



AGENDA

Thursday, November 13, 2014 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2014-114

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

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

1. Spotlight: Clackamas County Road Department (Barb Cartmill, Department of Transportation and Development)

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

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

- 2 1. Board Order No. _____ for Boundary Change Proposal No. CL 14-007, Annexation to Sunrise Water Authority (Chris Storey, County Counsel and Ken Martin, Boundary Change Consultant)

IV. DISCUSSION ITEMS *(The following items will be individually presented by County staff or other appropriate individuals. Citizens wishing to comment on a discussion item must fill out a blue card provided on the table outside of the hearing room prior to the beginning of the meeting.)*

~NO DISCUSSION ITEMS SCHEDULED

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

A. Health, Housing & Human Services

- 3 1. Approval of an Intergovernmental Agreement with Clackamas Education Service District for Early Learning Literacy Outreach Program – Children, Youth & Families

- 4 2. Approval of the Renewal Revenue Agreement with Oregon Health & Science University for the Oregon Care Coordination Program (CaCoon Program) – *Public Health*
- 5 3. Approval of Amendment No. 2 to the Agreement with CompHealth Locum Tenens for Locum Tenens Staffing – *Health Centers*
- 6 4. Approval of an Intergovernmental Agreement with Oregon Department of Transportation Rail and Public Transit Division for Transit Planning Project for the Mt. Hood Express Bus Service – *Social Services*

B. Elected Officials

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

VI. WATER ENVIRONMENT SERVICES

- 8 1. Approval of Settlement Agreements Relating to Hoodland Outfall Repair Work Issues

VII. COUNTY ADMINISTRATOR UPDATE

VIII. COMMISSIONERS COMMUNICATION

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

www.clackamas.us/bcc/business.html



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

November 13, 2014

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kimberley Ybarra
Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Assistants

Approval of Annexation to Sunrise Water Authority

| | |
|--|--|
| Purpose/Outcomes | Conduct Public Hearing/Approve Order |
| Dollar Amount and Fiscal Impact | None |
| Funding Source | Not Applicable |
| Safety Impact | Not Applicable |
| Duration | Perpetual |
| Previous Board Action | None |
| Contact Person | Chris Storey, Assistant County Counsel 503 742 4623 Ken Martin, Boundary Change Consultant - 503 222-0955 |
| Contract No. | Not Applicable |

BACKGROUND

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

Proposal No. CL 14-007 is a proposed annexation to Sunrise Water Authority.

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed. As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of the owners of all of the property to be annexed. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a)

(lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally on the eastern edge of the District within the City of Happy Valley. The territory contains 25 acres, three vacant single family dwellings and is valued at \$1,160,535.

REASON FOR ANNEXATION

The property owners desire annexation to provide water service to facilitate development of a 127 lot planned unit development.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-14-007, annexation to Sunrise Water Authority.

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

In the Matter of Approving
Boundary Change Proposal
No. CL 14-007

} ORDER NO.

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

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

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

It further appearing that this matter came before the Board for public hearing on November 13, 2014 and that a decision of approval was made on November 13, 2014;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 14-007 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Sunrise Water Authority as of November 13, 2012.

ADOPTED this 13th day of November, 2014.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

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

1. The territory to be annexed contains 25 acres, three vacant single family dwellings and is valued at \$1,160,535.
2. The property owners desire annexation to provide sewer service to facilitate development of a 127 lot planned unit development.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Sunrise Water Authority is the provider of water service to the City of Happy Valley.

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

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

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

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

To approve a boundary change the County must:

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

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

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

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Findings 5 and 6 below. No concept plans cover this area.

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

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

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

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

POLICIES

Water

* * *

- 15.0 Require water purveyors in urban areas to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers, and storm drainage facilities, necessary to serve additional lands.
6. The City of Happy Valley's Comprehensive Plan identifies this area as Mixed Use Residential – Single Family and Mixed Use Residential – Medium Density. Zoning is MURM2 and MURS. The developer's proposal is for 113 lots for future single family residences and 14 attached homes. The developers are pursuing a zone change on a small portion of the property.
7. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
8. An annexation to Clackamas County Service District No. 1 is in progress. The District can provide sewer service to the property from an existing 8 inch District line in SE 172nd Avenue on the west edge of the property. The District provides surface water management services to the City of Happy Valley. Storm drainage in this area is handled through separate lines and with open ditches and retention areas.
9. The territory to be annexed is adjacent to the Sunrise Water Authority and the District has a water line in S.E. 172nd Avenue which can serve the site.
10. The area receives police service from City of Happy Valley which contracts with the Clackamas County Sheriff's Department.
11. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
12. The area to be annexed is within the North Clackamas County Parks & Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 3 & 7 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes that the balance of the City of Happy Valley is served by the Sunrise Water Authority and no other entity has the capability of serving this site.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County's Comprehensive Plan and Happy Valley's Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District has service available to the area to be annexed as noted in Finding No. 9. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
 - a. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



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

AKS Job #3403

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM, OR

EXHIBIT B

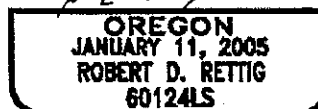
Annexation Description

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

Beginning at the South One-Quarter corner of Section 31, being a point on the centerline of SE 172nd Avenue; thence along said centerline and Sunrise Water District Boundary North 01°35'53" East 330.00 feet to the southwest corner of Document Number 2014-028367 and the **True Point of Beginning**; thence continuing along said centerline and Sunrise Water District Boundary North 01°35'53" East 764.22 feet to the southwest corner of Document Number 2009-060085; thence leaving Sunrise Water District Boundary and along the south line of said Deed South 89°05'49" East 288.41 feet to the southeast corner of said Deed; thence along the east line of said Deed and the northerly extension thereof North 01°35'53" East 264.00 feet to a point on the northerly right-of-way line of SE Troge Road (20.00 feet from centerline); thence along said northerly right-of-way line South 89°05'49" East 583.28 feet to a point on the northerly extension of the west line of Document Number 2008-035469; thence along said northerly extension and the west line of said Deed South 01°41'33" West 190.00 feet to the southwest corner of said Deed; thence along the south line of said Deed South 89°05'49" East 179.58 feet to a point on the west line of Document Number 2006-042065; thence along said west line South 02°02'20" West 509.83 feet to the southwest corner of said Deed; thence along the south line of said Deed South 89°06'00" East 270.30 feet to a point on the west line of Document Number 2002-040263; thence along the west line of said Deed and the west line of Document Number 2007-047288 South 01°41'33" West 328.36 feet to the northeast corner of Document Number 2005-073502; thence along the north line of said Deed, North 89°06'08" West 1319.80 feet to the **True Point of Beginning**.

The above described tract of land contains 24.28 acres, more or less.

10/13/2014

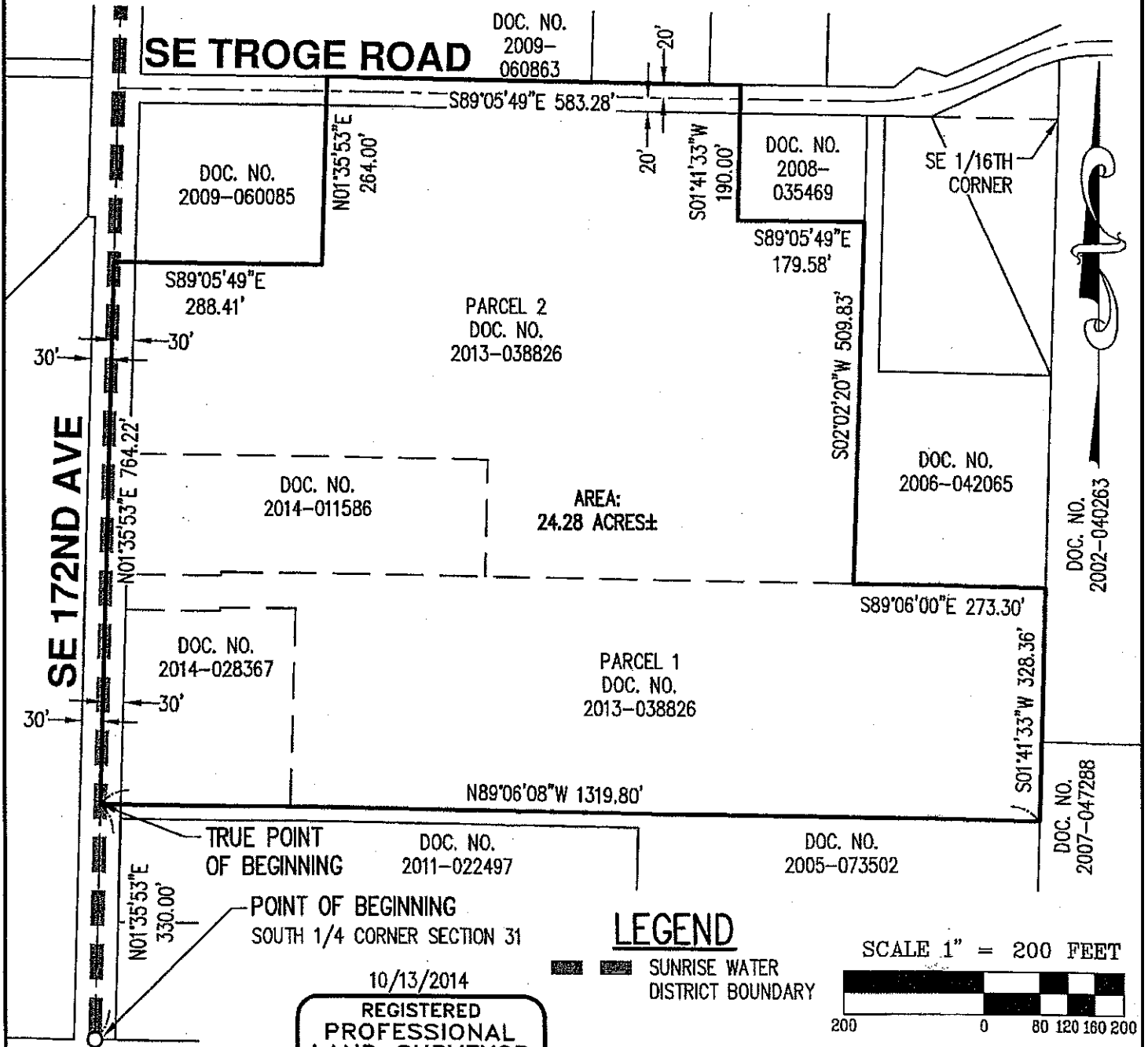


RENEWS: 12/31/14

EXHIBIT C

MAP OF ANNEXATION

A TRACT OF LAND LOCATED IN THE SE 1/4 OF SEC. 31, T1S, R3E,
W.M., CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



10/13/2014
REGISTERED PROFESSIONAL LAND SURVEYOR

[Signature]
OREGON
 JANUARY 11, 2005
ROBERT D. RETTIG
 60124LS
 RENEWS: 12/31/14

PREPARED FOR
 TROGE PROPERTY, LLC.
 2601 NE 163RD CT
 VANCOUVER, WA 98684

ROCK CREEK MEADOWS

| | | | |
|---------------------------------|-----------------|------------------------|-----------|
| DRAWN BY: MSK | CHECKED BY: RDR | DWG: 3403ANNEX-SUNRISE | JOB: 3403 |
| AKS ENGINEERING & FORESTRY, LLC | | SUITE 100 | |
| 12965 SW HERMAN RD | | TUALATIN, OR 97062 | |
| PHONE: 503.563.6151 | | FAX: 503.563.6152 | |

AKS

DATE: 09/05/2014

November 13, 2014

Board of County Commissioner
 Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with
Clackamas Education Service District

| | |
|--|--|
| Purpose/Outcomes | These funds will be used to train Clackamas County Home Visiting Program, Child Care and Library staff to work with parents to improve their children's literacy skills and prepare them for kindergarten readiness. |
| Dollar Amount and Fiscal Impact | This provider agreement is in the amount of \$83,362. There is no other fiscal impact to the county. |
| Funding Source | Oregon Department of Education – Early Learning Division State General Funds –No County General Funds will be involved. |
| Safety Impact | N/A |
| Duration | Upon signature and terminates on June 30, 2015 |
| Previous Board Action | N/A |
| Contact Person | Rodney A. Cook, 503-650-5677 |
| Contract No. | #6970 |

BACKGROUND:

The Children, Youth & Family Division (CYF), of the Health, Housing & Human Services Department request approval of the Intergovernmental Program Performance Agreement with the State of Oregon, Department of Education's Early Learning Division. This agreement will fund the Clackamas County Early Learning Literacy outreach program.

The Oregon Early Literacy Grant funding is an integral part of the Oregon Early Learning Hub initiative and has been designated to be funded through the Clackamas Early Learning Hub which is administered by H3S-Clackamas County Children, Youth and Families Division. The purpose of the Clackamas Early Learning Literacy program will be to:

- Increase access to books and reading materials for children ages 0-6;
- Increase the frequency of adult/child reading interactions for children ages 0-6;
- Increase the quality of adult/child reading interactions for children ages 0-6;
- Increase the amount of time children ages 0-6 spend reading;
- Increase children's early literacy skills and readiness for kindergarten as measured by the Oregon Kindergarten Assessment;

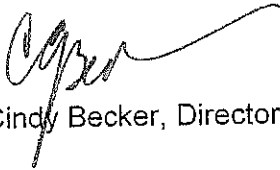
The Early Literacy program will provide professional early literacy development training in the Reading for Healthy Families curricula to local Clackamas County library staff, early learning home visiting providers including Head Starts, Early Intervention, Relief Nursery, Migrant Education, Public Health and child care providers. As a result of these trainings, the trainees will implement early learning strategies into their work with parents and children they are currently serving. It is estimated that through this training model over 1,500 adults and up to 4,000 children will be impacted.

The contract template has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff recommends the Board approval of this Intergovernmental Program Performance Agreement and authorizes Cindy Becker, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. Becker', written over a horizontal line.

Cindy Becker, Director

INTERGOVERNMENTAL AGREEMENT

(FY14-15)
INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY – Children, Youth & Families, OREGON
AND
Clackamas Education Service District-Child Care Resource & Referral

I. Purpose

This agreement is entered into between Clackamas County (COUNTY) and Clackamas Education Service District-Child Care Resource & Referral (AGENCY) 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 Early Literacy Training and Outreach and promotion to home visiting and child care providers, local Clackamas County library staff and families.

II. Scope of Work and Cooperation

A. AGENCY agrees to coordinate and implement the strategies outlined in Exhibit 1 attached.

III. Compensation

The COUNTY agrees to pay AGENCY an amount not to exceed **\$83,362** during the **2014-2015 fiscal year** for the services outlined in Section II.A.

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

All requests for payment are subject to the approval of the COUNTY and will be submitted to:

Deanna Mulder
Clackamas County-Children, Youth & Families Division
2051 Kaen Road
Oregon City, OR 97045
503-650-5675
deannam@co.clackamas.or.us

IV. Liaison Responsibility

Carol Middleton will act as liaison from the AGENCY for this project. **Karen Gorton** will act as liaison from the COUNTY.

V. Special Requirements

A. The COUNTY and AGENCY agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.

INTERGOVERNMENTAL AGREEMENT

- B. Indemnity. The AGENCY agrees to indemnify, defend and hold harmless the County and its officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands attributable in whole or in part to the acts or omissions of the AGENCY or the AGENCY's employees, subject, where applicable, to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7.

