	Customer Attributes	Level of Service
Ride Together	Over 65 and People with Disabilities	Door to Door, Door through Door

EXHIBIT C

Clackamas County Social Services
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PASS-THROUGH FUNDING INFORMATION FOR SUBRECIPIENTS

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) 2 CFR 200.

This agreement is financed by the funding source indicated below:

Assistance Listings Program or Title: *Enhanced Mobility of Seniors with Disabilities Program (49 U.S.C 5310)*

Assistance Listings Number and Name: *20.513 (5310)*

Federal Award Identification Number (FAIN): *OR-2020-060*

Subrecipient DUNS Number: *96992656*

Expected Federal Funding: *\$2,938*

Approved Indirect Cost Rate: *0%*

Federal Award Date: *9/18/2020*

Award R&D? (Yes/No): *No*

Subaward Period of Performance (Start and End Dates): *7/1/2020 - 6/30/2021*

Federal Funding Agency (or other pass-through agency if different):

TriMet
Budgets and Grants
1800 SW 1st Avenue
Portland, OR 97210

U.S. Department of Transportation
Federal Transit Administration
1200 New Jersey Ave, SE
4th & 5th Floors - East Building
Washington, DC 20590

U.S. Department of Transportation
Federal Transit Administration
Region X Suite 3142
Federal Building
915 Second Avenue
Seattle, WA 98174

EXHIBIT C

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Federal laws, regulations, or circulars that are expressly applicable to the funding source and project (but not limited to):

- A. Master Agreement (49 U.S.C. Chapter 53 and Title 23) – The FTA Master Agreement contains the standard terms and conditions that apply to the Underlying Agreement.
- B. Grant Management Requirements (Circular 5010.1E) – These requirements are intended to assist recipients in administering FTA-funded projects and in meeting reward responsibilities and reporting requirements. Recipients have a responsibility to comply with regulatory requirements and to be aware of all pertinent material to assist in the management of all federally assisted rewards.
- C. *Enhanced Mobility of Seniors and Individuals with Disabilities Grant Program (Circular 5010.1G) – This circular issues guidance on the administration of the Enhanced Mobility of Seniors and Individuals with Disabilities Program under 49 U.S.C. 5310.*
- D. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Title 2 – Grants and Agreements; Subtitle A – Office of Management and Budget Guidance for Grants and Agreements; Chapter II – Office of Management and Budget Guidance; Part 200). Establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities and establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are designed that Federal awards bear their fair share of costs.

EXHIBIT D

Clackamas County Social Services

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LOBBYING CERTIFICATE

The undersigned 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 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.

(2) 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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) **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 sub-recipients 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. 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.

Clackamas County Social Services.

Signature: _____

Name: (print) Richard Swift

Title: Director, Health, Housing & Human Services Dept.

Date: _____

NOTE: CONTRACTORS ARE REQUIRED, PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBRECIPIENT BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

EXHIBIT E

Clackamas County Social Services
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NONDISCRIMINATION CERTIFICATE

Subrecipient certifies compliance with the following nondiscrimination requirements:

Nondiscrimination

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Subrecipient assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Subrecipient receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Subrecipient retains ownership or possession of the project property, whichever is longer, the Subrecipient assures that:

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Subrecipient assures that it will submit the required information pertaining to its compliance with these provisions.
- (3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any Subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
- (4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which

EXHIBIT E

Clackamas County Social Services
Contract# 18893

the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

- (5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.
- (6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

Subrecipient acknowledges that it is subject to the requirements of FTA Circular 4702.1A "*Title VI and Title VI-Dependent Guidelines for FTA Recipients*" as a Subrecipient of federal funds under this Agreement. Further, Subrecipient shall provide Title VI compliance information and measures as may be determined by Ride Connection pursuant to the Circular.

Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Subrecipient assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Subrecipient assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

DBE

Subrecipient will comply with the applicable provisions of 49 CFR Part 26 related to Disadvantaged Business Enterprises and report quarterly to TriMet. This Agreement includes the following assurance by Subrecipient, and each contract Subrecipient signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contract, Subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FTA-assisted contracts. Failure by the 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 Ride Connection deems appropriate.

EXHIBIT F

Clackamas County Social Services
Contract# 18893

Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the 20th of each month.

Reports:

- Service Summary Reports
 - Trip Data
 - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to the Service Data Specialist:

Fax (503) 528-1755

partner_reporting@rideconnection.org

January 7, 2021

Board of County Commissioner
 Clackamas County

Members of the Board:

Approval of Agreement #18896 with
 Ride Connection, Inc. to Provide Funding for Rides Provided by
Volunteer Drivers under the Vets Drive Vets Program

Purpose/Outcomes	Social Services-Transportation Reaching People and Senior Center based transportation services to assist older and disabled county residents in meeting their transportation needs to conduct their personal business, grocery shop, medical and/or other appointments.
Dollar Amount and Fiscal Impact	Agreement Amount \$5,047. The contract is funded through the agreements with State of Oregon, Elderly and Disabled Transportation Fund – Federal Transit Administration 5310 Grant.
Funding Source	Federal Transit Administration 5310 Grant. No County General Funds are involved
Duration	Effective July 1, 2020 and terminates on June 30, 2021
Previous Board Action	None
Strategic Plan Alignment	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.
Counsel Review	County Counsel reviewed and approved the agreement on 12/14/20
Procurement Review	1. Was this processed through Procurement? No 2. In no, provide brief explanation: This is a Revenue Grant agreement. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	10005

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services request approval of Agreement #18896 with Ride Connection, Inc. This contract provides funding for rides provided throughout the County by volunteer drivers of the Clackamas County Transportation Consortium. This Agreement provides continued funding for the 20-2021 to pay a mileage reimbursement stipend to volunteer drivers of the Vets Driving Vets program for transportation services they provide to Clackamas County seniors and persons with disabilities. These funds help residents to remain independent and engaged in their community as long as possible.

Any disabled adult or person over the age of 60 living in Clackamas has access to transportation services through either their local Adult/Senior Community Centers or the Social Services Transportation Reaching People (TRP) program. The Vets Driving Vets program provide an additional flexible resource to these residents. Someone in need of transportation services who has a friend or

neighbor who is willing to meet some of their transportation needs, and both rider and driver are veterans, can register with the Social Services TRP program. After completing a background check and training, the driver can be reimbursed for approved mileage. These volunteer drivers undergo the same screening and receive the same training as all the other Clackamas County Transportation Consortium volunteer and paid drivers.

This agreement is late due to Ride Connection not being able to release agreements to its sub-recipients until TriMet released their agreement and approved the Subrecipient agreements issued by Ride Connection. This resulted in the delay of Ride Connection sending out its agreements for FY20/21. County Council reviewed and approved this agreement on 12/14/20. No County General Funds are involved.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, H3S Deputy / For

Richard Swift, Director
Health, Housing and Human Services

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #: 10005	Division: SS	<input type="checkbox"/> Subrecipient
Board Order #:	Contact: Reid, Stefanie	<input checked="" type="checkbox"/> Revenue
	Program Contact: Reid, Stefanie	<input type="checkbox"/> Amend # \$
		<input type="checkbox"/> Procurement Verified
		<input type="checkbox"/> Aggregate Total Verified

Non BCC Item BCC Agenda **Date:** Thursday, January 7, 2021

CONTRACT WITH: 20-21 Ride Connection, Inc.(VDV) Agree#18896

CONTRACT AMOUNT: \$5,047.00

TYPE OF CONTRACT

<input type="checkbox"/> Agency Service Contract	<input type="checkbox"/> Memo of Understanding/Agreement
<input type="checkbox"/> Construction Agreement	<input type="checkbox"/> Professional, Technical & Personal Services
<input type="checkbox"/> Intergovernmental Agreement	<input type="checkbox"/> Property/Rental/Lease
<input checked="" type="checkbox"/> Interagency Services Agreement	<input type="checkbox"/> One Off

DATE RANGE

<input type="checkbox"/> Full Fiscal Year _____ - _____	<input type="checkbox"/> 4 or 5 Year _____ - _____
<input type="checkbox"/> Upon Signature _____ - _____	<input type="checkbox"/> Biennium _____ - _____
<input type="checkbox"/> Other _____ - _____	<input checked="" type="checkbox"/> Retroactive Request? 7/1/2020 - 6/30/2021

INSURANCE What insurance language is required?

Checked Off N/A

Commercial General Liability: Yes No, not applicable No, waived
If no, explain why: _____

Business Automobile Liability: Yes No, not applicable No, waived
If no, explain why: _____

Professional Liability: Yes No, not applicable No, waived
If no, explain why: _____

Approved by Risk Mgr _____
Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?

No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)

If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Rastetter, Kathleen Date Approved: Monday, December 14, 2020
OR
 This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE: _____
Date: _____

H3S Admin Only	Date Received: _____ Date Signed: _____ Date Sent: _____
-----------------------	--

AGREEMENTS/CONTRACTS

X	New Agreement/Contract
	Amendment/Change Order Original Number

ORIGINATING COUNTY

DEPARTMENT: Health, Housing Human Services
Social Services

PURCHASING FOR: Contracted Services

OTHER PARTY TO

CONTRACT/AGREEMENT: 20-21 Ride Connection, Inc.(VDV) Agree#18896

BOARD AGENDA ITEM

NUMBER/DATE: _____

DATE: 1/7/2021

PURPOSE OF

CONTRACT/AGREEMENT:

Ongoing Federal FTA 5310 funding for the volunteer driver Veterans Driving Veterans project.

H3S CONTRACT NUMBER: 10005

SERVICES AGREEMENT #18896
BETWEEN
Ride Connection and Clackamas County Social Services

PARTIES:

1. Ride Connection, Inc. ("Ride Connection" or "Recipient"), and
2. Clackamas County Social Services ("Subrecipient")

RECITALS:

1. In the reauthorization of the Transportation Bill (MAP-21) signed into law on July 6, 2012, federal funding was established for programs that meet the transportation needs of older adults and people with disabilities when the transportation service provided is unavailable, insufficient, or inappropriate to meeting these needs.
2. Pursuant to federal requirements, a selection process has been conducted and Subrecipient was selected for a project through this process.
3. Ride Connection and Subrecipient enter into this Subrecipient Agreement (the "Agreement") for the purpose of procuring Subrecipient's services, for which payment in part shall be from 5310 Funds.

AGREEMENTS:

1. General

- A. Scope of Agreement - This Agreement contains the terms and conditions that governs all services, and deliverables, (the "Services") to be performed by Subrecipient during the Term of this Agreement, which shall be amended as needed for one or more projects. However, execution of this Agreement does not obligate Ride Connection to award any Services to Subrecipient, other than the initial scope of Services attached in Exhibit A.
 - (1) This Agreement consists of this document, all Exhibits or other attachments, and other documents referenced herein and incorporated by this reference. Subrecipient shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (a) the terms and conditions applicable to a "Recipient" set forth in the Prime Contract; (b) OMB Circular 2 CFR 200 (c) FTA Master Agreement, (d) Annual Certifications and Assurances, and (e) FTA C 9070.1G.
 - (2) Subrecipient agrees to comply with all Subrecipient monitoring policies, procedures, and other requirements that may be established by Ride Connection, including but not limited to Title VI compliance and the Ride Connection Operation Manual for Transportation Managers (<https://rideconnection.org/partner>).

- B. Scope of Services and Changes - Subrecipient agrees that it is under a continuing obligation to comply with the foregoing requirements, as they be modified or amended from time to time. Subrecipient further agrees to execute the funded activities described in Exhibit A, in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between TriMet and Ride Connection or pass-through obligations affecting Subrecipient's scope of Services, and is hereby amended to incorporate those changes. In the event any change to the Services as requested by Ride Connection results in a material increase or decrease in the Services, then an equitable adjustment in the total compensation owed to Subrecipient by Ride Connection shall be determined by Ride Connection and subsequent payments adjusted accordingly. Similarly, if any change to the Services results in a material change to the project schedule, it shall also be accordingly determined and adjusted by Ride Connection after consultation with Subrecipient.
- C. Schedule - Subrecipient and Ride Connection agree that time is of the essence for all activities comprising the Services under this Agreement.
- D. Audit Right - Subrecipient agrees that Ride Connection rights of audit and review under Paragraph 2 of this Agreement specifically include Subrecipient's financial records, management and program systems, and any associated records. Subrecipient shall comply with any monitoring and audit requirements established by Ride Connection pertaining to this Agreement.
- E. Subcontracts - Subrecipient shall not enter into subcontracts for performance of Services under this Agreement except as may be specifically authorized by this Agreement in the attached and incorporated Exhibit A. Subrecipient shall not be relieved of any responsibility for performance of Subrecipient's duties under this Agreement, regardless of any subcontract entered into. Subrecipient agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement including FTA third-party agreement contract provisions and requirements, as may be amended, and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier. Any delay or defect in the performance of any part of Subrecipient's Services shall not relieve Subrecipient of its primary obligation under this Agreement to ensure timely and satisfactory performance of all the Services. Any subcontractor delay or defect in performance under this Agreement shall be subject to the indemnification provisions of Section 7. Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31, apply to its actions pertaining to the Services under this Agreement. Upon execution of this Agreement, Subrecipient certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement. In addition to other penalties that may be applicable, Subrecipient acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the Federal Government deems appropriate.
- (1) Subrecipient also acknowledges that if it makes, or causes to be made a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal

Government under an Agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. Chapter 53 or any other Federal law, the Government reserves the rights to impose penalties of 18 U.S.C. 1001 and 49 U.S.C 5323(1) on Subrecipient, to the extent the Federal Government deems appropriate.

- (2) Subrecipient agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.
- F. Drug-Free Workplace Agreement - Contractor is required to verify that Contractor, its principals, and affiliates will maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (source: 49 CFR § 32.635).

2. Inspection of Records and Services

- A. Recordkeeping Term - Subrecipient shall maintain intact and readily accessible a complete set of records relating to this Agreement for six (6) years after the date of transmission of the final expenditure report for the Project or if expiration is later, upon expiration of the Agreement, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal government, TriMet or Ride Connection may require. Subrecipient shall permit Ride Connection, TriMet, or the Secretary of State of the State of Oregon, the U.S. Department of Transportation, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, Services, materials, payrolls, books, accounts, and other data and records of Subrecipient relating to its performance under this Agreement until the expiration of six (6) years after the date of transmission of the final expenditure report for the Project or expiration of the Agreement, if expiration is later. Upon request by Ride Connection, Subrecipient shall provide Ride Connection access to records maintained by Subrecipient under this Agreement.
- B. Annual Self-Audit - Subrecipient shall follow the requirements stated in the Single Audit Act, 31 U.S.C. 7501 et seq. If Subrecipient expends Federal funds in excess of \$750,000 from all sources in its fiscal year, Subrecipient is subject to audit conducted in accordance with OMB Circular 2 CFR 200, Audits of States, Local governments, Non-profit Institutions. Subrecipient shall, at Subrecipient's own expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, an annual audit covering the funds expended under this Agreement and shall submit the annual audit of any subcontractor of Subrecipient responsible for the financial management of funds received under this Agreement. Subrecipient shall at Subrecipient's expense, submit to Ride Connection, 9955 NE Glisan St, Portland, OR 97220, a copy of any annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement that is performed due to state law or regulation or conducted as an independent activity. Subrecipient shall also at its expense, submit to Ride Connection at the foregoing address, a copy of the management letter that accompanies an

annual audit covering the funds expended under this Agreement by Subrecipient or any subcontractor of Subrecipient receiving funds as a result of this Agreement.

- C. Audit Passthrough to Subcontractors - Subrecipient further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant Ride Connection, TriMet, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their authorized representatives access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of six (6) years (three years for federal retention requirements and an additional three years for state retention requirements) after final payment under the contract or expiration of the contract if expiration is later. The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Subrecipient, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals and exceptions have been resolved. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. Subrecipient agrees to include in any third party contract under this Agreement a provision to this effect.

3. Reporting Requirements

- A. Monthly reports shall be due on the 20th day after the end of the preceding month.
- B. Reports shall include complete information required by FTA Circular 5010.1C, Chapter 1, Section (5) Reporting Requirements, particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. Ride Connection may require additional reporting information from the Subrecipient.

4. Compensation

- A. Agreed Price - The maximum funding to be disbursed to Subrecipient under this Agreement is **\$5,047**. Ride Connection shall pay Subrecipient for full, complete, and satisfactory performance of the Services, upon Ride Connection's receipt of payment from TriMet for Subrecipient's Services, at the price and/or rates mutually agreed by the parties under this Agreement for the applicable project. No other costs, rates, or fees shall be payable to the Subrecipient. Except as set forth in this Agreement, Subrecipient shall bear sole responsibility for all additional expenses incurred in connection with its performance of the Services.
- B. Payment Terms - Subrecipient shall submit to Ride Connection monthly invoices and any other documentation requested by Ride Connection for payment at such times as will enable Ride Connection to apply for payment from TriMet in a timely manner. When required by Ride Connection, and as a condition precedent to any payment, and particularly final payment, Subrecipient shall provide, in a form satisfactory to Ride Connection, lien

releases, claim waivers, and affidavits of payment from Subrecipient, and its lower-tier subcontractors and suppliers of any tier, for any portion of Subrecipient's Services.

- C. Withholding - Ride Connection may withhold payment of funds or offset future payments against funds already paid to Subrecipient if the funds are not being used in accordance with this Agreement, all required reporting has not been submitted, or there are any unresolved audit findings relating to the Subrecipient's performance, subject to the dispute resolution process in section 18. Subrecipient shall assure that funds allocated hereunder are used only for the purposes permitted, and shall, upon breach of conditions that require Ride Connection to reimburse funds to TriMet, hold harmless and indemnify Ride Connection for an amount equal to the funds required to be repaid or withheld. In the event a creditor imposes any lien or claim for labor, fringe benefits, taxes, supplies, materials, equipment rental or other charges against the Services covered by this Agreement, thereby legally encumbering the Services, the amount of such obligation may be deducted by Ride Connection from any payment or payments, including retainage, made under this Agreement.
- D. Subrecipient will use the indirect rate of **0%** to recover costs that are not directly traceable to a particular project/program. This rate applies to all activities referenced in Exhibit A. Indirect cost rate should be applied to Modified Total Direct Costs (MTDC) after subtracting any donations received. MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participants support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs.

If the Subrecipient chooses to develop an indirect cost proposal to support a rate higher than the indirect rate in the future, it must be approved. Ride Connection will review the proposal to ensure compliance with Uniform Guidance requirements and negotiate with the Subrecipient if Federal requirements allow for a higher rate.

5. Independent Contractor

Subrecipient is an independent contractor for all purposes under this Agreement, and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to workers compensation, unemployment taxes and state and federal income tax withholdings. Subrecipient shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither Subrecipient, nor its officers, directors, employees, subcontractors or drivers, are officers, employees or agents of Ride Connection as those terms are used in ORS 30.265. Subrecipient, its directors, officers, employees, subcontractors or drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of Ride Connection for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

6. Confidential Information

Subrecipient agrees to hold Confidential Information in strict confidence, using at least the same

degree of care that Subrecipient uses in maintaining the confidentiality of its own confidential information, but no less stringent as reasonable care, and shall not, without the disclosing entity's prior written consent, 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 purposes whatsoever, other than the provision of Services hereunder. Subrecipient shall advise Ride Connection immediately if Subrecipient learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Section, and Subrecipient shall, at its expense, cooperate with Ride Connection in seeking injunctive or other equitable relief against any such person.

7. Indemnification

- A. Indemnified Conditions – To the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, Subrecipient agrees to fully indemnify, defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the “Indemnitees”) from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of Subrecipient, its officers, employees or agents under this Agreement, to the fullest extent permitted by law, including but not limited to the following:
- (i) Bodily injury or death to any person;
 - (ii) Property damage to any personal or real property owned by anyone;
 - (iii) Failure to comply with any health and safety, corporate or administrative ordinances, regulations, orders, permits, licenses, and laws;
 - (iv) Infringement of any intellectual property or other third party rights;
 - (v) Discharge or causing the discharge of any hazardous or polluting substance; and
 - (vi) Liens, claims, demands, or suits of whatever nature brought by Subrecipient's laborers, subcontractors, material and equipment providers, or other creditors to enforce a right of any kind made upon or against the Services or the real property where the Services are performed.
- B. Indemnity by Subcontractors - Subrecipient agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend, and hold harmless the State of Oregon, TriMet, Ride Connection and their directors, officers, employees and agents (the “Indemnitees”) from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between Subrecipient and such subcontractor procured pursuant to this Agreement.
- C. Indemnitee Consent - Subrecipient shall not defend any claim in the name of the State of Oregon, any Agency of the State of Oregon, TriMet, or Ride Connection, not purport to act as legal representative of same, without the prior written consent of the Oregon Attorney General, TriMet, or Ride Connection.
- D. Limitation on Indemnification - Subrecipient's indemnification above shall not include any

liability to the extent caused by or resulting from the concurrent negligence of any Indemnitees. Any legal limitations now or hereafter in effect affecting the validity or enforceability of the indemnity, defense and hold harmless obligations assumed by Subrecipient pursuant to this Agreement shall operate to amend the Subrecipient's obligations only to the minimum extent necessary for the indemnity, defense and hold harmless contractual provision to conform with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect.

- E. No Consequential Damages – Neither Ride Connection nor any of its officers, employees, directors, and agents shall have any liability to Subrecipient regardless of the theory of recovery, including breach of contract or negligence, to the other party for any indirect, incidental, special, or consequential damages, including but not limited to loss of revenue or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss. However, Subrecipient's obligations under this Agreement are conditioned on receiving the funds from Ride Connection.

8. Workers Compensation

Subrecipient, its subcontractors, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or employers that are exempt under ORS 656.126(2). Subrecipient expressly waives any statutory or common law immunity, in accordance with the Oregon Revised Statutes, Vol. 14, Section 656, Revised Code of Washington, Title 51, as amended, or any other applicable laws or regulations that would otherwise shield an employer from insurance subrogation or other claims.

9. Insurance

- A. While this Agreement is in effect, Subrecipient agrees that it shall maintain in effect the insurance coverage set forth below, as well as to require any subcontractors it uses to agree to comply with the insurance requirements provided below. Failure of Ride Connection to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Ride Connection to identify a deficiency from evidence that is provided shall not be construed as a waiver of Subrecipient's obligation to require such insurance from its subcontractors.

Clackamas County is self-insured for workers' compensation, and general, auto and professional liability, in accordance with the provisions of ORS 30.272 (Tort Claims Act) and ORS 656.403 (Workers' Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which it is self-insured. The County's exposure for general, auto and professional liability is limited by ORS 30.272 to: \$126,200/\$630,800 property damage and \$1,538,000 total damages per occurrence.

- B. Subrecipient's subcontractors, if any, shall be responsible for payment of all respective premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below, and shall be from carriers acceptable to Ride Connection:
 - 1) Commercial General Liability (CGL) Insurance covering bodily injury and property damage with a limit of not less than \$2,000,000 each occurrence.

- 2) Business Auto Liability Insurance covering bodily injury and property damage with a limit of not less than \$2,000,000 each accident. Such insurance shall cover liability arising out of the use of any auto (including owned, hired, and non-owned autos).
- 3) Workers Compensation and Employer's Liability Insurance. The employer's liability limit shall not be less than \$1,000,000 each accident for bodily injury by an accident and \$1,000,000 each employee for bodily injury by disease. The workers compensation limit shall be equivalent to or better than the Oregon statutory limits.
- 4) Sexual Abuse/Molestation coverage with limits no less than \$500,000 per occurrence/aggregate.
- 5) Tail Coverage, if any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the subcontractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the sub agreement for subcontractors, for a minimum of 24 months following the later of: (i) the Subrecipient's completion and TriMet's acceptance of all services required under this Agreement, and the subcontractors completion and Subrecipient's acceptance of all services required under the sub agreement or, (ii) the expiration of all warranty periods provided under the sub agreement with respect to the subcontractor. Notwithstanding the foregoing 24-month requirement, if the subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the subcontractor may request and TriMet may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If TriMet approval is granted, the subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
- 6) The insurance required under this Paragraph shall:
 - a) Include Ride Connection, TriMet, the State of Oregon, the Federal Transit Administration, and each of their respective directors, officers, agents, elected officials, and employees as additional insureds with respect to work or operations connected with the Agreement, and
 - b) The Subrecipient or its insurer must provide 30 days' written notice to Ride Connection before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

10. Claims, Notice

- A. Notice Period - Subrecipient shall provide written notice of any claim under this Agreement to Ride Connection within five (5) business days of the circumstances giving rise to the claim or within sufficient time to allow Ride Connection to give notice to TriMet pursuant to the Prime Contract (whichever is sooner).
- B. Notice Content - Any claim by Subrecipient must set forth in detail the entitlement and quantum basis for Subrecipient's claim with supporting data and/or the entitlement basis to Ride Connection.
- C. Requirement to Continue Services - Whether or not Subrecipient has a claim pending with

Ride Connection, Subrecipient shall continue performing Services under this Agreement. Any suspension of Services by Subrecipient, without written consent by Ride Connection, may be considered by Ride Connection as a material breach of this Agreement. Ride Connection does not waive the requirement for timely written notice and/or timely written submission of the Statement of Claim unless Ride Connection's waiver is unequivocal, explicit, and in writing. However, Subrecipient's obligations to provide Services under this Agreement is conditioned on receiving the funds from Ride Connection, and failure to provide the agreed funding is a material breach of the Agreement by Ride Connection.

11. Termination

- A. Ride Connection may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Subrecipient, or at such later date as may be established by Ride Connection, under any of the following conditions:
- 1) Subrecipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
 - 2) Subrecipient fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Ride Connection fails to correct such failures within 10 days or such longer period as Ride Connection may authorize;
 - 3) Ride Connection fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in this Agreement, or if Ride Connection determines to terminate for its own convenience;
 - 4) Any laws, regulations, rules or guidelines are modified, changed or interpreted in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement;
 - 5) Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds; or
 - 6) Subrecipient takes any action pertaining to this Agreement without the approval of Ride Connection and which under the provisions of this Agreement would have required the approval of Ride Connection.
 - 7) Subrecipient may terminate this Agreement, in whole or in part, upon 30 days written notice to Ride Connection
- B. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

12. Compliance with Laws

- A. Federal laws and regulations - In addition to those elsewhere specified, Subrecipient shall comply with any applicable federal, state and local laws, rules and regulations applicable to the project hereunder, including but not limited to the following: all federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws

applicable to the Services. Subrecipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable: (1) Title VI of the Civil Rights Act of 1964; (2) Title V and Section 504 of the Rehabilitation Act of 1973; (3) the Americans with Disabilities Act of 1990 and ORS 659a.142; (4) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (5) the Clean Air Act (42 U.S.C. 7401-7671q); (6) the Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (7) Executive Order 11738; (8) Environmental Protection Agency regulations (40 CFR part 15); and (9) and all applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws.

B. Payment of taxes and business license - Subrecipient shall comply with all federal, state, and local employment and labor laws and regulations in all aspects of its operations, including, but not limited to, all applicable federal, state, or local labor or employment laws including but not limited to laws and regulations regarding hiring, training, assignments, promotions, discipline and/or discharge, including but not limited to the Services Contract Act ("SCA"), for which it is Subrecipient's sole responsibility to determine if the SCA applies to it and the Services. Ride Connection may from time to time at its sole discretion seek and obtain a certification from Subrecipient that it is in compliance with the foregoing, and Subrecipient will provide, upon reasonable request by Ride Connection, such documents and supporting materials to evidence Subrecipient's compliance with this Section.

13. Term

This Agreement shall begin on **7/1/2020** and shall remain in effect through **6/30/2021** unless terminated sooner under the provisions of this Agreement.

14. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

Ride Connection:
John Whitman
Ride Connection
9955 NE Glisan St.
Portland, OR 97220

Subrecipient:
Stefanie Reid
Clackamas County Social Services
2051 Kaen Rd
Oregon City, OR 97045-1819

15. No Third Party Beneficiary

Ride Connection and Subrecipient are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

16. Assignment

Subrecipient may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of Ride Connection. Any

assignment, delegation or subcontract in violation of this paragraph shall be null and void, and shall constitute grounds for immediate termination by Ride Connection.

17. Governing Law

This Agreement shall be governed by the laws of the State of Oregon, to the express exclusion of all other choice of law alternatives.

18. Dispute Resolution

- A. Executive Negotiation - The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that party's position and documentation supporting that parties claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving party shall respond in kind within five (5) days of the date of notice. Within ten (10) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the parties.
- B. Mediation - In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Mediation Rules published by the Arbitration Service of Portland, Inc. Unless the parties agree otherwise, mediation shall be held in Portland, Oregon. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.
- C. Arbitration - In the event that the parties are unable to settle the dispute through negotiation and mediation as set forth above, either party may seek final resolution through binding arbitration pursuant to the Commercial Arbitration Rules of the Arbitration Service of Portland, Inc. for one arbitrator. The arbitrator's decision shall be binding, final, and enforceable by any court with appropriate jurisdiction in accordance with the Rules of the Arbitration Serviced of Portland, Inc.

19. Entire Agreement/Authority

This Agreement, exhibits, and any other attachments constitute 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 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 Ride Connection to enforce any provision of this Agreement shall not constitute a waiver by Ride Connection of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

This Agreement may be executed in two or more counterparts (by facsimile or scanned email PDF), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

20. Severability

If any provision of this Subcontract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court or arbitrator finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

21. Surviving Provisions

Notwithstanding termination or expiration of this Agreement, the following provisions shall survive and continue to be in full force and effect: 1D (Audit); 2A (Recordkeeping); 6 (Confidential Information); 7 (Indemnification); 8 (Workers Compensation Insurance); 9 (Insurance); 17 (Governing Law); 18 (Dispute Resolution); and 21 (Surviving Provisions).

22. Prompt Payment

Subrecipient shall make payment promptly, as due, to all persons supplying to the Subrecipient labor or material for the performance of the work provided for in the contract. At a minimum, Subrecipient shall pay subcontractors no later than thirty (30) days from receipt of payment from Ride Connection. Subrecipient shall not hold retainage from subcontractors.

23. Agreement Documents

This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein reference:

- Exhibit A: Scope of Work
- Exhibit B: Federal Terms and Conditions
- Exhibit C: Funding Information
- Exhibit D: Lobbying Certificate (signature required)
- Exhibit E: Nondiscrimination Certificate
- Exhibit F: Reporting Requirements

WISHING TO BE LEGALLY BOUND, the parties have caused this Agreement to be executed below by each party's duly authorized representative:

RIDE CONNECTION, INC.

CLACKAMAS COUNTY

Signature

Julie Wilcke Pilmer
Printed Name

Chief Executive Officer
Title

Date

- Commissioner: Tootie Smith, Chair
- Commissioner: Sonya Fischer
- Commissioner: Mark Shull
- Commissioner: Paul Savas
- Commissioner: Martha Schrader

Signing on Behalf of the Board:

By: _____
Richard Swift, Director
Health, Housing, and Human Services Dept.

Approved to Form:

By: Approved via email by K. Rastettler
County Counsel

Dated: 12/14/2020

EXHIBIT A

Clackamas County Social Services
Contract No. 18896

SCOPE OF WORK

July 1, 2020

The goods and/or services to be provided by the Clackamas County Consortium include, but are not limited to the following:

A Participate in Cost Savings Activities:

Clackamas County agrees to participate in coordination activities with Ride Connection and other transportation providers Ride Connection contracts with to provide transportation services ("Service Partners") in the network to meet the demand for service in a cost effective manner.

B Coordinate Customer Information, Referral, and Trip Scheduling Activities with the Ride Connection Service Center:

Service partners, who utilize the Ride Connection Service Center to coordinate trips, recognize that this service is currently being funded by dollars outside of this contract. Service Partners agree to work with Ride Connection to investigate opportunities and create solutions to recoup costs accrued for the service performed. Not currently applicable to the Clackamas County programs.

C Establish and Maintain Customer Confidentiality:

Service Partners agree to maintain the confidentiality of all customer records exchanged with Ride Connection or accessed through Ride Connection coordination, scheduling and dispatch software. In the process of providing service, Service Partners agree to provide only the customer information that is necessary in order for the driver to provide the appropriate level of service for the trip being provided.

D Maintain a sufficient number of qualified, approved paid and volunteer drivers and concierge and administrative hours to meet project goals.