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

1. Commercial General Liability Insurance

Required by COUNTY Not required by COUNTY

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

2. Commercial Automobile Insurance

Required by COUNTY Not required by COUNTY

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

3. Professional Liability Insurance

Required by COUNTY Not required by COUNTY

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

4. Additional Insurance Provision

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

INTERGOVERNMENTAL AGREEMENT

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

5. Notice of Cancellation.

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

6. Insurance Carrier Rating.

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

7. Certificates of Insurance.

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

8. Independent Contractor Status.

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

9. Primary Coverage Clarification.

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

10. Cross-Liability Clause.

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

- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after receipt of final payment under this contract; provided that any records and

INTERGOVERNMENTAL AGREEMENT

documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.

- D. Access to Records. The COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the AGENCY which are directly pertinent to the agreement for the purpose of making audit, examination, excerpts, and transcripts.
- E. This agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.

VI. Amendment

This agreement may be amended at any time with the concurrence of both parties. Amendments become a part of this agreement only after the written amendment has been signed by both parties.

VII. Term of Agreement

This agreement becomes effective when this contract is signed by all necessary parties, but not prior to October 1, 2014. This contract will terminate June 30, 2015.

This agreement is subject to termination by either of the parties when thirty (30) days' written notice has been provided.

Upon termination of this agreement, any unexpended balances of agreement funds shall remain with the COUNTY.

INTERGOVERNMENTAL AGREEMENT

GOVERNMENTAL UNIT

By 

Milt Dennison
Name (Typed)

Superintendent
Title

10/30/2014
Date

13455 SE 97th Avenue
Street Address

Clackamas, OR 97015
City/Zip

503-675-4003
Phone Number

93-6000229
TIN, FIN or S.S.#

CLACKAMAS COUNTY

Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

Signing on Behalf of the Board:


Cindy Becker, Director
Health, Housing & Human Services

Date

Approved as to Content:


Rodney A. Cook, Division Director

11/3/14
Date

INTERGOVERNMENTAL AGREEMENT

EXHIBIT 1 SCOPE OF WORK AND PERFORMANCE STANDARDS

- I. AGENCY shall meet all performance outcomes as outlined in attached Work Plan.
- II. Performance Standards:
 1. **Community Based, Holistic Approach**
 - AGENCY programs and services shall be community-focused, incorporating the greatest level of input from multiple stakeholders, including clients, families, and other agencies.
 - AGENCY programs and services shall have ongoing community investment and involvement.
 2. **Family-Centered Programs**
 - AGENCY programs and services shall involve families in all aspects, recognizing that they are the most important teachers, caregivers, and role models for their children.
 - AGENCY programs and services shall support and strengthen families in providing the foundation for the physical, social, emotional, and intellectual development for their children.
 3. **Establish/Maintain Effective Partnerships**
 - AGENCY, in order to enable data linkages, information sharing, and ongoing collaboration between partners to most effectively meet and address needs, shall ensure that appropriate staff attend CYF contractor's meetings, and training sessions, and participate in other activities as required by COUNTY.
 - AGENCY shall develop and promote continuous communications with similar organizations.
 4. **Utilize a Balanced SWOT (Strengths, Weaknesses, Opportunities, Threats) Approach**
 - AGENCY programs and services shall address both the risks/deficiencies, challenges and the strengths/assets/opportunities in their communities.
 5. **Implement Research Based Accountability**
 - AGENCY, in order to ensure programs and services are based on research-based, proven practices, shall complete and submit the Best Practices Assessment as required by CYF. In areas where proven practices are not available, AGENCY is encouraged to develop innovative strategies based on research principles.
 - AGENCY programs and services shall include research-based measurements of success to enable tracking of effectiveness toward meeting planned outcomes. These data shall be monitored by CYF on the Quarterly Work Plan. Quarterly Work Plans are to be submitted on or before date due.
 - Reporting Period #1, Oct 1 – Dec 31: due on Jan 15, 2015
 - Reporting Period #2, Jan 1 – Mar 31: due on Apr 15, 2015
 - Reporting Period #3, Apr 1 – Jun 30: due on Jul 15, 2015

INTERGOVERNMENTAL AGREEMENT

6. **Reflect and Incorporate Diversity**
 - AGENCY, in order to provide programs and services that meet the needs of diverse cultures and people with disabilities, shall complete and submit the Cultural Competency Assessment and Action Plan as required by CYF.
7. **Internal Controls**
 - AGENCY shall submit a completed Annual Fiscal Capability Assessment to CYF on or before December 31, 2014.
8. **Funder Recognition**
 - AGENCY shall demonstrate good faith efforts to acknowledge the COUNTY's Commission on Children & Families when communicating with media representatives and when creating and distributing flyers describing services, workshops and other contract related details.
9. **Resource Expansion**
 - AGENCY shall demonstrate good faith effort to secure other funding to increase program capacity, enter into collaborative efforts and initiatives, and/or decrease dependence on long-term Commission on Children and Families funding.
10. **Use of Grant Funds**
 - No grant funds shall be used, directly or indirectly, to promote or oppose any political committee, or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder.
11. **HIPAA Compliance**
 - If the work performed under this Contract is covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), AGENCY agrees to perform the work in compliance with HIPAA. Without limiting the generality of the foregoing, if the work performed under this Contract is covered by HIPAA, AGENCY shall comply with the following:
 - i. Privacy and Security of Individually Identifiable Health Information. On or after April 14, 2003, AGENCY, its agents, employees and subcontractors shall protect individually identifiable health information obtained or maintained about Department's clients from unauthorized use or disclosure, consistent with the requirements of HIPAA. This Contract may be amended to include additional terms and conditions related to the privacy and security of individually identifiable health information.
 - ii. Data Transaction Systems. Any electronic exchange of information on or after October 16, 2002, between AGENCY and COUNTY to carry out financial or administrative activities related to health care will be in compliance with HIPAA standards for electronic transactions published in 65 Fed. Reg. 50312 (August 17, 2000). The following types of information exchanges are included: Health care claims or equivalent encounter information; health care payments and remittance advice; coordination of benefits; health claim status; enrollment and disenrollment in a health

INTERGOVERNMENTAL AGREEMENT

plan; eligibility for a health plan; health plan premium payments; referral certification and authorization; first report of injury; and health claims attachments. This Contract may be amended to include additional terms and conditions related to data transactions.

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

INTERGOVERNMENTAL AGREEMENT

EXHIBIT 2

PAYMENT PROCEDURES AND REPORTING REQUIREMENTS

1. PAYMENT PROCEDURES

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

a) **Payment Options:**

AGENCY shall submit a monthly Request for Funds and Fiscal Report within 15 days of the end of each month. The monthly fiscal report shall be in accordance with the approved budget in Exhibit 3.

OR

AGENCY shall submit a quarterly Request for Funds and Fiscal Report within 15 days of the end of each quarter. The quarterly fiscal report shall be in accordance with the approved budget in Exhibit 3.

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

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

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

- A. A request for reimbursement of program expenditures. Such request shall not bring the total of funds received by the AGENCY in an amount in excess of the budget; or

INTERGOVERNMENTAL AGREEMENT

B. Contract amendment suitable to both the COUNTY and AGENCY.

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

2. RECORDKEEPING

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

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

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

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

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

3. PROGRAM REPORTS

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

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

INTERGOVERNMENTAL AGREEMENT

4. MONITORING

COUNTY shall evaluate the services provided under this contract primarily by quarterly workplan progress reports. The COUNTY may also conduct on-site monitoring of services. These site visits usually include on-site monitoring of client case files, client/parent/staff interviews, and review of program and agency policies, procedures, and files. COUNTY shall give written notification of problem areas related to performance under this contract, including requirements and time lines of corrective action.

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

The AGENCY will provide the client confidentiality releases necessary to facilitate annual site visits by the COUNTY. Site visit activities include, but are not limited to, review of client case files, program personnel policies, and program services procedures.

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

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

The COUNTY reserves the right to dispatch auditors of its choosing to any site where any phase of the project is being conducted or controlled in any way. If any audit or examination determines the AGENCY has expended funds which are questionable or disallowed, the AGENCY shall be given the opportunity to justify questioned and

disallowed expenditures prior to the COUNTY's final determination. Any disallowed costs resulting from the final determination shall be remitted to COUNTY from AGENCY's non COUNTY-administered funds, payable by check within 30 days of final determination.

5. AUDIT

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

INTERGOVERNMENTAL AGREEMENT

separately from non COUNTY-funded assets, liabilities, fund balance, revenues and expenditures.

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

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

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

6. CAPITAL PURCHASES

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

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

EXHIBIT 3

BUDGET

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

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

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

ADJUSTMENTS

AGENCY shall not make major budget adjustments without prior written approval of the COUNTY.

Major budget adjustments are defined as:

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

AGENCY shall have the right to make minor budget adjustments.

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

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

BALANCES

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

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

EXHIBIT 1
Clackamas County Children, Youth & Families Division
Oregon Early Literacy Training and Outreach
2014-2015

Provider: Clackamas Education Service District
Activity: Literacy Training and Outreach
Contact: Carol Middleton, Clackamas ESD

Focus Area: School Success
Outcomes:
Kindergarten Readiness
 ▶ *Early Childhood Literacy-Increased children's early literacy skills and readiness for kindergarten*
Increase Community Engagement
 ▶ *Increased awareness of collective actions to support children, youth & families*

Contract Service Numbers: 150 Home Visitors, Child Care Providers, Library Staff
 2,500-4,000 Families

Clackamas ESD-CCR&R Early Literacy Training & Outreach

Mark all that apply (double click to check the boxes)

Early Childhood Transition Academic Skills Development/Enhancement (Children) Family Engagement/Involvement Mentoring Community Awareness/Mobilization Social Enrichment and Recreational Activities Academic Skills Development/Enhancement (Parent) Community & Business Engagement

| Activities/Outputs | Outcomes |
|---|--|
| <i>Description of program or project, methods for providing program, specific processes or events undertaken.</i> | <ul style="list-style-type: none"> Increasing access to books and reading materials for children ages 0-6; Increasing the frequency of adult/child reading interactions for children ages 0-6; Increasing the quality of adult/child reading interactions for children ages 0-6; Increasing the amount of time children ages 0-6 spend reading; Increasing children's early literacy skills and readiness for kindergarten as measured by the Oregon Kindergarten Assessment; |

| Early Literacy Professional Development | Outputs/Outcomes | Oct.-Dec | Jan-Mar | April-June | Avg. |
|--|---|-------------------|---------|------------|------|
| By January 31, 2015 , coordinate and facilitate a one day Training for Trainers-Professional Development Institute on how to use Reading for Healthy Families (RFHF) curriculum for designated Early Literacy partners. Upon completion of the training, agencies represented will receive an RFHF Curriculum Kit (See grant proposal.) | 90% of Institute graduates will successfully complete the Professional Development Institute Training and report an increased ability to deliver the RFHF reading curriculum. | Number Enrolled | | | |
| | | Number Successful | | | |
| | | % Successful | | | |

| | | | | | | | |
|--|--|---|---|--|--|--|--|
| <p>By June 30, 2015, Institute graduates will conduct a minimum of five formal and/or informal parent/adult RFHF training events.</p> | <p>90% of the Institute graduates will have conducted a minimum of <i>five</i> formal and/or informal parent/adult trainings in the first year.</p> | <p>Number of Participating Organizations Completing 5 Additional Trainings</p> | | | | | |
| | | <p># of Trainings Provided</p> | | | | | |
| | | <p># of parents trained</p> | | | | | |
| | | <p># of children served</p> | | | | | |
| | | <p>85 % of parents/adults receiving RFHF training will commit that they will increase the frequency of interactions with their child(ren) (pre-post survey)</p> | <p>% of parents reporting frequency of interactions w/child(ren) have increased</p> | | | | |
| | <p>85 % of parents/adults receiving RFHF training will commit that they will increase the quality of interactions with their child(ren) (pre-post survey)</p> | <p>% of parents reporting quality of interactions w/child(ren) have increased</p> | | | | | |
| <p>By June 30, 2015, Institute graduates will commit to providing a minimum of 3 per year thereafter as part of their contribution to sustain this effort over time.</p> | <p>90% of Institute graduates will commit to providing an additional 3 trainings per year</p> | <p># of graduates committed to 3 per year after initial year</p> | | | | | |
| <p>By June 30, 2015, CCR&R will provide 5 free RFHF trainings to child care providers to allow them to qualify for 6 hours of Set 1 training on the Oregon Registry.</p> | <p>90% of the child care providers trained by CCR&R will qualify for 6 hours of Set 1 training and report that they have increased their knowledge and skills in early literacy.</p> | <p>Number Enrolled</p> | | | | | |
| | | <p>Number Assessed</p> | | | | | |
| | | <p>Number Successful</p> | | | | | |
| | | <p>% Successful</p> | | | | | |
| <p>By June 30, 2015, 15 child care providers who have successfully completed the CCR&R RFHF training and will complete and will have committed to reading with children in their care, regularly.</p> | <p>85 % of child care providers receiving RFHF training will commit that they will increase the frequency of quality literacy interactions with their child(ren) as a result of the literacy</p> | <p># of child care providers trained</p> | | | | | |
| | | <p># of children served</p> | | | | | |

| | | | | | | | |
|---|---|---|--|--|--|--|--|
| | grant (post training survey) | % of child care providers reporting frequency and quality of literacy of interactions w/child(ren) have increased | | | | | |
| <p>By June 30, 2015, a minimum of 750 children's books will be purchased and distributed to participating organizations to share with participants. The books will be shared in their formal and /or informal parent/adult trainings that include Reading for Healthy Families to nurture pre-reading skills in young children. (The distribution will be in proportion to the children each agencies service but will not be a one-to-one correspondence.) (Where appropriate books and materials will be translated and/or provided in Spanish.)</p> | <p>100% of participating partners organizations identified will receive some children's books and early literacy materials for distribution at trainings.</p> <p>95% of participating partners will report increased access to books and/or reading materials for children ages birth to 6.</p> | # of participating organizations where books and early literacy materials were distributed | | | | | |
| | | # of participating organizations reporting increased access to books and/or reading materials | | | | | |
| | | # of books distributed to parents/children | | | | | |
| | | # of materials provided and/or translated into Spanish | | | | | |
| <p>By June 30, 2015, Children's Librarians from the Libraries in Clackamas County (LINCC) group will participate in the Professional Institute and included in all activities including the Professional Learning Committee to increase opportunities for collaboration and communication and be engaged in a county wide reading campaign.</p> | <p>85 % of parents/adults receiving RFHF training will commit that they will increase the frequency of quality literacy interactions with their child(ren) (post training survey)</p> <p>95% of participating librarians will report increased access to books and/or reading materials for children ages birth to 6.</p> | # of children served | | | | | |
| | | % of parents/providers reporting frequency and quality of literacy of interactions w/child(ren) have increased | | | | | |
| | | # of participating librarians | | | | | |
| | | % of participating librarians reporting an increase in access to books and/or reading materials for children ages birth to 6. | | | | | |

| | | | | | | | |
|--|--|-------------------------------|--|--|--|--|--|
| <p>By June 30, 2015, a Professional Learning Community (PLC) (work group of the Clackamas Early Learning Hub) will have been created and met at least 2 times within the duration of the program to share updates, resources and success stories focused on sustainability of the program.</p> | | <p># of PLC sessions held</p> | | | | | |
| <p>Quarterly, Provide reporting requirements outlined in the Oregon Early Literacy Grant Request for Applications including providing data and narrative for an annual report to the Early Learning Council on key activities, children served, and outcomes pending format provided by the Early Learning Division</p> | | <p>Completed</p> | | | | | |
| <p>Quarterly, Provide updates on a on key activities and expenditures pending format provided by the Early Learning Division</p> | | <p>Completed</p> | | | | | |
| <p>End of Year Report, Participate in an end of grant evaluation designed to assess overall impact of the grant program, which may include but is not limited to surveys, interviews, video recordings, and other means of collecting qualitative and quantitative data.</p> | | <p>Completed</p> | | | | | |

Clackamas County Children, Youth & Families Division

Clackamas ESD – Child Care Resource & Referral

2014-2015

Early Literacy Training and Outreach

October-Dec

Jan-March

April-June

**CLACKAMAS COUNTY CHILDREN, YOUTH & FAMILIES DIVISION
MONTHLY FISCAL REPORT (FY 14-15)- Exhibit 3**

| | |
|---|--|
| Organization: Clackamas Education Service District | Report For: June-15 |
| Service: Early Literacy Training and Outreach | |
| Program Contact: Cynthia Bese | |
| Date: July 1, 2014 - June 30, 2015 | |

| Category | Approved Grant Amount | Approved Match Amount | Approved Total Program Amount | Monthly Grant Expenditure | Monthly Match Expenditure | Total Monthly Expenditure | YTD Grant Expenditure | YTD Match Expenditure | Total YTD Expenditure |
|--|-----------------------|-----------------------|-------------------------------|---------------------------|---------------------------|---------------------------|-----------------------|-----------------------|-----------------------|
| Personnel (List salary, FTE & Fringe costs for each position) | | | | | | | | | |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| Total Personnel Svcs | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Administration | | | | | | | | | |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| Total Administration | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Supplies | | | | | | | | | |
| Instructional Supplies - LINCC | \$ 3,000.00 | | \$ 3,000.00 | | | \$ - | \$ - | \$ - | \$ - |
| Instructional Supplies | \$ 11,250.00 | | \$ 11,250.00 | | | \$ - | \$ - | \$ - | \$ - |
| Consumable Supplies & Materials | \$ 4,000.00 | | \$ 4,000.00 | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| Equipment | | | | | | | | | |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| General Office | | | | | | | | | |
| Printing | \$ 850.00 | | \$ 850.00 | | | \$ - | \$ - | \$ - | \$ - |

| | | | | | | | | | |
|--|--------------|------|--------------|------|------|------|------|------|------|
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | | | | | | | |
| Professional Fees & Contract Svcs | | | | | | | | | |
| LINCC | \$ 11,905.00 | | \$ 11,905.00 | | | \$ - | \$ - | \$ - | \$ - |
| Other Professional/Technical Svcs | \$ 52,357.00 | | \$ 52,357.00 | | | \$ - | \$ - | \$ - | \$ - |
| Travel | | | | | | | | | |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | | | | | | | |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | | | | | | | |
| Additional (please specify) | | | | | | | | | |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| | | | \$ - | | | \$ - | \$ - | \$ - | \$ - |
| Total Program Costs | \$ 83,362.00 | \$ - | \$ 83,362.00 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Total Grant Costs | \$ 83,362.00 | \$ - | \$ 83,362.00 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

Please provide information on any budget anomalies in the budget above:

November 13, 2014

Board of County Commissioner
 Clackamas County

Members of the Board:

Approval of the renewal revenue agreement with Oregon Health & Science University (OHSU) for the CaCoon Program

| | |
|--|---|
| Purpose/Outcomes | CaCoon is an abbreviation for Oregon Care Coordination Program. Revenue from OHSU CaCoon program allows CCPHD to provide a Community Health Nurse to facilitate community-based and family-centered care coordination for children with special health needs. |
| Dollar Amount and Fiscal Impact | The maximum contract value is \$62,000. |
| Funding Source | 252-3230-8200-332586 – Grant funds from OHSU |
| Safety Impact | None |
| Duration | Effective October 1, 2014 and terminates on September 30, 2015 |
| Previous Board Action | The current contract was approved by the BBC on September 8, 2011 agenda item 0900811-A6. |
| Contact Person | Dana Lord, Public Health Director – 503-655-8479 |
| Contract No. | 6981 |

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of a Renewal Revenue Agreement with OHSU. CCPHD receives grant funding from OHSU, Child Development and Rehabilitation Center for the continuation of the CaCoon program.

The revenue from this agreement allows CCPHD to provide a Community Health Nurse to facilitate community-based and family-centered care coordination for children with special health needs. Specific services include assessment of needs, coordination of healthcare and other services, and knowledge of local comprehensive services.

This contract is effective October 01, 2014 and continues through September 30, 2015. This contract has been reviewed by County Counsel on October 20, 2014. This contract is retro-active due to late receipt from OHSU.

RECOMMENDATION:

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

Respectfully submitted,



Cindy Becker, Director

Contract 6981

This AGREEMENT is by and between the Oregon Health & Science University located at 3181 SW Sam Jackson Park Road Portland, Oregon, 97239 (hereinafter referred to as the UNIVERSITY) and Clackamas County acting by and through its Health Housing and Human Services Department, Public Health Division located at 2051 Kaen Road, Oregon City, OR 97045 (hereinafter referred to as COLLABORATOR).

Witnesseth:

Whereas, DHHS Health Resources and Services Administration, (hereinafter referred to as HRSA), has awarded the Oregon Health Authority (hereinafter referred to as OHA) Grant Number B04MC06604; and

OHA has awarded UNIVERSITY Subaward number 143021 for support for the **Title V MCAH Block Grant Program** (hereinafter referred to as the PROGRAM);

Whereas, UNIVERSITY is committed to using its own funds outside of the awarded amount to fulfill commitment to HRSA of matching funds under the OHA Contract 143021, and the funds for this AGREEMENT are from UNIVERSITY funds and not from direct federal funds;

Whereas, UNIVERSITY and COLLABORATOR wish to cooperate in the completion of work on the project titled "Oregon Care Coordination Program: CaCoon" (hereinafter referred to as PROJECT);

Whereas, COLLABORATOR and UNIVERSITY desire this AGREEMENT and the work to be performed under it to fully comply with:

- All applicable administrative requirements, cost principles and other pertinent Federal laws, rules and regulations; including but not limited to the following (as applicable per COLLABORATOR type):
 - A-87 – Cost Principles for State, Local, and Indian Tribal Governments
 - A-21 – Cost Principles for Educational Institutions
 - A-122 – Cost Principles for Non-Profit Organizations
 - A-110 – Uniform Administrative Requirements for Grants and Agreement with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

Now therefore, the parties agree to the following conditions:

Article 1. AGREEMENT TYPE

This AGREEMENT is cost-reimbursable with payments based on a quarterly payment schedule

Article 2. SCOPE OF WORK

COLLABORATOR shall utilize the funds to complete the PROJECT Goals as identified in **Attachment A, Scope of Work and Attachment B, Promotora Services Scope of Work, Attachment E, Babies First and CaCoon Risk Factors (A Codes and B Codes)** in accordance with **Attachment C, Use of Allotment Funds**. COLLABORATOR shall meet the standards of performance as identified in **Attachment D, Minimum Standards of Program Performance**. The conditions of Eligibility Criteria in **Attachment A** shall

also be met by COLLABORATOR when admitting clients into the PROJECT.

Article 3. PERIOD OF PERFORMANCE

The period of performance of this AGREEMENT shall be **10/01/2014-09/30/2015**. The Period of Performance may be modified upon mutual agreement by UNIVERSITY and COLLABORATOR.

Article 4. ESTIMATED COST AND EXPENDITURE LIMITATION

The maximum award available for the period from 10/01/2014-09/30/2015 is \$62,000.00.

Estimated Cost and Expenditure Limitation may be increased or decreased at the discretion of the UNIVERSITY dependent on levels of funding provided by OHA under Subaward 143021. Such adjustment will be implemented by way of an amendment executed by both parties.

Article 5. BUDGET & ALLOWABLE EXPENDITURE

Funds awarded under this AGREEMENT are required to be compliant with **Appendix C**, and are to be utilized to accomplish the objectives and produce the deliverables related to this PROJECT. All costs incurred shall support the objectives of the PROJECT described herein.

Article 6. PROJECT PERSONNEL

The Principal Investigator for UNIVERSITY is **Marilyn Sue Hartzell**, who is responsible for coordinating the research efforts under this PROJECT. The Principal Investigator for COLLABORATOR is **Cathy Perry**, who is responsible for coordinating the research efforts under this project. Neither UNIVERSITY's nor the COLLABORATOR's Principal Investigator is authorized to amend or alter this AGREEMENT. Any amendments or alterations must be approved by the written mutual agreement of the parties hereto.

Article 7. TERMS OF PAYMENT & INVOICING

COLLABORATOR shall submit invoices to UNIVERSITY per the quarterly payment schedule, below, for reimbursement of all allowable direct and indirect costs, as per the applicable cost principles and as described in **Attachment C**, to spasub@ohsu.edu.

PAYMENT SCHEDULE :

- (1) Initial Payment of \$12,400.00, payable upon execution of this Agreement and receipt of invoice on or after 10/1/2014.
- (2) Second Payment of \$12,400.00, payable upon invoice on or after 1/1/2015.
- (3) Third Payment of \$12,400.00, payable upon invoice on or after 04/1/2015.
- (4) Fourth Payment of \$12,400.00, payable upon invoice on or after 7/1/2015.
- (5) Final Payment of \$12,400.00, payable upon invoice and acceptance by UNIVERSITY of COLLABORATOR's Financial Report on or after 09/30/2015.

Invoices shall be submitted in accordance with the instructions provided. Invoices that do not include the details requested below may be returned for correction and re-submission.

The COLLABORATOR IS REQUIRED to include the following minimum information on invoices:

- (A) COLLABORATOR's name and invoice date;
- (B) AGREEMENT Number – 1004395_Clackamas_CaCoon ;
- (C) Description and price of services actually rendered;
- (E) Name, title, phone number, and mailing address of responsible official to whom payment is to be sent; and
- (G) The Internal Revenue Service Taxpayer Identification Number.

The final invoice clearly marked "FINAL" must be received no later than 45 days after the end date of the AGREEMENT, and must include a Financial Report a format sufficient to document allowable expenses.

Failure to comply with these requirements , including the inclusion of the Financial Report, may result in nonpayment of the final invoice.

Article 8. NOTICES

All notices required to be given under this AGREEMENT shall be in writing and sent to the party as indicated below:

TO UNIVERSITY

Jen Raupp,
Subaward Grants & Contracts Administrator
Oregon Health & Science University
3181 SW Sam Jackson Park Road
L106OPAM
Portland, OR 97239 -3098
Phone: 503.494.2379
Email: rauppj@ohsu.edu

TO COLLABORATOR

Cathy Perry
Community Health Nurse Supervisor
Clackamas County Public Health Division
2051 Kaen Rd., Suite 367
Oregon City, OR 97045
Phone: (503) 742-5382
Email: Cathyper@co.clackamas.or.us

Article 9. TERMINATION

This AGREEMENT may be terminated by mutual consent of both parties or by either party upon thirty (30) days notice. This termination must be in writing and delivered by certified mail or in person.

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

Article 10. INSPECTION

COLLABORATOR agrees to maintain financial records, in accordance with generally

accepted accounting practices and applicable OMB policies and regulations, which clearly identify and describe the nature and type of all costs on the project and establish the COLLABORATOR's right to reimbursement. All costs will be subject to audit by the UNIVERSITY's Financial Officer. From time-to-time, UNIVERSITY will conduct desk audits.

COLLABORATOR agrees to comply with requests for information in a timely manner when selected for audit.

Article 11. INDEPENDENT CONTRACTOR

The COLLABORATOR is an independent contractor. No provision of this AGREEMENT shall be deemed to constitute the COLLABORATOR or any agent or employee of the COLLABORATOR as an agent or employee of the UNIVERSITY. The COLLABORATOR agrees that it has entered into this AGREEMENT and will discharge its obligations, duties, and undertakings and the work pursuant thereto whether requiring professional judgment or otherwise as an independent COLLABORATOR and without liability on the part of the UNIVERSITY.

Article 12. INDEMNIFICATION

To the extent permitted by state law, the COLLABORATOR agrees to defend, indemnify, and hold the UNIVERSITY and its officers, employees, and agents, harmless from and against any and all liability, loss expense (including reasonable attorney's fees), or claim for injury or damages arising out of the performance of this AGREEMENT, but only in proportion to and to the extent that such liability, loss, expense, attorney's fees, or claim for injury or damages are caused by or result from the negligent or intentional acts of the COLLABORATOR.

The UNIVERSITY agrees to defend, indemnify, and hold the COLLABORATOR and its officers, employees, and agents, harmless from and against any and all liability, loss expense (including reasonable attorney's fees), or claim for injury or damages arising out of the performance of this AGREEMENT, but only in proportion to and to the extent that such liability, loss, expense, attorney's fees, or claim for injury or damages are caused by or result from the negligent or intentional acts of the UNIVERSITY.

Article 13. ATTRIBUTION

Neither party may produce any book, article or paper based upon or arising from the activities conducted under this AGREEMENT without (1) providing a copy of the book, article or paper to the other party and (2) attributing, in the book, article or paper, the contributions of the other party to the activities conducted under this Agreement or obtaining written permission from the other party to forego such attribution.

Article 14. OWNERSHIP OF DELIVERABLES

COLLABORATOR and UNIVERSITY shall jointly own all materials produced or required to be delivered under this AGREEMENT. UNIVERSITY and COLLABORATOR hereby grant to HRSA, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform, and display the materials produced, and to authorize others to do the same.

Article 15. USE OF NAME

Neither party shall use the name of the other party or that party's employees, agents or assigns in any form of advertisement or publicity, or Internet sites, without first obtaining the other party's written approval for such use.

Article 16. MODIFICATIONS

The parties agree that the terms and provisions of this AGREEMENT shall be modified in writing and executed by the parties hereto, to reflect any additional requirements or changes mandated by HHS as a condition of receiving the grant, or as a result of changes to the guidelines promulgated by the HHS for the participants of consortium grants.

Article 17. SECOND TIER AGREEMENTS

COLLABORATOR shall not enter into any Second Tier Agreements to allocate any portion of the funds or Scope of Work described in this AGREEMENT.

Article 18. CERTIFICATIONS

Unless exempt under 45CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, COLLABORATOR shall comply and, as indicated, cause all sub-contractors to comply with the following federal requirements to the extent that they are applicable to this AGREEMENT, to COLLABORATOR, to the PROGRAM or to the PROJECT, 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 subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, Agency expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent

that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 USC 14402.