E Recruit volunteer drivers to drive Ride Connection vehicles, or who are willing to provide proof of coverage if driving their own vehicles and who will meet the criteria necessary to allow them to drive for a Ride Connection program.

F Participate with Ride Connection, TriMet and other partners in the development of local, regional and agency specific service plans. Help recruit customers to actively participate in planning processes and service design.

G Coordinate outreach activities with Ride Connection. Perform marketing and outreach to community points that are key destinations for older adults and people with disabilities. Participate in Ride Connection sponsored events.

H Increase transportation options available to TriMet ADA eligible individuals who, because of their mobility impairment, geographic barriers, or trip destination, may be difficult for LIFT to serve or may require more personalized attention.

I Establish transportation options, for older adults or people with disabilities, in the community at large that encourage group trips to common community destinations such as shopping, recreation, senior centers, and nutrition sites.

EXHIBIT A

Clackamas County Social Services
Contract No. 18896

- J Encourage older adults and people with disabilities to become aware of and connect with available transportation and community-based services as an alternative to LIFT ADA paratransit services for some or all of their trips.
- K Provide Ride Connection with back up documentation for billing line items upon request.
- L Orient drivers to the agency’s transportation program and ensure they comply with required training and are aware of other specialized training opportunities available through Ride Connection to maintain safety of operations.
- M Attend regular coordination and training meetings to be conducted by Ride Connection.
- N Allow TriMet, or Ride Connection representatives to contact a random sample of clients for monitoring and service verification purposes. Clients will be contacted by mail or phone. Agencies will be given a copy of the questionnaire in advance of mailing.
- O Notify Ride Connection as soon as possible of unusual conditions that will affect the delivery of services.
- P Implement Ride Connection’s client donation policy to seek rider donations comparable to the TriMet LIFT fare, when appropriate.
- Q Cooperate in the mutually agreed upon submission of requests for additional public or private funds for program expansion and enhancement.
- R Cooperate in transportation coordination efforts with other organizations such as churches, schools, businesses, and transportation providers.
- S Implement customer feedback (i.e. complaint, compliment) procedures for individuals using community-based transportation.
- T Provide service throughout the contract term.

Funding Source Definitions and Restrictions

FTA 5310

Federal Transit Administration 5310 funding is a Federal funding source. This funding can be applied to program operations for both volunteer and paid driver services that are specific to the designated project(s).

Project Funding, Duration and Performance Goals

Contractor will report all rides, including those paid for with Agency Other money, to Ride Connection

Project	Agency	Performance Goal	Funding Source	Grant Amount	50% Match Amount
Veterans Driving Veterans	Clackamas County H3S/SSD	2500 miles/month and 71 rides/month	5310(CFDA 20.513) Federal	\$5,047	\$0 TriMet is funding match for in district
Totals:				\$5,047	\$0

EXHIBIT A

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EXHIBIT A

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Project Service Areas

Project	Service Area
Veterans Driving Veterans	All of Clackamas County

Project Service Days and Times

Project	Service Day(s)	Service Hours
Veterans Driving Veterans	M-Th (Dispatch) M-F (Rides)	8:00 AM – 5:00 PM

Project Customer Attributes and Levels of Service

Project	Customer Attributes	Level of Service
Veterans Driving Veterans	Veterans over 65 and Veterans with Disabilities	Door to Door, Door through Door

EXHIBIT B

Clackamas County Social Services
Contract# 18896

Summary of Federal Terms and Conditions and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements (“Certifications and Assurances”) and Federal Transit Administration Master Agreement (“Master Agreement”)

Provider and Provider’s Subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/fta-fiscal-year-2019-certifications-and->. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Provider must submit to Ride Connection on or before July 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by printing the form available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>, completing the form and sending it to Ride Connection.

Provider shall comply with the following provisions and require in its subagreements that the subcontractors comply with all applicable requirements included in the Master Agreement that is signed and attested to by State as if the subcontractors were Provider.

Provider agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from Ride Connection or by calling the State at (503) 986-3300, or at <http://fta.dot.gov/documents/21-Master.pdf>.

Special Federal Terms and Conditions

1. No Government Obligation to Third Parties

Ride Connection and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to Ride Connection, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. Program Fraud and False or Fraudulent Statement and Related Acts

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986 as amended, 31 U.S.C 3801 et seq. And U.S. DOT regulations, “Program Fraud civil Remedies, “49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the

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contract, the Contractor certifies or affirms the truthfulness of any statement it has made, it makes, or causes to be made, that pertains to this contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. Audit and Inspection of Records

- A. Contractor shall maintain a complete set of records relating to this contract, in accordance with generally accepted accounting procedures. Contractor shall permit the authorized representatives of Ride Connection, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all work, materials, payrolls, books, accounts, and other data and records of Contractor relating to its performance under this contract until the expiration of three (3) years after final payment under this contract.
- B. Contractor further agrees to include in all of its subcontracts under this contract a provision to the effect that the subcontractor agrees that Ride Connection, the U.S. Department of Transportation, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and other records of the subcontractor. The term "subcontract" as used in this Paragraph excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.
- C. The periods of access and examination described in subparagraphs A and B of this Paragraph for records that relate to (1) disputes between Ride Connection and Contractor, (2) litigation or settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals, and exceptions have been resolved.

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4. Right to Inventions(04/16)

If the contract meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5. Federal Changes (10/16)

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

6. Equal Employment and Civil Rights (04/16)

A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

B. Equal Employment Opportunity – Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" must include the specifications set forth in §60-4.3, in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The following equal employment opportunity requirements apply to the underlying contract:

- 1) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees

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are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- 2) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- 3) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

C. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

7. Incorporation of Federal Transit Administration Terms

The preceding provisions include, in part, certain standard terms and conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Ride Connection requests which would cause Ride Connection to be in violation of the FTA terms and conditions.

8. Disadvantaged Business Enterprise (11/14)

- A. Policy. Ride Connection participates in a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Ride Connection has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Ride Connection has signed an assurance that it will comply with 49 CFR Part 26. It is the policy of Ride Connection to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts.
- B. Contractor and Subcontractor Obligation. Contractor and/or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the

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award and administration of DOT-assisted contracts. Failure by the 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 the recipient deems appropriate, which may include, but is not limited to:

- i. Withholding monthly progress payments;
- ii. Assessing sanctions;
- iii. Liquidated damages; and/or
- iv. Disqualifying the contractor from future bidding as non-responsible.

Any subcontracts or subagreements entered into pursuant to this agreement must include this assurance.

9. Debarment and Suspension (04/16)

The certification in this clause is a material representation of fact relied upon by Ride Connection. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Ride Connection, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions. A contract (or subcontract) award must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM) in accordance with OMB guidelines at 2 CFR 180.

10. Solid Waste Disposal Act (10/16)

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11. Procurement of Recovered Materials (04/16)

Ride Connection and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that

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maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

12. Recycled Products

The contractor agrees to comply with all the requirements of section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247

13. Byrd Anti-Lobbying Amendment (10/16)

Contractor shall not use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, the contractor agrees to comply with the following:

1. Laws, Regulations, Requirements, and Guidance. This includes:
 - a) The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended,
 - b) U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended, and
 - c) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature, and
2. Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.

A. Definitions. As used in this clause,

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (1) The awarding of any Federal contract;
- (2) The making of any Federal grant;
- (3) The making of any Federal loan;
- (4) The entering into of any cooperative agreement; and
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan. "Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian self-determination

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and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before 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 any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, U.S. Code, including a position under a temporary appointment;
- (2) A member of the uniformed services as defined in section 101(3), title 37, U.S. Code;
- (3) A special Government employee as defined in section 202, title 18, U.S. Code; and,
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, U.S. Code appendix 2.

"Person" means an individual, corporation, company association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector. "Recipient" includes all contractors and subcontractors at any tier in connection with a Federal contract. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of

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such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

B. Prohibition

(1) Section 1352 of title 31, U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: 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) The prohibition does not apply as follows:

(i) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(b) For purposes of paragraph B (2) (i) (a) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.

(c) For purposes of paragraph B (2) (i) (a) of this section the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) For purposes of paragraph B (2) (i) (a) of this section, the following agency and legislative liaison activities are allowable only where they

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are prior to formal solicitation of any covered Federal action:

- (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
 - (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,
 - (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
- (e) Only those activities expressly authorized by paragraph B (2) (i) of this section are allowable under paragraph B (2) (i).
- (ii) Professional and technical services by Own Employees.
- (a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.
 - (b) For purposes of paragraph B (2) (ii) (a) of this section, "professional and technical services" shall be limited advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not

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directly in the preparation, submission or negotiation of a covered Federal action.

- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
 - (d) Only those services expressly authorized by paragraph B (2) (ii) of this section are allowable under paragraph B (2) (ii).
- (iii) Reporting for Own Employees.
- No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.
- (iv) Professional and technical services by Other than Own Employees.
- (a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.
 - (b) For purposes of paragraph B (2) (iv) (a) of this section, "professional and technical services" shall be limited advice and analysis directly applying to any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not

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directly in the preparation, submission or negotiation of a covered Federal action.

- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (d) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
- (e) Only those services expressly authorized by paragraph B (2) (iv) of this section are allowable under paragraph B (2) (iv).

C. Disclosure

- (1) Each person who requests or receives from an agency a Federal contract shall file with that agency a certification, set forth in this document, that the person has not made, and will not make, any payment prohibited by paragraph (b) of this clause.
- (2) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, Standard Form-LLL, "Disclosure of Lobbying Activities," if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (b) of this clause if paid for with appropriated funds.
- (3) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph C (2) of this section. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - (b) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
 - (c) A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered Federal action.
- (4) Any person who requests or receives from a person referred to in paragraph (C) (1) of this section a subcontract exceeding \$100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraph C (1) of this section. That person shall forward all disclosure forms to the agency.

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D. Agreement

In accepting any contract resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

E. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph B of this clause shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- (2) Any person who fails to file or amend the disclosure form to be filed or amended if required by this clause, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (3) Contractors may rely without liability on the representations made by their subcontractors in the certification and disclosure form.

F. Cost Allowability

Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

14. Dispute Resolution and Remedies

14.1 Disputes

Should any dispute arise between the parties concerning this agreement that is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this agreement agree to participate in good faith in a non-binding mediation process. The mediation shall take place in Portland, Oregon. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. The mediator's fees and costs shall be borne equally by the parties.

14.2 Performance During Dispute

Unless otherwise directed by Ride Connection, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

14.3 Remedies

All claims, counterclaims, disputes and other matters in question between TriMet and the Contractor arising out of or relating to this agreement or its breach will be decided by mediation if the parties mutually agree, or in a court of competent jurisdiction within the State of Oregon in which Ride Connection is located.

14.4 Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies

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available there under shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. In the event that Ride Connection or Contractor fail to act, such failure shall not constitute a waiver of any right or obligation afforded to either party under the Contractor or by law, nor shall any such action or failure to act constitute an approval of or acceptance of any breach there under, except as may be specifically agreed in writing by both parties.

15. Clean Water Requirements (04/16)

If the total value of this contract exceeds \$150,000:

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401-7671q). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). The Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

16. Clean Water Requirements (04/16)

If the total value of this contract exceeds \$150,000:

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401-7671q). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). The Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

17. Environmental Violations

For all contracts and subcontracts in excess of \$100,000.00, Contractor agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857(h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11378, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibit the use under nonexempt Federal contracts, grants, or loans, of facilities included on the EPA List for Violating Facilities. Contractor shall report violations to FTA and to the USEPA Assistant Administrator for Enforcement (ENO329).

18. Energy Conservation

The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC section 6321, et seq.).

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19. Privacy Act

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- (2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

20. Contract Work Hours and Safety Standards Act (04/16)

For contracts over \$100,000 involving mechanics or laborers. Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- A. Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

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- C. Withholding for unpaid wages and liquidated damages - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

21. Drug-Free Workplace

Contractor shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace:

- (1) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing services to the DHS Clients. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions;
- (2) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations;
- (3) Provide each employee to be engaged in the performance of Work under this Contract a copy of the statement mentioned in paragraph (1) above;
- (4) Notify each employee in the statement required by paragraph (1) that, as a condition of employment to perform Work under this Contract, 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;
- (5) Notify Ride Connection within ten (10) days after receiving notice under subparagraph (4) from an employee or otherwise receiving actual notice of such conviction;
- (6) 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;
- (7) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (1) through (6);
- (8) Require any subcontractor to comply with subparagraphs (1) through (7); and

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- (9) Neither Contractor, nor any of Contractor's employees, officers, agents or subcontractors may perform any Work required under this Contract while under the influence of drugs.

For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to the 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; Violation of any provision of this subsection may result in termination of the Contract.

22. HIPAA Compliance

If the Services provided under this Contract are covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Contractor agrees to deliver the Services in compliance with HIPAA to the extent applicable.

23. Pro-Children Act

Contractor shall comply and require anyone engaged in the performance of Work under this Contract to comply with the Pro-Children Act of 1994 (codified at 20 USC section 6081 et. Seq.).

24. Cargo Preference - Reserved

25. Fly America - Reserved

26. Davis-Bacon and Copeland Anti-Kickback Acts - Reserved

27. Seismic Safety - Reserved

28. Veterans Preference (04/16) - Reserved

29. Charter Service Operations (05/17)

The Contractor agrees to comply with applicable transit employee protective requirements as follows:

- a) General Transit Employee Protective Requirements – To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 USC A 5333(b), and U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the

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U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection, however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

- b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. §5310(a)(2) for Elderly Individuals and Individuals with Disabilities – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310 (a)(2),n and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body sub-recipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. §5333(b), U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.
- c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. §5311 in Non-urbanized Areas – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

The Contractor also agrees to include the applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

30. Charter Service Operations (05/17)

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and sub-recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

31. School Bus Operations (05/17)

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified

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under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub-recipients may not use federally funded equipment, vehicles, or facilities.

32. Buy America (03/06) - Reserved
33. Patent and rights in Data (05/17) - Reserved

END OF EXHIBIT B

EXHIBIT C

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PASS-THROUGH FUNDING INFORMATION FOR SUBRECIPIENTS

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) 2 CFR 200.

This agreement is financed by the funding source indicated below:

Assistance Listings Program or Title: *Enhanced Mobility of Seniors with Disabilities Program (49 U.S.C 5310)*

Assistance Listings Number and Name: *20.513 (5310)*

Federal Award Identification Number (FAIN): *OR-2020-060*

Subrecipient DUNS Number: *96992656*

Expected Federal Funding: *\$5,047*

Approved Indirect Cost Rate: *0%*

Federal Award Date: *9/18/2020*

Award R&D? (Yes/No): *No*

Subaward Period of Performance (Start and End Dates): *7/1/2020 - 6/30/2021*

Federal Funding Agency (or other pass-through agency if different):

TriMet
Budgets and Grants
1800 SW 1st Avenue
Portland, OR 97210

U.S. Department of Transportation
Federal Transit Administration
1200 New Jersey Ave, SE
4th & 5th Floors - East Building
Washington, DC 20590

U.S. Department of Transportation
Federal Transit Administration
Region X Suite 3142
Federal Building
915 Second Avenue
Seattle, WA 98174

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Federal laws, regulations, or circulars that are expressly applicable to the funding source and project (but not limited to):

- A. Master Agreement (49 U.S.C. Chapter 53 and Title 23) – The FTA Master Agreement contains the standard terms and conditions that apply to the Underlying Agreement.
- B. Grant Management Requirements (Circular 5010.1E) – These requirements are intended to assist recipients in administering FTA-funded projects and in meeting reward responsibilities and reporting requirements. Recipients have a responsibility to comply with regulatory requirements and to be aware of all pertinent material to assist in the management of all federally assisted rewards.
- C. *Enhanced Mobility of Seniors and Individuals with Disabilities Grant Program (Circular 5010.1G) – This circular issues guidance on the administration of the Enhanced Mobility of Seniors and Individuals with Disabilities Program under 49 U.S.C. 5310.*
- D. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Title 2 – Grants and Agreements; Subtitle A – Office of Management and Budget Guidance for Grants and Agreements; Chapter II – Office of Management and Budget Guidance; Part 200). Establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities and establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are designed that Federal awards bear their fair share of costs.

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LOBBYING CERTIFICATE

The undersigned 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 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.

(2) 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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) **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 sub-recipients 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. 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.

Clackamas County Social Services.

Signature: _____

Name: (print) Richard Swift

Title: Director, Health, Housing & Human Services Dept.

Date: _____

NOTE: CONTRACTORS ARE REQUIRED, PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBRECIPIENT BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

EXHIBIT E

Clackamas County Social Services
Contract# 18896

NONDISCRIMINATION CERTIFICATE

Subrecipient certifies compliance with the following nondiscrimination requirements:

Nondiscrimination

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Subrecipient assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Subrecipient receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Subrecipient retains ownership or possession of the project property, whichever is longer, the Subrecipient assures that:

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Subrecipient assures that it will submit the required information pertaining to its compliance with these provisions.
- (3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any Subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
- (4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which

EXHIBIT E

Clackamas County Social Services
Contract# 18896

- the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.
- (5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.
 - (6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

Subrecipient acknowledges that it is subject to the requirements of FTA Circular 4702.1A "*Title VI and Title VI-Dependent Guidelines for FTA Recipients*" as a Subrecipient of federal funds under this Agreement. Further, Subrecipient shall provide Title VI compliance information and measures as may be determined by Ride Connection pursuant to the Circular.

Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Subrecipient assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Subrecipient assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

DBE

Subrecipient will comply with the applicable provisions of 49 CFR Part 26 related to Disadvantaged Business Enterprises and report quarterly to TriMet. This Agreement includes the following assurance by Subrecipient, and each contract Subrecipient signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contract, Subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FTA-assisted contracts. Failure by the 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 Ride Connection deems appropriate.

EXHIBIT F

Clackamas County Social Services
Contract# 18896

Reporting Requirements

Reports are due to the Service Data Specialist at Ride Connection by the 20th of each month.

Reports:

- Service Summary Reports
 - Trip Data
 - Financial Data (must reflect full monthly transportation program costs)
- Vehicle Operations Report and all vehicle invoices
- Unduplicated Age and Ethnicity Report

Required reporting items include:

- Trips by Trip Purpose
- Mileage
- Turndowns
- Volunteer and Paid Driver Hours
- Admin and Escort non-driver Volunteer hours
- Transportation Program Expenses
- Donations
- Funds received from other Agencies to support program (Agency Other)
- Unduplicated Riders (Counts by Age and Ethnicity)
- Vehicle Maintenance invoices (reimbursable and non-reimbursable amounts)
- Any other required fields requested to meet reporting requirements

Copies of the above stated forms must be created per each Provider's specific program requirements and will be sent to Providers electronically. Providers should always utilize the most current reporting forms sent by Ride Connection. All forms should be submitted electronically, unless otherwise instructed by Ride Connection.

Ride Connection must be notified on or before the 20th of each month if a delay in report submission is anticipated.

Reports and questions regarding reporting requirements should be directed to the Service Data Specialist:

Fax (503) 528-1755

partner_reporting@rideconnection.org

January 7, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval to Apply for Continuation Grants for Oregon Department of Transportation Special Transportation Formula (STF) and Statewide Transportation Improvement Fund (STIF) Funds through Ride Connection, Inc., for Services Provided by Members of the Community-based Transportation Network for Clackamas County Seniors and People with Disabilities

Purpose/Outcomes	Agreements with Ride Connection, Inc. to provide funding for Transportation Services to seniors and/or people with disabilities residing in Clackamas County.
Dollar Amount and Fiscal Impact	The maximum grant award is \$861,368. The contract is funded through the Ride Connection, Inc. agreement with TriMet and the Oregon Dept. of Transportation.
Funding Source	State Special Transportation Formula (STF) funds and Statewide Transportation Improvement Fund (STIF) - no County General Funds are involved.
Duration	Effective July 1, 2022 and terminates on June 30, 2023
Previous Board Action	None
Strategic Plan Alignment	<ol style="list-style-type: none"> 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.
County Counsel	This is a Grant application. Not subject to County Counsel Review.
Procurement Review	<ol style="list-style-type: none"> 1. Was this time processed through Procurement? No 2. In no, provide brief explanation: This is a Grant application. Not subject to Procurement Review.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	

BACKGROUND:

The Social Services Division of the Health, Housing, and Human Services Department requests approval to apply for a continuation grant for Oregon Department of Transportation Special Transportation Formula (STF) and Statewide Transportation Improvement Fund (STIF) funds through Ride Connection, Inc. for services provided by members of the community-based network of the Transportation Consortium of Clackamas County for area older adults (persons age 60+) and people with disabilities. The Consortium is a partnership of area adult/senior community centers and Transportation Reaching People with participation by other community partners including small transit districts. With the completion of the Regional Elderly and Disabled Transportation Plan, this Consortium was designated as the local coordinating council for Clackamas County.

This grant would provide funding for Clackamas County rural community-based network partners in the amount of \$327,335 for transportation services and \$534,033 for urban community-based network partners. Transportation services are offered to area older adults and persons with disabilities that have limited or no access to public transportation. This is the sixteenth funding cycle that Social Services is applying for continuation funding for transportation services to elderly and disabled transportation programs provided by some members of the Clackamas County Transportation Consortium.

Rides are provided by senior center vans and buses, TRP vans and buses, as well as volunteer drivers using their own vehicles. Rides are provided to nutrition sites, medical appointments, personal business and social activities. Funding is also provided to Social Services for administrative costs.

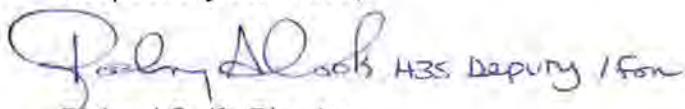
The urban Statewide Transportation Improvement Fund funding of this grant is for the Transportation Reaching People program projects Dedicated Dialysis and Dedicated Non-emergency Medical transportation. These services provide rides seniors and persons with disabilities who live inside of the TriMet district for these specific purposes freeing up other programs to provide other needed rides.

The initial two-year grant for services was approved by the BCC at the November 24, 1999 meeting and renewed biannually thereafter. The grand total amount of this proposed renewal application will be up to \$826,197. The grant, if awarded, would have no effect on staffing. No County General Funds are involved.

RECOMMENDATION:

We recommend the approval to apply for this grant and further recommend the acceptance of the award if funded, and that Richard Swift, H3S Director; or his designee, be authorized to sign all documents necessary to accomplish this action on behalf of the Board of Commissioners.

Respectfully submitted,

A handwritten signature in blue ink that reads "Richard Swift" followed by "H3S Deputy / For" in a smaller, less legible script.

Richard Swift, Director
Health Housing & Human Services

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: H3S/SSD Application for: Subrecipient funds Direct Grant
Grant Renewal? Yes No
If renewal, complete sections 1, 2, & 4 only

Name of Funding Opportunity: FY22/23 STF Formula and STIF Funding Applications
Funding Source: Federal State Local: _____
Requestor Information (Name of staff person initiating form): Stefanie Reid-Danielson
Requestor Contact Information: 503-655-8330 stefanierei@clackamas.us
Department Fiscal Representative: same
Program Name or Number (please specify): Various (05339, 05340, 05346, 05347)
Brief Description of Project:

Continuation grant for Oregon Department of Transportation Special Transportation Formula (STF) and Statewide Transportation Improvement Fund (STIF) funds passed through Ride Connection, Inc. for transportation services provided by members of the Transportation Consortium of Clackamas County for area older adults (persons age 60+) and people with disabilities. This round will involve a single year of funding only as Ride Connection trues up their disbursement of funds

Name of Funding (Granting) Agency: Ride Connection via TriMet & ODOT

Agency's Web Address for Grant Guidelines and Contact Information:

<https://trimet.org/meetings/stfac/grants.htm>

OR

Application Packet Attached: Yes No

Completed By: Stefanie Reid-Danielson Date: 12/14/2020

**** 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: 11/20/2020
CFDA(s), if applicable: N/A
Announcement Date: 11/20/2020 Announcement/Opportunity #: N/A
Grant Category/Title: STFAC Grants Max Award Value: \$861,368
Allows Indirect/Rate: _____ Match Requirement: _____
Application Deadline: 12/18/2020 Other Deadlines: _____
Grant Start Date: 7/1/2021 Other Deadline Description: _____
Grant End Date: 6/30/2023
Completed By: Stefanie Reid-Danielson Program Income Requirement: None
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?*

This grant provides funding for ongoing transportation services that are offered to area older adults and persons with disabilities that have limited or no access to public transportation.

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

While there are no community partners better suited to manage these funds as a whole Social Services partners with Canby Adult Center, Estacada Community Center, NCPR-Milwaukie Center, Molalla Senior Center, Hoodland Senior Center, Pioneer Community Center, and the Sandy Senior and Community Center for the delivery of these transportation services

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

To provide an alternative option to paratransit, or inaccessible fix-route service, to older adults and persons with disabilities in the areas that have limited public transit as well as those in unserved areas of the County outside the TriMet service district.

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

Yes - this is ongoing funding for the indicated transportation programs.

Organizational Capacity:

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

Yes.

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

While no partnerships are required, Social Services partners with Canby Adult Center, Estacada Community Center, NCPR-Milwaukie Center, Molalla Senior Center, Hoodland Senior Center, Pioneer Community Center, and the Sandy Senior and Community Center for the most efficient delivery of these transportation services

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.)?*

N/A

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.)?*

N/A

Collaboration

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

NCPRD - Milwaukie Center

Reporting Requirements

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

Monthly reports to Ride Connection the pass through entity

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?

Existing data sources maintained by Social Services ADS Contracts Admin Staff

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

Monthly reports to Ride Connection the pass through entity

Fiscal

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

No

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

N/A

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

N/A

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

Limited - there is a 10% cap for Admin.

Program Approval:

Teresa Christopherson	Teresa D. Christopherson	Digitally signed by Teresa D. Christopherson Date: 2020.12.16 17:12:21 -08'00'
Name (Typed/Printed)	Date	Signature

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

**** ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY, COUNTY FINANCE OR ADMIN UNIT SIGN ****

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Brenda Durbin	Brenda Durbin	Digitally signed by Brenda Durbin Date: 2020.12.17 08:50:21 -08'00'
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)		
N/A		
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.

Richard Swift
Director

January 7th, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for Amendment #3 of a Revenue Intergovernmental Agreement with
Oregon Department of Human Services.

Purpose/Outcomes	Provides Job Placement and Job Retention services to clients who have a severe and persistent mental illness to find and retain employment.
Dollar Amount and Fiscal Impact	Amendment #4 adds \$300,000 to the current \$1,000,000 contract value. This is a revenue agreement with \$1,300,000 maximum value.
Funding Source	No County General funds are involved.
Duration	October 1, 2020 – March 31, 2021
Previous Board Action	Previous Board Action on March 15, 2018 Agenda item 031518-A1; September 27, 2018 Agenda item 092718-A6; November 1, 2018 Agenda item 110118-A1
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Counsel Review	1. December 3, 2020 2. KR
Procurement Review	1. Was the item process through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 2. Original contract amount was direct procurement.
Contact Person	Deborah Cockrell, Health Center Director – 503-742-5495
Contract No.	8763_03

BACKGROUND:

Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of Amendment #4 to the Intergovernmental Agreement with Oregon Department of Human Services, Office of Vocational and Rehabilitation Services (OVRs).

This agreement provides job placement and job retention services to clients who have a severe and persistent mental illness to find and retain employment. Reimbursement is on a performance based fee-for-service basis.

RECOMMENDATION:

Staff recommends approval of this amendment.

Respectfully submitted,



H3S Deputy / for

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

DOCUMENT RETURN STATEMENT

Please complete the following statement and return with the completed signature page and the Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable.

If you have any questions or find errors in the above referenced Document, please contact the contract specialist.

Document number: 149599 , hereinafter referred to as "Document."

I, _____
Name Title

received a copy of the above referenced Document, between the State of Oregon, acting by and through the Department of Human Services, the Oregon Health Authority, and Clackamas County by and through its Department of Health, Housing and Hum _____ by email.

Contractor's name

On _____ ,
Date

I signed the electronically transmitted Document without change. I am returning the completed signature page, Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable, with this Document Return Statement.

Authorizing signature

Date

Please attach this completed form with your signed document(s) and return to the contract specialist via email.



DHS Agreement Number 149599
County Agreement Number 7427_04

**AMENDMENT TO
STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This is amendment number **04** to Agreement Number **149599** between the State of Oregon, acting by and through its Department of Human Services, hereinafter referred to as “**DHS**” and

Clackamas County,
Acting by and through its Department of Health, Housing and Human Services
2051 Kaen Road STE 637
Oregon City, Oregon 97045
Attention: Rebecca Howard
Telephone: (503) 742-5325
Facsimile: (503) 742-5352
E-mail addresses: rhoward@clackamas.us

hereinafter referred to as “**County.**”

- 1.** Upon signature by all applicable parties, this Amendment shall be effective on the later of (a) when required, the date this Amendment has been approved by the Department of Justice, or (b) **October 1, 2020**, regardless of the date the Amendment is actually signed by all other parties.
- 2.** The Agreement is hereby amended as follows. Where appropriate, language to be deleted or replaced is [~~bracketed and struck through~~]; new language is **underlined and bold**:
 - a.** **Page 1** of the Agreement is hereby amended to identify the new DHS Agreement Administrator, as follows:

Vocational Rehabilitation
500 Summer Street, NE
Salem, Oregon 97301-1064
Agreement Administrator: [~~Callie Roush~~] **Michelle Robinson** or delegate
Telephone: [~~(503) 947-2595~~] **(503) 475-9269**
Facsimile: (503) 947-5025
E-mail address: VR.ContractInquiries@dhs.oha.state.or.us

- b. **Section 1 “Effective Date and Duration”** of the Agreement is hereby amended to extend the Agreement end date, as follows:
- “This Agreement shall become effective on the date this Agreement has been fully executed by every party and, when required, approved by Department of Justice or on October 1, 2015, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on [~~September 30, 2020~~] **March 31, 2021**. Agreement termination or expiration shall not extinguish or prejudice either party’s right to enforce this Agreement with respect to any default by the other party that has not been cured.”
- c. **Section 3 “Consideration,” subsection (a)** of the Agreement is hereby amended to increase the total not to exceed amount of the Agreement, as follows:
- a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is [~~\$1,000,000.00~~] **\$1,300,000.00**. DHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties
3. Except as expressly amended above, all other terms and conditions of the original Agreement and any previous amendments are still in full force and effect. County certifies that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this amendment and with the same effect as though made at the time of this amendment.
4. **Certification.** Without limiting the generality of the foregoing, by signature on this Agreement amendment, the County hereby certifies under penalty of perjury that:
- a. The County is in compliance with all insurance requirements in Exhibit C of the original Agreement and notwithstanding any provision to the contrary, County shall deliver to the DHS Agreement Administrator (see page 1 of this Agreement) the required Certificate(s) of Insurance for any extension of the insurance coverage, within 30 days of execution of this Agreement Amendment. By certifying compliance with all insurance as required by this Agreement, County acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. County may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;
- b. The County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General

may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County;

- c. The information shown in County Data and Certification, of original Agreement or as amended is County's true, accurate and correct information;
 - d. To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
 - e. County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
 - f. County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Nonprocurement Programs" found at: <https://www.sam.gov/portal/public/SAM/>;
 - g. County is not subject to backup withholding because:
 - (1) County is exempt from backup withholding;
 - (2) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (3) The IRS has notified County that County is no longer subject to backup withholding.
 - h. County Federal Employer Identification Number (FEIN) provided to DHS is true and accurate. If this information changes, County is required to provide DHS with the new FEIN within 10 days.
5. **County Data.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

County Name (exactly as filed with the IRS): County of Clackamas, Oregon

Street address: 2051 Kaen Road

City, state, zip code: Oregon City, OR 97045

Email address: _____

Telephone: () Facsimile: ()

Proof of Insurance: County shall provide the following information upon submission of the signed Agreement amendment. All insurance listed herein and required by Exhibit C of the original Agreement, must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: self-insured

Policy #: _____ Expiration Date: _____

6. Signatures.

COUNTY: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS

**Clackamas County,
acting by and through its Department of Health, Housing and Human Services
By:**

Authorized Signature

Printed Name

Title

Date

**State of Oregon acting by and through its Department of Human Services
By:**

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Approved via e-mail by:

Jeffrey J. Wahl, Attorney-in-Charge, Health and Human Services Section
Department of Justice

09/17/2020
Date

Richard Swift
Director

January 7, 2021

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval for Amendment #2 to a Provider Participation Agreement
 with CareOregon for Behavioral Health Services.