2. **Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then Agency shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
3. **Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then Agency shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), 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 OHA, HHS and the appropriate Regional Office of the Environmental Protection Agency. Agency shall include and require all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.
4. **Energy Efficiency.** Agency shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).
5. **Truth in Lobbying.** 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 subrecipients and subcontractors shall certify and disclose accordingly.
 - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
6. **HIPAA Compliance.** OHA is a Covered Entity for purposes of the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and in accordance with OAR 125-055-0100 through OAR 125-055-0130. OHA must comply with HIPAA to the extent that any Work or obligations of OHA arising under this Agreement are covered by HIPAA. Agency shall determine if Agency will have access to, or create any protected health information in the performance of any Work or other obligations under this Agreement. To the extent that Agency will have access to, or create any protected health information to perform functions, activities, or services for, or on behalf of, OHA as specified in the Agreement, Agency shall comply and cause all subcontractors to comply with OAR 125-055-0100 through OAR 125-055-0130 and the following:
- a. **Privacy and Security of Individually Identifiable Health Information.** Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between Agency and OHA for purposes directly related to the provision of services to Clients which are funded in whole or in part under this Agreement. Agency shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate OHA Privacy Rules, OAR 943-014-0000 *et. seq.*, or OHA Notice of Privacy Practices, if done by OHA. A copy of the most recent OHA Notice of Privacy Practices is posted on the OHA web site at [_____](#)

<https://apps.state.or.us/Forms/Served/DE2090.pdf> or may be obtained from OHA.

- b. **Data Transactions Systems.** If Agency intends to exchange electronic data transactions with OHA in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Agency shall execute an EDI Trading Partner Agreement with OHA and shall comply with OHA EDI Rules.
 - c. **Consultation and Testing.** If Agency reasonably believes that the Agency's or OHA's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Agency shall promptly consult the OHA Information Security Office. Agency or OHA may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the OHA testing schedule.
7. **Resource Conservation and Recovery.** Agency shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
8. **Audits.**
 - a. Agency shall comply and, if applicable, require a subcontractor 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."
 - b. Sub-recipients shall also comply with applicable Code of Federal Regulations (CFR) sections and OMB Circulars governing expenditure of federal funds. State, local and Indian Tribal Governments and governmental hospitals must follow OMB A-102. Non-profits, hospitals, colleges and universities must follow 2 CFR Part 215. Sub-recipients shall monitor any organization to which funds are passed for compliance with CFR and OMB requirements.
9. **Debarment and Suspension.** Agency shall not permit any person or entity to be a subcontractor 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 contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors 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.

10. **Drug-Free Workplace.** Agency shall comply and cause all subcontractors 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 OHA 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 OHA within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction;
 - (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988;
 - (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above;
 - (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above;
 - (ix) Neither Agency, or any of Agency's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Agency or Agency's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Agency or Agency's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to OHA

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.

11. **Pro-Children Act.** Agency shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 USC section 6081 et. seq.).
12. **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 USC Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 USC Section 1396a (a)(27); 42 CFR 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR 1002.3(a) and 42 CFR 455 Subpart (B).
 - c. Maintain written notices and procedures respecting advance directives in compliance with 42 USC Section 1396(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 489 subpart I.d.
 - d. 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.
 - e. 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, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 USC § 1396a(a)(68).
13. **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.

14. Disclosure.

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

or managed care entity.

15. **Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the PROGRAM 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 OHA. The COLLABORATOR 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 SCOPE OF WORK, and to authorize others to do so, for Federal Government purposes with respect to:
 - i. The copyright in any work developed under a grant, subgrant or agreement under a grant or subgrant; and
 - ii. Any rights of copyright to which a grantee, subgrantee or a county 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 date first produced under a grant, subgrant or agreement under a grant or subgrant.

ALL ATTACHMENTS REFERENCED ARE HEREBY MADE A PART OF THIS AGREEMENT. THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN UNIVERSITY AND COLLABORATOR. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF BOTH ORGANIZATIONS.

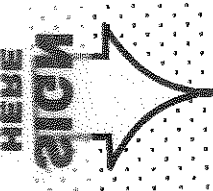
Approved and Agreed:
Clackamas County PublicHealth Division Oregon Health & Science University

By: _____

Charles Resare
Policy & Financial Compliance Manager

Date: _____
ATTACHMENT A - SCOPE OF WORK

Date: _____



Oregon Care Coordination Program: CaCoon

A. Specifications of the Program

This section provides specifics of the CaCoon Program that define its population, eligibility, program purpose and activities. CaCoon is a statewide public health nurse home visiting program that focuses on community-based CAre COordinatiON for families with children, birth to 21 years, with special health needs.

The CaCoon Program provides LHDs an opportunity to contract with OCCYSHN to provide CaCoon services with practice and evidence-based program standards; technical and professional supports to achieve CaCoon contract standards with fidelity; and, a State Plan Amendment supported program which allows an additional LHD funding stream through TCM reimbursement.

1. The definition of the program population to be served is:

“Children with special health needs are those who have or are at risk for a chronic physical, developmental, behavioral or emotional condition and who also require health and related services of a type or amount beyond that required by children generally. (McPherson, et al., 1998, p. 138).”

2. CaCoon Program Eligibility

- a. Age Eligibility: The CaCoon program serves children birth through 20 years of age.
- b. Diagnostic/Condition eligibility is outlined in the “B” column of the A and B Code Eligibility List (**See attached**). Public health nurses may use their professional judgment if a child has a chronic health condition or disability that is not specifically identified in the list by assigning risk code “B90-other chronic conditions.”

3. Financial Eligibility

- a. The CaCoon program is open to all children regardless of child or family insurance status or income.

4. CaCoon Program Purpose

- a. Ensure PHN home visiting-based care coordination services are available to qualifying Oregon children with special health care needs and their families.
- b. Provide specialized training, resources and consultation to LHDs and PHNs providing CaCoon care so they will be knowledgeable and confident resources for families and community partners

5. CaCoon Program Goals

- a. Identify children/youth, birth to 21, with special health care needs meeting CaCoon eligibility guidelines who are in need of home-based, community-based care coordination.
- b. Assist families to set goals and gain skills needed to become as independent as possible in caring for, or coordinating care for, their child(ren).

- c. Promote efficient use of the health care system including the development of effective care teams.
- d. Encourage development of actionable care plans that are used across the continuum of care.
- e. Assure access to health care
- f. Assist families to obtain, process, and understand health information to make informed decisions about health care.
- g. Promote well-being of CYSHN and their families.

Advocate for the child and family with providers and agencies

B. Responsibilities of all PHNs providing CaCoon services:

- a. Participate in orientation and other educational opportunities related to CaCoon practice.
- b. Lead or participate in efforts to identify children and youth who are in need of home visiting with community-based care coordination.
- c. Identify and act upon learning goals to continuously improve practice
- d. Conduct accurate assessments of child/family strengths and needs.
- e. Work with healthcare team members, including families, to develop actionable, effective plans of care.
- f. Enter data per the CaCoon program guidelines into the ORCHIDS data system.
- g. Learn about and access local resources.
- h. Coordinate and/or monitor delivery of health care and other services as needed.
- i. Adhere to Oregon State Board of Nursing requirements in working with Unlicensed Assistive Personal (Promotora, Community Health Workers).

C. Responsibilities of Local Health Department and other entities implementing CaCoon

- 1. Assure standards are met by each nurse or others working with CaCoon clients.
- 2. Provide supports for work space and access to community.
- 3. Enter CaCoon encounter data into the ORCHIDS Database.
- 4. Assure CaCoon service through participation in State and local efforts to leverage funds and provide service to this population (e.g. Targeted Case Management and Medicaid Administrative Match and service agreement with CCOs to provide CaCoon services
- 5. Provide adequate supervisor supports related to scheduling and staff reflection for attaining program goals and personal growth for CaCoon staff.
- 6. Implement a Triage system

D. Promotora Program

- 1. Perform CaCoon nurse responsibilities as outlined in the CaCoon Promotora Guidelines (**See Attachment B**).
 - a. Collect, report and maintain data for OCCYSHN as directed

E. Responsibilities of the Local Health Department in implementing the CaCoon program include assuring the following functions relative to:

- 1. OCCYSHN/CaCoon Program:

- a. Participate in OCCYSHN special initiatives, program planning and coordination of these services for children residing in their county.
 - b. Receive and disseminate all communication from OCCYSHN.
 - c. Attend OCCYSHN sponsored in-service training or designate a PHN replacement.
 - d. Share and disseminate OCCYSHN resources (e.g. new library books).
 - e. Provide quality assurance of CaCoon program standards for all families served by data monitoring, chart review, technical assistance/consultation and/or training.
2. Local Health Department/Other contracting entities' staff:
- a. Be available as a resource to other health, education and community service providers regarding children with special health needs.
 - b. Share OCCYSHN resources, tools and special training.
3. Local community (service area):
- a. Assure the needs of the population are represented in community planning as available.
 - b. Be a resource regarding children with special health needs.
 - c. Assure CaCoon is represented on the Local Interagency Coordinating Council (LICC), Early Childhood Team (ECT), or combined LICC/ECT within Local County for the purposes of representing the needs of children with special health needs and their families.
 - d. Assist in community process to identify needs and resources for CYSHN.
 - e. Participate in multidiscipline team processes for CYSHN as either a member or a resource to a child's Community Health Team. (E.g. Community Connections, other service coordination teams for CYSHN or PHN clients).

ATTACHMENT B – Promotora Services Scope of Work

Oregon CaCoon (Care Coordination) Program: Promotora Services

Responsibilities of the public health nurse in counties where Promotora services are funded:

Marion, Jackson, Hood River and Malheur counties

The CaCoon Program sponsors a **Health Promotora** in selected counties to address health care disparities, as well as provide more culturally appropriate care coordination for the Latino population with children and youth with special health needs

Responsibilities of the public health nurse working with the Health Promotora:

The CaCoon Nurse will provide direction and oversight to the **Health Promotora** when carrying out the plan of care for a child/family.

The nurse is responsible for:

- Orientating the Health Promotora to the CaCoon Program and to state and community services for children with special health needs;
- Conducting all child and family health assessments;
- Implementing the home visit protocol;
- Assuring CaCoon program standards are met. (See Protocol for the CaCoon Nurse and Health Promotora).

The CaCoon Nurse directs the work of the Promotora and initiates weekly meetings to monitor the plan of care.

The CaCoon Nurse will meet face-to-face with the family no less than every three months and document her assessments/evaluation of the progress or redevelopment of the plan to meet the client's needs. The frequency of home visiting must be related to the complexity of needs assessed through TIER and other tools.

Responsibilities of the Health Promotora:

The CaCoon Health Promotora will work under the direction of the CaCoon Nurse to provide services to the target population (Attachment D). The Health Promotora promotes health behaviors and helps families access and coordinate health and related services.

Health Promotora Interventions include (but may not be limited to):

- Participates as a member of the health team;
- Conducts outreach activities to identify families needing services;
- *Visits families in their homes;*
- Assists the CaCoon Nurse to identify individual and family needs;
- Monitors, evaluates, and modifies care coordination plan with the family and under the direction of the CaCoon Nurse Links families with appropriate services;
- Assists families to arrange for supports to access health and related services, e.g., transportation and interpretation services;
- Advocates for the child's and family's needs;

- Acts as a liaison and source of information between the family and service providers by translating and interpreting if necessary;
- Collaborates with other community agencies and service providers;
- Participates in CaCoon orientation and continuing education opportunities;
- Assists in the development of educational materials;
- Participates on community coalitions, committees and other appropriate groups;
- Collects data and reports activity.

Protocol for the CaCoon Nurse and Health Promotora

1. The CaCoon Nurse makes the initial and subsequent home visits on all new referrals to complete child health and family assessment, OR this/these visits may occur jointly with the CaCoon Nurse and the Health Promotora.

2. A nurse care plan is developed by the CaCoon Nurse in collaboration with the family in which:

- a. Strengths and needs are identified,
- b. Level of service is determined, and
- c. Involvement/role of the Health Promotora is defined, including frequency of visits by PHN and the Promotora.

3. The Health Promotora carries out the activities of the care plan that are not within the exclusive domain of nursing practice as indicated by Oregon Nurse Practice Law. The CaCoon Nurse and Health Promotora review cases on a weekly basis to:

- a. Conduct chart reviews and review the plan of care.
- b. Review interventions performed by the Health Promotora.
- c. Identify additional training needs for the Promotora and develop a plan for meeting them.

4. The CaCoon Nurse should be available by phone during work for consultation with the Promotora. If the child's health or family circumstances change, the Promotora will consult with the PHN who will decide if additional assessment is necessary.

5. A joint home visit with the CaCoon Nurse and Health Promotora is completed at least quarterly for evaluation and reassessment of the plan.

ATTACHMENT C – USE OF ALLOTMENT FUNDS [Section 504]

The SUBAWARDEE may use funds paid to it for the provision of health services and related activities (including planning, administration, education, and evaluation) consistent with its application. It may also purchase technical assistance if the assistance is required in implementing programs funded by Title V.

Funds may be used to purchase technical assistance from public or private entities if required to develop, implement, or administer the MCH Block Grant.

Funds may be used for salaries and other related expenses of National Health Services Corps personnel assigned to the State.

Funds may not be used for cash payments to intended recipients of health services or for purchase of land, buildings, or major medical equipment.
Other restrictions apply.

Funds may not be used to make cash payments to intended recipients of services.

Funds may not be provided for research or training to any entity other than a public or non-profit private entity.

Funds may not be used for inpatient services, other than for children with special health care needs or high-risk pregnant women and infants or other inpatient services approved by the Associate Administrator for Maternal and Child Health. Infants are defined as persons less than one year of age.

Funds may not be used to make payments for any item or service) other than an emergency item or service) furnished by an individual or entity excluded under Titles V, XVIII (Medicare), XIX (Medicaid), or XX (Social Services Block Grant) of the Social Security Act.

Matching funds under MCH Block Grant funds may not be transferred to other block grant programs or used as matching commitment under other federal awards.

ATTACHMENT D – MINIMUM STANDARDS OF PROGRAM PERFORMANCE

Oregon Care Coordination Program: CaCoon Minimum Standards of Program Performance

1. The local health department will assure initial contact with CaCoon referrals within 10 business days of receiving referral into the LHD referral system. Initial contact may be by telephone or other means.

This standard will be assessed through assurance by the CaCoon Nurse Supervisor.

2. As needed, the local health department (LHD) will establish and maintain a triage system that prioritizes the most vulnerable children with special health needs. Priority will be given to families with:

- a. A newborn with a chronic condition and/or disability.
- b. A newly diagnosed infant/child with a chronic condition and/or disability.
- c. Children with increased nutrition risk (e.g., children with congenital cardiac defects, cleft lip and palate, and cystic fibrosis).
- d. Families of children with a special health need who report difficulty accessing or coordinating their child's care and services.

This standard will be assessed by:

- ***Review of LHD policies regarding referrals during the annual site reviews***
- ***Provision of a written statement or policy describing the LHD triage system and the prioritized population.***

3. The LHD CaCoon program meets a minimum number of contacts per year. Each LHD is given the target number of annual contacts expected: 60

This standard will be assessed by a review of the ORCHIDS (or Oregon Home Visiting Data System, as brought online) data reports for the LHD and the annual contacts report.

4. Families who are part of the CaCoon Nurse's active caseload receive home visits on a frequency related to their assessed need. Tier Level will be considered when determining frequency of visits (Consult CaCoon manual).

This standard will be assessed through data contained within the ORCHIDS data system, or Oregon Home Visiting Data System as brought online.