Purpose/Outcomes	Provides Clackamas Health Centers (CHC) participation in a network of providers for Behavioral Healthcare services to patients.
Dollar Amount and Fiscal Impact	This is a no maximum agreement. No County General Funds are involved. No matching funds required. Fee for Services.
Funding Source	No County funds. This is a revenue agreement with CareOregon.
Duration	Effective January 1, 2020 and is a no expiration agreement.
Previous Board Action	Previous Board Action on April 9, 2018 Agenda item – A1: 040920-A1
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Counsel Review	1. December 10, 2020 2. KR
Procurement Review	1. Was the item process through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 2. Original contract amount was direct procurement.
Contact Person	Deborah Cockrell, Health Center Director – 503-742-5495
Contract No.	9683_01

BACKGROUND:

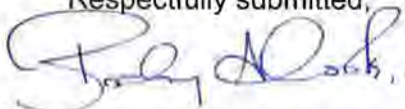
Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of Amendment #1 to Provider Participation agreement #9683 with CareOregon for the purpose of providing Behavioral Healthcare services.

Amendment #2 is to reflect the risk coordinator floor at the correct percent of 70%. It has been at that percentage since January 1, 2020. CareOregon provided notice on December 1, 2020. The agreement is backdated to have an effective date of January 1, 2020.

RECOMMENDATION:

Staff recommends approval of this amendment.

Respectfully submitted,

 H3S Deputy / for

Richard Swift, Director
 Health, Housing & Human Services Department

Healthy Families. Strong Communities.

CAREOREGON

SECOND AMENDMENT TO PROVIDER PARTICIPATION AGREEMENT

This Second Amendment to the Provider Participation Agreement (“Amendment”) is between CareOregon Inc., an Oregon nonprofit corporation (“CareOregon”), and Clackamas County, by and through its Health Centers Division, (“Provider”).

RECITALS

- A. The parties entered into the following Agreement: Provider Participation Agreement dated January 1, 2020 (“Agreement”).
- B. The parties desire to amend the Agreement.

AMENDMENT

- 1. **Amendment(s).** The Agreement is amended effective January 1, 2020, as follows:
- 2. The parties mutually agree to amend the Agreement with deleted language ~~struck through~~ and new language **underlined and bold**.

Exhibit D-1, Schedule of Payment for OHP/Medicaid, Outpatient Mental Health Services.

Section. A. Payment Terms

- 3. A risk corridor will be calculated to evaluate case rate payments in relation to the fee-for-service equivalent value of the encounterable services. There will be one regional risk corridor effective each Fiscal Year (July 1 through June 30) with an ~~80%~~ **70%** floor and a 125% ceiling. The regional risk corridor will be calculated annually, approximately 18-days following the end of each Fiscal Year, to reflect the activity within that Fiscal Year. Fee-for-Service equivalent values are assigned to approved encounters using the lesser of the Provider’s billed rate, or the rate published in the CareOregon fee schedule in effect on the date of service of the encounter. Please note that if a Provider’s usual and customary billed rate is lower than CareOregon’s Fee-For-Service equivalent, then the Provider’s usual and customary billed rate will be used to calculate the risk corridor.
- 3. **Other Provisions.** Except as modified hereby, the Agreement shall remain in full force and effect.
- 4. **Signatures.** This Agreement may be signed in counterparts. Delivery of an executed signature page of this Agreement by fax or by electronic transmission of a PDF file will be effective as delivery of a manually executed counterpart of this Agreement.

[signature page follows]

CAREOREGON, INC.

Signature: _____

Name: Eric C. Hunter

Title: Chief Executive Officer

Date: _____

**CLACKAMAS COUNTY, BY AND
THROUGH ITS HEALTH CENTERS
DIVISION**

Signature: _____

Name: _____

Title: _____

Date: _____

Tax ID: _____

January 7, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for Amendment #1 to a Provider Participation Agreement
with CareOregon for Behavioral Health Services.

Purpose/Outcomes	Provides Clackamas Health Centers (CHC) participation in a network of providers for Behavioral Healthcare services to patients.
Dollar Amount and Fiscal Impact	This is a no maximum agreement. No County General Funds are involved. No matching funds required. Fee for Services.
Funding Source	No County funds. This is a revenue agreement with CareOregon.
Duration	Effective January 1, 2021 and is a no expiration agreement.
Previous Board Action	Previous Board Action on April 9, 2018 Agenda item – A1: 040920-A1
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Counsel Review	1. December 10, 2020 2. KR
Procurement Review	1. Was the item process through Procurement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 2. Original contract amount was direct procurement.
Contact Person	Deborah Cockrell, Health Center Director – 503-742-5495
Contract No.	9683_01

BACKGROUND:

Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of Amendment #1 to Provider Participation agreement #9683 with CareOregon for the purpose of providing Behavioral Healthcare services.

CareOregon is a Coordinated Care Organization (CCO) which coordinated a network of providers in the area that provide healthcare services. CareOregon and CCHCD entered into this Provider Participation Agreement January, 1 2020.

Amendment #1 is to update the Supported Employment Services section of this agreement for 2021. CCHCD provides Supported Employment Services with evidence-based, culturally, and linguistically appropriate clinical services and strategies which support mental health recovery for CareOregon members enrolled with Health Share. CareOregon compensates CCHCD for members receiving these services.

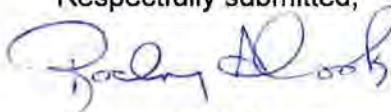
This amendment is effective January 1, 2021 and has no expiration date.

Healthy Families. Strong Communities.

RECOMMENDATION:

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

Respectfully submitted,

 *Jocelyn D. Cook, H3S Deputy / for*

Richard Swift, Director
Health, Housing & Human Services Department

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #:	9683	Division: HC	<input type="checkbox"/> Subrecipient
Board Order #:		Contact: Council, Amy	<input checked="" type="checkbox"/> Revenue
		Program Contact:	<input checked="" type="checkbox"/> Amend # 1 \$ 60,000.00
			<input type="checkbox"/> Procurement Verified
			<input type="checkbox"/> Aggregate Total Verified

Non BCC Item BCC Agenda **Date:** Tuesday, January 7, 2020

CONTRACT WITH: CareOregon, Inc.

CONTRACT AMOUNT: No Maximum

TYPE OF CONTRACT

- | | |
|---|---|
| <input type="checkbox"/> Agency Service Contract | <input type="checkbox"/> Memo of Understanding/Agreement |
| <input type="checkbox"/> Construction Agreement | <input checked="" type="checkbox"/> Professional, Technical & Personal Services |
| <input type="checkbox"/> Intergovernmental Agreement | <input type="checkbox"/> Property/Rental/Lease |
| <input type="checkbox"/> Interagency Services Agreement | <input type="checkbox"/> One Off |

DATE RANGE

- | | |
|--|---|
| <input type="checkbox"/> Full Fiscal Year _____ - _____ | <input type="checkbox"/> 4 or 5 Year _____ - _____ |
| <input type="checkbox"/> Upon Signature _____ - _____ | <input type="checkbox"/> Biennium _____ - _____ |
| <input checked="" type="checkbox"/> Other 1/1/2021 - No Expiration | <input type="checkbox"/> Retroactive Request? _____ - _____ |

INSURANCE What insurance language is required?

- Checked Off N/A
- Commercial General Liability:** Yes No, not applicable No, waived
If no, explain why: _____
- Business Automobile Liability:** Yes No, not applicable No, waived
If no, explain why: _____
- Professional Liability:** Yes No, not applicable No, waived
If no, explain why: _____
- Approved by Risk Mgr _____
Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?
 No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)
 If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Rastetter, Kathleen Date Approved: Monday, December 14, 2020
 OR
 This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE:

Date: _____

H3S Admin Only	Date Received: _____ Date Signed: _____ Date Sent: _____
----------------	--

AGREEMENTS/CONTRACTS

New Agreement/Contract

Amendment/Change Order Original Number _____

ORIGINATING COUNTY

DEPARTMENT: Health, Housing Human Services
Health Centers

PURCHASING FOR: Contracted Services

OTHER PARTY TO

CONTRACT/AGREEMENT: CareOregon, Inc.

BOARD AGENDA ITEM

NUMBER/DATE: _____

DATE: 1/7/2020

PURPOSE OF

CONTRACT/AGREEMENT: Provider agreement for services related to Behavioral Health and treatment provided at CHC clinics.

Amendment #1 to amend exhibit F - Supportive Services

H3S CONTRACT NUMBER: 9683

CAREOREGON

FIRST AMENDMENT TO PROVIDER PARTICIPATION AGREEMENT

This first Amendment to the Provider Participation Agreement (“Amendment”) is between CareOregon Inc., an Oregon nonprofit corporation (“CareOregon”), and Clackamas County, by and through its Health Centers Division (“Provider”).

RECITALS

- A. The parties entered into the following Agreement: Provider Participation Agreement dated January 1, 2020 (“Agreement”).
- B. The parties desire to amend the Agreement.

AMENDMENT

- 1. **Amendment(s).** The Agreement is amended effective January 1, 2021, as follows:
- 2. Exhibit F, Program Attachment, Supportive Employment Services is hereby replaced with Exhibit F, Program Attachment, Supported Employment Services.
- 3. Exhibit F-1, Schedule of Payment for OHP/Medicaid, Supportive Employment Services is hereby replaced with Exhibit F-1, Schedule of Payment for OHP/Medicaid, Supported Employment Services.
- 4. **Other Provisions.** Except as modified hereby, the Agreement shall remain in full force and effect.
- 5. **Signatures.** This Agreement may be signed in counterparts. Delivery of an executed signature page of this Agreement by fax or by electronic transmission of a PDF file will be effective as delivery of a manually executed counterpart of this Agreement.

[signature page follows]

CAREOREGON, INC.

**CLACKAMAS COUNTY, BY AND
THROUGH ITS HEALTH CENTERS
DIVISION**

Signature: _____

Signature: _____

Name: Eric C. Hunter

Name: _____

Title: Chief Executive Officer

Title: _____

Date: _____

Date: _____

Tax ID: _____

EXHIBIT F

PROGRAM ATTACHMENT SUPPORTED EMPLOYMENT (SE) SERVICES

A. SERVICE DESCRIPTION

Provider shall provide SE services with evidence-based, culturally, and linguistically appropriate clinical services and strategies which support mental health recovery for CareOregon Members enrolled with Health Share/Clackamas County. If additional capacity is available, services may be allocated to other CareOregon Members enrolled with Health Share.

1. Provider shall comply with OAR 309-019-0280 Supported Employment Providers.
2. Provider shall provide SE services in accordance with the IPS Fidelity Scale and the IPS Fidelity Manual found in the IPS Employment Center Library.
3. Provider will maintain fidelity with a score of 100 or higher and continually strive toward high fidelity as determined by the Oregon Supported Employment Center for Excellence (OSECE) Provider will submit fidelity review written report to CareOregon within 60 days of receiving it from OSECE.
4. Provider will place a percentage of enrolled Members served in competitive employment that is within 10% of the statewide average as noted on the OSECE Outcomes Supported Employment website.
5. For all programs under this Exhibit, Provider shall comply with ORS 182.515 and 182.525 Evidence-Based Programs.

B. STAFFING

1. Employment Specialists shall generally carry a caseload with approximately twenty (20) Members and will not have mixed caseloads with Members from other non-Supported Employment services.
2. Services should be integrated with other treatment provided within the agency. Supports for Members involved in this program should be individualized to maintain employment and should continue as long as Members want the assistance. Choices and decisions about work and support are individualized based on the person's preferences, strengths, and experiences. Provider agrees to use clinical judgment to determine which services are appropriate, and what frequency of care is medically necessary.
3. Provider shall maintain capacity to meet service needs aligned with the number of slots that are funded by this Agreement, to meet the needs of Members requesting access or being referred by CareOregon.

C. ELIGIBILITY AND AUTHORIZATION

1. Provider shall self-authorize SE Services using the SE authorization type in Ph-Tech's CIM system.
2. Members involved in this program must be enrolled with the provider agency as a Level A through D outpatient and members with SPMI. Eligibility for this program includes expressed desire by the client to work. No other criteria may be established to determine eligibility (i.e. limits on substance use, completing a period of volunteer work, etc.).

D. PROGRAM PERFORMANCE MEASURES

1. Provider shall send deliverables to CareOregon's designee BHProviderReporting@careoregon.org based on the following schedule:
 - a. Quarter 1 reporting due April 30th
 - b. Quarter 2 reporting due July 31st
 - c. Quarter 3 reporting due October 31st
 - d. Quarter 4 reporting due January 31st
2. Provider, in cooperation with CareOregon, shall develop a shared set of metrics to deploy at a later date to help enhance program performance measurement.
3. Notwithstanding any other payment provision of this Agreement, failure of Provider to submit required reports when due, may result in the withholding or reduction of payments under this Agreement. Such withholding of payment for cause may continue until Provider submits required reports, or establishes, to CareOregon's satisfaction, that such failure arose out of causes beyond the control and without the fault or negligence of Provider. CareOregon reserves the right to engage with Provider during mid-contract review to change, add, or adjust performance measures as necessary with a 45-day notice.

E. OTHER

1. In the event of a discrepancy between this Exhibit and the Agreement or any other documents incorporated into the Agreement by reference, the Exhibit shall prevail.
2. All regulations not referenced in this Agreement but applicable to the services under this Exhibit provided by the Provider are incorporated into this Agreement.
3. For all programs under this Exhibit, Provider shall comply with ORS 182.515 and 182.525 Evidence-Based Programs.
4. Provider is to meet all credentialing requirements stated in this Agreement and all documents incorporated by reference in this Agreement, including but not limited to the Provider Manual and Credentialing Delegation Exhibit.

EXHIBIT F-1

SCHEDULE OF PAYMENT FOR OHP/MEDICAID SUPPORTED EMPLOYMENT SERVICES

This schedule establishes payment for supported employment services rendered to OHP/Medicaid Recipients assigned to Health Share of Oregon CCO under this Agreement. CareOregon will use the formulas and other methodologies set forth in this Exhibit and the Fee Schedule, as amended from time to time as stated herein. Except as stated below with respect to Non-Material Changes, CareOregon may make changes to this Exhibit and the Fee Schedule as stated in Section 9.1.3 of the Agreement. "Non-Material Changes" shall mean routine updates to CPT or other nationally recognized codes (for example, codes are replaced, retired, or split into two codes).

A. PAYMENT TERMS

1. Effective January 1, 2021 to December 31, 2021, CareOregon shall compensate Provider on an annual cost reimbursement model for Members receiving services described in this Exhibit. The monthly payment amount shall not exceed **\$5,000.00** per month for all Members receiving services under this Exhibit based on the Annual Budget Report as reviewed and approved by CareOregon. Prior to CareOregon's approval of the Annual Budget Report. The total annual reimbursement amount for this Exhibit is estimated by CareOregon to be **\$60,000.00**. Monthly settlement will be based on actual verifiable costs of the program minus revenues collected
2. In addition to terms defined elsewhere in this Agreement, the following capitalized terms when used this Exhibit shall have the meanings set forth below.

"Verifiable Cost" means cost of services associated with the program that are verifiable with supporting payrolls, time records, invoices, contracts, vouchers, orders, and any other accounting documents pertaining in whole or in part to this Agreement.

"Revenue" means payments collected from claims submission, APM's or other sources including Open Card and/or private insurance.
3. A revised annual budget(s) is due within thirty (30) calendar days of an amendment to this Agreement if cumulative year-to-date dollar change exceeds 25%. Provider shall submit an Annual Budget Report only for services that are paid on a cost reimbursement basis.
4. Payment shall be made to Provider within thirty (30) calendar days of CareOregon receiving an invoice that meets requirements specified in Section B, Payment Reporting and Monitoring of this Exhibit.
5. Funding under this Exhibit may be adjusted by CareOregon through an amendment as indicated in section 9.1.3 of this Agreement. If funding is changed by an amendment to this Agreement, the amendment must be effective prior to Provider performing work subject to the amendment. In addition, provider shall not transfer funds from one service to another service under this

Agreement without mutual consent by both parties in writing and an amendment that specifies the changes.

B. PAYMENT REPORTING AND MONITORING

1. Provider shall submit monthly invoices to CareOregon's designee by the 20th day of the month following the month that services provider under this Exhibit. Invoices shall include the following information:
 - a. Email subject line: Provider Name, Monthly Invoice, Exhibit Name
 - b. Document title: Provider Name, Monthly Invoice, Exhibit Name
 - c. Dates of service
 - d. Number of Members served
 - e. Revenue collected from claims submission, APM's and/or other sources
 - f. Total cost of services under this Exhibit less revenue collected, including Open Card and/or private insurance.
2. Monthly invoices submitted by Provider to CareOregon under this Exhibit shall:
 - a. Be verifiable with supporting payrolls, time records, invoices, contracts, vouchers, orders, and any other accounting documents pertaining in whole or in part to this Agreement.
 - b. Include the total amount billed to date by Provider prior to the current invoice.
 - c. Be segregated by service items within the agency accounting system and reported on the required fiscal reports.
 - d. Abide by Generally Accepted Accounting Principles (GAAP), Oregon Administrative Rules, and applicable federal requirements, Section 2.13 of this Agreement, and CareOregon's policies.
3. CareOregon will review the monthly invoices and Payment shall be made to Provider within thirty (30) calendar days of CareOregon receiving an invoice that meets requirements specified in this Section.
4. Payment to Provider for services is contingent upon Provider meeting CareOregon's authorization requirements, including as applicable, CareOregon's Authorization Rules.
5. Encounter claims submission for all services provided under this Exhibit are required and shall continue to the terms and requirements of this Agreement. Provider shall submit encounter claims for 100% of all billable services provided under this Exhibit. This includes services identified by CPT and HCPCS codes paired with covered diagnoses on the Oregon Health Plan Prioritized List of Health Services and non-billable codes. Provider shall ensure its full cost of each service is submitted as billed charges on the claims. These claims will be used to properly represent care provided to members in the encounter data submitted to the State and CMS.

C. DISCRETIONARY COMPENSATION

CareOregon may establish a program or programs to encourage the improvement of the delivery of health

care to its Members. Any such program(s) together with the criteria for participation by Providers in the program(s) will be governed and administered by written policies and program descriptions developed by CareOregon.

D. CONFIDENTIALITY

This Exhibit and the Fee Schedule contains confidential and proprietary information and they are considered 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.

E. TERM AND TERMINATION

This Exhibit shall be applicable for the time period January 1, 2021 through December 31, 2021. This Exhibit is renewable upon termination at the discretion of CareOregon. Either party may terminate this Exhibit with a written, 30-day notice.

F. OTHER

Any copays, coinsurance, deductibles or any other cost sharing, if any, shall be offset against the allowed amount for Covered Services, without regard to whether Provider has collected such amounts. Provider's payment may be reduced by the amount of any applicable cost sharing, depending on the form of Member's benefit plan.

January 7, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #01 to a Revenue Contract with
Trillium Community Health Plan, Inc.

Purpose/Outcomes	The contract provides the funding for certain behavioral health services.
Dollar Amount and Fiscal Impact	Amendment adds \$500,000 to the value of the Contract. Maximum contract value now \$750,000.
Funding Source	No County General Funds are involved. State of Oregon, Oregon Health Plan (OHP) provided through Trillium Community Health Plan.
Duration	Effective January 1, 2021 and terminates on December 31, 2021.
Previous Board Action	Contract reviewed and approved June 11, 2020, Agenda Item 061120-A5.
Counsel Review	Contract reviewed and approved December 9, 2020 By KR
Procurement Review	Was this item reviewed by Procurement? No. This is a revenue contract.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division 503-742-5305
Contract No.	9693

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Amendment #01 to a revenue contract with Trillium Community Health Plan, Inc. for the funding for certain behavioral health services. Trillium is a Coordinated Care Organization contracted with the Oregon Health Authority to arrange for the provision of managed care services under the Oregon Health Plan (OHP) for OHP enrollees. This Contract provides funds for Behavioral Health Crisis, Behavioral Health Intensive Care Coordination, Wraparound Care Coordination, Choice Care Coordination and Peer & Community-based Services.

The Amendment is effective January 1, 2021 and continues through December 31, 2021. Amendment value of \$250,000 increases the maximum contract value to \$750,000. County Counsel reviewed and approved this Amendment on December 9, 2020.

Healthy Families. Strong Communities.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, H3S deputy / for

Richard Swift, Director
Health, Housing & Human Services Department

**AMENDMENT NO. 1 TO
ADMINISTRATIVE SERVICES AGREEMENT**

This Amendment No. 1 to ADMINISTRATIVE SERVICES AGREEMENT (the "**Amendment**") is made as of this January 1st, 2021 (the "**Amendment Effective Date**") by and between Trillium Community Health Plan, Inc. ("**Trillium**" or "**Health Plan**") and Clackamas County, Oregon, a municipal corporation ("**County**" or "**Vendor**"), (collectively, the "**Parties**"), with reference to the following facts:

A. The Parties have previously entered into an Administrative Services Agreement with the effective date of September 1, 2020 (the "**Agreement**"), which may have been amended in accordance with its terms;

B. The Parties desire to modify certain terms and conditions contained in the Agreement as provided in this Amendment;

NOW, THEREFORE, in consideration of the mutual promises, covenants, agreements and other undertakings set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Definitions: Defined terms used in this Amendment shall have the same meaning as in the Agreement unless otherwise specifically defined herein.

2. Section 7.1 Term is hereby deleted in its entirety and replaced with the following:

"Section 7.1 Term.

The Term of this Agreement shall commence on January 1, 2021 and terminate December 31, 2021.

3. Exhibit A "**Scope of Services**" is hereby deleted in its entirety and replaced with the attached Exhibit A, which is incorporated into the Agreement by reference.

4. Behavioral Health Intensive Care Coordination Services (Section 2.b) is removed from Exhibit B "**Delegated Services Agreement**".

5. Exhibit B-1 "**To Delegated Services Agreement**" is hereby deleted in its entirety and replaced with the following:

The following services that are checked shall be delegated to Vendor:

<input checked="" type="checkbox"/>	Behavioral Health Crisis Services as outlined in Exhibit B-3
<input checked="" type="checkbox"/>	Wraparound Care Coordination Services as outlined in Exhibit B-5
<input checked="" type="checkbox"/>	Choice Care Coordination Services as outlined in Exhibit B-6

6. Exhibit B-3 "**Behavioral Health Crisis Services**" is hereby deleted in its entirety and replaced with the attached Exhibit B-3, which is incorporated into the Agreement by reference.

7. Exhibit B-4 "**Behavioral Health Intensive Care Coordination Services**" is hereby deleted in its entirety.
8. Exhibit B-5 "**Wraparound Care Coordination Services**" is hereby deleted in its entirety and replaced with the attached Exhibit B-5, which is incorporated into the Agreement by reference.
9. The Rates Table in the "**Compensation Schedule**", Exhibit C, is hereby deleted in its entirety and replaced with the following:

Service	Rate
PMPM Rates/Services	
1. Behavioral Health Crisis Services	\$2.32 PMPM
2. Other County administration	\$0.46 PMPM
3. Peer/Community Services	\$1.26 PMPM
4. Community Health Assessment and Community Health Improvement Plan	\$0.27 PMPM
5. Regional Perinatal Continuum of Care	\$0.48 PMPM
6. Tobacco Cessation	\$0.16 PMPM
TOTAL PMPM	\$4.95 PMPM
Per Diem Rates/Services	
1. Wraparound Care Coordination	\$25.37 per diem
2. Choice Care Coordination	\$12.07 per diem

10. To the extent that there is a conflict between this Amendment and the Agreement, this Amendment will prevail. Except as amended and modified by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may not be modified except in writing signed by both parties hereto. This Amendment, the Agreement and exhibits and schedules thereto constitute the entire agreement of the parties with respect to the subject matter contained therein and supersede any and all prior or contemporaneous agreements between the parties, whether oral or written, concerning the subject matter contained herein.

IN WITNESS WHEREOF, the parties hereto by their duly authorized representatives executed this Amendment to be effective as of the Amendment Effective Date.

For: Clackamas County, Oregon

For: Trillium Community Health Plan

Signature

Signature

Name

Christopher Hummer

Name

Title

CEO

Title

Date

Date

EXHIBIT A

SCOPE OF SERVICES

1. Delegated Services (as set forth in Exhibit B, Delegated Services Agreement, attached to this Agreement):
 - a. Behavioral Health Crisis Services
 - b. Wraparound Care Coordination Services
 - c. Choice Care Coordination Services

2. Peer and Community-Based Services (not subject to Exhibit B, Delegated Services Agreement): County administration and coordination of funding for targeted local and regional efforts that supplement covered clinical treatment to assist individuals in remaining in the least restrictive setting possible. Peer Services provide support from individuals with lived experience to community members with similar conditions. County provides peer services to unconnected members through drop in centers and peers placed at various access points throughout the county such as the jail, community corrections and crisis services. Peer program supported with this funding include:
 - (i) Peer Drop In Centers-both youth and adults
 - (ii) 1:1 Mental health and Recovery Peer Support
 - (iii) Peer support at Urgent Mental Health Crisis ClinicClackamas County Behavioral Health Division Peer Services Coordinator provides coordination of peer services across the county.

3. Community Health Assessment and Community Health Improvement Plan (not subject to Exhibit B, Delegated Services Agreement)
 - **Services.** County will collaborate with Trillium in Trillium's development of: (a) a Community Health Assessment (CHA) through participation in the Healthy Columbia Willamette Collaborative and as described in Exhibit K, Section 6 of the CCO Contract; and (ii) a Community Health Improvement Plan (CHIP) for the implementation of health activities in accordance with OAR 410-141-3730 and as described in Exhibit K, Section 7 of the CCO Contract. Payment that County receives for the above-described services shall be used to support implementation of CHIP activities for local and regional CHIP priorities. Funds will be allocated to support CHIP projects identified by the strategic CHIP workgroups that may include grants, pre-identified CHIP strategies, CHIP planning, and CHIP community engagement initiatives.
 - **Benchmarks.** Trillium and County will mutually agree on any performance benchmarks required by Trillium. County agrees to provide annual progress reports relevant to CHA and CHIP alignment and implementation, in the form and format requested by Trillium. Those reports will include information on outcomes from funded community grants and identified priority projects.

4. Regional Perinatal Continuum of Care (not subject to Exhibit B, Delegated Services Agreement)
 - **Purpose.** Health care investment in a perinatal continuum of care infrastructure and county-based services to families supports the healthy development of families and young children within our communities. Public Health prevention services—including evidence-based home visiting and WIC programs—address social, emotional and educational determinants of health, physical health and development, and social-emotional well-being.

Prevention services decrease the use of emergency medical services, decrease child abuse and incarceration rates, increase family self-sufficiency, increase graduation and employment rates, reduce risk factors that lead to chronic conditions, increase immunization rates, improve utilization of a medical home, and result in savings in health care costs. County-based services provide education, physical and behavioral health screenings, parent support, early identification of problems and service referrals to improve maternal, family, and community health outcomes. With an emphasis on supporting individuals and communities most impacted by racial health inequities, services are prioritized to those at highest risk for poor health outcomes, including low-income families, first-time families, and families with children who have special health needs.

- **Services.** County shall undertake the following services related to the perinatal continuum of care:

1. Hire positions to support infrastructure development, community alignment, universal and targeted education and support.
2. Explore and develop contractual agreements with hospital systems to provide universally offered home visiting services and perinatal family supports.
3. Develop referral process and communication pathways between public health service array, hospital systems, obstetrics, and pediatric providers—measured by engagement in P3 Prenatal and Child and Family Support Network.
4. Increase engagement with perinatal families who are historically underserved, underrepresented, and isolated.
5. Explore integration of diverse perinatal screening tools and processes for sharing of screening information to reduce duplication of screening tools (where feasible) and to reduce potential of trauma-impact and increase families and provider capacity. Goal of: (1) reducing duplicative screening tools/questions; (2) developing the ability to share screening information; (3) helping families to feel less frustrated in filling out time-consuming screening tools every few weeks, and; (4) allowing providers to have more information to connect with families.
6. Women, Infant and Children (WIC) Services. County will make available WIC services to provide breastfeeding and nutrition expertise and support. County will prioritize enrolling Medicaid-eligible pregnant women.

- **Benchmarks.** County shall report on the following service benchmarks:

1. Progress of development and implementation of a universal home visiting program in partnership with community health/hospital systems;
2. Nurse home visiting service numbers including; babies first, family connects, CaCoon and Nurse Family Partnership;
3. WIC Services numbers.

5. Tobacco Cessation

- **Purpose.** Clackamas, Multnomah, and Washington counties' Public Health Divisions each participate in the Oregon Health Authority's (OHA's) Tobacco Prevention and Education Program (TPEP). TPEP works through policy, partnerships, and systems and built environment change to de-normalize tobacco use, educate the public on the harms of tobacco, prevent youth from starting tobacco use, and improve access to cessation programs. Additionally, TPEP is responsible for enforcement of the Indoor Clean Air Act (ICAA). OHA currently administers TPEP funds through a tiered funding model that requires local public health authorities to collaborate with CCOs on a multi-sector approach for tobacco prevention, as well as a robust communications plan.

- **Services.** Clackamas, Multnomah, and Washington counties developed a regional approach to maximize the impact of these public health and CCO partnerships. Clackamas County funding covers the following tri-county tobacco prevention strategy scope:
 1. Regional capacity-building for Federally Qualified Health Centers to provide culturally appropriate tobacco cessation services that respond to patients' needs. Proposed capacity-building includes:
 - a. Creation of a closed loop referral system with the Quit Line in the Epic electronic health record and training of providers in using the system.

**EXHIBIT B-3
TO DELEGATED SERVICES AGREEMENT
BEHAVIORAL HEALTH CRISIS SERVICES**

1. Services: County shall provide crisis services for adults, children, adolescents and their families in Clackamas County in accordance with the requirements outlined in OAR 309-019-0105, OAR 309-019-0150, OAR 309-019-0300 through 309-019-0320, and other applicable Oregon statutes and OARs concerning the Services that are in effect on the Effective Date or come into effect during the term of this Agreement.

A. CRISIS LINE TELEPHONE SERVICES

The County will:

- Provide a dedicated number in place as of the Effective Date of this Agreement.
- Offer callers the ability for warm transfer, as warranted, to the Health Plan's member services line and community providers.
- Availability and immediate access to trained, skilled, behavioral health professionals located in Oregon, including 24/7 accessibility to a QMHP.
- 24/7 bi-lingual or interpreter availability
- 24/7 telephone screening and triage to determine the need for immediate intervention or Covered Services.
- 24/7 linkage to emergency service providers, including first responders and mobile crisis services.
- Suicide intervention and prevention. Lethal means counseling and safety planning for individuals at risk for suicide. Procedures for de-escalation for calls from suicidal individuals.
- Crisis intervention, plan development, and follow-up as indicated.
- Provide information regarding services and resources in the community.
- Ensure callers to the Behavioral Health Crisis Line do not at any time receive a busy signal and/or allowed to leave a message and receive a call back.
- Ensure that an automated response system is never used for Behavioral Health Crisis Line calls.
- Behavioral Health Crisis Line calls shall not be shifted to an overflow system during times of high call volume.
- Ensure continuity of operations and back up capability in the event of phone system downtime or emergency.
- Maintain complete, accurate, and timely documentation of Behavioral Health Crisis Calls and make records for identified Health Plan members available to the Health Plan on a quarterly basis. Written documentation includes initial services plan at the conclusion of the necessary elements of the Behavioral Health Assessment for the crisis intervention.
- Participate in monthly/quarterly Joint Operating Committee meetings with Health Plan to review vendor performance in comparison to key contract requirements, community service patterns, current and upcoming system challenges, community training needs, and other identified opportunities for partnership.

- Provide performance and outcomes reporting relevant to services as outlined in this Agreement and in support of Health Plan reporting requirements outlined by OHA.
- Provide relevant member, provider network, systems & community resources data in support of an efficient and integrated Behavioral Health Crisis Service.
- Assist the Health Plan in establishing a written Quality Improvement plan for the crisis management system to address the requirements identified in OAR 410-141-3140.
- Ensure employees, subcontractors and providers are trained in integration, cultural competency, and Foundations of Trauma Informed Care and provide regular, periodic oversight and technical assistance on these topics to providers.
 - County responsible to ensure participation of its employees and subcontractors in Health Plan provided training as applicable to their scope of work.

B. COMMUNITY MOBILE CRISIS SERVICES

The County will provide either directly or through a contracted provider:

- 24-hour-a-day, 7-day-a-week capability to conduct a face-to-face mental health status examination of an Individual by a Qualified Mental Health Professional (QMHP) (as defined in OAR 309-019-0125(9)) or Qualified Mental Health Associate (QMHA) (as defined in OAR 309-019-0125(8)) under the supervision of a QMHP. Examination is used to determine the Individual’s condition and the interventions necessary to stabilize the Individual and the need for immediate services for the Individual.
- Availability of face-to-face therapeutic response delivered in a public setting, not to exceed OHA requirements of maximum response times, at locations in the community where the crisis arises including, but not limited to, a person’s home, schools, residential programs, nursing homes, group home settings, and hospitals to enhance community integration.
- Services that are generally delivered under the supervision of a QMHP, such as QMHAs and peers, and resulting in an applicable crisis stabilization plan. A primary goal of mobile crisis services shall be stabilization and clinically appropriate diversion from hospitalization and incarceration through linkage and referral to community-based supports and services.
- Mental Health crisis assessment.
- Brief crisis intervention and follow up as indicated.
- Assistance with placement in crisis respite as part of a crisis intervention.
- Place an individual on a director’s designee hold, if applicable.
- Coordination with emergency services, law enforcement and local hospitals for clinically appropriate disposition.
- Connecting individuals with ongoing supports and services.
- Participate in monthly/quarterly Joint Operating Committee meetings with Health Plan to review vendor performance in comparison to key contract requirements, community service patterns, current and upcoming system challenges, community training needs, and other identified opportunities for partnership.
- Submit required quarterly reporting on crisis services to the State and Health Plan.

- Ensure employees, subcontractors and providers are trained in integration, cultural competency, and Foundations of Trauma Informed Care and provide regular, periodic oversight and technical assistance on these topics to providers
 - County responsible to ensure participation of its employees and subcontractors in Health Plan provided training as applicable to their scope of work.

Mental Health Crisis Response Team a clinician paired with another clinician or law enforcement for rapid response to law enforcement agencies or 911 calls, available 7 days per week.

Crisis Walk-In Center. Provide access to Walk-In Center (Behavioral Health urgent care center), 7 days per week. Services provided may include assessment; crisis counseling and education regarding mental health and addiction; peer support; and connection to treatment providers and other social services.

Peer Crisis Support Team. Provide access to a team that supports individuals for an extended period of time during and after crisis events. If clinically indicated and needed, County will refer to on-going peer resources and provide available materials.

Intensive Transition Team. Provide access to hospital in-reach and short-term intensive case management while individuals are connecting to ongoing care.

**EXHIBIT B-5
TO DELEGATED SERVICES AGREEMENT
WRAPAROUND CARE COORDINATION SERVICES**

1. Services: County shall provide intensive care coordination services using the fidelity Wraparound model for children and youth with multi-system involvement who are approved for the program by the Wraparound Review Committee. Health Plan and County shall collaborate and participate in the System of Care (SOC) governance.

A. WRAPAROUND SERVICES

The County will:

- Maintain fidelity to the Wraparound model and adhering to the core values and principles described in ORS 418.977.
- Employ Wraparound Facilitators that are trained and maintain fidelity to the Wraparound model.
- Maintaining a ratio of families for each Wraparound Facilitator never greater than fifteen to one (15:1).
 - County shall notify Health Plan if the ratio of members to funded staff approaches 15:1.
- Provide a quarterly registry of members enrolled and a report on the ratio of Wraparound Facilitator to enrolled members.
- Schedule Child and Family team ("CFT") meetings with each enrolled family and child present, to occur at least once every thirty (30) days.
 - Distribute CFT minutes to CFT members and Wraparound facilitator supervisor within five (5) days of meeting.
- Consistently demonstrate Wraparound principles in Provider's documentation and service plans.
- Ensure that the Health Plan participates in the Wraparound Review Committee to screen and accept youth and families into the Wraparound program.
- Ensure that the Wraparound facilitation team:
 - Meet regularly with community organizations for technical assistance and training. Educate and provide technical assistance for community providers and engaged stakeholder agencies on their role in the Wraparound model and process.
 - Meet regularly with Trillium Medical Management Care Coordination to discuss member needs and to coordinate services.
 - Submit team recommendations for behavioral health authorization.
- Complete the Child and Adolescent Needs and Strengths (and any other State report requirements).
- Work with Portland State University to administer a tool to identify, implement and measure fidelity of enhanced wraparound services.
- Educate and provide technical assistance for community providers and engaged stakeholder agencies on their role in the Wraparound model and process.
- Participate as appropriate with local System of Care meetings.
- County will invite the Health Plan to appropriate System of Care meetings.
- Complete wraparound fidelity assessment tools with the CFT as required and provide a copy to Health Plan.

- Participate in monthly/quarterly Joint Operating Committee meetings with Health Plan to review county performance in comparison to key contract requirements, community service patterns, current and upcoming system challenges, community training needs, and other identified opportunities for partnership.
- Submit required quarterly reporting on Wraparound services to the State and Health Plan.
- Share relevant data, information, and reporting to the Health Plan as requested for oversight of Wraparound services.
- Develop and maintain written Wraparound policies and procedures which must include, without limitation:
 - Processes Wraparound Teams must follow when selecting services and supports and identifying those which will require the prior approval of the Providers before receiving such services and supports.
 - Processes Wraparound Teams will be required to follow in order to obtain prior authorization.
- The county will share feedback on the capacity of community services necessary to meet the needs of children and adolescents in Service Area who are eligible to receive Wraparound services.
- Ensure employees are trained in integration, cultural competency, and Foundations of Trauma Informed Care and provide regular, periodic oversight and technical assistance on these topics.
 - County responsible to ensure participation of its employees in County or Health Plan provided training.

January 7, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Amendment #13 to Intergovernmental Agreement #159159 with the State of Oregon, Acting by and through its Oregon Health Authority, for the operation and financing of Community Mental Health, Addiction Treatment, Recovery & Prevention Services, and Problem Gambling Programs

Purpose/Outcomes	This Agreement provides funding for the local administration and operation of behavioral health and addiction program services to residents of Clackamas County.
Dollar Amount and Fiscal Impact	Amendment adds \$155,104.63 to the value of the Agreement. New agreement maximum value is \$13,794,369.75.
Funding Source	No County General Funds are involved. Funding provided by State of Oregon, Oregon Health Authority.
Duration	Effective upon signature and terminates on December 31, 2020.
Previous Board Action	Board reviewed and approved Amendment #12 on December 10, 2020, Agenda Item 121020-A3.
Counsel Review	Reviewed and approved December 17, 2020 (KR).
Procurement Review	Was this item processed through Procurement? No. This is a revenue agreement.
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division 503-742-5305
Contract No.	9334

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Amendment #13 to Intergovernmental Agreement #159159 with the State of Oregon, acting by and through its Oregon Health Authority for the financing and operation of Community Mental Health, Addiction Treatment, Recovery & Prevention Services and Problem Gambling Programs in Clackamas County. The Board of County Commissioners is the Local Mental Health Authority for Clackamas County that operates a Community Mental Health Program funding by this Agreement. The Behavioral Health Division ensures that the funds are administered according to the terms set forth by this Agreement to provide local administration, behavioral health and addiction services to Clackamas County.

This Amendment, providing \$155,104.63 for Community Behavioral and Substance Use Disorder (A&D 66 Services), is effective upon signature and terminates December 31, 2020. The new maximum value of the Agreement is \$13,794,369.75.

RECOMMENDATION:

Staff recommends approval of this Amendment and authorization for Richard Swift to sign on behalf of the County.

Respectfully submitted,

A handwritten signature in blue ink that reads "Jody Alcock, HHS deputy / for". The signature is written in a cursive style.

Richard Swift, Director
Health, Housing & Human Services Department

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #: 9334	Division: BH	<input type="checkbox"/> Subrecipient
Board Order #:	Contact: Russell, Angela	<input checked="" type="checkbox"/> Revenue
	Program Contact: Brink, Angela	<input checked="" type="checkbox"/> Amend # 13 \$ \$155,104.63
		<input type="checkbox"/> Procurement Verified
		<input type="checkbox"/> Aggregate Total Verified

Non BCC Item BCC Agenda **Date:** _____

CONTRACT WITH: State of Oregon, OHA

CONTRACT AMOUNT: \$13,794,369.75

TYPE OF CONTRACT

<input type="checkbox"/> Agency Service Contract	<input type="checkbox"/> Memo of Understanding/Agreement
<input type="checkbox"/> Construction Agreement	<input type="checkbox"/> Professional, Technical & Personal Services
<input checked="" type="checkbox"/> Intergovernmental Agreement	<input type="checkbox"/> Property/Rental/Lease
<input type="checkbox"/> Interagency Services Agreement	<input type="checkbox"/> One Off

DATE RANGE

<input checked="" type="checkbox"/> Full Fiscal Year _____ - _____	<input type="checkbox"/> 4 or 5 Year _____ - _____
<input type="checkbox"/> Upon Signature _____ - _____	<input type="checkbox"/> Biennium _____ - _____
<input type="checkbox"/> Other _____ - _____	<input checked="" type="checkbox"/> Retroactive Request? 7/1/2019 - 12/31/2020

INSURANCE What insurance language is required?

Checked Off N/A

Commercial General Liability: Yes No, not applicable No, waived
If no, explain why: _____

Business Automobile Liability: Yes No, not applicable No, waived
If no, explain why: _____

Professional Liability: Yes No, not applicable No, waived
If no, explain why: _____

Approved by Risk Mgr _____
Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?

No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)

If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Rastetter, Kathleen Date Approved: Thursday, December 17, 2020
OR

This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE: _____
Date: _____

H3S Admin Only	Date Received: _____ Date Signed: _____ Date Sent: _____
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AGREEMENTS/CONTRACTS

<input type="checkbox"/> New Agreement/Contract
<input checked="" type="checkbox"/> Amendment/Change Order Original Number

ORIGINATING COUNTY

**DEPARTMENT: Health, Housing Human Services
Behavioral Health**

PURCHASING FOR: Contracted Services

OTHER PARTY TO

CONTRACT/AGREEMENT: State of Oregon, OHA

BOARD AGENDA ITEM

NUMBER/DATE: _____

DATE: _____

PURPOSE OF

CONTRACT/AGREEMENT: 2019-21 Intergovernmental Agreement #159159 with the State of Oregon, by and through the Oregon Health Authority for the financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services

Amendment #13 adds \$155,104.63 to A&D 66 (Community Behavioral and Substance Use Disorder Services).

H3S CONTRACT NUMBER: 9334



In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

**THIRTEENTH AMENDMENT TO
OREGON HEALTH AUTHORITY
2019-2021 INTERGOVERNMENTAL AGREEMENT FOR THE FINANCING OF
MENTAL HEALTH, ADDICTION TREATMENT, RECOVERY, & PREVENTION,
AND PROBLEM GAMBLING SERVICES AGREEMENT #159159**

This Thirteenth Amendment to Oregon Health Authority 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery, & Prevention, and Problem Gambling Services effective as of July 1, 2019 (as amended, the "Agreement"), is entered into, as of the date of the last signature hereto, by and between the State of Oregon acting by and through its Oregon Health Authority ("OHA") and **Clackamas County** ("County").

RECITALS

WHEREAS, OHA and County wish to modify the Financial Assistance Award set forth in Exhibit C of the Agreement.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. The financial and service information in the Financial Assistance Award are hereby amended as described in Attachment 1 attached hereto and incorporated herein by this reference. Attachment 1 must be read in conjunction with the portion of Exhibit C of the Agreement that describes the effect of an amendment of the financial and service information.
2. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
3. County represents and warrants to OHA that the representations and warranties of County set forth in section 4 of Exhibit F of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
4. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
5. This Amendment may be executed in any number of 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 this Amendment so executed shall constitute an original.

IN WITNESS WHEREOF, the parties hereto have executed this amendment as of the dates set forth below their respective signatures.

6. Signatures.

Clackamas County

By:

Authorized Signature Printed Name Title Date

State of Oregon acting by and through its Oregon Health Authority

By:

Authorized Signature Printed Name Title Date

Approved by: Director, OHA Health Systems Division

By:

Authorized Signature Printed Name Title Date

Approved for Legal Sufficiency:

Approved by Steven Marlowe, Senior Assistant Attorney General, Department of Justice, Tax and Finance Section, on April 30, 2019; e-mail in contract file.

OHA Program:

Approved by Arlenia Broadwell on December 16, 2020; e-mail in contract file.

**ATTACHMENT 1
EXHIBIT C
Financial Pages**

MODIFICATION INPUT REVIEW REPORT

SE#	FUND CODE	CPMS PROVIDER	PROJ	EFFECTIVE DATES	SLOT CHANGE/TYPE	RATE	OPERATING DOLLARS	STARTUP PART DOLLARS	PART ABC	PART IV	PAAF CD	BASE	CLIENT CODE	SP#
FISCAL YEAR: 2019-2020														
66	420	CLACKAMAS CO.	BASEAD	7/1/2019 - 6/30/2020	0 /NA	\$0.00	-\$18,641.00	\$0.00	A	1	Y			1
66	421	CLACKAMAS CO.	BASEAD	7/1/2019 - 6/30/2020	0 /NA	\$0.00	-\$44,216.00	\$0.00	A	1	Y			1
66	427	CLACKAMAS CO.	BASEAD	7/1/2019 - 6/30/2020	0 /NA	\$0.00	-\$214,491.00	\$0.00	A	1	Y			1
66	450	CLACKAMAS CO.	BASEAD	7/1/2019 - 6/30/2020	0 /NA	\$0.00	-\$214,491.00	\$0.00	A	1	Y			1
66	520	CLACKAMAS CO.	BASEAD	7/1/2019 - 6/30/2020	0 /NA	\$0.00	-\$422,359.48	\$0.00	A	1	Y			1
66	520	CLACKAMAS CO.	BASEAD	7/1/2019 - 6/30/2020	0 /NA	\$0.00	\$468,783.11	\$0.00	A	1	Y			2
66	STD	CLACKAMAS CO.	BASEAD	7/1/2019 - 6/30/2020	0 /NA	\$0.00	\$548,817.46	\$0.00	A	1	Y			2
TOTAL FOR SE# 66							\$103,402.09	\$0.00						
TOTAL FOR 2019-2020							\$103,402.09	\$0.00						
FISCAL YEAR: 2020-2021														
66	420	CLACKAMAS CO.	BASEAD	7/1/2020 - 12/31/2020	0 /NA	\$0.00	-\$9,320.00	\$0.00	A	1	Y			1
66	421	CLACKAMAS CO.	BASEAD	7/1/2020 - 12/31/2020	0 /NA	\$0.00	-\$22,108.00	\$0.00	A	1	Y			1
66	427	CLACKAMAS CO.	BASEAD	7/1/2020 - 12/31/2020	0 /NA	\$0.00	-\$107,245.00	\$0.00	A	1	Y			1
66	450	CLACKAMAS CO.	BASEAD	7/1/2020 - 12/31/2020	0 /NA	\$0.00	-\$107,245.00	\$0.00	A	1	Y			1
66	520	CLACKAMAS CO.	BASEAD	7/1/2020 - 12/31/2020	0 /NA	\$0.00	\$234,391.55	\$0.00	A	1	Y			2
66	520	CLACKAMAS CO.	BASEAD	7/1/2020 - 12/31/2020	0 /NA	\$0.00	-\$211,179.74	\$0.00	A	1	Y			1
66	STD	CLACKAMAS CO.	BASEAD	7/1/2020 - 12/31/2020	0 /NA	\$0.00	\$274,408.73	\$0.00	A	1	Y			2
TOTAL FOR SE# 66							\$51,702.54	\$0.00						

MODIFICATION INPUT REVIEW REPORT

MOD#: A0128

CONTRACT#: 159159

CONTRACTOR: CLACKAMAS COUNTY

INPUT CHECKED BY: _____

DATE CHECKED: _____

SE#	FUND CODE	CPMS PROVIDER	PROJ	EFFECTIVE DATES	SLOT CHANGE/TYPE	RATE	OPERATING DOLLARS	STARTUP PART DOLLARS	PART ABC	PAAF IV	CD	BASE	CLIENT CODE	SP#
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FISCAL YEAR: 2020-2021

TOTAL FOR 2020-2021							\$51,702.54	\$0.00						
TOTAL FOR A0128	159159						\$155,104.63	\$0.00						

OREGON HEALTH AUTHORITY
Financial Assistance Award Amendment (FAAA)

CONTRACTOR: CLACKAMAS COUNTY
DATE: 12/15/2020

Contract#: 159159
REF#: 014

REASON FOR FAAA (for information only):

During the 80th Oregon Legislative Assembly- 2019 Regular Session, the SB 5525 Budget Report put forward a recommended budget that included \$13.0 million General Fund and \$36.3 million Federal Funds expenditure limitation for Behavioral Health providers. One of the goals of this investment is to increase fee-for-service substance use disorder rates by a net 20 percent for both Medicaid and non-Medicaid services. The investment may also increase non-residential mental health rates according to the availability of funds. Non-Medicaid Services are being increase for SE 61 and SE 71 to match the Medicaid rates for residential treatment, the remaining funds will be allocated to increasing SE 66 funds for outpatient service for an overall net increase of 20% that aligns with Medicaid. The rate increase for SE 66 will allow for an increase in lives served. The settlement rate will not be increased for the 2019-2021 biennium at this time.

The following special condition(s) apply to funds as indicated by the special condition number in column 9. Each special condition set forth below may be qualified by a full description in the Financial Assistance Award.

- A0128 1 Special condition # A0000 -2 in Base Agreement, regarding "A&D 66" applies.
- A0128 2 These funds must result in the delivery of A&D 66 Services to a minimum of 1143 unduplicated individuals receiving outpatient Services and enrolled in the MOTS system on or after July 1, 2019. Up to 20% of 1143 can be provided as Prevention, Education, and Outreach to non-enrolled individuals. Cases without evidence of treatment engagement in the clinical record do not count toward the service delivery requirement, except as listed above for Prevention, Education, and Outreach. Report of Prevention, Education, and Outreach must be submitted quarterly on the form located at <http://www.oregon.gov/OHA/HSD/AMH/Pages/Reporting-Requirements.aspx>. Under delivery of Services subject to this financial assistance may result in recovery of funds at the rate of \$ 1,200 per individual.

January 7, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval to Accept Oregon Dept of Education Grant Award for
Coordinated Enrollment for Preschool Promise

Purpose/Outcomes	Approval to accept grant award from the State of Oregon through its Department of Education to implement Coordinated Enrollment for Preschool Promise. Clackamas Early Learning HUB will implement ongoing coordinated enrollment processes that will focus on enrolling children into the Early Learning Division's Preschool Promise Program in Clackamas County.
Dollar Amount and Fiscal Impact	\$23,000
Funding Source	State of Oregon through its Department of Education, Early Learning Division Grant no. 13320
Duration	Effective July 1, 2020 – December 30, 2020
Previous Board Action	n/a
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities.
Counsel Review	This Grant Award has been reviewed and approved by County Counsel on December 10, 2020, 2020:KR
Procurement Review	Was the item processed through Procurement? No Grant Award
Contact Person	Adam Freer 971-533-4929
Contract No.	9993

BACKGROUND:

The Children, Family and Community Connections Division of the Health, Housing, and Human Services Department requests the approval to accept State of Oregon Grant Award to implement Coordinated Enrollment for Preschool Promise. Clackamas Early Learning HUB will implement ongoing coordinated enrollment processes that will focus on enrolling children into Early Learning Division's Preschool Promise Program in Clackamas County.

Preschool Promise, Head Start/Oregon Pre-Kindergarten and K-12 preschools in Clackamas County, along with the Early Learning HUB of Clackamas County are committed to working together to support high-quality early learning in the HUB Region (Clackamas County). The goal is to engage in regional coordination of publicly funded preschool, maximize resources to provide high-quality preschool to the greatest number of children in the region and prepare all children for success in kindergarten. Clackamas County HUB will support and manage coordinated enrollment for the region.

RECOMMENDATION:

Staff recommends Board approval of award and authorization for Richard Swift, H3S Director to sign the agreement and future amendments to the Agreement on behalf of Clackamas County.

Respectfully submitted,

Rodney A. Cook, H3S Deputy Director /for
Richard Swift, Director
Health, Housing & Human Services

STATE OF OREGON GRANT AGREEMENT

Grant No. 13320

This Grant Agreement (“Grant”) is between the State of Oregon acting by and through its Department of Education (“Agency”) and Clackamas County (“Grantee”), each a “Party” and, together, the “Parties”.

SECTION 1: AUTHORITY

Pursuant to ORS 329.172 and ORS 417.827(2), Agency is authorized to enter into a grant agreement and provide funding for the purposes described in this Grant.

SECTION 2: PURPOSE

The purpose of this Grant is to engage Grantee to implement an ongoing coordinated enrollment process focused on enrolling children into publically funded preschool programs, including the Preschool Promise Program funded by Agency’s Early Learning Division’s (“ELD”).

SECTION 3: EFFECTIVE DATE AND DURATION

When all Parties have executed this Grant, and all necessary approvals have been obtained (“Executed Date”), this Grant is effective and has a Grant funding start date as of July 1, 2020 (“Effective Date”), and, unless extended or terminated earlier in accordance with its terms, will expire on December 30, 2020.

SECTION 4: GRANT MANAGERS

4.1 Agency’s Grant Manager is:

Teresa Waite
700 Summer Street NE, Suite 350, Salem, OR 97301
Phone: 503-934-1891
teresa.n.waite@state.or.us

4.2 Grantee’s Grant Manager is:

Chelsea Hamilton
112 11th St, Oregon City, OR 97045
Phone: 971-990-5677
chamilton@clackamas.us

4.3 A Party may designate a new Grant Manager by written notice to the other Party.

SECTION 5: PROJECT ACTIVITIES

Grantee must perform the project activities set forth in Exhibit A (the “Project”), attached hereto and incorporated in this Grant by this reference, for the period beginning on the Effective Date and ending on the expiration date set forth in Section 3 (the “Performance Period”).

SECTION 6: GRANT FUNDS

In accordance with the terms and conditions of this Grant, Agency will provide Grantee up to \$23,000.00 (“Grant Funds”) for the Project. Agency will pay the Grant Funds from monies available through its federal Preschool Development Grant (“Funding Source”).

SECTION 7: DISBURSEMENT GENERALLY

7.1 Disbursement.

7.1.1 Subject to the availability of sufficient moneys in and from the Funding Source based on Agency’s reasonable projections of moneys accruing to the Funding Source, Agency will disburse Grant Funds to Grantee for the allowable Project activities described in Exhibit A that are undertaken during the Performance Period.

7.1.2 Grantee must provide to Agency any information or detail regarding the expenditure of Grant Funds required under Exhibit A prior to disbursement or as Agency may request.

7.1.3 Agency will only disburse Grant Funds to Grantee for activities completed or materials produced, that, if required by Exhibit A, are approved by Agency. If Agency determines any completed Project activities or materials produced are not acceptable and any deficiencies are the responsibility of Grantee, Agency will prepare a detailed written description of the deficiencies within 15 days of receipt of the materials or performance of the activity, and will deliver such notice to Grantee. Grantee must correct any deficiencies at no additional cost to Agency within 15 days. Grantee may resubmit a request for disbursement that includes evidence satisfactory to Agency demonstrating deficiencies were corrected.

7.2 **Conditions Precedent to Disbursement.** Agency’s obligation to disburse Grant Funds to Grantee under this Grant is subject to satisfaction of each of the following conditions precedent:

7.2.1 Agency has received sufficient funding, appropriations, expenditure limitation, allotments or other necessary expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement from the Funding Source;

7.2.2 No default as described in Section 15 has occurred; and

7.2.3 Grantee’s representations and warranties set forth in Section 8 are true and correct on the date

of disbursement(s) with the same effect as though made on the date of disbursement.

- 7.3 **No Duplicate Payment.** Grantee may use other funds in addition to the Grant Funds to complete the Project; provided, however, the Grantee may not credit or pay any Grant Funds for Project costs that are paid for with other funds and would result in duplicate funding.

SECTION 8: REPRESENTATIONS AND WARRANTIES

- 8.1 **Organization/Authority.** Grantee represents and warrants to Agency that:

8.1.1 Grantee is a unit of local government duly organized and validly existing;

8.1.2 Grantee has all necessary rights, powers and authority under any organizational documents and under Oregon Law to (i) execute this Grant, (ii) incur and perform its obligations under this Grant, and (iii) receive financing, including the Grant Funds, for the Project;

8.1.3 This Grant has been duly executed by Grantee and when executed by Agency, constitutes a legal, valid and binding obligation of Grantee enforceable in accordance with its terms;

8.1.4 If applicable and necessary, the execution and delivery of this Grant by Grantee has been authorized by an ordinance, order or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings; and

8.1.5 There is no proceeding pending or threatened against Grantee before any court or governmental authority that if adversely determined would materially adversely affect the Project or the ability of Grantee to carry out the Project.

- 8.2 **False Claims Act.** Grantee acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) made by (or caused by) Grantee that pertains to this Grant or to the Project. Grantee certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Grantee further acknowledges in addition to the remedies under Section 16, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Grantee.

- 8.3 **No limitation.** The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Grantee.

SECTION 9: OWNERSHIP

- 9.1 **Intellectual Property Definitions.** As used in this Section and elsewhere in this Grant, the following terms have the meanings set forth below:

“Third Party Intellectual Property” means any intellectual property owned by parties other than Grantee or Agency.

“Work Product” means every invention, discovery, work of authorship, trade secret or other tangible or intangible item Grantee is required to create or deliver as part of the Project, and all intellectual property rights therein.

- 9.2 Grantee Ownership.** Grantee must deliver copies of all Work Product as directed in Exhibit A. Grantee retains ownership of all Work Product, and grants Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, to reproduce, to prepare derivative works based upon, to distribute, to perform and to display the Work Product, to authorize others to do the same on Agency’s behalf, and to sublicense the Work Product to other entities without restriction.
- 9.3 Third Party Ownership.** If the Work Product created by Grantee under this Grant is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee must secure an irrevocable, non-exclusive, perpetual, royalty-free license allowing Agency and other entities the same rights listed above for the pre-existing element of the Third party Intellectual Property employed in the Work Product. If state or federal law requires that Agency or Grantee grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires Agency or the United States to own the intellectual property in the Work Product, then Grantee must execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

SECTION 10: CONFIDENTIAL INFORMATION

- 10.1 Confidential Information Definition.** Grantee acknowledges it and its employees or agents may, in the course of performing its responsibilities, be exposed to or acquire information that is: (i) confidential to Agency or Project participants or (ii) the disclosure of which is restricted under federal or state law, including without limitation: (a) personal information, as that term is used in ORS 646A.602(12), (b) social security numbers, and (c) information protected by the federal Family Educational Rights and Privacy Act under 20 USC § 1232g (items (i) and (ii) separately and collectively “Confidential Information”).
- 10.2 Nondisclosure.** Grantee agrees to hold Confidential Information as required by any applicable law and in all cases in strict confidence, using at least the same degree of care Grantee uses in maintaining the confidentiality of its own confidential information. Grantee may not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information except as is allowed by law and for the Project activities and Grantee must advise each of its employees and agents of these restrictions. Grantee must assist Agency in identifying and preventing any unauthorized use or disclosure of Confidential Information. Grantee must advise Agency immediately if Grantee learns or has reason to believe any Confidential Information has been, or may be, used or disclosed in violation of the restrictions in this Section. Grantee must, at its expense, cooperate with Agency in seeking injunctive or other equitable relief, in the name of Agency or Grantee, to stop or prevent any use or disclosure of Confidential Information. At Agency’s request, Grantee must return or

destroy any Confidential Information. If Agency requests Grantee to destroy any Confidential Information, Grantee must provide Agency with written assurance indicating how, when and what information was destroyed.

- 10.3 Identity Protection Law.** Grantee must have and maintain a formal written information security program that provides safeguards to protect Confidential Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Information Protection Act, ORS 646A.600-628. If Grantee or its agents discover or are notified of a potential or actual “Breach of Security”, as defined by ORS 646A.602(1)(a), or a failure to comply with the requirements of ORS 646A.600-628, (collectively, “Breach”) with respect to Confidential Information, Grantee must promptly but in any event within one calendar day (i) notify the Agency Grant Manager of such Breach and (ii) if the applicable Confidential Information was in the possession of Grantee or its agents at the time of such Breach, Grantee must (a) investigate and remedy the technical causes and technical effects of the Breach and (b) provide Agency with a written root cause analysis of the Breach and the specific steps Grantee will take to prevent the recurrence of the Breach or to ensure the potential Breach will not recur. For the avoidance of doubt, if Agency determines notice is required of any such Breach to any individual(s) or entity(ies), Agency will have sole control over the timing, content, and method of such notice, subject to Grantee’s obligations under applicable law.
- 10.4 Subgrants/Contracts.** Grantee must require any subgrantees, contractors or subcontractors under this Grant who are exposed to or acquire Confidential Information to treat and maintain such information in the same manner as is required of Grantee under subsections 10.1 and 10.2 of this Section.
- 10.5 Background Check.** If requested by Agency and permitted by law, Grantee’s employees, agents, contractors, subcontractors, and volunteers that perform Project activities must agree to submit to a criminal background check prior to performance of any Project activities or receipt of Confidential Information. Background checks will be performed at Grantee’s expense. Based on the results of the background check, Grantee or Agency may refuse or limit (i) the participation of any Grantee employee, agent, contractor, subgrantee, or volunteer, in Project activities or (ii) access to Agency Personal Information or Grantee premises.

SECTION 11: INDEMNITY/LIABILITY

- 11.1 Indemnity.** Grantee must defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including attorneys’ fees, resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subgrantees, contractors, subcontractors, or agents under this Grant (each of the foregoing individually or collectively a “Claim” for purposes of this Section).
- 11.2 Defense.** Grantee may have control of the defense and settlement of any Claim subject to this Section. But neither Grantee nor any attorney engaged by Grantee may defend the Claim in the name of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Attorney General, in a form and manner determined

appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Nor may Grantee settle any Claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event the State of Oregon determines Grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or an important governmental principle is at issue and the State of Oregon desires to assume its own defense. Grantee may not use any Grant Funds to reimburse itself for the defense of or settlement of any Claim.

- 11.3 Limitation.** Except as provided in this Section, neither Party will be liable for incidental, consequential, or other direct damages arising out of or related to this Grant, regardless of whether the damages or other liability is based in contract, tort (including negligence), strict liability, product liability or otherwise. Neither Party will be liable for any damages of any sort arising solely from the termination of this Grant in accordance with its terms.

SECTION 12: INSURANCE

- 12.1 Private Insurance.** If Grantee is a private entity, or if any contractors, subcontractors, or subgrantees used to carry out the Project are private entities, Grantee and any private contractors, subcontractors or subgrantees must obtain and maintain insurance covering Agency in the types and amounts indicated in Exhibit B.
- 12.2 Public Body Insurance.** If Grantee is a "public body" as defined in ORS 30.260, Grantee agrees to insure any obligations that may arise for Grantee under this Grant, including any indemnity obligations, through (i) the purchase of insurance as indicated in Exhibit B or (ii) the use of self-insurance or assessments paid under ORS 30.282 that is substantially similar to the types and amounts of insurance coverage indicated on Exhibit B, or (iii) a combination of any or all of the foregoing.

SECTION 13: GOVERNING LAW, JURISDICTION

This Grant is 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 Agency or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Grant must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may this Section be construed as a waiver by the State of Oregon 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, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS GRANT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.

SECTION 14: ALTERNATIVE DISPUTE RESOLUTION

The Parties should attempt in good faith to resolve any dispute arising out of this Grant. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Grant. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each Party will bear its own costs incurred for any mediation or non-binding arbitration.