5. All PHNs serving CaCoon clients perform or assure that children and their families receive the following minimum assessments:

- a. Tier Level Assessment using the specific CaCoon Tier Level Tool.
- b. Family assessment, including strengths and needs
- c. Child assessments, including:
 - i) Developmental
 - ii) Physical health, including vision and hearing assessment, to include monitoring of vision and hearing (includes follow-up of hearing

- results from the newborn screening including hearing and vision screening).
- iii) Nutrition
- iv) Safety

This standard will be monitored through chart review.

6. All PHNs serving CaCoon clients will develop, or assure the development, of an actionable plan of care which reflects evidence of effective coordination with members of the health care team including the family, to develop an actionable plan of care which reflects the continuum of care.

This standard will be monitored through chart review.

7. The care plan will demonstrate evidence of:
- a. Cultural and linguistic competency
 - b. Risk stratification (tier level)
 - c. Parent/family partnership, including goal setting.
 - d. Collaboration with the broader health care team. The team centers on the family, and may include:
 - i) PCPCH or other primary care practice
 - ii) F2F HIC
 - iii) CCN
 - iv) Medical specialists
 - v) CCO Intensive Case Manager
 - vi) Social Security
 - vii) Developmental Disabilities
 - viii) Mental Health Services
 - ix) Education, including Special Education, EI, ECSE
 - x) Housing support
 - xi) Transportation support

This standard will be monitored through chart review.

8. Encounter data for every CaCoon visit will be entered into the ORCHIDS database, or Oregon Home Visiting Data System when brought online, according to OHA standards.

This standard will be measured through State/ORCHIDS data with results shared with the LHD on an annual basis.

9. The LHD supervisor assures that CaCoon is represented at the county Local Interagency Coordinating Council (LICC) or planning group that assumes the mandate of LICC.

This will be assessed through the annual site review.

10. A CaCoon Nurse Coordinator is designated by the CaCoon or Nursing Supervisor as delineated in CaCoon manual.

This will be assessed through OCCYSHN annual site review and LHD notification to OCCYSHN of designee.

11. Counties will report child find activities which ensure families and community organizations are aware of services available through the local CaCoon program as well as the LHD prioritized CYSHN population served by the county.

This will be assessed through discussion of county policy and procedures, CaCoon PHN orientation and LHD expectations of the CaCoon Coordinator roles and responsibilities.

Counties not meeting one or more of these standards will write a plan of improvement which they and OCCYSHN will monitor monthly. Inability to reach and maintain standards may result in changes or loss of annual contract at OCCYSHN's discretion.

ATTCHMENT E – BABIES FIRST and CaCoon Risk Factors (A Codes and B Codes)

| <p style="text-align: center;">Babies First! (Birth through 4 years of age)</p> | <p style="text-align: center;">CaCoon (Birth through 20 years of age)</p> |
|--|--|
| <p>A1. Medical Risk Factors</p> <p>A2. Drug exposed infant (See A29)</p> <p>A3. Infant HIV positive</p> <p>A4. Maternal PKU or HIV positive Intracranial hemorrhage (excludes Very High Risk Factor B16)</p> <p>A5. Seizures (excludes VHR Factor B18) or maternal history of seizures</p> <p>A6. Perinatal asphyxia Small</p> <p>A7. for gestational age</p> <p>A8. Very low birth weight (1500 grams or less) Mechanical ventilation for 72 hours or more prior to discharge</p> <p>A10. Neonatal hyperbilirubinemia</p> <p>A11. Congenital infection (TORCH) Central nervous system infection (e.g., meningitis)</p> <p>A12. Head trauma or near drowning: monitoring change</p> <p>A13. Failure to grow</p> <p>A14. Suspect vision impairment: monitoring change</p> <p>A15. Family history of childhood onset hearing loss</p> <p>A16. Prematurity</p> <p>A17. Lead exposure Suspect hearing impairment: newborn hearing screen REFER</p> <p>A18. Alcohol exposed infant</p> <p>A19.</p> <p>A20. Social Risk Factors</p> <p>A21. Maternal age 16 years or less</p> <p>A22. Parental alcohol or substance abuse</p> <p>A23. At-risk caregiver</p> <p>A24. Concern of parent/provider</p> <p>A25. Parent with history of mental illness</p> <p>A26. Parent with developmental disability</p> <p>A27. Parent with Child Welfare history</p> <p>A28. Parent with domestic violence history Parent with limited financial resources</p> <p>A29. Parent with sensory impairment or physical disability</p> <p>A30. Parent with inadequate knowledge and supports</p> <p>A31. Other evidence-based social risk factor</p> <p>X00. Other Child is not being enrolled in High Risk Infant Tracking protocol Change in X99 status to enrollment in High Risk Infant Screening Protocol</p> | <p>B1. Diagnoses</p> <p>B2. Heart disease</p> <p>B3. Chronic orthopedic disorders Neuromotor disorders including cerebral palsy & brachial nerve palsy</p> <p>B4. Cleft lip and palate & other congenital defects of the head and face</p> <p>B5. Genetic disorders (i.e., cystic fibrosis)</p> <p>B6. Multiple minor physical anomalies</p> <p>B7. Metabolic disorders</p> <p>B8. Spina bifida</p> <p>B9. Hydrocephalus or persistent ventriculomegaly Microcephaly & other congenital or acquired defects of the CNS including craniosynostosis Organic speech disorders (dysarthria/dyspraxia)</p> <p>B10. Hearing loss</p> <p>B11. Traumatic brain injury</p> <p>B12. Fetal Alcohol Spectrum Disorder</p> <p>B13. Autism, Autism Spectrum Disorder Behavioral or mental health disorder with developmental delay</p> <p>B14. Chromosome disorders (e.g., Down syndrome)</p> <p>B15. Positive newborn blood screen</p> <p>B16. HIV, seropositive conversion Visual impairment</p> <p>B17. Very High Risk Medical Factors</p> <p>B18. Intraventricular hemorrhage (grade III, IV) or cystic periventricular leukomalacia (PVL) or chronic subdurals</p> <p>B19. Perinatal asphyxia <u>accompanied by</u> seizures</p> <p>B20. Seizure disorder Oral-motor dysfunction requiring specialized feeding program (gastrostomies and/or failure to grow, both organic and non-organic)</p> <p>B21. Chronic lung disease (e.g., on oxygen, infants with tracheostomies)</p> <p>B22. Suspect neuromuscular disorder including abnormal neuromotor exam at NICU discharge</p> <p>B90. Developmental Risk Factors Developmental delay</p> <p>Other Other chronic conditions not listed</p> |

Babies First Risk Factor Definitions

| Babies First! | | |
|-----------------------------|---|--|
| Medical Risk Factors | | |
| A1. | Drug exposed infant (See A29) | Documented history of maternal drug use or infant with positive drug screen at birth |
| A2. | Infant HIV Positive | Infant tested positive at birth or after 1 year of age |
| A3. | Maternal PKU or HIV Positive | Maternal history of PKU or mother tested positive HIV virus |
| A4. | Intracranial hemorrhage (excludes Very High Risk Factor B16) | Subdural, subarachnoid, intracerebral, or intraventricular hemorrhage, Grade I or II. Excludes Grade III or IV hemorrhage, or other factors listed in B16. |
| A5. | Seizures (excludes Very High Risk Factor B18) or maternal history of seizures | History of seizure disorder in mother. Seizures not requiring medical intervention (i.e., febrile seizures). Excludes factors in B18. |
| A6. | Perinatal asphyxia | Perinatal asphyxia (includes one or more of the following: 5 minute Apgar score of 4 or less, no spontaneous respiration until 10 minutes of age, hypotonia persisting to 2 hours of age, or renal failure & other medical complications of asphyxia). |
| A7. | Small for gestational age | Birth weight below 10 th percentile for gestational age |
| A8. | Very low birth weight | Birth weight 1500 grams or less |
| A9. | Mechanical ventilation | For 72 hours prior to hospital discharge |
| A10. | Neonatal hyperbilirubinemia | Requiring treatment with exchange transfusion |
| A11. | Congenital infection (TORCH) | Toxoplasmosis/Toxoplasma gondii, other infections (hepatitis B, syphilis, varicella-zoster virus, HIV, and parvovirus), rubella, cytomegalovirus, herpes simplex virus |
| A12. | Central nervous system (CNS) infection | Includes bacterial meningitis, herpes, or viral encephalitis/meningitis with no sequel. |
| A13. | Head trauma or near drowning: monitoring for change | Head trauma with loss of consciousness, needs monitoring |
| A14. | Failure to grow | Failure to grow. Unknown etiology needs persistent referral for medical work-up and ongoing monitoring for change. |
| A16. | Suspect vision impairment: monitoring for change | Inability to visually fix or track per vision screen |

| Babies First! Medical Risk Factors | | |
|---|--|---|
| A18. | Family history of childhood hearing loss | Family member is a blood relative and loss is not associated with injury, accident or other non-genetic problem. |
| A24. | Prematurity | Infant born before completion of 37 weeks gestation, regardless of birth weight. For Babies First program, also includes low birth weight infants, birth weight less than 2500 grams. |
| A25. | Lead exposure | Blood lead levels >10µg/dL |
| A26. | Suspect hearing impairment: newborn hearing screen REFER | Newborn hearing screening status REFER, needs further assessment and monitoring. |
| A29. | Alcohol exposed infant | Heavy <u>and/or</u> Binge Drinking <u>at any time during pregnancy</u> . Heavy Drinking is more than one alcoholic drink per day on average. Binge Drinking is 4 alcoholic drinks or more in one sitting. Often Heavy Drinking also includes Binge Drinking. However, both do not have to have occurred during the pregnancy to use this risk code. |

| Babies First! Social Risk Factors | | |
|--|---|---|
| A19. | Maternal age 16 years or less | Mother was 16 years or less at time of delivery. |
| A21. | Parental alcohol or substance abuse | Known or suspected abuse of substances |
| A22. | At-risk caregiver | Suspect caregiver/child interaction, incarcerated parent, no prenatal care |
| A23. | Concern of parent or provider | Any other concern related to infant growth, physical or emotional health, or development. |
| A28. | Parent with history of mental illness | Parent reports or has current symptoms of mental health problems. |
| A30. | Parent with developmental disability (DD) | Parent has a disability that is likely to continue, and significantly impact adaptive behavior. DD includes mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with intellectual disabilities. |
| A31. | Parent with Child Welfare history | Parent has a history of being abused and/or neglected as a child, or a history of abusing or neglecting a child. |

| Babies First! Social Risk Factors | | |
|--|---|--|
| A32. | Parent with domestic violence history | Parent is impacted by current or past history of domestic violence: a pattern of assaultive and/or coercive behaviors including physical, sexual, and psychological attacks, as well as economic coercion, that adults or adolescents use against their domestic or intimate partners. |
| A33. | Parent with limited financial resources | Inadequate financial resources. Struggles to provide basic needs: food, clothing, shelter, utilities. |
| A34. | Parent with sensory impairment or physical disability | Sensory impairment or incapacitating physical disability. |
| A35. | Parent with inadequate knowledge and supports | Parent has inadequate knowledge and abilities related to basic infant care, and has inadequate social support and limited coping abilities. |
| A36. | Other evidence-based social risk factor | Other social risk factor, established through research, is associated with poor child health outcomes. |

| Babies First! Other Risk Factors | | |
|---|---|---|
| X99. | Child is not being enrolled in High Risk Infant Tracking protocol | <p>The client is not being enrolled in the HRI (High Risk Infant) tracking protocol. The nurse does not intend to follow or monitor the client for growth and development, according to the protocol listed in the Babies First! Manual. This could be a client who is seen once or twice for breastfeeding support, or for an initial assessment that indicated the client did not need HRI follow-up.</p> <p>Client must be enrolled in Babies First, NFP, or CaCoon if TCM billing occurs.</p> |
| X00. | Change in X99 status to enrollment in High Risk Infant Screening Protocol | If a child was originally determined to fit into the X99 category and then the nurse later determines she will enroll the child in the HRI protocol, then the code X00 is added to the eligibility criteria. |

CaCoon Risk Factor Definitions

| CaCoon Diagnoses | | |
|-----------------------------|--|---|
| B1. | Heart disease | Congenital or acquired heart disease or arrhythmias |
| B2. | Chronic orthopedic disorders | Congenital or acquired, chronic or recurrent orthopedic problems, e.g., club feet, congenital hip dislocation, juvenile rheumatoid arthritis and growth disorders |
| B3. | Neuromotor disorders including cerebral palsy & brachial nerve palsy | Static neuromotor disorder, including cerebral palsy and brachial nerve palsy (congenital or acquired); primary muscle disease; and movement disorders |
| B4. | Cleft lip and palate & other congenital defects of the head & face | Cleft lip and/or palate, submucousal cleft palate or congenital/acquired velopharyngeal incompetence. Anomalies of the face or cranium that are sufficient to interfere with function or to significantly alter appearance. Examples of syndromes which typically fit these criteria: Crouzon; Apert's; Goldenhaar's, Microtia/atresia. |
| B5. | Genetic disorders (i.e., cystic fibrosis) | Any condition that can be inherited including single gene disorders and chromosome abnormalities |
| B6. | Multiple minor physical anomalies | Multiple minor anomalies, one or more major anomalies, or a combination of minor and major anomalies. |
| B7. | Metabolic disorders | Inborn errors of metabolism including amino acid disorders (e.g. PKU), fatty acid oxidation disorders, organic acid disorders, storage disorders, galactosemia, vitamin D deficient rickets. |
| B8. | Spina bifida | Neural tube defects including myelomeningocele, spinal cord and peripheral nerve injury |
| B9. | Hydrocephalus or persistent ventriculomegaly | Congenital or acquired dilatation of the cerebral ventricles |
| B10. | Microcephaly & other congenital or acquired defects of the CNS including craniosynostosis | Congenital small head size; brain injury acquired by postnatal neurological insult (i.e., vascular accident, shaken baby syndrome, CNS tumor or toxin, or head trauma) |
| B12. | Organic speech and language disorders (dysarthria/dyspraxia, only oral motor dysfunction, dysphasia) | Disorders resulting from congenital or acquired deficits involving neuromotor, structural, oral systems |

| CaCoon Diagnoses | | |
|-----------------------------|---|---|
| B13. | Hearing loss | As confirmed by diagnostic evaluation |
| B23. | Traumatic brain injury | An injury to the brain by an external physical force or event, resulting in the impairment of one or more of the following areas: speech, memory, attention, reasoning, judgment, problem solving, motor abilities, and psychosocial behavior |
| B24. | Fetal Alcohol Spectrum Disorder | A pattern of physical features and developmental delay that occurs in children whose mother consumed alcohol during pregnancy |
| B25. | Autism, Autism Spectrum Disorder | Confirmed diagnosis of developmental disorder affecting communication, understanding language, play, and interaction with others, often with stereotypical behaviors. E.g., Autism with Mental Retardation, High Functioning Autism, Pervasive Developmental Disability, Asperger's Syndrome. |
| B26. | Behavioral or mental health disorder with developmental delay | Confirmed diagnosis of extreme or unacceptable chronic behavior problems or maladaptive behavior; or medical diagnosis of mental health disorder. Either condition must also have developmental delay. Not for children with ONLY mental health disorders. Examples of individuals who qualify: a three year old who can no longer attend day care because of aggressive behavior and whose language is delayed but without signs of autism; a child diagnosed with OCD and cognitive impairment; a child whose parents are considering out of home placement who also qualifies for special education. |
| B28. | Chromosome disorders, e.g., Down syndrome | Any chromosome disorder, including trisomies, monosomies, deletions, duplications or rearrangements. |
| B29. | Positive newborn blood screen | Positive newborn screening blood test or confirmed condition detected by newborn screening. |
| B30. | HIV, seropositive conversion | Infant/child without maternal antibodies, producing own HIV antibodies. |
| B31. | Visual impairment | Inability to visually track or fix, medical diagnosis of visual impairment requiring educational accommodation. |