SECTION 15: DEFAULT

- 15.1 Grantee.** Grantee will be in default under this Grant upon the occurrence of any of the following events:
- 15.1.1** Grantee fails to use the Grant Funds for the intended purpose described in Exhibit A or otherwise fails to perform, observe or discharge any of its covenants, agreements or obligations under this Grant;
 - 15.1.2** Any representation, warranty or statement made by Grantee in this Grant or in any documents or reports relied upon by Agency to measure the Project, the expenditure of Grant Funds or the performance by Grantee is untrue in any material respect when made; or
 - 15.1.3** A petition, proceeding or case is filed by or against Grantee under any federal or state bankruptcy, insolvency, receivership or other law relating to reorganization, liquidation, dissolution, winding-up or adjustment of debts; in the case of a petition filed against Grantee, Grantee acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal; or Grantee becomes insolvent or admits its inability to pay its debts as they become due, or Grantee makes an assignment for the benefit of its creditors.
- 15.2 Agency.** Agency will be in default under this Grant if, after 15 days written notice specifying the nature of the default, Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Grant; provided, however, Agency will not be in default if Agency fails to disburse Grant Funds because there is insufficient expenditure authority for, or moneys available from, the Funding Source.

SECTION 16: REMEDIES

- 16.1 Agency Remedies.** In the event Grantee is in default under Section 15.1, Agency may, at its option, pursue any or all of the remedies available to it under this Grant and at law or in equity, including, but not limited to: (i) termination of this Grant under Section 18.2, (ii) reducing or withholding payment for Project activities or materials that are deficient or Grantee has failed to complete by any scheduled deadlines, (iii) requiring Grantee to complete, at Grantee's expense, additional activities necessary to satisfy its obligations or meet performance standards under this Grant, (iv) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, (v) exercise of its right of recovery of overpayments under Section 17 of this Grant or setoff,

or both, or (vi) declaring Grantee ineligible for the receipt of future awards from Agency. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

- 16.2 Grantee Remedies.** In the event Agency is in default under Section 15.2 and whether or not Grantee elects to terminate this Grant, Grantee's sole monetary remedy will be, within any limits set forth in this Grant, reimbursement of Project activities completed and accepted by Agency and authorized expenses incurred, less any claims Agency has against Grantee. In no event will Agency be liable to Grantee for any expenses related to termination of this Grant or for anticipated profits.

SECTION 17: WITHHOLDING FUNDS, RECOVERY

Agency may withhold from disbursements of Grant Funds due to Grantee, or Grantee must return to Agency within 30 days of Agency's written demand:

- 17.1** Any Grant Funds paid to Grantee under this Grant, or payments made under any other agreement between Agency and Grantee, that exceed the amount to which Grantee is entitled;
- 17.2** Any Grant Funds received by Grantee that remain unexpended or contractually committed for payment of the Project at the end of the Performance Period;
- 17.3** Any Grant Funds determined by Agency to be spent for purposes other than allowable Project activities; or
- 17.4** Any Grant Funds requested by Grantee as payment for deficient activities or materials.

SECTION 18: TERMINATION

- 18.1 Mutual.** This Grant may be terminated at any time by mutual written consent of the Parties.
- 18.2 By Agency.** Agency may terminate this Grant as follows:
- 18.2.1** At Agency's discretion, upon 30 days advance written notice to Grantee;
- 18.2.2** Immediately upon written notice to Grantee, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Grant;
- 18.2.3** Immediately upon written notice to Grantee, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Grant is prohibited or Agency is prohibited from funding the Grant from the Funding Source; or
- 18.2.4** Immediately upon written notice to Grantee, if Grantee is in default under this Grant and such default remains uncured 15 days after written notice thereof to Grantee.
- 18.3 By Grantee.** Grantee may terminate this Grant as follows:

- 18.3.1 If Grantee is a governmental entity, immediately upon written notice to Agency, if Grantee fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to perform its obligations under this Grant.
 - 18.3.2 If Grantee is a governmental entity, immediately upon written notice to Agency, if applicable laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project activities contemplated under this Grant are prohibited by law or Grantee is prohibited from paying for the Project from the Grant Funds or other planned Project funding; or
 - 18.3.3 Immediately upon written notice to Agency, if Agency is in default under this Grant and such default remains uncured 15 days after written notice thereof to Agency.
- 18.4 **Cease Activities.** Upon receiving a notice of termination of this Grant, Grantee must immediately cease all activities under this Grant, unless Agency expressly directs otherwise in such notice. Upon termination, Grantee must deliver to Agency all materials or other property that are or would be required to be provided to Agency under this Grant or that are needed to complete the Project activities that would have been performed by Grantee.

SECTION 19: MISCELLANEOUS

- 19.1 **Conflict of Interest.** Grantee by signature to this Grant declares and certifies the award of this Grant and the Project activities to be funded by this Grant, create no potential or actual conflict of interest, as defined by ORS Chapter 244, for a director, officer or employee of Grantee.
- 19.2 **Nonappropriation.** Agency's obligation to pay any amounts and otherwise perform its duties under this Grant is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Grant. Nothing in this Grant may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.
- 19.3 **Amendments.** The terms of this Grant may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.
- 19.4 **Notice.** Except as otherwise expressly provided in this Grant, any notices to be given under this Grant must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Grant Manager at the physical address or email address set forth in this Grant, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.
- 19.5 **Survival.** All rights and obligations of the Parties under this Grant will cease upon termination of this Grant, other than the rights and obligations arising under Sections 11, 13, 14, 16, 17 and subsection 19.5 hereof and those rights and obligations that by their express terms survive

termination of this Grant; provided, however, termination of this Grant will not prejudice any rights or obligations accrued to the Parties under this Grant prior to termination.

- 19.6 Severability.** The Parties agree if any term or provision of this Grant is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Grant did not contain the particular term or provision held to be invalid.
- 19.7 Counterparts.** This Grant may be executed in several counterparts, all of which when taken together constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Grant so executed constitutes an original.
- 19.8 Compliance with Law.** In connection with their activities under this Grant, the Parties must comply with all applicable federal, state and local laws.
- 19.9 Intended Beneficiaries.** Agency and Grantee are the only parties to this Grant and are the only parties entitled to enforce its terms. Nothing in this Grant provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Grant.
- 19.10 Assignment and Successors.** Grantee may not assign or transfer its interest in this Grant without the prior written consent of Agency and any attempt by Grantee to assign or transfer its interest in this Grant without such consent will be void and of no force or effect. Agency's consent to Grantee's assignment or transfer of its interest in this Grant will not relieve Grantee of any of its duties or obligations under this Grant. The provisions of this Grant will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.
- 19.11 Contracts and Subgrants.** Grantee may not, without Agency's prior written consent, enter into any contracts or subgrants for any of the Project activities required of Grantee under this Grant. Agency's consent to any contract or subgrant will not relieve Grantee of any of its duties or obligations under this Grant.
- 19.12 Time of the Essence.** Time is of the essence in Grantee's performance of the Project activities under this Grant.
- 19.13 Records Maintenance and Access.** Grantee must maintain all financial records relating to this Grant in accordance with generally accepted accounting principles. In addition, Grantee must maintain any other records, whether in paper, electronic or other form, pertinent to this Grant in such a manner as to clearly document Grantee's performance. All financial records and other records, whether in paper, electronic or other form, that are pertinent to this Grant, are collectively referred to as "Records." Grantee acknowledges and agrees Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Grantee must retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Grant, or until the conclusion of any audit, controversy or litigation arising out of or related to this Grant, whichever

date is later.

19.14 Headings. The headings and captions to sections of this Grant have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Grant.

19.15 Grant Documents. This Grant consists of the following documents, which are incorporated by this reference and listed in descending order of precedence:

- This Grant less all exhibits
- Exhibit C (Federal Terms and Conditions)
- Exhibit A (the “Project”)
- Exhibit B (Insurance)
- Exhibit D (Federal Award Identification)

19.16 Merger, Waiver. This Grant and all exhibits and attachments, if any, constitute 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 this Grant. No waiver or consent under this Grant binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

SECTION 20: SIGNATURES

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES IT HAS READ THIS GRANT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. The Parties further agree that by the exchange of this Grant 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 Grant, and that their electronic or manual signature should be given full force and effect to create a valid and legally binding agreement.

(The remainder of this page has been left intentionally blank. Signatures follow.)

IN WITNESS WHEREOF, the Parties have executed this Grant as of the dates set forth below.

STATE OF OREGON acting by and through its Department of Education

By: _____
Holley Oglesby, Contracting Officer

Date

Clackamas County

By: _____
Authorized Signature

Date

Printed Name

Title

Federal Tax ID Number

Approved for Legal Sufficiency in accordance with ORS 291.047

By: not required (OAR 137-045-0030) _____
Name, Title

Date

January 7, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of HOME Loan Documents with
Green Line Affordable Development Limited Partnership
for the Fuller Station Apartments project in Happy Valley, OR**

Purpose/Outcomes	HUD HOME program funds will assist in the development of 100 affordable rental housing units in the Fuller Station Apartment project.
Dollar Amount and Fiscal Impact	Total HOME funds is \$950,000 <ul style="list-style-type: none"> • \$950,000 long-term loan, 0.0% interest deferred, 60-year term. • No County General Funds are involved.
Funding Source	The fund source is the FY16, FY 17, FY 18 and FY19 HOME Investment Partnerships Program allocations which the County receives annually from the US Department of Housing and Urban Development (HUD). No County General Funds are involved.
Duration	The term of the loan is 60 years, beginning at closing in January 2021 and ending in September 2082. The HOME Period of Affordability is 20 years from date of project completion.
Previous Board Action	No previous Board action on proposed new HOME project. BCC reviewed (April 9 th) and approved (April 30 th) the 2020-21 HUD Action Plan to provide HOME Multi-family Housing projects.
Strategic Plan Alignment	Increasing housing choice and housing opportunity for low to moderate income households.
County Counsel	Loan documents final review approved by Andrew Naylor, County Counsel on 12/16/20.
Contact Person	Pamela Anderson, Manager, Community Development - (971) 804-3464
Contract No.	H3S 9795

BACKGROUND:

HUD HOME program funds will be provided to assist in the creation of one multi-family housing apartment building: Fuller Station Apartments. It will include 100-units of multi-family, transit-oriented, mixed-income housing at the Fuller Road Station Park & Ride. The Fuller Road Affordable Housing project will be on 2.15 acres. The development will be located at 9608 SE Fuller Road, Happy Valley, Oregon.

Healthy Families. Strong Communities.

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

**Approval of a HOME Loan Documents with
Green Line Affordable Development Limited Partnership
for the Fuller Station Affordable Housing in Happy Valley, OR**

RECOMMENDATION:

We recommend the approval of this HOME Loan Agreement and that Richard Swift H3S Director be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,

 H3S Deputy / for
Richard Swift, H3S Director

Attachments: Loan Agreement
Promissory Note
Trust Deed
Declaration of Land Use Restrictive Covenants

Contract Transmittal Form

Health, Housing & Human Services Department

H3S Contract #: 9795 **Division:** CD Subrecipient
Board Order #: **Contact:** Anderson, Pamela Revenue
 Program Contact: Amend # \$
 Anderson, Pamela Procurement Verified
 Aggregate Total Verified

Non BCC Item BCC Agenda **Date:** Thursday, January 7, 2021

CONTRACT WITH: Greenline Affordable Development Limited Partnership

CONTRACT AMOUNT: \$950,000.00

TYPE OF CONTRACT

- | | |
|---|--|
| <input type="checkbox"/> Agency Service Contract | <input type="checkbox"/> Memo of Understanding/Agreement |
| <input type="checkbox"/> Construction Agreement | <input type="checkbox"/> Professional, Technical & Personal Services |
| <input type="checkbox"/> Intergovernmental Agreement | <input type="checkbox"/> Property/Rental/Lease |
| <input type="checkbox"/> Interagency Services Agreement | <input checked="" type="checkbox"/> One Off |

DATE RANGE

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> Full Fiscal Year | - | <input type="checkbox"/> 4 or 5 Year | - |
| <input checked="" type="checkbox"/> Upon Signature | - | <input type="checkbox"/> Biennium | - |
| <input type="checkbox"/> Other | - | <input type="checkbox"/> Retroactive Request? | - |

INSURANCE What insurance language is required?

Checked Off N/A

Commercial General Liability: Yes No, not applicable No, waived

If no, explain why:

Business Automobile Liability: Yes No, not applicable No, waived

If no, explain why:

Professional Liability: Yes No, not applicable No, waived

If no, explain why:

Approved by Risk Mgr _____

Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?

No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)

If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Andrew Naylor Date Approved: Wednesday, December 16, 2020

OR

This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE:


 Date: December 23, 2020

H3S Admin Date Received: _____
 Only Date Signed: _____
 Date Sent: _____

AGREEMENTS/CONTRACTS

X New Agreement/Contract
Amendment/Change Order Original Number _____

ORIGINATING COUNTY

**DEPARTMENT: Health, Housing Human Services
Community Development**

PURCHASING FOR: Contracted Services

OTHER PARTY TO

CONTRACT/AGREEMENT: Greenline Affordable Development Limited Partnersh

BOARD AGENDA ITEM

NUMBER/DATE:

DATE: 1/7/2021

PURPOSE OF

CONTRACT/AGREEMENT: HUD HOME funds will be provided to assist in the creation of one multi-family housing apartment building: Fuller Station Apartments. It will include 100- units of multi-family, transit-oriented, mixed-income housing at the Fuller Road Station Park & Ride. The Fuller Road Apartmnet project will be on 2.15 acres. The development will be located at 9608 SE Fuller Road, Happy Valley, Oregon.

H35 CONTRACT NUMBER: 9795

**LOAN AGREEMENT
CLACKAMAS COUNTY HOME PROGRAM**

Name of Project: Fuller Station Apartments

This Loan Agreement ("Agreement") is entered into between Green Line Affordable Development Limited Partnership, an Oregon limited partnership ("Owner"), of which GM Fuller Station LLC, an Oregon limited liability company (the "General Partner"), is the sole general partner, and Clackamas County ("County"), a Participating Jurisdiction under the HOME Investment Partnerships Program ("HOME").

This Agreement includes the following attachments:

- | | |
|-----------------------------|--|
| A. Legal Description | E. HOME Affordability Requirements |
| B. Sources and Uses | F. Affirmative Marketing and MBE/WBE Outreach Requirements |
| C. Schedule of Tasks | G. Project Completion documentation |
| D. HOME Match Contributions | H. VAWA Notification and Certification |

The parties, in consideration of the mutual promises and obligations set forth below, agree as follows:

1. **DEFINITIONS.** Capitalized terms in this Agreement and in the other Loan Documents have the following definitions:
- a. **Annual Income.** Annual income as defined at 24 CFR 5.609.
 - b. **Affordability Requirements.** The Affordability Requirements refer to the restrictions on rents and tenant incomes set forth in Section 10 below.
 - c. **CHDO.** Community Housing Development Organization. This is a HOME specific designation. There is no CHDO designated for this project.
 - d. **Effective Date.** Effective Date has the meaning set forth in Section 32 of this Agreement.
 - e. **HOME-Assisted Units or HOME Unit.** HOME-Assisted units ("HOME units") are those units in the Project which were partially or totally rehabilitated, constructed, or otherwise assisted with the use of HOME Funds. The HOME-Assisted units are designated in Section 4 below.
 - f. **HOME Funds.** HOME Funds means the total amount of HOME Program dollars being provided by the County to the Project under this Agreement. See Section 2 below.
 - g. **HOME Program and HOME Regulations.** The federal HOME Investment Partnership Program (HOME Program) is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990. HUD's regulations and requirements for the HOME Program are located in 24 CFR Part 92. Should anything in this Agreement or the other Loan Documents conflict with the HOME regulations, the HOME regulations shall prevail.
 - h. **HUD.** The United States Department of Housing and Urban Development
 - i. **Loan Documents.** The Loan Documents are this Agreement, the Promissory Note, the Trust Deed, and the Declaration of Land Use Restrictive Covenants, all of which are incorporated into this Agreement by reference.
 - j. **Low-Income and Very Low-Income.** A Low-Income household is one whose total income does not exceed 80% of the County's Median Income. A Very Low-Income household is one whose total income does not exceed 50% of the County's Median Income.
 - k. **Median Income.** Median Income means the median income for Clackamas County, adjusted for family size, as published by HUD, from time to time.
 - l. **Owner.** The initial Owner and any subsequent Project owner, subject to the County consenting to any transfer under Section 30 33 below.

- m. **Period of Affordability.** See Section 9 below.
- n. **Project.** The project, Fuller Station Apartments, will consist of 100 newly constructed multi-family residential rental apartment units in one building. Upon completion, the project will provide a total of 17 one bedroom units, 62 two bedroom units, 20 three bedroom units and 1 two bedroom manager's unit. Of the total units, HOME funds will be utilized for 5 of the two bedroom units and 5 of the three bedroom units. The purpose of the project is to provide a high-quality affordable housing option in a transit-oriented, services and employment rich environment that supports households as they work to stabilize their lives. The legal description of the property (the "Property") comprising the Project is set forth in **Attachment A**.
- o. **Project Completion Date.** The later of the date when (a) the construction of the Project is completed, (b) the final HOME drawdown has been disbursed to the Project, and (c) the County has entered the project completion information into HUD's disbursement and information system. County must enter the project completion information into the HUD system, or otherwise provide it to HUD, within 120 days following the final project drawdown. This date will start the HOME Period of Affordability (see Section 9 below).
- p. **Transfer.** For purposes of this Agreement, "Transfer" shall mean any sale, assignment or transfer, whether voluntary or involuntary, of (i) any rights and/or obligations under the Loan Documents and/or (ii) any interest in the Property (including the Project and any other improvement thereon); provided, however, that "Transfer" shall not mean the transfer of the Property to a limited partnership of which Owner (or a limited liability company of which Owner or an affiliate thereof is the sole member) is the general partner or to a limited liability company of which Owner or an affiliate thereof is the managing member. County shall approve other Transfers requested by Owner if the proposed transferee has the necessary qualifications and experience to construct the Project and/or own, operate and maintain the Project, as applicable, as contemplated by this Agreement, as reasonably determined by the County. For purposes of this Agreement, "Transfer" shall not include any transfer by Owner's limited partner as described in Section 5.01(8) of the Trust Deed.

2. HOME FUNDS: LOAN TERMS

- a. **Amount and Purpose:** County shall loan HOME funds in the amount of **\$950,000** to the Owner for the Project. The HOME funds will be used for the development of the Project as specified in **Attachment B**. Eligible activities include construction, engineering and architectural services and other related activities. Use of the HOME funds for any other purpose, without the express written consent of the County, is prohibited and may constitute a breach of this agreement. Pursuant to 24 CFR 92.504, Owner may not request disbursement of funds until funds are needed for payment of eligible costs and documentation to substantiate costs is provided to County.
- b. **Loan Terms:**
 - i. The HOME Funds will be provided as a **0.0% interest deferred payment loan, with a maturity date of 60 years from the Effective Date**. Loan repayment, satisfaction, or conveyance shall not relieve Owner of any performance, affordability or programmatic obligations and requirements of the HOME program.
 - ii. Notwithstanding the loan terms described above, and subject to available sale or refinance proceeds, the entire amount of the loan (\$950,000) together with any accrued interest or fees, shall be paid in full upon the refinance, sale, assignment or other transfer of title to the Property without the County's consent; or the date Owner or its agents or subcontractors is otherwise in default under any of the Loan Documents (including but not limited to the failure to meet the Affordability Requirements of Sections 9 & 10 below, failure to acquire title to the Property, or failure to execute the Trust Deed and Declaration of Land Use Restrictive Covenants within 30 days of acquiring title to the Property) and such default continues beyond any applicable notice, grace or cure periods.
- c. **Loan Documents:** The loan shall be evidenced by this Agreement, a Promissory Note, and a Declaration of Land Use Restrictive Covenants, and secured by a Trust Deed executed by Owner in favor of the County all of which together are incorporated by reference into this Agreement and are referred to collectively as the "Loan Documents."
- d. **Recording Requirement:** The Owner agrees to execute and record, or cause to be recorded, the Trust Deed and the Declaration of Land Use Restrictive Covenants, within 30 days after signing and acquiring title to the Property.

- e. **Commitment:** The Owner shall acquire the Property and title must be transferred to Owner within sixty days of the Effective Date of this Agreement.

3. PAYMENT OF OBLIGATION.

- a. The outstanding principal balance of the loan shall be repaid in full on the maturity date set forth in Section 2(b)(i) above. Except as provided in Section 2(b)(ii) above, payments of principal shall not be required prior to such maturity date. No late fees will be charged.
- b. Payments shall be made at such place as County may designate in writing and shall be in the manner and amount as is described in the Promissory Note between the parties relating to this Project.

4. HOME-ASSISTED UNITS

- a. Ten (10) units in the Project are HOME-Assisted Units. The total number of HOME-Assisted units has been calculated on the total amount of HOME funds invested in the Project, including, but not limited to, this loan. The HOME units are as follows:

Bedroom Size	TOTAL UNITS	Low-Home Units	High Home Units	Total HOME-Assisted
1-bedroom (tenant) unit:	17			0
2-bedroom (tenant) unit:	62	3	2	5
3-bedroom (tenant) unit:	20	2	3	5
One 2 bedroom managers unit	1			
TOTALS	100	5	5	10

- b. Fixed/Floating: The HOME-Assisted units are designated as **FLOATING HOME** units as defined at 24 CFR 92.252 (j).
- c. See Section 10 below and Attachment E for rent and income limits for the HOME-Assisted Units.
- d. Special Needs Set-aside. A minimum of 5% of the units in the Project (but not less than one) must be accessible to individuals with mobility impairment, and an additional 2%, at a minimum, of the units (but not less than one unit) must be accessible to individuals with sensory impairments. 5 units will be accessible to individuals with physical/mobility impairment; and 2 units will be accessible to individuals with sensory impairments.

5. SOURCES AND USES OF FUNDS; SCHEDULE OF TASKS

- a. All sources and uses of funds for the Project are set forth in **Attachment B**. The Uses Statement shall specify by line item the source of funds for each such line item. Owner certifies that (i) it has, or will obtain, commitments of the funds from each of the sources identified, (ii) the sources of funds are sufficient to fund the Project in full, and (iii) HOME funds shall only be used for HOME-eligible costs (see 24 CFR 92.206 and 92.214).
- b. The Schedule of Tasks to be undertaken in order to complete the Project is set forth in **Attachment C**.

6. MATCH REQUIREMENT

Attachment D documents the Project-related eligible sources of matching contributions as allowed by 24 CFR 92.218 through 92.222.

7. HOME REGULATIONS

The Owner agrees to comply with the HOME Regulations and with the other requirements of the Loan Documents.

8. ENVIRONMENTAL REVIEW (§92.352)

- a. The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related authorities in 24 CFR Parts 50 and 58.
- b. The County is responsible for environmental review, decision-making, and action for each activity that it carries out with HOME funds, in accordance with 24 CFR part 58. The County will not commit any HOME funds toward construction of the Project before completion of the environmental review and approval of the request for release of funds and related certification, except as authorized by 24 CFR Part 58.

- c. HOME Funds cannot be used for acquisition or construction in identified special flood hazard areas unless the Project is subject to the mandatory purchase of flood insurance as required by Section 102(a) of the Flood Disaster Protection Act of 1973, as amended from time to time.
- d. In the event that changes or modifications to the approved HOME activities are necessary, the Owner must, prior to any additional commitment or expenditure of funds, submit all necessary supplemental environmental review information and data to the County for the purpose of updating the environmental review record.

9. PERIOD OF AFFORDABILITY

- a. **The Initial Period of Affordability is the HUD-required Period of Affordability. This shall be 20 years for all new HOME units**, without regard to the term of the loan or the transfer of ownership, except as noted in subsection d below. The Initial Period of Affordability begins on the Project Completion Date entered into HUD IDIS.
- b. **The Extended Period of Affordability**, begins at the end of the Initial Period of Affordability and continues for an additional 40 years or until such time as the loan is deemed paid in full.
- c. The Period of Affordability includes both the Initial and the Extended Periods of Affordability.
- d. **Termination of Period of Affordability.** In accordance with 24 CFR 92.252(e), the Period of Affordability shall be terminated automatically upon foreclosure or transfer in lieu of foreclosure under any mortgage or trust deed encumbering the Property that is not subordinate to the Trust Deed, but shall be revived according to the original terms if during the original Period of Affordability, the Owner of record before the foreclosure or deed in lieu of foreclosure, or any entity that includes the former Owner or any partner or those with whom the former Owner has or had family or business ties, obtains an ownership interest in the Project or Property.

10. AFFORDABILITY REQUIREMENTS (RENTS AND TENANT INCOMES (§92.252))

- a. Owner shall ensure that the Property is occupied by households that are eligible as low-income families meeting the requirements of 24 C.F.R. 95.252 within six months of the date of the Project's completion.
- b. To ensure compliance with the HOME "Program Rule", at initial occupancy all of the HOME-Assisted Units must be rented to tenants whose incomes at the time of the tenant's initial occupancy, are less than or equal to 60% of the Median Income.
- c. **Low-HOME Units.** If the number of HOME-Assisted Units is 5 or more, at least 20% of the HOME-assisted units must be occupied initially and throughout the Period of Affordability by tenants, who at the time of their initial occupancy are very-low-income tenants and the initial rents for those units must not exceed the Low HOME rents shown in **Attachment E**. These rents are subject to periodic adjustment by HUD. If the unit receives federal or state project-based rental assistance, the Low-HOME rent shall not exceed the allowable rent under the rental assistance program.
- d. **High-HOME Units.** After initial occupancy as indicated in paragraph (a) above, the remaining HOME-Assisted Units must be rented during the Period of Affordability to tenants, who at the time of their initial occupancy are low-income tenants and the initial rents for these units must not exceed the High HOME rents shown in **Attachment E**. These rents are subject to periodic adjustments by HUD.
- e. Increases in Tenant's Income:
 - i. Low-HOME rent units
 1. If the income of a tenant in a Low-HOME rent unit rises above 50% of Median Income, but does not exceed 80% of Median Income, then the next available HOME-Assisted Unit (for fixed-unit projects) or the next available comparable unit (for floating-unit projects) must be rented to a very-low-income tenant. The unit occupied by the tenant whose income so increased becomes a High-HOME unit and the High-HOME rent must be charged, provided that in no event shall the rent of a tenant of a HOME-assisted unit that has been allocated federal low-income housing tax credits ("LIHTC") increase beyond the maximum applicable LIHTC rent for such unit.
 2. The rent for the unit occupied by the tenant whose income has increased above 80% of Median Income will be set in accordance with subparagraph iii below.

- ii. High-HOME rent units
 - 1. The income of a tenant in a High-HOME rent unit can increase to 80% of Median Income with no change in the status as a HOME-Assisted Unit or in the tenant's rent.
 - 2. If the income of a tenant in a High-HOME rent unit rises above 80% of Median Income, then the next available HOME-Assisted Unit (for fixed-unit projects) or the next available comparable unit (for floating-unit projects) must be rented to a tenant whose income does not exceed 80% of Median Income.
 - 3. The rent for the unit occupied by the tenant whose income has increased above 80% of Median Income will be set in accordance with subparagraph iii below.
- iii. Project-based Rent Subsidy In accordance with 24 CFR 92.252 (a) (1,2) & (b)(1,2), if the unit receives federal or state project-based rental subsidy, the maximum rent is the rent allowable under the federal or state project-based rental subsidy program.
- iv. Over-income Tenants In accordance with 24 CFR 92.252(i), a tenant who no longer qualifies as a low-income household must pay as rent 30 percent of the household's adjusted gross income, except that:
 - 1. In no event shall the tenant of a HOME-assisted unit that has been allocated LIHTCs be charged rent in excess of the maximum applicable LIHTC rent for such unit.
 - 2. If the HOME-assisted unit is a floating unit, a tenant who no longer qualifies as a low-income household is not required to pay as rent an amount that exceeds the market rent for a comparable unassisted unit in the neighborhood.
- f. Certification and Recertification of Tenant Income: Owner must certify each tenant's household income initially, and must recertify such income annually in accordance with HOME regulations using the Section 8 (Part 5) income calculation.
- g. The maximum monthly allowances for utilities and services, excluding telephone, are attached hereto as **Attachment E**. These maximum monthly allowances are updated annually, and Owner is responsible for contacting County to ensure compliance with the maximum monthly allowance amounts.

11. TENANT SELECTION CRITERIA; LEASE REQUIREMENTS (§92.253)

- a. Owner shall adopt written tenant selection policies and criteria, which must be pre-approved by the County. The criteria must: (i) be consistent with the purpose of providing housing for very-low-income and low-income households, (ii) be reasonably related to program eligibility and the applicant's ability to perform the lease obligations, (iii) provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as practicable, and (iv) give prompt written notification to any rejected applicant of the grounds for any rejection.
- b. Tenants must be offered renewable lease agreements with an initial duration of at least one year, unless a shorter time period is mutually agreed upon by the tenant and the landlord.
- c. Owner shall comply with all terms and conditions of 24 C.F.R. 92.253, regardless of whether specified herein.
- d. In compliance with 24 CFR 92.253(d), neither the Owner nor General Partner may discriminate against rental assistance subsidy holders.
- e. Tenant leases may not contain any of the prohibited provisions set forth in 24 C.F.R. 92.253 including, but not limited to:
 - i. Agreement by the tenant to be sued, to admit guilt, or to have a judgment entered in favor of Owner in a lawsuit brought in connection with the lease;
 - ii. Except as allowed by Oregon law, agreement by the tenant to allow Owner to take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties;
 - iii. Agreement by the tenant not to hold Owner or its agents legally responsible for any action or failure to act;
 - iv. Agreement by the tenant that Owner may institute a lawsuit without notice to the tenant;

- v. Agreement by the tenant that Owner may evict tenant or household members without instituting a civil court proceedings in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- vi. Agreement by the tenant to waive any right to a trial by jury, to waive the tenant's right to appeal, or otherwise challenge in court, a court decision in connection with the lease; or
- vii. Agreement by the tenant to pay attorney fees or costs even if the tenant wins in a court proceeding against the Owner. The tenant may, however, be obligated to pay costs and attorney fees if the tenant loses.
- viii. Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

The Owner may not terminate the tenancy or refuse to renew the tenant's lease except for serious or repeated violation of the terms of the lease, for violation of law, for completion of the tenancy period for transitional housing, or for other good cause. To terminate or refuse to renew tenancy, Owner must serve written notice on the tenant specifying the grounds for the action at least 30 days before the termination of the tenancy.

12. Labor (592.354)

If the Project involves construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds, Owner shall comply with the Davis-Bacon Act (40 U.S.C. 3141) and all regulations related to the same, and shall pay all laborers and mechanics employed in the development of any part of the housing not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141). Owner shall further comply with the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701).

Owner shall comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations at 29 CFR Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States), which are incorporated by reference into this Agreement. Owner shall include this clause in any contract with a contractor or subcontractor. A breach of the contract clause above may be grounds for termination of this Agreement, and for debarment as a contractor and subcontractor as provided in 29 CFR 5.12.

13. Construction

If the Project involves construction such that it meets the definition of a federally assisted construction contract, the following shall apply:

During performance of this Agreement, Owner agrees as follows:

- a. Owner hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

Owner agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

Owner further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the

Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

14. PROPERTY STANDARDS (§92.251)

- a. Owner shall comply with, and the Project must meet, all applicable property standards set forth in 24 CFR 92.251. Pursuant to 24 CFR 92.504(d), County staff will periodically inspect the Project during construction and after completion to assure compliance with the property standards set forth in 24 CFR 92.251.
- b. Upon project completion and throughout the Period of Affordability, the Project must be maintained so that it continues to meet the property standards set forth in 24 CFR 92.251.

15. INDEMNIFICATION, INSURANCE, AND CONDEMNATION

Owner agrees to indemnify, defend and hold harmless the County and its elected officials, officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands, except when due to the County's sole negligence or willful misconduct, arising from performance of this Agreement. This includes, but is not limited to, any and all claims by HUD for repayment as result of the funds dispersed hereunder being used for an ineligible purpose under the HOME Program, HOME Regulations, or applicable law, or because the Project does not meet requirements of the HOME Program, HOME Regulations, or other applicable law.

Owner shall maintain all-risk property insurance in the amount of the full replacement value of the property, commercial general liability insurance in the minimum amount of \$2,000,000 per occurrence, \$4,000,000 aggregate, and Rent Loss insurance in an amount equal to 12 months rental income. Owner shall provide County proof of insurance in the required amounts upon execution of this Agreement, and again upon request of the County. Owner shall give county no less than 30 days' notice if there is a cancellation, nonrenewal or material change of Owner's insurance. See paragraph 1.12 of the Trust Deed for additional insurance requirements.

Owner shall diligently undertake to repair or restore the Property if damaged or destroyed, with such work commencing no later than 120 days after the damage or 30 days following receipt of the insurance proceeds and completed within one-year of the damage, and that the Owner is responsible to make up any insufficiency in insurance proceeds.

Article II of the Trust Deed shall control in the event that any part of or interest in the Property is taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation").

16. EVENTS OF DEFAULT

An event of default under the Loan Documents includes the following; provided that the party declaring a default has first provided to the other party thirty days' written notice specifying the alleged default and giving such other party the opportunity to cure the alleged default during that 30 day period, or during such longer period as is agreed to by the non-defaulting party in writing; provided that, in the event the Owner is diligently and continuously pursuing cure in good faith, the Owner shall be provided such length of time as is necessary to cure such default, except that such extended cure period shall not exceed ninety (90) days:

- Noncompliance with the term and conditions of the Loan Documents
- Owner shall file a voluntary petition in bankruptcy or such a petition shall be filed against Owner
- Non-payment of judgments within 30 days
- Suspension of business
- Dissolution or liquidation of Owner
- Liens against the Property not paid in 60 days (except for liens listed in Exhibit B of the Trust Deed or otherwise permitted under the Loan Documents)
- Noncompliance with the Affordability Requirements at any time during the term of this Loan
- Construction abandoned for more than 30 consecutive days for cause not beyond reasonable control of Owner
- Construction stopped by governmental authority or entitlement withdrawn or suspended
- Prohibited Transfer

- Material misrepresentation made by Owner to County
- A default is declared against Owner under any other loans secured by the Property and such default is not cured prior to the expiration of any applicable notice, grace or cure periods
- Foreclosure proceedings are initiated, or a receiver is appointed, with respect to the Property
- Failure to execute the Trust Deed and Declaration of Land Use Restrictive Covenants within 30 days of obtaining title to the Property
- Failure to obtain title to the Property within 60 days of executing this Agreement.

The following shall also be an event of default under the Loan Documents:

- a. **Securing all Funding.** The Owner must secure all fund sources identified in Attachment B, as evidenced by a commitment letter or similar agreement, within 12 months from the Effective Date identified in Section 32.
 - b. **Full Occupancy requirement.** Within 18 months from the date of project completion, the project must achieve full occupancy. HOME assisted units must be occupied by HOME eligible households.
 - c. **Noncompliance with the Affordability Requirements** at any time during the term of this Agreement.
17. County agrees that any cure of any default made or tendered by the General Partner or the Limited Partner of the Owner shall be deemed to be a cure by Owner and shall be accepted or rejected on the same basis as if made or tendered by Owner.

18. REMEDIES FOR DEFAULT

- a. In the event of default, either party may pursue any legal or equitable remedy available to it. Without limiting the foregoing, County may (i) declare the entire amount of the Loan due and payable at once, or (ii) extend the Period of Affordability for a period equal to the length of the period during which noncompliance with the Affordability Requirements existed, (iii) in accordance with 2 CFR 200.338, suspend or terminate this Agreement if Owner fails to materially comply with any term of this Agreement, (iv) permit the Agreement to be terminated in whole or in part in accordance with 2 CFR 200.339, (v) pursue any other remedy available at law, under contract, or in equity.
- b. The County and any tenant or applicant who meets the income limitation applicable under 24 CFR 92 (whether prospective, present or former occupant) shall be entitled, for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Owner and/or Recipient of its obligations under this Agreement in state court.

19. AFFIRMATIVE MARKETING (§92.351)

If the Project contains five or more HOME-Assisted Units, the Owner must comply with 24 C.F.R. 92.351 and 24 C.F.R. 253, and must implement and follow the adopted Affirmative Marketing Plan of the County, **Attachment F** (the "Plan"). The Recipient must cause the Owner to maintain records evidencing compliance with the Plan.

20. MINORITY/WOMEN'S BUSINESS

In accordance with Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise), the County has adopted procedures and requirements for HOME projects for the purpose of encouraging the use of minority and women's business enterprises. The Owner certifies that it will follow and implement the adopted procedures and requirements in **Attachment F**.

21. NON-DISCRIMINATION (§92.350)

- a. The Owner must comply with all applicable federal, state, and local laws prohibiting discrimination on the basis of age, sex, marital status, familial status, religion, race, creed, color, sexual orientation, nationality, the presence of any sensory, mental or physical handicap, or other protected class. These requirements apply to both employment opportunities and the provision of housing and are specified in
 - i. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 200d et seq.);
 - ii. Title VI; Civil Rights Act of 1968, Title VIII, as amended;
 - iii. Equal Employment Opportunity, Executive Order 11246, as amended;
 - iv. Section 3 of the Housing and Urban Development Act of 1968 as may be amended;

- v. Section 504 of the Rehabilitation Act of 1973 as may be amended;
 - vi. The Fair Housing Act of 1988 as may be amended (42 U.S.C. 3601-3620);
 - vii. Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259);
 - viii. Age Discrimination Act of 1975, as amended (42 U.S.C. 6101); and
 - ix. Americans with Disabilities Act of 1990 as may be amended (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225).
- b. Owner shall maintain data on the extent to which each racial and ethnic group and single-headed household (by gender of head of household) have applied for and rented units in the Project.

22. DISBURSEMENT OF FUNDS

- a. County will disburse HOME funds for eligible costs when the following conditions are satisfied:
 - i. All the Loan Documents are signed;
 - ii. Receipt of all necessary funds from the funding sources identified in Attachment B.
 - iii. Owner has acquired title to the Property no later than 60 days from the date of this Agreement;
 - iv. The Trust Deed and Declaration of Land Use Restrictive Covenants are signed and recorded no later than 30 days from acquisition of the Property; and
- b. Draw Request
 - i. Owner agrees to complete and return a new vendor packet to set up payment location. This will be provided by the County, once loan documents have been signed.
 - ii. Owner agrees to request funds under this Agreement only when they are needed for payment by Owner of specific allowable and eligible costs and only in amounts needed to pay such costs.
 - iii. The County shall verify requested amounts for satisfactory completion prior to payment. Payments shall be based upon work completed and approved by the County.
 - iv. Draw Documentation: Borrower shall initiate each request for a disbursement of HOME funds by delivering the following documentation to the County. Completed HOME Disbursement Request Form (**Attachment H**) must be accompanied by detailed source documentation for actual expenses that reflected on payment request section of Disbursement Request Form.
 - v. Review of Draw Requests by County. The County will review each HOME Disbursement Request Form packet that will be funded in whole or in part with HOME dollars. In the event that the County has any objection to any such draw request, County will provide notice via email to Owner within eight (8) business days after the date on which the County received the draw documentation with respect to such draw request and shall specify in detail the basis for each of the objections and requirements for correction of each such objection.
- c. Other Submittals and Approvals
 - i. Cost certification audit (this item should be submitted within 30 days of completion of construction and lease up, and is required to receive IRS Form 8609
 - ii. Annual operating budget 60 days prior to beginning of the fiscal year for the Project
 - iii. Replacement reserve withdrawals within 30 days of such withdrawals.
 - iv. Operating reserve withdrawals within 30 days of such withdrawals.
 - v. Annual project financial statements/audit within 90 days of the end of the Project's fiscal year
 - vi. Green Line Affordable Development Limited Partnership financial statements/audit, within 90 days of the end of their fiscal year (January thru December).
- d. Five percent (5%) of HOME funds will be withheld until the Owner provides the County with the documentation outlined in **Attachment G**.
- e. The Owner must submit Form HUD-40097 (Project Completion Report - Part C, household characteristics for each HOME-assisted unit) within 120 days of the request for final disbursement.
- f. HOME funds may be used only for eligible costs permitted under applicable law. Those costs may include architectural, engineering, or related professional services to prepare plans, drawings, specifications, or work write-up. These costs are eligible if they were incurred not more than 24 months before the later of

dates that HOME funds are committed to the project, Project/Construction Close date, or acquisition of property.

23. CONTRACTOR DEBARMENT AND SUSPENSION

In order to comply with the requirements of 24 CFR Part 24, the Owner must obtain a certification guaranteeing that no participants in lower tier covered transactions, having to do with the Project financed in whole or in part by the HOME Funds, are currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in federal projects.

24. SECTION 3 REQUIREMENTS

Section 3 of the Housing and Urban Development Act of 1968, as amended, applies to:

- Projects for which HUD's share of the project cost exceeds \$200,000; and
- Contracts and subcontracts awarded on projects for which HUD's share of project costs exceeds \$200,000 and the contract or subcontract exceeds \$100,000.

Section 3 requires that to the greatest extent feasible opportunities for training and employment in connection with planning and carrying out the Project be given to low-income residents of the Project area, and contracts for work in connection with the Project be awarded to business concerns, including but not limited to individuals for firms doing business in the field of planning, consulting, design, architecture, building construction, rehabilitation, maintenance, or repair, which are located in or owned in substantial part by persons residing in the Project area.

25. LEAD BASED PAINT AND HAZARDOUS MATERIALS (§92.355)

- a. For all units in the Project (not just HOME-Assisted Units) and for common areas, the Owner shall comply with the HUD Lead-Based Paint Regulations (24 C.F.R. 92.355, 24 CFR Part 35 and 24 CFR 982.401(j)) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821 et. seq.) as amended requiring prohibition of the use of lead-based paint whenever HOME Funds are used directly or indirectly for construction, rehabilitation, or modernization of residential structures; elimination of immediate lead-based paint hazards in residential structures; and notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1978.
- b. For purposes of this Section 23, "Environmental Law" means any federal, state, or local law, statute, ordinance, or regulation pertaining to Hazardous Substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 USC 9601-9675, and the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 USC 6901-6992. For the purposes of this Section 23, "Hazardous Substance" includes, without limitation, any material, substance, or waste that is or becomes regulated or that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local statute, ordinance, rule, regulation, or law.
- c. If, at any time, County has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Project, the Property, or any improvements thereon in violation of Environmental Law has occurred or is threatened, or if County has reason to believe that a violation of an Environmental Law has occurred or may occur with respect to the Property, the Project, or improvements thereon, County may require Owner to obtain or may itself obtain, at Owner's expense, an environmental assessment of such condition or threatened condition by a qualified environmental consultant. Owner shall promptly provide to County a complete copy of any environmental assessment obtained by Owner.
- d. In the event that any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable Environmental Law, any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether presently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property, Owner shall, within 30 days after written demand by County for Owner's performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. All costs and expenses of such Remedial Work shall be paid by Owner including, without limitation, County's reasonable professional fees and costs incurred in connection with monitoring or review of the legal aspects of such Remedial Work. In the event Owner shall fail to timely

commence, or cause to be commenced, such Remedial Work, County may, but shall not be required to, cause such Remedial Work to be performed. In that event, all costs and expenses incurred in connection with the Remedial Work shall become part of the Obligations secured by the Trust Deed and shall bear interest at a rate of 8.0% per annum compounded annually until paid.

Owner shall hold County, its elected officials, directors, officers, employees, agents, successors, and assigns, harmless from, indemnify them for, and defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Owner's warranties in this Section 23, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Property, the Project, or any improvements thereon, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Property, the Project, or any improvements thereon, the preparation and implementation of any closure, remedial or other required plans, reasonable attorney fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines; provided however that, notwithstanding the foregoing, Owner shall have no obligation to indemnify or provide contribution to any person or party for, from or against any losses, damages, liens, costs, expenses or liabilities directly or indirectly arising out of or attributable to the negligence or willful misconduct of such person or party.

- a. To the best of Owner's knowledge, Owner represents and warrants to County that:
 - i. Neither the Property (including the Project and any other improvement thereon) nor Owner is in violation of any Environmental Law or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law.
 - ii. Owner has not and is not required by any Environmental Law to obtain any permit or license other than those it has obtained to construct or use the Improvements.
 - iii. To the best of Owner's knowledge, no Hazardous Substance has ever been used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or about the Property in violation of any Environmental Law.
- b. All representations, warranties, and covenants in this Section 23 shall survive the satisfaction of Owner's payment obligations under the Loan Documents, the re-conveyance of the Property, or the foreclosure of the Trust Deed by any means.

26. DISPLACEMENT, RELOCATION, ACQUISITION, AND REPLACEMENT (§92.353)

Owner shall comply with all the regulations and laws regarding displacement, relocation, acquisition and replacement of housing, including those contained in 24 CFR 92.353 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (42 USC 4601-4655).

27. CONFLICT OF INTEREST §92.356

Owner shall comply with all requirements set forth in 24 C.F.R. 92.356. Unless an exception is granted by the County pursuant to 24 CFR 92.356(f)(2), no developer, owner or sponsor of the Project, or officer, employee, agent or consultant of the Recipient, developer or sponsor, may occupy a HOME-Assisted Unit in the Project. This section does not apply to an employee or agent who occupies a HOME-Assisted Unit as the project manager or maintenance worker.

28. VAWA REQUIREMENTS § 92.359

Owner shall comply with all requirements of the Violence Against Women Act (VAWA) set forth in 24 CFR part 5, subpart L and all other requirements set forth in 24 CFR § 92.359. VAWA notice and certification form is located in Attachment I.

29. FAITH BASED ACTIVITIES

- a. Organizations that are directly funded under the HOME program may not engage in inherently religious activities, such as worship, religious instruction, or proselytizing as part of the assistance funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the assistance funded under this part, and participation must be voluntary for the beneficiaries of the assistance provided.

- b. An organization that participates in the HOME program shall not, in providing program assistance, discriminate against a program beneficiary, or prospective program beneficiary, on the basis of religion or religious belief.
- c. HOME funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HOME funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part.

30. RECORDS

- a. Owner must keep such records as are necessary to demonstrate compliance with all parts of this Agreement, including but not limited to the affordability requirements, tenant lease provisions, property standards, affirmative marketing, anti-discrimination, Section 3, MBE/WBE, environmental review, relocation/displacement/property acquisition, labor requirements, lead-based paint, conflict of interest, debarment and suspension, unit substitution and filling vacancies, financial and intergovernmental review.
- b. Owner must annually provide tenant eligibility records to the County.
- c. Record Retention Periods
 - i. Except as stated in this subparagraph, records must be retained for five years following the Project Completion Date.
 - ii. Owner shall maintain records pertaining to each tenant's income verifications, project rents and project inspections for at least the most recent five year period, until five years after the Period of Affordability has expired.
 - iii. Written agreements must be retained for five years after the Agreement terminates.
 - iv. Records covering displacement and acquisition must be retained for five years after the date by which all persons displaced from the Property and all persons whose property is acquired for the Project have received the final payment to which they are entitled under 24 CFR 92.353.
 - v. If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.
- d. Access to Records. HUD, the Comptroller General of the United States of America, the County, and any of their respective, properly identified representatives, have the right of access to and the right to inspect, copy audit, and examine all books, records and other documents relating directly to the Recipient's and/or Owner's receipt and disbursement of the HOME Funds, as well as access to the Project, all during normal business hours and upon reasonable notice of not less than 48 hours, subject to safety and security policies employed at the Property and uniformly applied and to the rights of tenants in lawful possession. Upon request, the Recipient must assist, or must cause Owner to assist, the County by serving notice to affected tenants, as required under Oregon Law.

31. MONITORING

- a. Within 60 days of project completion and subject to the application of Section 27(d) above, the County staff will make an on-site visit to monitor compliance with the HOME rent and occupancy standards.
- b. The County will monitor Project performance to ensure compliance with the requirements of this Agreement. During the initial Period of Affordability, the monitoring will be conducted in accordance with applicable law including, but not limited to, 24 CFR 92.251 and 24 CFR 92.504(d), and will include on-site inspections and a review of all records required in and made in accordance with Section 0 above.

32. WAIVER

Failure by either party to enforce any right under this Agreement or any of the Loan Documents shall not be deemed to be a waiver of that right or of any other right.

33. SUCCESSORS AND ASSIGNS

This Agreement shall be binding on and inure to the benefit of the heirs, successors, and assigns of each party, provided that written consent is obtained from the other party.

34. AUTHORITY TO SIGN

Each party signing this Agreement, and the other Loan Documents, represents that it has full power and authority to enter into this Agreement and all other documents contemplated thereby, and the persons signing this Agreement for such party, if such party is not an individual, have full power and authority to sign for such party and to bind it to this Agreement, and to sell, transfer and convey all right, title, and interest in and to the Property in accordance with the Loan Documents. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority, or other party is required.

35. EFFECTIVE DATE AND TERM

The Effective Date of this Agreement shall be the date this Agreement is signed by both parties. This Agreement is effective through the affordability period required under Section 9 of this Agreement and 24 CFR 92.252.

36. ADDITIONAL TERMS AND CONDITIONS

- a. Program income: "program income," as defined under 24 CFR 92.2, shall be remitted to the County.
- b. Owner must comply with all applicable uniform administrative requirements as described in 24 CFR 92.505 or other applicable law.
- c. Owner shall carry out each activity under this Agreement in compliance with all applicable Federal laws and regulations described in subpart H of 24 CFR Part 92.
- d. Reversion of assets: upon expiration of this Agreement, OWNER MUST TRANSFER TO County any HOME funds on hand at the time of expiration and any accounts receivable attributable to use of HOME funds.
- e. Repayment: any repayment or recapture of HOME funds must be remitted to the County.
- f. Fees: Owner shall not charge service, origination, or other fees for the costs of administering the HOME program, except as permitted by 24 CFR 92.214(b)(1).
- g. Owner shall comply with the project requirements of 24 CFR Part 92, Subpart F.
- h. Owner shall comply with all other applicable requirements and restrictions set forth in 24 CFR Part 92, whether or not specifically described herein.

37. **COMPLIANCE AND FURTHER ASSURANCES.** Owner shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Owner agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement and the other Loan Documents including, but not limited to, executing all additional documentation necessary for County to comply with applicable Federal requirements.

38. **GOVERNING LAW.** This Agreement, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Owner that arises out of or relates to the performance of this Agreement 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. 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. Owner, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.

39. **SEVERABILITY.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions 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.

40. **TIME IS OF THE ESSENCE.** Owner agrees that time is of the essence in the performance of this Agreement.

41. **NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

42. **LIMITATION OF LIABILITIES.** This Agreement and the other Loan Documents are expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and are contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
43. **MERGER.** THIS AGREEMENT 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 AGREEMENT 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. OWNER, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS AGREEMENT, AND OWNER AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

PROJECT OWNER:

GREEN LINE AFFORDABLE DEVELOPMENT LIMITED PARTNERSHIP,
an Oregon limited partnership

By: GM Fuller Station LLC,
an Oregon limited liability company,
its General Partner

By: Guardian Development LLC,
an Oregon limited liability company,
its Manager

By: Guardian Real Estate Services LLC,
an Oregon limited liability company,
its Manager

By: Guardian Holding, Inc.,
an Oregon corporation,
its Manager

By: 

Thomas B. Brenneke
President

DUNS#111677038 (Green Line Affordable
Development Limited
Partnership)

12/22/2020

Date

CLACKAMAS COUNTY

Chair: Tootie Smith
Commissioner: Sonya Fischer
Commissioner: Mark Shull
Commissioner: Paul Savas
Commissioner: Martha Schrader

Date of Board of County Commissioners meeting:
January 7, 2021

Signing on Behalf of BCC:

(signature)
Printed Name: Richard Swift
Title: Director, Health, Housing and Human
Services

Date

Attachment A. Legal Description

PARCEL 1
PARTITION PLAT NO. 2020-098
LEGAL DESCRIPTION

PARCEL 1, PARTITION PLAT NO. 2020-098, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON.

ALSO BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 1, PARTITION PLAT NO. 2020-098, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, AND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, SAID CLACKAMAS COUNTY; THENCE, ALONG THE WEST, NORTH, EAST AND SOUTH LINES OF SAID PARCEL 1 THE FOLLOWING SIX COURSES; NORTH 12°52'03" EAST A DISTANCE OF 172.23 FEET; THENCE, SOUTH 87°33'25" EAST A DISTANCE OF 490.03 FEET; THENCE, ALONG THE ARC OF A NON-TANGENT 32.16 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 33°59'55" (THE CHORD OF WHICH BEARS SOUTH 47°44'41" EAST A DISTANCE OF 18.81 FEET) AN ARC DISTANCE OF 19.08 FEET; THENCE, SOUTH 09°17'39" EAST A DISTANCE OF 122.04 FEET; THENCE, SOUTH 02°28'43" WEST A DISTANCE OF 38.28 FEET; THENCE, NORTH 87°30'52" WEST A DISTANCE OF 560.44 FEET TO THE POINT OF BEGINNING.

Attachment B. Sources and Uses of Funds

Sources of funding for project: as of updated pro-forma data provided on 11/16/2020. See "Cash Flow" tab on proforma for specific cost estimates and timing.

Source of Funding	Amount	Use of Funds summary (list proforma line item details for use and timing)
HOME	\$950,000	Funded at 1/28/21 closing and paying architectural, engineering, and inspections.
OHCS 4% LIHTC (Equity)	\$15,535,475	10% at 1/28/21 closing, 10% at 2/28/22 CO with remainder funded at 9/2/22 stabilization/conversion
OHCS Weatherization	\$332,381	Funded at stabilization at 9/2/22 to reimburse for energy efficient construction items
Metro Bond Funds (HACC)	\$10,000,000	\$2.75M at 1/28/21 closing with remainder to fund on-site construction draws between 1/1/21-5/30/21
Metro TOD	\$500,000	Funded at 1/28/21 closing
JPMC Perm Loan	\$15,655,000	Funded at stabilization at 9/2/22
Deferred Development fee	\$2,958,821	Funded at stabilization at 9/2/22
Special limited partner	\$100	Funded at 1/28/21 closing
Total Proposed Development Cost	\$45,931,777	

Attachment C. Schedule of Tasks
As of December 3, 2020

	PROPOSED DATE (month/year)*	REVISED DATE (month/year)*	COMPLETED DATE (month/year)*
SITE			
Option/Contract executed			Oct. 5, 2018
Site Acquisition			Aug 27, 2020
Zoning Approval			Sept 10, 2019
Site Analysis			Dec 5, 2018
Building Permits & Fees	Dec. 2020		
Off-site Improvements	Feb. 2021		
PRE-DEVELOPMENT			
Plans Completed (permit)			April 2, 2020
Final Bids			July 7, 2020
Contractor Selected			Nov 2019
FINANCING			
CONSTRUCTION LOAN:			
Proposal			Sept. 2020
Firm Commitment (submittal)			Sept. 2020
Closing/Funding of Loan	Jan 2021 closing thru Sept 2022 conversion		
PERMANENT LOAN			
Proposal			Sept. 2020
Firm Commitment			Sept. 2020
Closing/funding of Loan	Sept. 2022		
DEVELOPMENT			
Syndication Agreement	Jan 2021		
** Construction Begins	Jan 2021		
Construction Completed	March 2022		
Certificate Of Occupancy	March 2022		
MARKETING			
Lease up begins	March 2022		
Lease up completed	Sept 2022		
Absorption (units per month)	33.33 units		
** Construction to start within twelve months of the agreement date		*Submitted permit, sent to County	

Attachment D. Home Match Contribution Form

PROJECT: Fuller Station Affordable Housing

Total number of units in project: 100
Number of HOME-assisted units: 10
Applicable match credit percentage*: 10%

MATCH SOURCE*	ELIGIBLE MATCH TYPE	ELIGIBLE MATCH AMOUNT	MATCH CREDIT
METRO Transit Oriented Development & Multifamily Energy	5	\$500,000	1.01%
METRO Affordable Housing Bond	5	\$10 million	21.77%
Total match:		\$10,500,000	22.8%

Eligible forms of match as defined in 24 CFR 92.220(a):

- (1) Cash Contribution from Non-federal Source
- (2) Foregone Taxes, Fees and Charges
- (3) Donated Land or Other Real Property
- (4) On-site or Off-site Infrastructure
- (5) Proceeds from Affordable Housing Bonds
- (6) Donated Site Preparation and Construction Materials
- (7) Donated Site Preparation and Construction Equipment
- (8) Donated or Voluntary Labor or Professional Services
- (9) Sweat Equity (homeownership only)
- (10) Supportive Services (for rental projects only)

*24 CFR 92.219 states that 100% of the matching contribution can be recognized if "...at least 50 percent of the housing units in the project are HOME-assisted."

Attachment E. HOME Affordability Requirements

1. HOME Rent Schedule & Utility Allowance

Rent Schedule -

US Department of Housing and Urban Development
PMSA: Portland-Vancouver-Hillsboro, OR-WA MSA
Effective: July 1, 2020

	Low HOME	High HOME
1 Bedroom	\$863	\$1,103
2 Bedroom	\$1,036	\$1,326
3 Bedroom	\$1,197	\$1,522

Utility Allowance-

- The gross rents must be reduced if the tenant pays for any utilities besides telephone.
- The utility allowances prepared by the County Housing Authority shall be used when adjusting rents (<https://dochub.clackamas.us/documents/drupal/e94b93b6-29dc-457f-838b-f3d28fad110e>).
- Utility adjustments may be proposed by Recipient for the Project, but must be approved by the County.
- Fuller project specifics - residents will pay their own electricity. A utility allowance will cover electric heating, lighting and cooking. Water and sewer will be paid by the owner, along with garbage and natural gas to heat the hot water. The utility allowances are \$50 for a 1 bedroom; \$64 for a 2 bedroom, and \$78 for a 3 bedroom, per month.

Notes – throughout the Period of Affordability rents plus utility standards for the Project will not be set at amounts less than those shown in this initial table.

2. HOME Tenant Income Limits

US Department of Housing and Urban Development
Effective: July 1, 2020

HOUSEHOLD SIZE	50% OF MEDIAN	60% OF MEDIAN	80% OF MEDIAN
1 Person	\$32,250	\$38,700	\$51,600
2 Person	\$36,850	\$44,220	\$59,000
3 Person	\$41,450	\$49,740	\$66,350
4 Person	\$46,050	\$55,260	\$73,700
5 Person	\$49,750	\$59,700	\$79,600
6 Person	\$53,450	\$64,140	\$85,500
7 Person	\$57,150	\$68,580	\$91,400
8 Person	\$60,800	\$72,960	\$97,300

All HUD data included in these tables are updated from time to time and Developer will need to make HUD adjustments.

ATTACHMENT F.

AFFIRMATIVE MARKETING

For housing containing five or more HOME-assisted units, the HOME regulations at 24 CFR Part 92.351 require project Owner to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market area to the available housing.

The Project Owner must:

- 1) Display the Equal Housing Opportunity statement or logo on all project signs.
- 2) Use the Equal Housing Opportunity statement or logo on all advertisements and publications. Advertising media may include newspapers of general circulation, radio, television, brochures, or flyers.
- 3) Display a Fair Housing Poster in a place visible to tenants and prospective tenants and in common area(s) of housing assisted with HOME funds.
- 4) Solicit applications for vacant units from persons in the housing market who are least likely to apply for the HOME-assisted housing without the benefit of special outreach efforts.

In general, persons who are not of the race/ethnicity of the residents of the neighborhood in which the newly constructed or rehabilitated building is located shall be considered those least likely to apply.

For outreach purposes, the Owner may utilize the housing authority, community action agencies, community development corporations, other community organizations, places of worship, employment centers, fair housing groups, housing counseling agencies, Clackamas County's Social Services' Information and Referral, the Community Connections website, or medical service centers to publicize unit vacancies or otherwise provide information to potential tenants.

- 5) Maintain file records containing all marketing efforts including, but not limited to, copies of newspaper advertisements, file memorandums documenting phone inquiries, copies of inquiry letters and related responses, etc. *These records shall be made available to County for inspection during normal working hours.*

During the rent-up and initial marketing phase, County will assess the efforts of Owner through the use of certifications of compliance by the Owner or Property Manager. Thereafter, County will annually assess the efforts and the success of the affirmative marketing actions by the project Manager.

In the event Owner fails to comply with the affirmative marketing requirements, County will require corrective actions which include, but are not limited to, requiring the Owner to conduct extensive outreach efforts on all future vacancies using appropriate contacts such as those outlined above in order to achieve occupancy goals. County may require other corrective actions as necessary.

**OUTREACH TO MINORITY-OWNED AND WOMEN-OWNED
BUSINESSES ENTERPRISES (MBE/WBE)**

Clackamas County Community Development Division (CCCDD) will take the following steps to ensure, to the maximum extent possible, that small and minority-owned business enterprises and women-owned business enterprises (MBE/WBE) are used whenever possible and economically feasible:

- ◆ Include language in all notices and advertisements related to the HOME Program which states that MBE/WBE are encouraged to apply for such funds and to participate as suppliers, contractors, professional service providers, etc. on projects assisted with HOME funds. All informational and documentary materials will also include this language.
- ◆ Include qualified MBE/WBE on any contractor or solicitation lists.
- ◆ Coordinate with the Oregon Office of Minority, Women and Emerging Small Business to maintain a list of eligible MBE/WBE. This list will be made available to HOME recipients.
- ◆ When necessary and appropriate, utilize the services and assistance of the US Department of Commerce's Small Business Administration and Minority Business Development Agency.
- ◆ Through contractual agreement, ensure that recipients of HOME program funds solicit MBE/WBE whenever they are potential sources.
- ◆ When feasible, divide total requirements into smaller tasks or quantities to permit maximum participation by MBE/WBE.
- ◆ When feasible, establish delivery schedules which will encourage participation by MBE/WBE.
- ◆ In conjunction with HOME-Assisted Projects, CCCDD will:
 - ◆ Encourage project sponsors, developers and Recipients to include, to the maximum extent feasible, the use of MBE/WBE in providing supplies, professional and construction services.
 - ◆ Request that project sponsors/developers maintain statistical data and identify jobs which have been bid by MBE/WBE. CCCDD may inspect the project site to confirm the percentage of minority and women laborers working at the site.

Monitor project sponsors, developers and Recipients to determine their compliance efforts in promoting the use of MBE/WBE in specific procurement areas, i.e. supplies, professional services, and construction services.

ATTACHMENT G.

1. **Monthly Progress Reports.**

During the construction phase, the Owner or its representative must submit a progress report each month that describes:

- a. Work completed during the reporting period; and
- b. Any decisions that have been made in the field, including changes to the scope of work, schedule and resolution to problems or disputes.

2. **Final disbursement of HOME Funds at Project Completion.**

Five percent of HOME funds will be withheld until:

- a. The County inspects the completed project to verify that the HOME-Assisted Units meet the property standards set for at 24 CFR 92.251; and
- b. The Owner or its representative submits all of the following documentation:
 - i. Documentation that relocation (if any) was conducted in accordance with Section 24 of this Agreement;
 - ii. Certification statement that the completed project meets the accessibility requirements of 24 CFR 92.251(a)(2)(i);
 - iii. Certificate of Occupancy;
 - iv. Final Sources and Uses or Cost Certification that identifies the actual cost and funding source of each line item on the development budget;
 - v. Documentation for each source of match;
 - vi. Contractor information:
 - (1) Copy of construction contract between Owner and General Contractor.
 - (2) Certification that neither the General Contractor nor participants in lower tier covered transactions having to do with the project are currently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in federal projects.
 - (3) Forms and Assurances from General Contractor:
 - (a) Affidavit of Payment of Debts and Claims;
 - (b) Affidavit of Release of Liens from General Contractor and all Subcontractors;
 - (c) Consent of Surety Company to Final Payment (if bonded);
 - (d) Section 3 Summary Report (form HUD-60002); and
 - (e) Contractor/Subcontractor Activity form (form HUD-2516).
 - vii. Copy of the Management Agreement;
 - viii. Copy of HOME tenant lease;
 - ix. Copy of the written tenant selection criteria; and
 - x. Form HUD-40097 (Project Completion Report - Part C, household characteristics for each HOME-Assisted Unit) must be submitted within 120 days of the request for final disbursement.

**CLACKAMAS COUNTY COMMUNITY DEVELOPMENT DIVISION
HOME PROGRAM
MONTHLY PROGRESS REPORT**

Date of Report: _____	Project Name: _____
Contact Person: _____	Telephone #: _____
Reporting Period: From: _____	To: _____

1. Description of activities accomplished this period:

2. During this reporting time, were there any decisions made in the field, including changes to the scope of work, schedule and resolution to problems or disputes?

CERTIFICATION:

I, the undersigned, do hereby certify that the information contained in this report is true and correct and accurately reflects the progress and status of the project.