| CaCoon | | |
|---------------------------------------|---|--|
| Very High Risk Medical Factors | | |
| B16. | Intraventricular hemorrhage (Grade III, IV) or cystic periventricular leukomalacia (PVL) or chronic subdurals | Intracranial hemorrhage usually occurring due to anoxia, birth trauma, or disturbances in neonatal circulation |
| B17. | Perinatal asphyxia <u>accompanied by seizures</u> | Perinatal asphyxia accompanied by seizures resulting from the anoxic event (asphyxia includes one or more of the following: 5 minute Apgar score of 4 or less, no spontaneous respiration until 10 minutes of age, hypotonia persisting to 2 hours of age, or renal failure & other medical complications of asphyxia) |
| B18. | Seizure disorder | Seizures requiring medical intervention and where family needs assistance accessing medical and/or other services |
| B19. | Oral-motor dysfunction requiring specialized feeding program (gastrostomies) and/or failure to grow, both organic and non-organic | Difficulty coordinating suck/swallow/breathing; reflux; inadequate suck, lip closure (around bottle, cup, or spoon), poor tongue motion, no tongue laterization, no munching or chewing in older children, organic and non-organic Failure To Thrive |
| B20. | Chronic lung disease (e.g., on oxygen, infants with tracheostomies) | Respiratory distress syndrome, transient tachypnea of the newborn, meconium aspiration syndrome, bronchiopulmonary dysplasia, tracheomalacia, hypoplastic lung disease, cystic hygroma, near drowning |
| B21. | Suspect neuromuscular disorder | Abnormal motor screen or abnormal exam at NICU discharge, or test results that are suggestive of cerebral palsy or other neuromotor disorders |

| CaCoon | | |
|-----------------------------------|---------------------|--|
| Developmental Risk Factors | | |
| B22. | Developmental Delay | Below average performance, including delays in cognitive, motor, communication and/or social skills; abnormal developmental screening results on a standardized developmental test, including children with behavioral concerns related to their delays. |

| CaCoon Other | | |
|-------------------------|-------------------------------------|---|
| B90. | Other chronic conditions not listed | Other chronic health conditions, especially where family needs significant assistance accessing medical or other needed services. |



COPY

Cindy Becker
Director

November 13, 2014

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Amendment #2 of the agreement with
CompHealth Locum Tenens for locum tenens staffing

| | |
|--|--|
| Purpose/Outcomes | Provide locum tenens staffing for Health Centers clinics |
| Dollar Amount and Fiscal Impact | Amendment #02 increases the contract by \$45,000. Bringing the maximum contract value to \$ 195,000. |
| Funding Source | 253-3510-08500-431545 - Primary Care Clinics |
| Safety Impact | None |
| Duration | Effective upon signature and terminates on April 30, 2015 |
| Previous Board Action | The original contract and amendment #1 did not require BCC action. |
| Contact Person | Deborah Cockrell, Health Centers Director – 503-722-5495 |
| Contract No. | 6652 |

BACKGROUND:

The Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of Amendment #2 with CompHealth Locum Tenens. CCHCD utilizes staffing agencies specializing in the medical field to obtain providers for temporary assignment when needed.

Amendment #2 adds \$45,000 to cover the cost of current locum tenens coverage being provided at the Health Clinics. This includes additional coverage that will be provided during the Holiday time period.

This amendment is effective upon signature and continues through April 30, 2015.

RECOMMENDATION:

Staff recommends the Board approval of this amendment and authorizes Cindy Becker, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Cindy Becker, Director

Contract Amendment
Health, Housing and Human Services Department

H3S Contract Number 6652-2 Board Agenda Number _____

and Date _____

Division Public Health Amendment No. 02

Contractor Comphealth

Amendment Requested By _____

Changes: Scope of Services Contract Budget
 Contract Time Other _____

Justification for Amendment:

This Amendment adds \$45,000., bringing the maximum contract value to \$195,000.00.

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. INTENT OF AGREEMENT

Client is in need of physician locum tenens staffing services. CompHealth is a locum tenens staffing company. By this Agreement, the Parties intend that CompHealth will present physicians ("Physician (s)") to provide clinical services to Client on a temporary basis ("Physician Coverage") for the time periods requested by Client ("Assignment(s)"). This Agreement describes the relationship between the Parties with respect to Physician Coverage. ***Contract value shall not exceed \$150,000.00***


TO READ:

1. INTENT OF AGREEMENT

Client is in need of physician locum tenens staffing services. CompHealth is a locum tenens staffing company. By this Agreement, the Parties intend that CompHealth will present physicians ("Physician (s)") to provide clinical services to Client on a temporary basis ("Physician Coverage") for the time periods requested by Client ("Assignment(s)"). This Agreement describes the relationship between the Parties with respect to Physician Coverage. ***Contract value shall not exceed \$195,000.00***

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

COMPHEALTH

By 
Shay Roffson, Manager of Operations
11.9.14
Date
8440 S Millrock Dr, Suite 175
Street Address
Salt Lake City, UT 84171
City/State/Zip
Phone Number / Email
Contractor's Federal I.D. # or Social Security # if Individual

CLACKAMAS COUNTY

Commissioner: John Ludlow, Chair
Commissioner: Jim Bernard
Commissioner: Paul Savas
Commissioner: Martha Schrader
Commissioner: Tootie Smith

Signing on Behalf of the Board:

Cindy Becker, Director
Health, Housing, and Human Services Department
Date

COPY

Cindy Becker
Director

November 13, 2014

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with Oregon Department of Transportation Rail and Public Transit Division for Transit Planning Project for The Mt Hood Express Bus Service

| | |
|--|--|
| Purpose/Outcomes | Agreement with Oregon Department of Transportation to provide funding for a transit planning project to study long term sustainability of the Mt Hood Express and address service planning for connectivity to Highway 35 and Hood River |
| Dollar Amount and Fiscal Impact | The grant award is \$96,000. The contract is funded through the Oregon Dept of Transportation Public Transit Division. |
| Funding Source | FTA Section 5304 Funds. Matching funds will be provided by private partners. No County General Funds are involved. |
| Safety Impact | None |
| Duration | Effective on signature of both parties and terminates on June 30, 2017 |
| Previous Board Action | None |
| Contact Person | Brenda Durbin, Director, Social Services Division 503-655-8641 |
| Contract No. | 6983 |

BACKGROUND:

The Social Services Division of the Health, Housing, and Human Services Department requests approval of an intergovernmental agreement with Oregon Department of Transportation's Rail and Public Transit Division for a planning grant to study long terms sustainability options and address service planning connectivity for the Mt Hood Express public transit service.

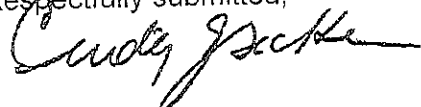
The Mt. Hood Express (formerly the Mountain Express) provides public transit service from the City of Sandy along the Highway 26 corridor including stops in Welches, Rhododendron, Government Camp and Timberline Lodge. The service connects to Sandy's bus service to provide regional public transit access to employees, local residents and persons who desire to access recreational opportunities year round on Mt. Hood. This planning grant will address various issues identified in the Mt. Hood Multimodal Plan, including an in depth analysis of long term sustainability and funding options, the feasibility, value and implementation recommendations for forming a TMA, and service planning for transit connectivity to Highway 35 and Hood River communities.

Match will be provided by private partners currently supporting the Mt Hood Express Service. No County General Funds are involved. The agreement was approved by County Counsel on Oct. 30, 2014.

RECOMMENDATION:

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cindy Becker". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Cindy Becker, Director

PUBLIC TRANSIT DIVISION
OREGON DEPARTMENT OF TRANSPORTATION

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation, Public Transit Division, hereinafter referred to as "State," and **Clackamas County**, hereinafter referred to as "Recipient," and collectively referred to as the "Parties."

AGREEMENT

1. **Effective Date.** This Agreement shall become effective on the later of **08/01/2014** or the date when this Agreement is fully executed and approved as required by applicable law. Unless otherwise terminated or extended, Grant Funds under this Agreement shall be available for Project Costs incurred on or before **06/30/2017** (Expiration Date). No Grant Funds are available for any expenditures after the Expiration Date. State's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 6.b.iv of this Agreement.
2. **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: Project Description and Budget

Exhibit B: Financial Information

Exhibit C: Subcontractor Insurance

Exhibit D: Summary of Federal Requirements, incorporating by reference Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement

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 D; this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C.

3. **Project Cost; Grant Funds; Match.** The total project cost is estimated at **\$120,000.00**. In accordance with the terms and conditions of this Agreement, State shall provide Recipient an amount not to exceed **\$96,000.00** in Grant Funds for eligible costs described in Section 6 hereof. Recipient shall provide matching funds for all Project Costs as described in Exhibit A.
4. **Project.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by State by amendment pursuant to Section 11.d hereof.
5. **Progress Reports.** Recipient shall submit quarterly progress reports to State no later than 45 days after the close of each quarterly reporting period. Reporting periods are July through September, October through December, January through March, and April through June. Reports must be in a format acceptable to State and must be entered into the Oregon Public Transit Information System (OPTIS), which may be accessed at <http://www.oregon.gov/odot/pt/>. If Recipient is unable to access OPTIS, reports must be delivered to ODOTPTDReporting@odot.state.or.us. Reports shall include a statement of revenues and expenditures for each quarter, including documentation of local match contributions and expenditures. State reserves the right to request such additional information as may be necessary to comply with federal or state reporting requirements.
6. **Disbursement and Recovery of Grant Funds.**
 - a. **Disbursement Generally.** State shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements

shall be made by State within 30 days of State's approval of a request for reimbursement from Recipient using a format that is acceptable to State. Requests for reimbursement must be entered into OPTIS or sent to ODOTPTDReporting@odot.state.or.us. Eligible costs are the reasonable and necessary costs incurred by Recipient, or under a subagreement described in Section 9 of this Agreement, in performance of the Project and that are not excluded from reimbursement by State, either by this Agreement or by exclusion as a result of financial review or audit.

- b. **Conditions Precedent to Disbursement.** State's obligation to disburse Grant Funds to Recipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
 - i. State has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to make the disbursement.
 - ii. Recipient is in compliance with the terms of this Agreement including, without limitation, Exhibit D and the requirements incorporated by reference in Exhibit D.
 - iii. Recipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
 - iv. Recipient has provided to State a request for reimbursement using a format that is acceptable to and approved by State. Recipient must submit its final request for reimbursement following completion of the Project and no later than 60 days after the Expiration Date. Failure to submit the final request for reimbursement within 60 days after the Expiration Date could result in non-payment.
 - c. **Recovery of Grant Funds.** Any funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to State. Recipient shall return all Misexpended Funds to State promptly after State's written demand and no later than 15 days after State's written demand. Recipient shall return all Unexpended Funds to State within 14 days after the earlier of expiration or termination of this Agreement.
7. **Representations and Warranties of Recipient.** Recipient represents and warrants to State as follows:
- a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement.
 - b. **Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
 - c. **No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential

contractors, or parties to subagreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

- d. **No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify State immediately if it is debarred, suspended or otherwise excluded from this federally-assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. **Records Maintenance and Access; Audit.**

- a. **Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Recipient shall require that each of its subrecipients and subcontractors complies with these requirements. State, the Secretary of State of the State of Oregon (Secretary), the United States Department of Transportation (USDOT), the Federal Transit Administration (FTA) and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, State, the Secretary, USDOT, FTA and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of State, the Secretary, USDOT and FTA to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.
- b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the Expiration Date. If there are unresolved audit questions at the end of the six-year period, Recipient shall retain the records until the questions are resolved.
- c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by State under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit State to verify how the Grant Funds were expended.
- d. **Audit Requirements.**
- i. Recipients receiving federal funds in excess of \$500,000 are subject to audit conducted in accordance with Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, Non-profit Institutions. Recipient, if subject to this requirement, shall at Recipient's own expense submit to State, Public Transit Division, 555 13th Street NE, Suite 3, Salem, Oregon, 97301-4179 or to ODOTPTDReporting@odot.state.or.us, a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted, the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Agreement.

- ii. Recipient shall save, protect and hold harmless State from the cost of any audits or special investigations performed by the Secretary with respect to the funds expended under this Agreement. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and State.

9. **Recipient Subagreements and Procurements**

- a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.
 - i. All subagreements must be in writing executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
 - ii. Recipient agrees to provide State with a copy of any signed subagreement upon request by State. Any substantial breach of a term or condition of a subagreement relating to funds covered by this Agreement must be reported by Recipient to State within ten (10) days of its being discovered.

Recipient shall review the *Best Practices Procurement Manual*, a technical assistance manual prepared by the FTA, available on the FTA website: www.fta.dot.gov/grants/13054_6037.html

b. **Subagreement indemnity; insurance.**

Recipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless State and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Recipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that the State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the other party to Recipient's subagreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subrecipients"), nor any attorney engaged by Recipient's Subrecipient(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 may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's Subrecipient is prohibited from defending State or that Recipient's Subrecipient is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Recipient's Subrecipient if State elects to assume its own defense.

Recipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

- c. **Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code and rules, and in

- conformance to FTA Circular 4220.1F, Third Party Contracting Requirements including:
- i. all applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;
 - ii. all procurement transactions are conducted in a manner providing full and open competition;
 - iii. procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements);
 - iv. construction, architectural and engineering procurements are based on Brooks Act procedures unless the procurement is subject to ORS 279C.100 to 279C.125.

10. Termination

- a. **Termination by State.** State may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by State in such written notice, if:
 - i. Recipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Recipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expenditure of funds; or
 - v. Recipient takes any action pertaining to this Agreement without the approval of State and which under the provisions of this Agreement would have required the approval of State.
- b. **Termination by Recipient.** Recipient may terminate this Agreement effective upon delivery of written notice of termination to State, or at such later date as may be established by Recipient in such written notice, if:
 - i. The requisite local funding to continue the Project becomes unavailable to Recipient; or
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Agreement.

11. General Provisions

- a. **Contribution.** 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 ("Third Party Claim") against State or Recipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. 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 a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation,

defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which State is jointly liable with Recipient (or would be if joined in the Third Party Claim), State 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 Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Recipient 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. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

With respect to a Third Party Claim for which Recipient is jointly liable with State (or would be if joined in the Third Party Claim), Recipient 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 State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of State 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. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. 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.
- c. **Responsibility for Grant Funds.** Any recipient of Grant Funds, pursuant to this Agreement with State, shall assume sole liability for that Recipient's breach of the conditions of this Agreement, and shall, upon Recipient's breach of conditions that requires State to return funds to the FTA, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the Recipient of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- d. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- e. **Duplicate Payment.** Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- f. **No Third Party Beneficiaries.** State and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an

intended beneficiary of the terms of this Agreement.

Recipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Recipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

- g. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Recipient Contact or State Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 11.g. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to State Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.
- h. **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 State (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State 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, from any Claim or from the jurisdiction of any court. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.
- i. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit D. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- j. **Insurance; Workers' Compensation.** All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- k. **Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of State. Recipient has no right or authority to incur or create any obligation for or legally bind State in any way. State cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of

State, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.

- l. **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 this Agreement did not contain the particular term or provision held to be invalid.
- m. **Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), 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.
- n. **Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Recipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Parties, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Oregon Transportation Commission on October 20, 2010, approved Delegation Order Number OTC-01, which authorizes the Director of the Oregon Department of Transportation to administer programs related to public transit.

On March 1, 2012, the Director approved Delegation Order Number DIR-04, which delegates the authority to approve this Agreement to the Public Transit Division Administrator.

SIGNATURE PAGE TO FOLLOW

Clackamas County/State of Oregon
Agreement No. 30109

Clackamas County, by and through its

By _____
(Legally designated representative)

Name _____
(printed)

Date _____

By _____

Name _____
(printed)

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

(If required in local process)

By _____
Recipient's Legal Counsel

Date _____

Recipient Contact:

Teresa Christopherson
PO Box 2950
Oregon City, OR 97045
1 (503) 650-5718
teresachr@co.clackamas.or.us

State Contact:

Karyn Criswell
555 13th St. NE
Salem, OR 97301-4179
1 (503) 731-8461
Karyn.C.CRISWELL@odot.state.or.us

State of Oregon, by and through its
Department of Transportation

By _____
H. A. (Hal) Gard
Rail and Public Transit Division Administrator

Date _____

APPROVAL RECOMMENDED

By Joni Marmlett
Date 8/27/2014

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

(For funding over \$150,000)

By N/A
Assistant Attorney General

Name _____
(printed)

Date _____

EXHIBIT A

Project Description and Budget

Project Description/Statement of Work

| | | | | |
|--|---------------------|--------------------|--------------------|---------------|
| Project Title: Clackamas County 5304 Planning | | | | |
| 5304 Planning - Mt. Hood Transit Implementation Plan | | | | |
| Item #1: Short Range Transportation Planning | | | | |
| | Total | Grant Amount | Local Match | Match Type(s) |
| | \$120,000.00 | \$96,000.00 | \$24,000.00 | Local |
| Sub Total | \$120,000.00 | \$96,000.00 | \$24,000.00 | |
| Grand Total | \$120,000.00 | \$96,000.00 | \$24,000.00 | |

• **1. PROJECT DESCRIPTION / BACKGROUND**

The Mt. Hood Express has been providing public transit to residents of the Mt. Hood area for over 10 years and has recently expanded service to Government Camp and Timberline with a unique public-private partnership model.

Two recent planning efforts, the Alternative Transit and Transportation Demand Management Study in the Mt. Hood area (ATDMS, USFS, 2012) and the Mt. Hood Multimodal Transportation Plan (2014) both identified public transit as an essential component of short and long term transportation planning. As a result of these efforts, a new alliance of public entities and private business interests came together to form the Mt. Hood Transportation Alliance (MHTA).

The Mt. Hood National Forest, the City of Sandy, and Clackamas County have received grants for the Mt. Hood Express, including a Federal Land Access Program grant that funded public transit operations. A Paul G. Sarbanes Transit in Parks grant purchased two buses, which expanded bus service to Government Camp and Timberline Lodge. Matching funds have been contributed by private businesses, including Timberline Lodge, Mt. Hood Ski Bowl, and the Resort at the Mountain. The expanded service began in October 2013 and has been very successful.

Challenges and opportunities for the continuation of public transit on Mt. Hood still exist. Mt. Hood Express transit service currently provides rides from the City of Sandy along the Highway 26 corridor to Government Camp and Timberline but does not provide service east along Highway 35 toward Hood River. Mt. Hood Meadows, the Bureau of Land Management, and the Mt. Hood National Forest are all significant employment and recreational centers that draw from both Hood River and Warm Springs Reservation without a public transit infrastructure. Mt. Hood Express is dependent on private partners for local funds and does not have a transit district or other means to provide long term stable funding.

This project will refine and implement recommendations contained in the Mt. Hood Multimodal Transportation Plan to find sustainable governance, management, and financial strategies for continued Mt. Hood Express transit operations. The plan also will develop strategies to extend transit service from Government Camp east along Highway 35 to Hood River and Warm Springs.

2. PROJECT DELIVERABLES, TASKS and SCHEDULE

Recipient will competitively hire a consultant with support from State agency staff to produce a plan that includes the following elements:

TASK 1: Project Start-up (September 2014)

Consultant Selection-Identify procurement method and develop solicitation documents including desired consultant qualifications and more refined description of tasks and deliverables. Requests for Proposal must be reviewed by State prior to publishing. Vendor

*contracts must be reviewed by State prior to award.
Deliverable: Procurement solicitation*

TASK 2: Scope and Schedule Refinement (October 2014)

- a. Refine the scope, deliverables and schedule in partnership with the Mt. Hood Transportation Alliance and the consultant*
 - b. Project partners kick-off meeting*
- Deliverables: Consultant scope of work, list of deliverables and project schedule*

TASK 3: Service Expansion Analysis - Government Camp to Hood River and Warm Springs (August 2015)

- a. Determine service options*
 - b. Identify cost of expanded services (capital improvements and operations)*
- Deliverables: Service expansion analysis report that includes, at a minimum, service options, estimated cost to expand services and a summary of how MHTA members, stakeholders and the public were engaged and input/comments received*

TASK 4: Service and Sustainable Operations Report (August 2015)

Complete an analysis of the potential governance, management, operating, and funding structures for the Mt. Hood Express transit system, including service to Hood River and Warm Springs.

- a. Analyze and determine legally feasible governance structures*
- b. Determine potential management and operations structures*
- c. Develop a process to review, analyze and decide on the preferred governance, management and operations structure*
- d. Develop a sustainable funding plan that reflects the selected governance, management and operations structures and includes capital and operations funding*

Deliverables: Service and sustainable operations report that addresses each of the tasks described in Task 4 above, at a minimum

TASK 5: Mt. Hood Transit Implementation Plan (March 2016)

Develop a plan for implementing the service expansion and sustainable operations recommendations in collaboration with the Mt. Hood Transportation Alliance. The implementation plan will include a plan for engaging key stakeholders and the public through the implementation process.

Deliverable: Mt. Hood Transit Implementation Plan

TASK 6: Public Participation (December 2014)

Public participation can take many forms depending on project goals and public engagement objectives. A public participation plan will be developed that includes stakeholder and public engagement objectives, list of stakeholders to be engaged (eg. transportation providers, riders, social and governmental stakeholders, and representatives of low-income and minority groups, veterans, seniors, individuals with disabilities, tribes, and other interested parties), issues of interest to stakeholders, desired level of stakeholder engagement (eg., inform, input, decide), tools and techniques (eg., newsletters, surveys, small group and public meetings).

Deliverable: Public Participation Plan

3. PROJECT ACCOUNTING, MATCH and SPENDING PLAN

Recipient may use the following sources of funds for the required matching share, in accordance with the requirements of this Agreement: Special Transportation and Special Transportation Operating funds, community donations, documented in-kind contributions, contract revenues, and other local funds.

In-kind contributions will be accepted as part of the matching share required for the project when such contributions meet all of the following criteria: The value of in-kind contributions is included in the net project cost at least to the extent it is used as local match; the contribution is an integral and necessary part of the approved project; the contributions are documented; the rates for volunteer contributions will be consistent with those paid for similar work in the organization and community; and the value of donated space shall not exceed the fair rental

value of comparable space and facilities in a privately-owned building in the same locality. In-kind contributions claimed as match will be reported on a form provided by State.

4. REPORTING and/or INVOICING REQUIREMENTS

Recipient will provide required deliverables such as reports or documents, draft or final plans, or other products as described in tasks above.

Each invoice from Recipient will include a narrative summarizing:

- a) Recipient and consultant progress towards completion of deliverables.*
- b) Expenditures for the invoicing period, expenditures to date, and budget remaining. The expenditure summary will report expenses by staff wages and benefits, consultant services, and other expenses.*
- c) Project issues that have arisen or are anticipated that could be a barrier to completing the project consistent with Agreement and SOW.*

Recipient will provide additional invoicing back-up details, such as copies of invoices for products or services, if requested by State.

The final Mt. Hood transit implementation plan must be provided by Recipient before final payment will be made by State.

All consultant invoices must be retained by Recipient for a minimum of three years after Agreement terminates.

EXHIBIT B

Financial Information

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) Circular A-133.

This Agreement is financed by the funding source indicated below:

| Federal Program | Federal Funding Agency | Federal Catalog | Total Federal Funding |
|------------------------|---|------------------------|------------------------------|
| 49 U.S.C. 5305 | U.S. Department of Transportation Federal Transit Administration 915 Second Avenue, Suite 3142 Seattle, WA 98174 | 20.515 (5304) | \$96,000.00 |

| |
|--|
| Administered By Public Transit Division 555 13th St. NE Salem, OR 97301-4179 |
|--|

EXHIBIT C

Subagreement Insurance Requirements

GENERAL.

Recipient shall require in its first tier subagreements with entities 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 performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. 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 State. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which the Recipient is a Party.

TYPES AND AMOUNTS.

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). Employers liability insurance with coverage limits of not less than \$500,000 must be included.

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 State. 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 State:

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 Insurance: 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 State:

Bodily Injury, Death and Property Damage:

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

ADDITIONAL INSURED. The Commercial General Liability Insurance and Automobile Liability insurance must include State, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. 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 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 Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and Recipient's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor 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 may request and State may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If State approval is granted, the contractor 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 Recipient 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. Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. 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

Summary of Federal Requirements 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")

Recipient and Recipient'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 http://www.fta.dot.gov/grants/12825_93.html. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Recipient must submit to State on or before July 1 of each year during the term of this Agreement an executed copy of the Certifications and Assurances by either (1) printing the form available at http://www.fta.dot.gov/grants/12825_93.html, completing the form and sending it to State or (2) logging in to FTA's TEAMWeb system, at <https://ftateamweb.fta.dot.gov/teamweb/teamLogin.asp?> and completing the form and sending to State a screen print of the submitted page.

Recipient further 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 State by calling (503) 986-3300, or at <http://www.fta.dot.gov/documents/19-Master.pdf>. 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. Recipient 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. Recipient will report to State 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. Recipient 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. Recipient 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. Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Recipient'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 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. Recipient must include the following language in each subagreement Recipient signs with a subcontractor or subrecipient:

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

5. Recipient and contractors receiving in excess of \$100,000 in federal funds, other than Indian tribes, must 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. If non-federal funds have been used to support lobbying activities in connection with the Project, Recipient 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.

Approval of Previous Business Meeting Minutes:

October 23, 2014

(minutes attached)

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

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

Thursday, October 23, 2014 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Tootie Smith

EXCUSED: Commissioner Martha Schrader

DRAFT

CALL TO ORDER

- Roll Call

Commissioner Schrader is out of the office and will not be in

- Pledge of Allegiance

The Presentations were taken before Citizen Communication.

II. PRESENTATIONS

1. Presentation on Cancer Awareness and Local Priorities
Dana Lord, Health Housing and Human Services presented the staff report including a PowerPoint presentation.
2. Presentation from the County Assessor Regarding the 2014 Property Tax Statements
Bob Vroman, Clackamas County Assessor gave an update on the 2014 property tax statements. He gave an overview of the County web site, with the options for citizens to view statements, see property values, see a list of town hall meetings, etc.

I. CITIZEN COMMUNICATION

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

1. Marvin McEldowney, Milwaukie – spoke regarding access to the Milwaukie Elks.
2. Thelma Haggemiller, Oak Grove – spoke regarding secondary access to Milwaukie Elks.
3. MaryAnne Paradise, Milwaukie – spoke regarding secondary access to Milwaukie Elks.
4. Dave Adams, Stafford Hamlet – spoke regarding the Stafford Hamlet vote.
5. Les Poole, Gladstone – spoke regarding Metro and road safety at the Milwaukie Elks, specifically the vacation of 27th Ave.
6. Chips Janger, Oak Grove – spoke regarding advantages of the Light Rail station.
7. Pat Russell, Milwaukie – spoke regarding the Park Ave. light rail station and Milwaukie Elks access.

III. DISCUSSION ITEMS

~NO DISCUSSION ITEMS SCHEDULED

IV. CONSENT AGENDA

A. Health, Housing & Human Services

Chair Ludlow asked the Clerk to read the consent agenda by title – the then asked for a motion.

MOTION:

Commissioner Bernard: I move we approve the consent agenda.
Commissioner Savas: Second.

Clerk calls the poll.

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye – the motion passes 4-0.

1. Approval of an Intergovernmental Program Performance Agreement with the State of Oregon Department of Education, Early Learning Division – *Children, Youth & Families*
2. Approval of Amendment No. 2 to an Intergovernmental Agreement with the Oregon Health Authority for the Adult Mental Health Initiative (AMHI) – *Behavioral Health*

B. Elected Officials

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

V. DEVELOPMENT AGENCY

1. Approval of a Contract with HDR Engineering, Inc. for Consulting Services for Engineering Design and Construction Plans for the Boyer Drive Extension Project - *Purchasing*

VI. COUNTY ADMINISTRATOR UPDATE

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

VII. COMMISSIONERS COMMUNICATION

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

MEETING ADJOURNED – 11:53 AM

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

www.clackamas.us/bcc/business.html



Beyond clean water.

Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

J. Michael Read
Interim Director

November 13, 2014

Board of County Commissioners
Clackamas County,

And Board of County Commissioners
Clackamas County, as the
governing body of Clackamas
County Service District No. 1

Members of the Board:

Adoption of Settlement Agreements Relating to Hoodland Outfall Repair Work Issues

| | |
|--|--|
| Purpose/Outcomes | Authorization of execution of: <ul style="list-style-type: none"> • Consent Agreement and Final Order with EPA, • Reimbursement Agreement with Kennedy/Jenks, and • IGA between Clackamas County and Clackamas County Service District No. 1 regarding permit issues • Approval and delegation of authority to proceed with mitigation project concept |
| Dollar Amount and Fiscal Impact | Payment of \$10,000 to EPA. Receipt of \$10,000 from engineering firm Kennedy/Jenks. Payment of \$75,000 to Freshwater Trust for mitigation project. |
| Funding Source | CCSD#1 capital fund |
| Safety Impact | N/A |
| Duration | One-time resolution |
| Previous Board Action | Executive session discussions with the BCC |
| Contact Person | Chris Storey, Assistant County Counsel 503 742 4623 |
| Contract No. | N/A |

BACKGROUND

The outfall at Clackamas County Service District No. 1 ("CCSD#1")'s Hoodland Plant was destroyed in a winter flood event on the Sandy River in January 2011. CCSD#1 worked with the Oregon Department of Environmental Quality ("DEQ") on a plan to see if there are better options than replacing *in toto* the outfall. In lieu of that, DEQ authorized a temporary repair to the outfall. CCSD#1 engaged engineering consulting firm Kennedy/Jenks to support design and permitting issues, and Richard Phillips Marine, Inc. construction company to perform the work. By the time the necessary permits were received from the Army Corps of Engineers (the "Corps"), it was too late in the 2011 season to complete the in-water work necessary. The Corps permit was carried forward to August 2012, and work to conduct the temporary repair commenced. As part of the permitting process, Kennedy/Jenks and WES staff incorrectly applied for the permit in the name of Clackamas County WES rather than CCSD#1. Because of this error, all

orders and enforcement actions are directed at Clackamas County rather than CCSD#1. Attached is a draft IGA between the County and CCSD#1 making clear that it is the responsibility and obligation of CCSD#1 to pay all related costs and hold the County harmless for anything relating to this issue.