Signed: _____ Date: _____

Please e-mail the Progress Report form to the Clackamas County Community Development Division
(cdgeneral@clackamas.us)
Attn: Home Program Manager

ATTACHMENT I. VAWA NOTIFICATION AND CERTIFICATION

[insert Name of Housing Provider¹]

Notice of Occupancy Rights under the Violence Against Women Act²

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.³ The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **[insert name of program or rental assistance]** is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.*

Protections for Applicants

If you otherwise qualify for assistance under **[insert name of program or rental assistance]**, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under **[insert name of program or rental assistance]**, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or

¹ The notice uses HP for housing provider but the housing provider should insert its name where HP is used. HUD's program-specific regulations identify the individual or entity responsible for providing the notice of occupancy rights.

² Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

³ Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

occupancy rights under [insert name of program or rental assistance] solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

HP may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If HP chooses to remove the abuser or perpetrator, HP may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, HP must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, HP must follow Federal, State, and local eviction procedures. In order to divide a lease, HP may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, HP may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, HP may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence,

dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

(2) You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HP will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

HP's emergency transfer plan provides further information on emergency transfers, and HP must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

HP can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HP must be in writing, and HP must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HP may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HP as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HP with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that HP has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HP does not have to provide you with the protections contained in this notice.

If HP receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HP has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HP does not have to provide you with the protections contained in this notice.

Confidentiality

HP must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HP must not allow any individual administering assistance or other services on behalf of HP (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HP must not enter your information into any shared database or disclose your information to any other entity or individual. HP, however, may disclose the information provided if:

- You give written permission to HP to release the information on a time limited basis.
- HP needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires HP or your landlord to release the information.

VAWA does not limit HP's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HP cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HP can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If HP can demonstrate the above, HP should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

For Additional Information

You may view a copy of HUD's final VAWA rule at **[insert Federal Register link]**.

Additionally, HP must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **[insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[insert contact information for relevant organizations]**.

Attachment: Certification form HUD-5382 **[form approved for this program to be included]**

**CERTIFICATION OF
DOMESTIC VIOLENCE,
DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING,
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's): _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s): _____ _____ _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

PROMISSORY NOTE

CLACKAMAS COUNTY HOME PROGRAM

Name of Project: Fuller Station Apartments

\$950,000.00

_____ , 2021

For value received, Green Line Affordable Development Limited Partnership, an Oregon limited partnership ("Borrower"), promises to pay to the order of Clackamas County ("Lender"), the sum of **NINE HUNDRED FIFTY THOUSAND and No/100 DOLLARS (\$950,000.00)**, or so much thereof as may be advanced, together with interest thereon at the rate of **zero percent (0.0 %) deferred payment per year, compounded annually**. The loan is evidenced by this Promissory Note the ("Note"), a Loan Agreement, a Trust Deed, and a Declaration of Land Use Restrictive Covenants (together, the "Loan Documents"). Unless otherwise defined herein, capitalized terms have the meaning assigned to them in the Loan Agreement.

This Note is subject to the terms of the Loan Agreement and the following terms and conditions. To the extent there may be a conflict between the terms of this Note and the Loan Agreement, the terms of the Loan Agreement shall control:

1. **Payment of Obligation.** Lender makes this loan for the development and construction of Fuller Station Affordable Housing (the "Project"), under Title II, Section 216 and 217 of the National Affordable Housing Act of 1990, and 24 CFR Part 92 (the "HOME" program).
 - a. The loan shall bear interest at a rate of **zero percent (0.0 %) deferred payment per year, compounded annually**.
 - b. The term of the loan is 60 years.
 - c. The Maturity Date is 60 years from the date on this Note shown above.
 - d. The loan shall be repaid in full upon the earlier of the Maturity Date, the sale, assignment or other transfer of title to the Property on which the Project will be constructed without Lender's consent, or the date Borrower or its agents or subcontractors is otherwise in default under any of the Loan Documents including, but not limited to, failure to acquire title to the Property on which the Project will be constructed or failure to record the Trust Deed or Declaration of Restrictive Covenants within 30 days of acquiring title to the Property on which the Project will be constructed.
 - e. Payments shall be made at such place as Lender may designate in writing.
 - f. The outstanding principal balance of the loan shall be repaid in full on the Maturity Date set forth in Section 1(c) above. Except as provided in Section 1(d) above, payments of principal shall not be required prior to such Maturity Date.
2. **Governing Law.** This Note shall be governed by and construed in accordance with the laws of Oregon without giving effect to the conflict of law provisions thereof.
3. **Security.** This Note shall be secured by a trust deed from Borrower as grantor to Lender as beneficiary in the Project.

If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by order of its board of directors.

PROJECT OWNER
GREEN LINE AFFORDABLE DEVELOPMENT
LIMITED PARTNERSHIP,
an Oregon limited partnership

CLACKAMAS COUNTY
Chair: Tootie Smith
Commissioner: Sonya Fischer
Commissioner: Mark Shull
Commissioner: Paul Savas
Commissioner: Martha Schrader


By: GM Fuller Station LLC,
an Oregon limited liability company,
its General Partner

Date of Board of County Commissioners meeting:
January 7, 2021

By: Guardian Development LLC,
an Oregon limited liability company,
its Manager

By: Guardian Real Estate Services LLC,
an Oregon limited liability company,
its Manager

By: Guardian Holding, Inc.,
an Oregon corporation,
its Manager

By: 
Thomas B. Brenneke
President

12/22/2020

DUNS#111677038 (Green Line Affordable
Development Limited Partnership)

Signing on Behalf of BCC:

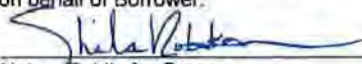
(signature)
Printed Name: Richard Swift
Title: Director, Health, Housing and Human
Services

Date

STATE OF OREGON)
County of Multnomah) ss.

On December 22, ²⁰²⁰~~2021~~, before me personally appeared Thomas B. Brenneke, who being duly sworn, stated that he is the authorized representative of the sole manager of GM Fuller Station, LLC, an Oregon limited liability company, the sole General Partner of Green Line Affordable Development Limited Partnership, an Oregon limited partnership ("Borrower"), and acknowledged the foregoing instrument to be the voluntary act and deed of the Borrower, signed by authority of such General Partner on behalf of Borrower.




Notary Public for Oregon
My commission expires: January 15, 2023

AFTER RECORDING RETURN TO:
Clackamas County Community Development Division
2051 Kaen Road
Oregon City, OR 97045

STATUTORY NOTICE:
The name and address of the entity holding a lien or other interest created by this instrument are set forth below, and the tax account number of the property subject to the lien or in which the interest is created is: Clackamas County Community Development Division

Legal Description - Exhibit "A" Attached

DECLARATION OF LAND USE RESTRICTIVE COVENANTS

CLACKAMAS COUNTY HOME PROGRAM

Name of Project: Fuller Station Apartments

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS ("Declaration") dated _____, 2021 by Green Line Affordable Development Limited Partnership, an Oregon limited partnership, and its successors and assigns ("Owner") is given as a condition precedent to the award of HOME Investment Partnership ("HOME") Program funds by Clackamas County, a political subdivision of the State of Oregon ("County") together with any successor to its rights, duties, and obligations, and is made in favor of the Clackamas County Community Development Division, who will administer compliance hereunder for and on behalf of the County under the HOME Program.

Owner has applied to the County and entered into a HOME Loan Agreement ("Agreement") for an award to the Fuller Station Apartments project in an amount not to exceed \$950,000.00. As used in this Declaration, "Project" shall mean the Fuller Station Apartments project and the real property described in Exhibit A, attached hereto and incorporated by this reference herein, upon which the Project is being constructed. Pursuant to the terms of the Agreement, Owner has represented to the County restrictions regarding rents and tenant eligibility that Owner will maintain for the Period of Affordability specified in the Agreement. County has entered into agreements with Owner pursuant to which Owner assumes all responsibilities of the Project pursuant to the Agreement. This Declaration is subject to the terms and conditions of the Loan Agreement.

In consideration of the promises and covenants set forth below and of other valuable consideration, the receipt and sufficiency of which are acknowledged, the Owner and the County agree as follows:

SECTION 1 - DEFINITIONS

All the words and phrases used in this Declaration shall have the same meaning as when used in the Agreement and in 24 CFR 92 ("HUD HOME Regulations") unless the context requires otherwise.

SECTION 2 - RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND

- (A) Promptly after this Declaration is signed by Owner and County, Owner shall record or cause to be recorded this Declaration and all amendments and file in the official public land deed records of Clackamas County, and shall pay all fees and charges incurred in connection therewith. Upon recording, the Owner shall immediately transmit to the County a signed original or certified copy of the recorded Declaration showing the date, deed book and page numbers of record.
- (B) The Owner intends, declares, and covenants, on behalf of itself and all future Owners and operators of the Project during the term of this Declaration, that, subject to Section 4(B) below, this Declaration, and the covenants and restrictions set forth in this Declaration regulating and restricting the use, occupancy and transfer of the Project: (1) shall be and are covenants running with the Project, encumbering the Project for the term of this Declaration, binding upon the Owner's successors in title and all subsequent Owners and Operators of the Project; (2) are not merely personal covenants of the Owner; and (3) shall bind the Owner (and the benefits shall inure to the County and any past, present or prospective tenant of the Project) and its respective successors and assigns during the term of this Declaration. The Owner agrees that, subject to Section 4(B) below, any and all requirements of the laws of the State of Oregon to be satisfied in order for the provisions of this Declaration to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements of privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the Project. For the term of this Declaration, each and every contract, deed or other instrument hereafter signed conveying the Project or portion thereof shall expressly provide that such conveyance is subject to this Declaration, provided, however, the covenants contained herein shall survive and be effective regardless of

whether such contract, deed, or other instrument hereafter signed conveying the Project or portion thereof provides that such conveyance is subject to this Declaration.

- (C) The Owner covenants to obtain the consent of any prior recorded lienholder on the Project to this Declaration.

SECTION 3 - REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner represents, covenants, and warrants as follows:

- (A) The Owner (1) is qualified to transact business under the laws of the State of Oregon, (2) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (3) has the full legal right, power and authority to sign and deliver this Declaration.
- (B) The execution and performance of this Declaration by the Owner (1) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, (2) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Owner is a party or by which it or the Project is bound, and (3) will not result in the creation or imposition of any prohibited encumbrance of any nature.
- (C) The Owner will, within 180 days of execution and delivery of this Declaration, have good and marketable title to the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Declaration, any Loan Documents relating to the Project or encumbrances permitted under the Loan Documents).
- (D) There is no action, suit, or proceeding at law or in equity, or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Owner, overtly threatened in writing against or affecting it, or any of its properties or rights, which if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Declaration) or would materially adversely affect its financial condition.
- (E) The Project constitutes or will constitute a qualified low-income building or qualified low-income project, as applicable, as defined in 24 CFR Part 92 and applicable regulations.
- (F) **Ten units in the Project are HOME-Assisted Units.**

During the term of this Declaration:

- 50% of the HOME-Assisted Units must be leased, rented or made available to members of the general public whose incomes are less than or equal to 50% of the median income (Very Low-Income as defined in the Loan Agreement). 50% of the HOME-Assisted Units must be leased, rented or made available to members of the general public whose incomes are less than or equal to 80% of the median income (Low-Income as defined in the Loan Agreement); for a total of 10 floating HOME units.
- Rents for the HOME-Assisted Units will not exceed the gross rent allowable under 24 CFR 92.252(b)(1) except that, in accordance with 24 CFR 92.252(b)(2), "If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward the rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e. tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program."

The determination of whether a tenant meets the income requirement shall be made by the Owner or its designated agent at least annually in accordance with 24 CFR 92.252(h).

- (G) During the term of this Declaration, Owner will maintain the Project and each HOME-Assisted unit in accordance with the Property Standards requirements of 24 CFR 92.251.
- (H) Subject to the requirements of 24 CFR Part 92 and this Declaration, the Owner may sell, transfer or exchange the entire Project at any time, but the Owner shall notify in writing and obtain the prior agreement of any buyer or successor or other person acquiring the Project or any interest therein that such acquisition is subject to the requirements of this Declaration and to the requirements of 24 CFR Part 92 and applicable regulations. This provision shall not act to waive any other restriction on sale, transfer, or exchange of the Project or any low-income portion of the Project. The Owner agrees that the County may void any sale, transfer, or exchange of the Project if the buyer or successor or other person fails to assume in writing the requirements of this Declaration and the requirements of 24 CFR Part 92; provided, however, the foregoing shall not apply to any sales, transfers or exchanges made in connection with a foreclosure under any mortgage or trust deed encumbering the Project or any transfers in lieu of foreclosure.

In addition, the withdrawal, or removal of the General Partner of the Owner for cause pursuant to the terms of the Owner's Amended and Restated Agreement of Limited Partnership shall not constitute a default hereunder or under the Agreement, provided that the substitute General Partner is reasonably acceptable to the County and is admitted to Owner within ninety days thereafter.

- (I) The Owner will notify the County in writing prior to any sale, transfer, or exchange of the entire Project or any low-income portion of the Project.
- (J) The Owner shall not demolish any material part of the Project, substantially subtract from any real or material personal property of the Project (excepting obsolete personal property or personal property that has reached the end of its reasonably expected economic life) unless such personal property is replaced by personal of like kind, or permit the use of any residential rental unit for any purpose other than rental housing during the term of this Declaration unless required by law or unless the County has given its prior written consent, which consent shall not be unreasonably conditioned, delayed or withheld.

- (K) The Owner represents, warrants, and agrees that if the Project, or any part thereof, shall be damaged, destroyed, shall be condemned, or acquired for public use, the Owner will use its best efforts, subject to the rights of any mortgagee, to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Declaration.
- (L) The Owner warrants that it has not and will not sign any other Declaration with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Declaration are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith except to the extent applicable law requires otherwise.

SECTION 4 - TERM OF DECLARATION

- (A) This Declaration applies immediately upon recordation, and Owner shall comply with all restrictive covenants contained herein during the term of this Declaration ("Terms of Affordability"). The Terms of Affordability shall include an initial and extended period of affordability. The initial period of affordability shall be 20 years for all new HOME units. The initial period of affordability begins on the Project completion date entered into HUD Integrated Disbursement and Information System (IDIS). The extended period of affordability begins at the end of the initial period of affordability and continues for an additional 40 years or until such time as the loan is deemed paid in full. The Terms of Affordability include both the initial and the extended periods of affordability, for a total of 60 years.
- (B) Pursuant to 24 CFR 92.252(e), as amended, this Declaration and the Terms of Affordability shall remain in effect for not less than the period described in section (A) above without regard to the term of the mortgage or other underlying security and without regard to any transfer of ownership; provided however, that the requirements herein, shall be terminated upon foreclosure or transfer in lieu of foreclosure, but shall be revived according to the original terms if during the original term, the owner of record before the foreclosure or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.

SECTION 5 – COUNTY'S RIGHT TO INSPECT; OWNER'S OBLIGATION TO REPORT

- (A) The Owner shall permit, during normal business hours and upon reasonable notice, any duly authorized and properly identified representative of the County, to inspect any books and records of the Owner regarding the Project with respect to the incomes of Low-Income tenants which pertain to compliance with the County's Occupancy Restrictions specified in this Declaration.
- (B) The Owner shall submit any other information, documents, or certifications requested by the County which the County shall deem reasonably necessary to substantiate the Owner's continuing compliance with the provisions of the County's Occupancy Restrictions specified in this Declaration.

SECTION 6 - ENFORCEMENT OF 24 CFR 92 AFFORDABLE HOUSING AND INCOME TARGETING REQUIREMENTS

- (A) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of 24 CFR Part 92 and applicable regulations of this Declaration. Moreover, Owner covenants to take any lawful action (including amendment of this Declaration as may be necessary, in the reasonable opinion of the County) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed and published by HUD from time to time pertaining to Owner's obligations under 24 CFR Part 92 and affecting the Project.
- (B) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with restrictions provided in this Declaration is to assure compliance of the Project and the Owner with 24 CFR 92 and the applicable regulations, AND BY REASON THEREOF, THE OWNER, IN CONSIDERATION FOR RECEIVING HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR THIS PROJECT, AGREES AND CONSENTS THAT THE COUNTY AND ANY TENANT WHO MEETS THE INCOME LIMITATION APPLICABLE UNDER 24 CFR 92 (WHETHER PROSPECTIVE, PRESENT OR FORMER OCCUPANT) SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE SPECIFIC PERFORMANCE BY THE OWNER OF ITS OBLIGATIONS UNDER THIS DECLARATION IN A STATE COURT OF COMPETENT JURISDICTION. The Owner further specifically acknowledges that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.
- (C) The Owner agrees that the representations and covenants set forth herein may be relied upon by the County and all persons interested in Project compliance under 24 CFR Part 92 and the applicable regulations.
- (D) The Owner agrees to take any and all actions reasonably required by the County to substantiate the Owner's compliance with occupancy restrictions of 24 CFR Part 92 as now constituted or subsequently amended and other occupancy restrictions of the County as now constituted or subsequently adopted.

- (E) This Declaration and the Agreement of which it is a part may be enforced by the County or its designee in the event the Owner fails to satisfy any of the requirements herein. In addition, this Declaration shall be deemed a contract enforceable by one or more Tenants as third-party beneficiaries of the Declaration and Agreement.

SECTION 7 - MISCELLANEOUS

- (A) Severability. The invalidity of any clause, part, or provision of this Declaration shall not affect the validity of the remaining portions thereof.
- (B) Notices. All notices to be given pursuant to this Declaration shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

TO THE COUNTY: Community Development Manager
Clackamas County Community Development
2051 Kaen Road, Oregon City, OR 97045

TO THE OWNER: Green Line Affordable Development Limited Partnership
c/o GM Fuller Station LLC
760 SW 9th Avenue, Suite 2200
Portland, OR 97205

WITH COPIES TO: CREA Fuller Station Affordable Housing LLC
30 South Meridian Street, Suite 400
Indianapolis, IN 46204

AND: Geller Silvis & Associates, Inc.
8370 SE Causey Ave., Suite B
Happy Valley, OR 97086

The notice parties identified above may, by notice given hereunder to the other notice parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

- (C) Amendment. The Owner agrees that it will take all actions necessary to effect amendment of this Declaration as may be necessary to comply with 24 CFR Part 92, any and all applicable rules, regulations, policies, procedures, rulings, or other official statements pertaining to the HOME assistance. The County, together with Owner, may sign and record any amendment or modification to this Declaration and such amendment or modification shall be binding on third-parties granted rights under this Declaration.
- (D) Governing Law. This Declaration shall be governed by the laws of the State of Oregon, and, where applicable, the laws of the United States of America, without giving effect to the conflict of law provisions thereof.
- (E) Survival of Obligations. The obligations of the Owner as set forth herein and in the HOME Agreement application shall survive the reservation of HOME funds and shall not be deemed to terminate or merge with the awarding of the funds.

Owner has caused this Declaration to be signed by its duly authorized representatives, as of the day and year first written above.

PROJECT OWNER:


GREEN LINE AFFORDABLE DEVELOPMENT LIMITED PARTNERSHIP, an Oregon limited partnership

By: GM Fuller Station LLC, an Oregon limited liability company, its General Partner

By: Guardian Development LLC, an Oregon limited liability company, its Manager

By: Guardian Real Estate Services LLC, an Oregon limited liability company, its Manager

By: Guardian Holding, Inc., an Oregon corporation, its Manager

By: 
Thomas B. Brenneke
President

DUNS#111677038 (Green Line Affordable Development Limited Partnership)

12/22/2020

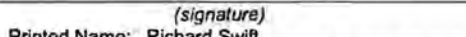
Date

CLACKAMAS COUNTY

Chair: Tootie Smith
Commissioner: Sonya Fischer
Commissioner: Mark Shull
Commissioner: Paul Savas
Commissioner: Martha Schrader

Date of Board of County Commissioners meeting:
January 7, 2021

Signing on Behalf of BCC:


(signature)
Printed Name: Richard Swift
Title: Director, Health, Housing and Human Services

Date

[Please conform to the Promissory Note notary form.]

STATE OF OREGON)

County of Multnomah) ss.

On December 22, 2020, before me personally appeared Thomas B. Brenneke who being duly sworn, stated that he/she is the authorized representative of Green Line Affordable Development Limited Partnership and acknowledged the foregoing instrument to be the voluntary act and deed of the Borrower, signed by authority of Borrower.




Notary Public for Oregon
My commission expires: January 15, 2023

**EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY**

PARCEL 1
PARTITION PLAT NO. 2020-098
LEGAL DESCRIPTION

PARCEL 1, PARTITION PLAT NO. 2020-098, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON.

ALSO BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 1, PARTITION PLAT NO. 2020-098, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, AND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, SAID CLACKAMAS COUNTY; THENCE, ALONG THE WEST, NORTH, EAST AND SOUTH LINES OF SAID PARCEL 1 THE FOLLOWING SIX COURSES; NORTH 12°52'03" EAST A DISTANCE OF 172.23 FEET; THENCE, SOUTH 87°33'25" EAST A DISTANCE OF 490.03 FEET; THENCE, ALONG THE ARC OF A NON-TANGENT 32.16 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 33°59'55" (THE CHORD OF WHICH BEARS SOUTH 47°44'41" EAST A DISTANCE OF 18.81 FEET) AN ARC DISTANCE OF 19.08 FEET; THENCE, SOUTH 09°17'39" EAST A DISTANCE OF 122.04 FEET; THENCE, SOUTH 02°28'43" WEST A DISTANCE OF 38.28 FEET; THENCE, NORTH 87°30'52" WEST A DISTANCE OF 560.44 FEET TO THE POINT OF BEGINNING.

AFTER RECORDING RETURN TO:
Clackamas County Community Development Division
2051 Kaen Road, Suite 245
Oregon City, OR 97045

STATUTORY NOTICE:
The name and address of the entity holding a lien or other
interest created by this instrument are set forth below, and
the tax account number of the property subject to the lien or
in which the interest is created is: Clackamas County
Community Development Division

Legal Description - Exhibit "A" Attached

**TRUST DEED, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING
CLACKAMAS COUNTY HOME PROGRAM**

Name of Project: Fuller Station Apartments

THIS TRUST DEED, ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (this "Trust Deed") is made as of _____, 2021 by Green Line Affordable Development Limited Partnership, an Oregon limited partnership ("**Grantor**" or "**Borrower**"), having its office at 760 SW 9th Avenue, Suite 2200, Portland, OR 97205, to Fidelity National Title, 900 SW 5th Avenue, Portland Oregon 97204 c/o Lori Medak ("**Trustee**" or "**Title Company**"), for the benefit of Clackamas County, a political subdivision of the State of Oregon, through its Community Development Division, having its office at 2051 Kaen Road, Oregon City, OR 97045 ("**Beneficiary**" or "**County**").

County has made a **zero percent (0.0%) interest deferred payment** loan to Borrower in the sum of **NINE HUNDRED FIFTY THOUSAND and No/100 DOLLARS (\$950,000.00)** under Title II of the National Affordable Housing Act of 1990, as amended, 42 U.S.C. 12701 et seq., and 24 CFR Part 92 (the "HOME" program). The loan is evidenced by this Trust Deed, a Promissory Note, a Loan Agreement and a Declaration of Land Use Restrictive Covenants, as they may be amended or supplemented from time to time, together referred to as the "**Loan Documents**." Capitalized terms have the meaning set forth in the Loan Agreement, except as otherwise defined in this Trust Deed. The purpose(s) of the loan are set forth in the Loan Agreement entered into between the parties.

The loan is due and payable in full at the earliest of: (i) the Maturity Date which is exactly **sixty (60) years from the executed date of this Trust Deed** except as otherwise provided in the Loan Agreement, (ii) the date the property is sold, (iii) title is transferred, or (iv) the Borrower defaults on any of its obligations under the Loan Documents (see Article 5.01 below). The Initial HUD-required Period of Affordability shall be 20 years, without regard to the term of the loan or the transfer of ownership.

As a condition to the making of the loan to Borrower, Borrower has agreed to sign, deliver and record or cause to be recorded this Trust Deed.

For good consideration, receipt and sufficiency of which are acknowledged, and for the purpose of securing the Obligations described in Section 1.01 below, Borrower irrevocably grants, bargains, sells, conveys, assigns, and transfers to Title Company in trust for the benefit and security of the County, with power of sale and right of entry and possession, all of Borrower's right, title, and interest in and to the real property located in Clackamas County, Oregon, described as:

See Exhibit A attached hereto and incorporated herein.

Together with all the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in any way now or hereafter appertaining, and the rents, issues and profits thereof, (the "Property"); together with all rights, titles and interests of Grantor, now owned or hereafter acquired, in and to any and all buildings and other improvements of every nature now or hereafter located on the Property and all fixtures now or hereafter attached to or used in connection with the Property and all appurtenances and additions to and substitutions and replacements of them (the "Improvements"). All of the above is sometimes referred to below as the "Trust Property."

PROVIDED ALWAYS, that if all the Obligations (as defined in Section 1.01 below) shall be paid, performed, and satisfied in full, then the lien and estate granted by this Trust Deed shall be re-conveyed.

BORROWER COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I

Particular Covenants and Warranties of Borrower

1.01 Obligations Secured. This Trust Deed secures the prompt payment of all indebtedness and other monetary obligations, including but not limited to principal and interest, and the prompt performance of all covenants and obligations of Borrower, under this Trust Deed and the other Loan Documents, whether such payment and performance is now due or becomes due in the future (the "Obligations").

1.02 Property. Borrower warrants that within 180 days of execution of the document, it will hold good and merchantable title to the Property, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those specifically listed in **Exhibit B**. Borrower covenants that it shall forever defend County's and Title Company's rights under this Trust Deed against the adverse claims and demands of all persons.

1.03 [Reserved]

1.04 Further Assurances; Filing; Refiling; Etc.

- 1) Borrower shall sign, acknowledge, and deliver, from time to time, such further instruments as County or Title Company may require to accomplish the purposes of this Trust Deed.
- 2) Borrower, immediately upon the signing and delivery of this Trust Deed, and thereafter from time to time, shall cause this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and re-recorded in such manner and in such places as may be required by any present or future law in order to perfect, and continue perfected, the lien and estate of this Trust Deed.
- 3) Borrower shall pay all filing and recording fees, and all expenses incident to the signing, filing, recording, and acknowledgment of this Trust Deed; any security agreement, mortgage, or deed of trust supplemental hereto and any instrument of further assurance; and all federal, state, county, and municipal taxes, assessments and charges arising out of or in connection with the signing, delivery, filing, and recording of this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and any instrument of further assurance.

1.05 Compliance with Laws. Borrower represents, warrants, and covenants that:

- 1) The Property has been or will be developed, and all improvements, if any, have been or will be constructed and maintained, in full compliance with all applicable laws, statutes, ordinances, regulations, and codes of all federal, state, and local governments, including the HOME requirements to the extent applicable (collectively "Laws"), and all covenants, conditions, easements, and restrictions affecting the Trust Property (collectively "Covenants"); and
- 2) Borrower and its operations upon the Trust Property currently comply, and will comply in all material respects with all applicable Laws and Covenants.

1.06 Definitions; Environmental Covenants; Warranties and Compliance

- 1) For purposes of this section, "Environmental Law" means any federal, state, or local law, statute, ordinance, or regulation pertaining to Hazardous Substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 USC §9601-9675, and the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 USC §6901-6992.
- 2) For the purposes of this section, "Hazardous Substance" includes, without limitation, any material, substance, or waste that is or becomes regulated or that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local statute, ordinance, rule, regulation, or law.
- 3) Borrower will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the Property or the Property's groundwater, or transport to or from the Property, any Hazardous Substance and will not permit any other person to do so, except for such Hazardous Substances that may be used in the ordinary course of Borrower's business and in compliance with all Environmental Laws, including but not limited to those relating to licensure, notice, and record keeping.
- 4) Borrower will keep and maintain the Property in compliance with, and shall not cause or permit all or any portion of the Property, including groundwater, to be in violation of any Environmental Law.
- 5) Borrower shall give prompt written notice to County of:
 - (a) Any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Substance on the Property or the migration of any Hazardous Substance from or to other premises;
 - (b) All known claims made or threatened by any person against Borrower or with respect to the Property or Improvements relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law;
 - (c) The existence of any Hazardous Substance on or about all or any portion of the Property in violation of Environmental Law; or
 - (d) Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could in Borrower's judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Law.
- 6) Borrower shall promptly provide to County copies of all reports, documents, and notices provided to or received from any agency administering any Environmental Laws. County shall have the right to join and participate, in its own name if it so elects, in any legal proceeding or action initiated with respect to the Property or Improvements in connection with any Environmental Law and have its reasonable attorney fees in connection with such an action

paid by Borrower, if County determines that such participation is reasonably necessary to protect its interest in the Trust Property.

- 7) If, at any time, County has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Property or Improvements in violation of Environmental Law has occurred or is threatened, or if County has reason to believe that a violation of an Environmental Law has occurred or may occur with respect to the Property or Improvements, County may require Borrower to obtain or may itself obtain, at Borrower's expense, an environmental assessment of such condition or threatened condition by a qualified environmental consultant. Borrower shall promptly provide to County a complete copy of any environmental assessment obtained by Borrower.
- 8) In the event that any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable Environmental Law, any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether presently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property, Borrower shall, within 30 days after written demand by County for Borrower's performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. All costs and expenses of such Remedial Work shall be paid by Borrower including, without limitation, County's reasonable professional fees and costs incurred in connection with monitoring or review of the legal aspects of such Remedial Work. In the event Borrower shall fail to timely commence, or cause to be commenced, such Remedial Work, County may, but shall not be required to, cause such Remedial Work to be performed. In that event, all costs and expenses incurred in connection with the Remedial Work shall become part of the Obligations secured by this Trust Deed and shall bear interest at a rate of 8.0% per annum compounded annually until paid.
- 9) Borrower shall hold County, its elected officials, directors, officers, employees, agents, successors, and assigns, harmless from, indemnify them for, and defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Borrower's warranties in this Section 1.06, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Property, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Property, the preparation and implementation of any closure, remedial or other required plans, reasonable attorney fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines; provided however that, notwithstanding the foregoing, Borrower shall have no obligation to indemnify or provide any contribution to any person or party for, from or against any losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to the negligence or willful misconduct of such person or party.
- 10) To the best of Borrower's knowledge, Borrower represents and warrants to County that:
 - (a) Neither the Property nor Borrower is in violation of any Environmental Law or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law.
 - (b) Borrower has not and is not required by any Environmental Law to obtain any permit or license other than those it has obtained to construct or use the Improvements.
 - (c) To the best of Borrower's knowledge, no Hazardous Substance has ever been used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or about the Property in violation of any Environmental Law.
- 11) All representations, warranties, and covenants in this Section 1.06 shall survive the satisfaction of the Obligations, the re-conveyance of the Trust Property, or the foreclosure of this Trust Deed by any means.

1.07 Maintenance and Improvements. Borrower shall not permit all or any part of the Improvements to be removed, demolished, or materially altered without County's prior written consent which consent shall not be unreasonably conditioned, withheld or delayed; provided, however, that Borrower may remove, demolish, or materially alter such Improvements as become obsolete in the usual conduct of Borrower's business, if the removal or material alteration does not materially detract from the operation of the Borrower's business and if all Improvements that are demolished or removed are promptly replaced with Improvements of like value and quality if such Improvements are necessary to the operations of the Property. Borrower shall maintain every portion of the Property and Improvements in good repair, working order, and condition, so that it continues to meet the property standards set forth in 24 CFR 92.251, and shall at County's election (subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 6.10 below), and Borrower's cost, restore, replace, or rebuild all or any part of the Improvements now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any Condemnation (as defined in Section 2.01 below) pursuant to Sections 1.14 and 2.01, as applicable. Borrower shall not commit, permit, or suffer any waste, strip, or deterioration of the Trust Property, reasonable wear and tear accepted.

1.08 Liens; Other Financing. Subject to subparagraph 1.09(2), Borrower shall pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Trust Property. Subject to subparagraph 1.09(2), Borrower shall not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance upon the Trust Property prior to, on a parity with, or subordinate to the lien of this Trust Deed, except as specifically provided in Exhibit B. Without limiting the immediately foregoing sentence, County understands, acknowledges and agrees that the Property and the Improvements are to be financed with proceeds of the following sources of funds (collectively, the "Other Financing Sources"), all of which are in addition to the HOME financing provided by County, and to which County consents: (i) tax-exempt bond financing to be provided by the State of Oregon by and through the Oregon Housing and Community Services Department ("OHCS"), (ii) multifamily energy program funding provided by OHCS which may be made available to Borrower by way of a sponsor loan made by its GM Fuller

Station LLC, an Oregon limited liability company ("General Partner"), (iii) federal low income housing tax credits to be administered by OHCS, (iv) a loan made by Metro from its voter-approved bond funding program, and (v) a transportation oriented development grant by Metro which may be made available to Borrower by way of a sponsor loan made by its General Partner.

1.09 Impositions

- 1) Borrower shall pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges assessed or levied against any part of the Trust Property (the "Impositions"); provided, however, that if such Imposition may be paid in installments, Borrower may pay the same in installments, together with accrued interest on the unpaid balance, as the same become due, before any fine, penalty, or cost attaches.
- 2) Borrower may, at its expense and with notice to County, contest by appropriate legal, administrative, or other proceedings conducted in good faith and with due diligence, the amount, validity, or application of any Imposition or lien on the Trust Property or any claim of any laborer, material man, supplier, or vendor or lien, and may withhold payment of the same pending completion of such proceedings if permitted by law, provided that (a) such proceedings shall suspend collection from the Trust Property; (b) no part of or interest in the Trust Property will be sold, forfeited, or lost if Borrower pays the amount or satisfies the condition being contested, and Borrower would have the opportunity to do so in the event of Borrower's failure to prevail in the contest; (c) neither County nor Title Company shall, by virtue of such permitted contest, be exposed to any risk of liability for which Borrower has not furnished additional security as provided in clause (d) below; and (d) Borrower shall have furnished to County cash, corporate surety bond, or other additional security in the amount determined by County with respect to the claim being contested or the loss or damage that may result from Borrower's failure to prevail in such contest in an amount sufficient to discharge the Imposition and all interest, costs, attorney fees, and other charges that may accrue in connection with the Imposition. Borrower shall promptly satisfy any final, non-appealable judgment.
- 3) Borrower shall furnish to County, promptly upon request, satisfactory evidence of the payment of all Impositions. County is authorized to request and receive from the responsible governmental and non-governmental personnel written statements with respect to the accrual and payment of all Impositions.

1.10 Books and Records; Inspection of the Property. Borrower shall keep complete and accurate records and books of account with respect to the Trust Property and its operation in accordance with generally accepted accounting principles consistently applied, and in accordance with the record-keeping requirements of the Loan Agreement. Borrower shall permit County, the Secretary of HUD and the Comptroller General of the United States of America, and their respective authorized and properly identified representatives to enter and inspect the Property and the Improvements, and to examine and make copies or extracts of the records and books of account of the Borrower with respect to the Property and the Improvements, at reasonable times during normal business with prior notice of not less than 48 hours, subject to all safety and security policies uniformly employed at the Property and rights of tenants in lawful possession.

1.11 Limitations of Use. Borrower shall not initiate, join in, or consent to any rezoning of the Property or any change in any Covenant or other public or private restrictions limiting or defining the uses that may be made of all or any part of the Property and the Improvements without the prior written consent of County.

1.12 Insurance

- 1) Property and Other Insurance. Borrower shall obtain and maintain in full force and effect during the term of this Trust Deed:
 - (a) Causes of Loss – Special Form property insurance together with endorsements for replacement cost, inflation adjustment, malicious mischief, and sprinkler damage coverages, all in amounts not less than the full replacement cost of all Improvements, without reduction for co-insurance;
 - (b) Commercial general liability insurance, including liabilities assumed under contract, with limits, coverages, and risks insured acceptable to County, and in no event less than \$2,000,000 per occurrence and \$4,000,000 aggregate coverage; and
 - (c) Unless County otherwise agrees in writing, rent loss or business interruption insurance in an amount no less than the total annual rents provided for in all leases for the Trust Property.
- 2) Insurance Companies and Policies. Insurer must be authorized to do business in Oregon. All insurance shall be written by a company or companies reasonably acceptable to County with a rating of A VIII or better as provided in Best's Rating Guide; shall contain a long form mortgagee clause in favor of County with loss proceeds under any policy payable to County, subject to the terms of this Trust Deed and the rights of any superior mortgagee or trust deed beneficiary or as provided in Section 6.10 below; shall require 30 days' prior written notice to County of cancellation or reduction in coverage; shall contain waivers of subrogation and endorsements that no act or negligence of Borrower or any occupant, and no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy will affect the validity or enforceability of such insurance as against County; shall be in full force and effect on the date of this Trust Deed; and shall be accompanied by proof of premiums paid for the current policy year. County shall be named as additional insured on all liability policies. Borrower shall forward to County, upon request, certificates evidencing the coverages required under this Trust Deed and copies of all policies.
- 3) Blanket Policy. If a blanket policy is issued, a certified copy of such policy shall be furnished together with a certificate indicating that the Trust Property and County are insured under such policy in the proper designated amount.
- 4) Insurance Proceeds. All proceeds from any insurance on the Trust Property shall be used in accordance with the provisions of Section 1.14.

1.13 Assignments of Policies upon Foreclosure. In the event of foreclosure of the lien of this Trust Deed or other transfer of title, or assignment of the Trust Property in whole or in part, all right, title, and interest of Borrower in and to all policies of insurance procured under Section 1.12 shall inure to the benefit of and pass to the successors in interest of Borrower or the purchaser or grantee of all or any part of the Trust Property.

1.14 Casualty/Loss Restoration

- 1) After the occurrence of any casualty to the Property, whether or not required to be insured against as provided in this Trust Deed, Borrower shall give prompt written notice of the casualty to County, specifically describing the nature and cause of such casualty and the extent of the damage or destruction to the Trust Property. County may make proof of loss if it is not made promptly and to County's satisfaction by Borrower.
- 2) Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 6.10 below, Borrower assigns to County all insurance proceeds that Borrower may be entitled to receive with respect to any casualty. All insurance proceeds shall be held by County as collateral to secure performance of the Obligations secured by this Trust Deed. Provided that Borrower is not in default under this Trust Deed, County shall permit such amounts of the insurance proceeds to be used by Borrower for repair or restoration of the Improvements (subject to disbursement procedures established by County) if Borrower can demonstrate, to County's satisfaction, that subsequent to such repair or restoration, the Trust Property shall have a value of not less than 100% of the then-outstanding balance of the indebtedness secured by this Trust Deed. Any excess insurance proceeds shall be applied by County toward payment of all or part of the indebtedness secured by this Trust Deed in such order as County may determine.

1.15 Actions to Protect Trust Property; Reserves

- 1) If Borrower shall fail to obtain the insurance required by Section 1.12, make the payments required by Section 1.09 (other than payments that Borrower is contesting in accordance with Section 1.09(2)), or perform or observe any of its other covenants or agreements under this Trust Deed, County may, without obligation to do so, obtain or pay the same or take other action that it deems appropriate to remedy such failure; provided that County shall first give notice to Borrower of such failure and a reasonable opportunity of not less than 30 days to cure such failure. All sums, including reasonable attorney fees, so expended or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of County's rights, or to recover any indebtedness secured by this Trust Deed, shall be a lien on the Trust Property, shall be secured by this Trust Deed, and shall be paid by Borrower upon demand, together with interest at the rate provided in the Note. No payment or other action by County under this section shall impair any other right or remedy available to County or constitute a waiver of any default.
- 2) If Borrower fails to promptly perform any of its obligations under Section 1.09 or 1.12 of this Trust Deed, County may require Borrower thereafter to pay in an escrow maintained with an independent, third party escrow agent reasonably acceptable to County reserves for payment of such obligations. In that event, Borrower shall pay into such escrow each month a sum estimated by County to be sufficient to produce, at least 20 days before due, an amount equal to the Impositions and/or insurance premiums. If the sums so paid are insufficient to satisfy any Imposition or insurance premium when due, Borrower shall pay any deficiency upon demand. T.

1.16 Insurance Warning. Unless Borrower provides County with evidence of the insurance coverage required by the Loan Documents, County may purchase insurance at Borrower's expense to protect County's interest.

This insurance may, but need not, also protect Borrower's interest. If the Trust Property becomes damaged, the coverage County purchases may not pay any claim Borrower makes or any claim made against Borrower. Borrower may later cancel this coverage by providing evidence that Borrower has obtained property coverage elsewhere.

Borrower is responsible for the cost of any insurance purchased by County. The cost of this insurance may be added to Borrower's loan balance. If the cost is added to Borrower's loan balance, the interest rate of 8.0% per annum compounded annually will apply to this added amount. The effective date of coverage may be the date Borrower's prior coverage lapsed or the date Borrower failed to provide proof of coverage.

The coverage County purchases may be considerably more expensive than insurance Borrower can obtain on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

1.17 Estoppel Certificates. Borrower, within five days of the request, shall furnish Title Company and County a written statement, duly acknowledged, of the amount of the Obligations secured by this Trust Deed and whether any offsets or defenses exist against such Obligations.

1.18 Financial Information. Borrower shall furnish to County within (i) 90 days after the end of each of Borrower's fiscal years a complete copy of Borrower's internally-prepared financial statement for such year, and (ii) 180 days after the end of each of Borrower's fiscal years a copy of Borrower's annual audited or certified public accountant reviewed financial statements (including balance sheet, income statement, and statement of changes in financial position). Borrower shall promptly furnish to County any and all such other financial information related to Borrower as County shall reasonably request from time to time.

**ARTICLE II
Condemnation**

2.01 Condemnation

- 1) Should any part of or interest in the Trust Property be taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation"), or should Borrower receive any notice or other information regarding such action, Borrower shall give immediate notice of such action to County.

- 2) Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 6.10 below, County shall be entitled to all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations, and shall be entitled, at its option, to commence, appear in, and prosecute any Condemnation proceeding in its own or Borrower's name and make any compromise or settlement in connection with such Condemnation. In the event the Trust Property is taken in its entirety by condemnation, all Obligations secured by this Trust Deed, at County's election, shall become immediately due and collectible.
- 3) All condemnation proceeds shall be held by County as collateral to secure performance of the Obligations secured by this Trust Deed. Provided that Borrower is not in default under this Trust Deed, County shall permit such amounts of the condemnation proceeds to be used by Borrower for repair or restoration of the Improvements (subject to reasonable disbursement procedures established by County) if Borrower can demonstrate, to County's reasonable satisfaction, that subsequent to such repair or restoration, the Trust Property shall have a value of not less than 100% of the then-outstanding balance of the indebtedness secured by this Trust Deed. Any excess condemnation proceeds shall be applied by County toward payment of all or part of the indebtedness secured by this Trust Deed in such order as County may determine.

ARTICLE III

Assignment of Leases, Rents, Issues, and Profits

3.01 Assignment. Borrower assigns and transfers to County (1) all leases, subleases, licenses, rental contracts, and other agreements, whether now existing or hereafter arising, and relating to the occupancy or use of all or any portion of the Trust Property, including all modifications, extensions, and renewals thereof (the "Leases"), and (2) all rents, revenues, issues, profits, income, proceeds, and benefits derived from the Trust Property and the lease, rental, or license of all or any portion thereof, including but not limited to lease and security deposits (collectively, the "Rents"). Borrower certifies that the Rents have not been currently assigned to any third party other than the beneficiaries under any mortgages or trust deeds identified on **Exhibit B**. This assignment is intended by Borrower and County to create a present and unconditional assignment to County subject only to the license set forth in Section 3.04 below.

3.02 Rights of County. Subject to the provisions of Section 3.04 below giving Borrower a revocable, limited license, County shall have the right, power, and authority to:

- 1) Notify any and all tenants, renters, licensees, and other obligors under any of the Leases that the same have been assigned to County and that, subject to the rights of the applicable beneficiary under any superior mortgage or trust deed specifically permitted under **Exhibit B**, all Rents are to be paid directly to County, whether or not County shall have foreclosed or commenced foreclosure proceedings against the Trust Property, and whether or not County has taken possession of the Trust Property;
- 2) Discount, settle, compromise, release, or extend the time for payment of, any amounts owing under any of the Leases and any Rents, in whole or in part, on terms acceptable to County;
- 3) Collect and enforce payment of Rents and all provisions of the Leases, and to prosecute any action or proceeding, in the name of Borrower or County, with respect to any and all Leases and Rents; and
- 4) Exercise any and all other rights and remedies of the lessor in connection with any of the Leases and Rents.

3.03 Application of Receipts. County shall have the right, power, and authority to use and apply any Rents received under this Trust Deed (1) for the payment of any and all costs and expenses incurred in connection with enforcing or defending the terms of this assignment or the rights of County, and in collecting any Rents, including reasonable internal personnel costs; and (2) for the operation and maintenance of the Trust Property and the payment of all costs and expenses in connection therewith, including but not limited to the payment of utilities, taxes, assessments, governmental charges, and insurance. After the payment of all such costs and expenses and after County shall have set up such reserves as it shall deem necessary in its sole discretion for the proper management of the Trust Property, County shall apply all remaining Rents collected and received by it to the reduction of the Obligations in such order as County shall determine. The exercise or failure by County to exercise any of the rights or powers granted in this assignment shall not constitute a waiver of default by Borrower under this Trust Deed, the Note, or any of the other Loan Documents.

3.04 License. County grants to Borrower a revocable license to collect and receive the Rents. Such license may be revoked by County, without further notice to Borrower, other than the notice required by Article 5.01, if Borrower defaults under Article III or any other term of the loan documents and such default continues beyond any applicable notice, grace or cure period. Unless and until a license is revoked, Borrower agrees to apply the proceeds of Rents to ownership obligations, taxes, assessments, governmental charges, insurance premiums, and other obligations associated with the Trust Property, and to maintenance of the Trust Property, before using Rent proceeds for any other purpose.

Borrower agrees:

- 1) To observe and perform all of its obligations as lessor under Leases;
- 2) To enforce, or secure the performance of, every obligation required of lessees and other parties under the Leases;
- 3) To appear in and defend any action or proceeding arising out of, or connected with, the Leases or Rents, at Borrower's sole expense; and
- 4) To obtain County's prior written approval of the form and content of all future Leases, which approval shall not be unreasonably withheld, conditioned or delayed.

Upon request of County, Borrower agrees:

- 1) To collect Rents no earlier than 30 days in advance of the day when they are due, and
- 2) Not to accept any payments under the Leases other than Rent, except for bona fide security deposits up to an amount equivalent to two months' rent.

3.05 Limitation of County's Obligations. Notwithstanding the assignment provided for in this Article III, County shall not be obligated to perform or discharge, and County does not undertake to perform or discharge, any obligation or liability with respect to the Leases or the Rents. This assignment shall not operate to place responsibility for the control, care, maintenance, or repair of the Trust Property upon County, or to make County responsible for any condition of the Property. County shall be accountable to Borrower only for the sums actually collected and received by County pursuant to this assignment. Borrower shall hold County fully harmless from, indemnify County for, and defend County against any and all claims, demands, liabilities, losses, damages, and expenses, including reasonable attorney fees, arising out of any of the Leases, with respect to any of the Rents, or in connection with any claim that may be asserted against County on account of this assignment or any obligation or undertaking alleged to arise therefrom, other than such claims resulting from the negligence or willful misconduct of County.

3.06 Termination. The assignment provided for in this Article III shall continue in full force and effect until all the Obligations have been fully paid and satisfied. At such time, this assignment and the authority and powers herein granted by Borrower to County shall cease and terminate.

3.07 Attorney-in-Fact. Borrower irrevocably constitutes and appoints County as its true and lawful attorney-in-fact, with power of substitution, to undertake and sign any and all of the rights, powers, and authorities described in this Article III with the same force and effect as if undertaken or performed by Borrower.

ARTICLE IV

Security Agreement and Fixture Filing

4.01 Security. To secure the Obligations, Borrower grants to County a security interest in the following: (1) the Trust Property to the extent the same is not encumbered by this Trust Deed, subordinate only to those liens previously approved by the County (including, but not limited to, those liens referenced on **Exhibit B**); (2) [Reserved]; (3) all personal property that is now or will be placed on or in the Trust Property or Improvements; (4) all personal property that is derived from or used in connection with the use, occupancy, or enjoyment of the Trust Property; (5) all property defined in the Uniform Commercial Code as adopted in the state of Oregon, as accounts, equipment, fixtures, and general intangibles, to the extent the same are used at, or arise in connection with the ownership, maintenance, or operation of, the Trust Property; (6) all causes of action, claims, security deposits, advance rental payments, utility deposits, refunds of fees or deposits paid to any governmental authority, refunds of taxes, and refunds of insurance premiums relating to the Trust Property; and (7) all present and future attachments, accessions, amendments, replacements, additions, products, and proceeds of every nature of the foregoing. This Trust Deed shall constitute a security agreement and "fixture filing" under the Uniform Commercial Code Secured Transactions statutes of the State of Oregon. The mailing address of Borrower and the address of County from which information may be obtained are set forth in the introductory paragraph of this Trust Deed.

ARTICLE V

Events of Default; Remedies

5.01 Events of Default. Each of the following shall constitute an event of default under the Loan Documents; provided that the party declaring a default has first provided to the other party thirty days written notice specifying the alleged default and giving such other party the opportunity to cure the alleged default during that 30-day period, or during such longer period as is agreed to, provided that, so long as Borrower is diligently and continuously pursuing in good faith cure of any event of default, Borrower shall be provided such length of time as is necessary to cure such default, except that such extended cure period shall not exceed ninety (90) days. Any such written notice and opportunity to cure provided to the Borrower must also be provided to the General Partner, GM Fuller Station LLC, at 760 SW 9th Avenue, Suite 2200, Portland, Oregon 97205 with a copy to Borrower's Limited Partner, CREA Fuller Station Affordable Housing LLC, at 30 South Meridian Street, Suite 400, Indianapolis, IN 46204. County agrees that any cure of any default made or tendered by General Partner or Limited Partner shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

- 1) Nonpayment. Failure to pay any amount due under the Loan Documents, before the due date.
- 2) Failure of Owner to comply with the Affordability Requirements at any time during the Period of Affordability.
- 3) Breach of Other Covenants. Material failure to perform or abide by any other condition of the Loan Documents.
- 4) Misinformation. Falsity when made in any material respect of any representation, warranty, or information furnished in the Loan Documents or in the application for HOME funds.
- 5) Other Default. The occurrence of any other event of default under the Loan Documents after the expiration of all applicable notice, grace and cure periods.
- 6) Cross-Defaults. Owner's default, after expiration of any applicable notice and cure periods, under any other documents related to the Project, including but not limited to the documents which evidence the Other Financing Sources.
- 7) Bankruptcy. The occurrence of any of the following with respect to Borrower or any guarantor of the Obligations: (a) appointment of a receiver, liquidator, or Title Company for any such party or any of its properties; (b) adjudication as a bankrupt or insolvent; (c) filing of any petition by or against any such party under any state or federal bankruptcy, reorganization, moratorium or insolvency law; (d) institution of any proceeding for dissolution or liquidation; (e) inability to pay debts when due; (f) any general assignment for the benefit of creditors; or (g) abandonment of the Trust Property.
- 8) Transfer; Due-on-Sale. Any sale, conveyance, contract for conveyance, transfer, assignment, encumbrance, pledge, or grant of a security interest in all or any part of the Property, or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "Transfer"), without County's prior written consent, shall constitute an event of default. In the case of an LIHTC project, this section shall not apply to a transfer to an affiliate of General Partner or Limited Partner of the Borrower to a successor or assignee of General Partner or the removal of General Partner of the Borrower by Limited Partner for cause in accordance with Borrower's Second Amended and Restated Agreement of Limited Partnership Agreement, as may be further amended. If General Partner of

Borrower is so removed, County shall not unreasonably withhold, condition or delay its consent to the substitute general partner, provided that County's consent shall not be required if the Limited Partner or an entity which is directly or indirectly owned and/or controlled by Borrower is the substitute general partner. Additionally, any transfer by Limited Partner of its partnership interests in Borrower from time to time as and to the extent permitted in Borrower's Second Amended and Restated Agreement of Limited Partnership Agreement, as may be further amended, shall not require consent of County.

5.02 Remedies in Case of Default. If an Event of Default shall occur, subject to any applicable cure period, County or Title Company may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

- 1) **Extend Period of Affordability.** If Borrower fails to provide the required rents, fails to rent to eligible tenants, or fails to maintain the units according to applicable Property Standards, County may extend the Period of Affordability for the period during which such failure existed.
- 2) **Acceleration.** County may declare all or any portion of the Obligations immediately due and payable.
- 3) **Receiver.** County may have a receiver appointed for the Trust Property. County shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Trust Property exceeds the amount of the indebtedness secured by this Trust Deed. Employment by Title Company or County shall not disqualify a person from serving as receiver. Borrower consents to the appointment of a receiver at County's option and waives any and all defenses to such an appointment.
- 4) **Possession.** County may, either through a receiver or as lender-in-possession, enter and take possession of all or any part of the Trust Property and use, operate, manage, and control it as County shall deem appropriate in its sole discretion. Upon request after an Event of Default, Borrower shall peacefully relinquish exclusive possession and control of the Trust Property to County or any receiver appointed under this Trust Deed.
- 5) **Rents.** County may revoke Borrower's right to collect the Rents and may, either itself or through a receiver, collect the same. County shall not be deemed to be in possession of the Property solely by reason of exercise of the rights contained in this subsection (5). If Rents are collected by County under this subsection(), Borrower irrevocably appoints County as Borrower's attorney-in-fact, with power of substitution, to endorse instruments received in payment thereof in the name of Borrower and to negotiate such instruments and collect their proceeds. After payment of all Obligations, any remaining amounts shall be paid to Borrower and this power shall terminate.
- 6) **Power of Sale.** County may direct Title Company, and Title Company shall be empowered, to foreclose the Property by advertisement and sale under applicable law.
- 7) **Foreclosure.** County may judicially foreclose this Trust Deed and obtain a judgment foreclosing Borrower's interest in all or any part of the Property.
- 8) **Fixtures and Personal Property.** With respect to any Improvements and other personal property subject to a security interest in favor of County, County may exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code.
- 9) **Abandonment.** County may abandon all or any portion of the Trust Property by written notice to Borrower.

5.03 Sale. In any sale under this Trust Deed or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in such order as County may elect, without regard to the right of Borrower, any person claiming under Borrower, or any guarantor or surety to the marshalling of assets. The purchaser at any such sale shall take title to the Trust Property or the part thereof so sold, free and clear of the estate of Borrower, the purchaser being discharged from all liability to see to the application of the purchase money. Any person, including County, its elected officials, officers, agents, and employees, may purchase at any such sale. County and each of its officers are irrevocably appointed Borrower's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions thereof so sold and, for that purpose, County and its officers may sign all appropriate instruments of transfer. Nevertheless, Borrower shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be signed and delivered, to County or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of County, for such purpose.

5.04 Cumulative Remedies. All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy shall not preclude the exercise of any other remedy. An election by County to cure under Section 1.15 shall not constitute a waiver of the default or of any of the remedies provided in this Trust Deed. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default.

5.05 Receiver or Trustee-in-Possession. Upon taking possession of all or any part of the Trust Property, Title Company, County, or a receiver may:

- 1) **Management.** Use, operate, manage, control, and conduct business with the Trust Property and make expenditures for such purposes and for such maintenance and improvements as are deemed reasonably necessary.
- 2) **Rents and Revenues.** Collect all rents, revenues, income, issues, and profits from the Trust Property and apply such sums to the reasonable expenses of use, operation, management, maintenance, and improvements.
- 3) **Construction.** At its option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.
- 4) **Additional Indebtedness.** If the revenues produced by the Trust Property are insufficient to pay expenses, County, Title Company, or the receiver may borrow or advance such sums upon such terms as it deems

reasonably necessary for the purposes stated in this section. All advances shall bear interest, unless otherwise provided, at the rate set forth in the Note, and repayment of such sums shall be secured by this Trust Deed.

5.06 Application of Proceeds. All proceeds realized from the exercise of the rights and remedies under this Section 5 shall be applied as follows:

- 1) **Costs and Expenses.** To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Trust Property, the costs and expenses of any receiver or lender-in-possession, the costs of any sale, and the costs and expenses provided for in Section 6.07 below.
- 2) **Indebtedness.** To pay all Obligations, in such order as County shall determine in its sole discretion.
- 3) **Surplus.** The surplus, if any, remaining after satisfaction of all the Obligations shall be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled to the surplus.

5.07 Deficiency. No sale or other disposition of all or any part of the Trust Property pursuant to this Section 5 shall be deemed to relieve Borrower of any of the Obligations, except to the extent that the proceeds are applied to the payment of such Obligations.

5.08 Waiver of Stay, Extension, Moratorium, and Valuation Laws. To the fullest extent permitted by law, Borrower waives the benefit of any existing or future stay, extension, or moratorium law that may affect observance or performance of the provisions of this Trust Deed and any existing or future law providing for the valuation or appraisal of the Trust Property prior to any sale.

5.09 Continued LIHTC Obligations. This Trust Deed shall to the extent provided below, be subordinate to such extended use agreements and/or land use restrictive covenants as may be recorded from time to time in favor of the State of Oregon acting by and through OHCS with respect to the Property. This subordination shall cease to be effective as of the earlier of (i) the date the property is acquired by foreclosure (or instrument in lieu of foreclosure), or (ii) upon the termination of the "extended use period," as defined in Section 42(h)(6)(D) of the Internal Revenue Code, as amended, or any successor provision (the "Code"), for such other reason provided in Section 42(h)(6)(E) of the Code. Provided, however, a limitation on the eviction of existing low-income tenants, for the term and to the extent provided in Section 42(h)(6)(E)(ii) of the Code, shall survive such foreclosure or other termination of the extended use period applicable to the property. This subordination shall be interpreted to constitute a subordination of this Trust Deed, but only to the extent, necessary to meet the requirements established under Section 42(h)(6)(B) of the Code.

ARTICLE VI General Provisions

6.01 Time is of the Essence. Time is of the essence with respect to all covenants and obligations of Borrower under this Trust Deed.

6.02 Re-conveyance by Title Company. At any time upon the request of County, payment of Title Company's fees, if any, and presentation of this Trust Deed, without affecting liability of any persons for the payment of the Obligations, Title Company may re-convey, without warranty, all or any part of the Trust Property. The grantee in any re-conveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

6.03 Notice. Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed shall be in writing and may be delivered by mail, mailed by first class, registered, or certified mail, return-receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for such notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph shall be deemed to have been given upon the date of mailing.

6.04 Substitute Trustee. In the event of dissolution or resignation of Title Company, County may substitute one or more trustees to sign the trust created, and the new trustee(s) shall succeed to all the powers and duties of the prior trustee(s).

6.05 Trust Deed Binding on Successors and Assigns. This Trust Deed shall be binding upon and inure to the benefit of the successors and assigns of Borrower, Title Company, and County. If the Trust Property or any portion thereof shall at any time be vested in any person other than Borrower, County shall have the right to deal with such successor regarding this Trust Deed, the Trust Property, and the Obligations in such manner as County deems appropriate in its sole discretion, without notice to or approval by Borrower and without impairing Borrower's liability for the Obligations.

6.06 Indemnity. Borrower shall hold County and Title Company and their respective elected officials, directors, officers, employees and agents, harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, arising out of or in connection with Title Company's or County's interest under this Trust Deed, except Borrower shall not be liable for acts performed by County or Title Company in violation of applicable law or resulting from the negligence or willful misconduct of County or Title Company.

6.07 Expenses and Attorney Fees. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Trust Deed, each party shall be responsible for its own attorneys' fees and expenses.

6.08 Applicable Law. The Trust Deed and the validity, interpretation, performance, and enforcement of the Trust Deed shall be governed by the laws of the state of Oregon without giving effect to the conflict of law provisions thereof.

6.09 Captions. The captions to the sections and paragraphs of this Trust Deed are included only for the convenience of the parties and shall not have the effect of defining, diminishing, or enlarging the rights of the parties or affecting the construction or interpretation of any portion of this Trust Deed.

6.10 Rights of Prior Mortgagee. In the event that all or any portion of the Trust Property is subject to a superior mortgage or trust deed specifically permitted under Exhibit B, the rights of County with respect to insurance and condemnation proceeds as provided in Sections 1.14 and 2.01, and all other rights granted under this Trust Deed and/or the other Loan Documents that have also been granted to such a superior mortgagee or trust deed, shall be subject to the rights of the superior mortgagee or trust deed beneficiary. Borrower authorizes all such superior mortgagees and beneficiaries, on satisfaction of the indebtedness secured by their mortgage or trust deed, to remit all remaining insurance or Condemnation proceeds and all other sums held by them to County to be applied in accordance with this Trust Deed. In the event there is any inconsistency between the terms of this Trust Deed and the Priority and Subordination Agreement executed by Borrower, County, and certain other parties and recorded against the Property on or about the date of this Trust Deed, the terms of the Priority and Subordination Agreement shall control.

6.11 Person Defined. As used in this Trust Deed, the word person shall mean any natural person, partnership, trust, corporation, or other legal entity of any nature.

6.12 Severability. If any provision of this Trust Deed shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Trust Deed, and such other provisions shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Trust Deed.

6.13 Entire Agreement. This Trust Deed and the other Loan Documents contain the entire agreement of the parties with respect to the Trust Property. No prior agreement, statement, or promise made by any party to this Trust Deed that is not contained therein shall be binding or valid.

6.14 Commercial Property. Borrower covenants and warrants that the Property and Improvements are used by Borrower exclusively for business and commercial purposes. Borrower also covenants and warrants that the Property and Improvements are not now, and at no time in the future will be, occupied as the principal residence of Borrower, Borrower's spouse, or Borrower's minor or dependent child.

6.15 Standard for Discretion In the event this Trust Deed is silent on the standard for any consent, approval, determination, or similar discretionary action, the standard shall be sole and unfettered discretion as opposed to any standard of good faith, fairness, or reasonableness.

6.16 ORS 93.040 Warning. 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.

[Signature Pages to Follow]

PROJECT OWNER:
GREEN LINE AFFORDABLE DEVELOPMENT
LIMITED PARTNERSHIP,
an Oregon limited partnership

By: GM Fuller Station LLC,
an Oregon limited liability company,
its General Partner

By: Guardian Development LLC,
an Oregon limited liability company,
its Manager

By: Guardian Real Estate Services LLC,
an Oregon limited liability company,
its Manager

By: Guardian Holding, Inc.,
an Oregon corporation,
its Manager

By: _____
Thomas B. Brenneke
President

DUNS#111677038 (Green Line Affordable
Development Limited
Partnership)

CLACKAMAS COUNTY
Chair: Tootie Smith
Commissioner: Sonya Fischer
Commissioner: Mark Shull
Commissioner: Paul Savas
Commissioner: Martha Schrader

Date of Board of County Commissioners meeting:
January 7, 2021

Signing on Behalf of BCC:

Date

(signature)
Printed Name: Richard Swift
Title: Director, Health, Housing and Human
Services

Date

[Please conform to notary page from Promissory Note.]

STATE OF OREGON)
County of _____) ss

On _____, 2020, before me personally appeared _____, who
being duly sworn, stated that she is the _____, and acknowledged the foregoing
instrument to be the voluntary act and deed of the Borrower, signed by authority of Borrower.

Notary Public for Oregon
My commission expires: _____

**EXHIBIT A
LEGAL DESCRIPTION**

PARCEL 1
PARTITION PLAT NO. 2020-098
LEGAL DESCRIPTION

PARCEL 1, PARTITION PLAT NO. 2020-098, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON.

ALSO BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 1, PARTITION PLAT NO. 2020-098, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, AND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, SAID CLACKAMAS COUNTY; THENCE, ALONG THE WEST, NORTH, EAST AND SOUTH LINES OF SAID PARCEL 1 THE FOLLOWING SIX COURSES; NORTH 12°52'03" EAST A DISTANCE OF 172.23 FEET; THENCE, SOUTH 87°33'25" EAST A DISTANCE OF 490.03 FEET; THENCE, ALONG THE ARC OF A NON-TANGENT 32.16 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 33°59'55" (THE CHORD OF WHICH BEARS SOUTH 47°44'41" EAST A DISTANCE OF 18.81 FEET) AN ARC DISTANCE OF 19.08 FEET; THENCE, SOUTH 09°17'39" EAST A DISTANCE OF 122.04 FEET; THENCE, SOUTH 02°28'43" WEST A DISTANCE OF 38.28 FEET; THENCE, NORTH 87°30'52" WEST A DISTANCE OF 560.44 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
EXCEPTIONS TO CLEAR TITLE

None provided.