During construction, WES staff noted differing site conditions than seen the previous summer that suggested the approved work plan would cause damage to the riverbank and potentially nearby homes. The engineering consultant contacted the Corps and asked for permission to alter the planned construction with use of additional fill. The workers on site misunderstand that approval had been received without any additional documentation and proceeded to construct the improvements. The Corps and state agencies issued a stop work order and claimed a violation of the Clean Water Act permit necessary to do that in-water work. The temporary repair was subsequently completed and is now in operation.

Staff has been working with the Corps and EPA to resolve the claim and receive an "after-the-fact" permit under the Clean Water Act. The EPA requires a separate enforcement resolution from the after-the-fact permit and staff has negotiated a proposed Consent Agreement and Final Order ("CAFO") under which the County would pay \$10,000 as part of a collective settlement of the parties. The CAFO is attached. As part of the negotiations, Kennedy/Jenks agreed to pay to the County \$10,000 as part of its resolution of the matter. Therefore, the County/CCSD#1 will not be paying any funds under the CAFO.

As part of obtaining the after-the-fact permit, CCSD#1 is required to "mitigate" the out-of-scope work. CCSD#1 proposed a mitigation project concept of enhancement of the Sandy River watershed via a project conducted by The Freshwater Trust, at an estimated cost of \$75,000, which was reviewed by the Corps and the National Marine Fisheries Service and conceptually approved. The actual project to be completed remains subject to discussion and further review.

In summary, the CAFO will resolve issues with the EPA, the mitigation project with the Freshwater Trust will resolve issues with the Corp, the reimbursement agreement will resolve issues with Kennedy/Jenks and hold the County harmless with respect to the EPA, and the IGA will ensure that the County experiences no cost or harm because of the error in applying for the permit from the Corps in the County's name instead of that of CCSD#1.

RECOMMENDATION

Staff recommends the Board authorize the County Administrator, the Director of WES or his designee to execute the three proposed agreements and such other ancillary documents as may be necessary to effectuate the purposes thereto, including the agreements necessary to complete the mitigation project concept.

Sincerely,


J. Michael Read
Interim Director



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

OCT 27 2014

Via UPS Priority Overnight / Express Mail
Chris Storey
Assistant County Counsel
Clackamas County
2051 Kaen Road, 4th Floor
Oregon City, OR 97045

OCT 24 2014

Clackamas
County Counsel

RE: Consent Agreement and Final Order
Docket No. CWA-10-2015-0012

Dear Mr. Storey:

Please find enclosed a final Consent Agreement and Final Order for your signature that resolves the above-referenced matter. Please deliver the signed agreement to the address below:

Chan Pongkhamsing
CWA 404 Enforcement Coordinator
Aquatic Resources Unit
Ecosystems, Tribal, and Public Affairs Office
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900, ETPA-083
Seattle, Washington 98101

Your cooperation in this matter is much appreciated. Please call me at 415-972-3870 with any questions or concerns.

Sincerely

A handwritten signature in black ink that reads "Rich Campbell".

Rich Campbell
Attorney-Advisor
Office of Regional Counsel
EPA Region 9

Encl.

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CLACKAMAS COUNTY WATER
ENVIRONMENT SERVICES
Oregon City, Oregon

RICHARD PHILLIPS MARINE, INC.
Boring, Oregon

Respondents.

DOCKET NO. CWA-10-2015-0012

**CONSENT AGREEMENT AND
FINAL ORDER**

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Sections 308, 309(a)(3) and 309(g)(2)(B) of the Clean Water Act (“CWA”). CWA §§ 308, 309(a)(3), 309(g)(2)(B), 33 U.S.C. §§ 1318, 1319(a)(3), 1319(g)(2)(B).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has in turn delegated this authority to the Regional Judicial Officer.

1.3. Pursuant to Sections 308, 309(a)(3) and 309(g)(2)(B) of the CWA, 33 U.S.C. §§ 1318, 1319(a)(3), and 1319(g)(2)(B), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Clackamas County Water Environment Services and Richard Phillips Marine, Inc. (“Respondents”) agree to issuance of, the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.45(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Director of the Office of Ecosystems, Tribal and Public Affairs, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), to sign consent agreements between EPA and the party against whom a Class II penalty is proposed to be assessed.

2.3. Part III of this CAFO contains a concise statement of the factual and legal basis for the alleged violations of the CWA, together with the specific provisions of the CWA and implementing regulations that Respondents are alleged to have violated.

III. ALLEGATIONS

3.1. The CWA prohibits the "discharge of any pollutants by any person" except, inter alia, as authorized by a permit issued pursuant to Section 402 or 404 of the CWA, 33 U.S.C. § 1342 or 1344. Each discharge of pollutants from a point source that is not authorized by such a permit constitutes a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

3.1.1 The CWA defines "discharge of a pollutant" to include "any addition of any pollutant to navigable waters from any point source" and defines "navigable waters" to include "waters of the United States." CWA § 502(7)(12), 33 U.S.C. § 1362(7),(12).

3.1.2 The CWA defines "point source" as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged." CWA § 502(16), 33 U.S.C. § 1362(14).

3.1.3 The CWA defines a pollutant to include, inter alia, rock, sand, dredged spoil, and solid waste discharged into water. CWA § 502(6), 33 U.S.C. § 1362(6).

3.2. Respondent Clackamas County Water Environment Services (“Clackamas County”) is a local governmental agency, and is a “person” within the meaning of the CWA. CWA §§ 301(a), 502(5); 33 U.S.C. §§ 1311(a), 1362(5).

3.3. Respondent Richard Phillips Marine, Inc. (“Phillips Marine”), a corporation organized under the laws of the State of Oregon, is a “person” within the meaning of the CWA. CWA §§ 301(a), 502(5); 33 U.S.C. §§ 1311(a), 1362(5).

3.4. Respondents directed and/or conducted construction activities in approximately 0.18 acres within and next to the Sandy River (“Site”), located near River Mile 41, within the village of “the Villages of Mount Hood” in Clackamas County, Oregon, for the repair and installation of two sewage outfall pipes.

3.5. The Sandy River is a “navigable water” and “waters of the United States,” and is subject to the jurisdiction of the Clean Water Act. CWA § 311, 33 U.S.C. § 1321; CWA § 502(7), 33 U.S.C. § 1362(7); 33 C.F.R. § 328.3(a); 40 C.F.R. §§ 110.1, 232.2.

3.6. Respondent Clackamas County submitted a Joint Permit Application to the U.S. Army Corps of Engineers (“Corps”) in June 2011, requesting authorization to discharge 210 cubic yards of fill below the Ordinary High Water level (“OHW”) of the Sandy River, within a 0.1 acre area, in order to repair and relocate the Hoodland Sewage Treatment Plant’s sewage outfall pipes, which were damaged during a flood event in January 2011.

3.7. The Corps issued Permit NWP-2011-271 (“Permit”) on August 11, 2011, and reissued the Permit on May 18, 2012, which authorized Respondent Clackamas County to discharge up to 210 cubic yard of dredged/fill material below the OHW of the Sandy River, for a total of 0.01 acre area of disturbance below OHW. The Corps revised the Permit on July 16,

2012 to authorize a fill volume of 260 cubic yards of dredged/fill material below the OHW of the Sandy River, for a total of 0.01 acre area of disturbance below OHW.

3.8. From July 16 through July 18, 2012, Respondents performed or were responsible for the performance of work that resulted in the discharge of approximately 951 cubic yards of “fill material” and/or “dredged material” below the OHW of the Sandy River, within a 0.05 acre area. 40 C.F.R. § 232.2.

3.8.1 Respondents directed the use of and/or operated earthmoving equipment, including excavators, to place the dredged and/or fill material and construct, among other things, a gravel berm on the north side of the Site of approximately 700 feet in length, and two parallel channels through an in-channel gravel bar of approximately 300 feet in length.

3.8.2 The “fill material” and/or “dredged material” discharged by Respondents into the Sandy River is a “pollutant” under the Clean Water Act. CWA § 502(6), 33 U.S.C. § 1362(6).

3.8.3 Each piece of earthmoving equipment used by Respondents to discharge the “fill material” and/or “dredged material” was a “point source.” CWA § 502(14), 33 U.S.C. § 1362(14).

3.9. Respondents’ discharge of dredged and/or fill material into the waters of the United States constituted a “discharge of pollutants” from a point source. CWA §§ 301, 502(12); 33 U.S.C. §§ 1311, 1362(12).

3.10. Only a small portion of the Respondents’ discharge of dredged and/or fill material (0.01 acres, 260 cubic yards) was authorized, pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, under the Permit.

3.11. On July 30, 2012, the Corps issued a Cease and Desist Order to Respondents Clackamas County and Phillips Marine.

3.12. On August 9, 2012, the Corps issued an Order for Corrective Measures to Respondent Clackamas County, which the Corps amended on August 27, 2012.

3.13. On August 22, 2012, EPA Region 10 conducted a compliance inspection of the Site.

3.14. **Violation:** Respondents' discharge of dredged and/or fill material into the waters of the United States was an exceedance of the amounts authorized in the Corps 2011 issued permit, therefore violating Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

3.15. Respondents are liable for administrative penalties in an amount not to exceed \$16,000 per day for each day during which the violation continued, up to a maximum of \$177,500. CWA § 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B); 40 C.F.R. Part 19.

3.16. Respondent Clackamas County has worked with the Corps to obtain the appropriate after-the-fact permit and has received tentative approval for issuance thereof, subject to completion of a mitigation project of benefit to the hydrology of the watershed and aquatic life, and resolution of the enforcement action.

IV. CONSENT AGREEMENT

4.1. Respondents admit the jurisdictional and specific factual allegations contained in Part III of this CAFO.

4.2. **Prohibition of Discharge:** Respondents shall not discharge any additional pollutants into any waters of the United States at the Site except in compliance with this Consent Order or a permit issued pursuant to the Clean Water Act.

4.3. **Penalty:** As required by Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the alleged

violations as well as Respondents' economic benefit of noncompliance, ability to pay, and other relevant factors. After considering all of these factors, EPA has determined and Respondents agree that an appropriate penalty to settle this action is Thirty Thousand Dollars (\$30,000).

4.3.1 Respondent Clackamas County shall pay Ten Thousand Dollars (\$10,000) as its share of the appropriate penalty set forth in this paragraph.

4.3.2 Respondent Phillips Marine shall pay Twenty Thousand Dollars (\$20,000) as its share of the appropriate penalty set forth in this paragraph.

4.4. Pursuant to 40 C.F.R. § 22.31(c), Respondents agree to pay their shares of the total civil penalty set forth in Paragraph 4.3 within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

4.6. Respondents must deliver via United States mail photocopies of the checks described in Paragraph 4.5, above, on the Regional Hearing Clerk, EPA Compliance Officer, and Office of Regional Counsel attorney, at the following addresses:

Candace Smith, Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, MS ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Yvonne Vallette, Compliance Officer
U.S. Environmental Protection Agency
Region 10, Oregon Operations Office
805 SW Broadway, Suite 500
Portland, OR 97205

Sylvia Quast, Regional Counsel
U.S. Environmental Protection Agency
Region 9, ORC-2
75 Hawthorne Street
San Francisco, CA 94105

4.7. If Respondents fail to pay any portion of their share of the penalty assessed by this CAFO by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondents to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.7.1 Interest. Interest shall accrue from the effective date of the Final Order, at the rate established by the Secretary of the Treasury, and applied to any portion of the assessed penalty which remains unpaid 30 days after the effective date of the Final Order. CWA § 309(g)(9), 33 U.S.C. § 1319(g)(9); 31 U.S.C. § 3717(a)(1), 40 C.F.R. § 13.11(a)(3).

4.7.2 Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondents fail to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondents shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the

aggregate amount of Respondents' penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.8. Federal Tax. Penalties paid pursuant to this Final Order are administrative civil penalties assessed by EPA and shall not be deductible for federal tax purposes.

26 U.S.C § 162(f).

4.9. The undersigned representatives of Respondents certify that he or she is authorized to enter into the terms and conditions of this CAFO and to bind his or her Respondent to this document.

4.10. Except as described in Subparagraph 4.7.2, above, each party shall bear its own fees and costs in bringing or defending this action.

4.11. Respondents expressly waive any right to contest the allegations and waive any right to appeal the Final Order set forth in Part V.

4.12. The provisions of this CAFO shall bind Respondents and their agents, servants, employees, successors, and assigns.

4.13. The above provisions are STIPULATED AND AGREED upon by Respondents and EPA Region 10.

DATED:

FOR RESPONDENT CLACKAMAS COUNTY WATER ENVIRONMENT SERVICES:

Signature

Print Name: _____

Title: _____

DATED:

FOR RESPONDENT RICHARD PHILLIPS MARINE, INC.:

Signature

Print Name: _____

Title: _____

DATED:

FOR COMPLAINANT:

R. DAVID ALLNUTT, Director
Office of Ecosystems, Tribal and Public Affairs

V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondents are ordered to comply with the terms of settlement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish or otherwise affect Respondents' obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

5.3. Respondents waive any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondents may have with respect to any issue of fact or law set forth in this CAFO, including, but not limited to, any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-708; provided, however, that this waiver and/or this Final Order generally does not impair or prejudice the ability of Respondent Clackamas County to pursue and obtain, including appeal and review of the process thereof, an after-the-fact permit issued from the Corps.

5.4. In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the Oregon Department of State Lands has been given the opportunity to consult with EPA regarding the assessment of the administrative civil penalty against Respondents.

5.5. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA has issued public notice of and provided reasonable opportunity to

comment on its intent to assess an administrative penalty against Respondents. More than 40 days have elapsed since issuance of this public notice and EPA has received no petition to set aside the Consent Agreement contained herein.

5.6. This Final Order shall become effective upon filing.

SO ORDERED this ____ day of _____, 2014.

M. SOCORRO RODRIGUEZ
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

**TRANSFER AGREEMENT
BETWEEN
KENNEDY/JENKS CONSULTANTS, INC.
AND
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County Service District No. 1, a county service district formed pursuant to ORS Chapter 451 (the "District"), and Kennedy/Jenks Consultants, Inc., a California corporation ("Transferor").

Recitals

WHEREAS, the District entered into an agreement with the Transferor for engineering services related to repair of the Hoodland Water Pollution Control Plant Outfall on April 27th, 2011 (the "Hoodland Agreement");

WHEREAS, during execution of the Hoodland Outfall repair project (the "Project"), an alleged violation of the Clean Water Act ("CWA") occurred while performing in-water work;

WHEREAS, the Environmental Protection Agency ("EPA") required civil penalties to be paid by the parties (with the District characterized as "Clackamas County WES") as a consequence of the alleged CWA violation pursuant to a consent agreement and final order ("CAFO");

WHEREAS, the District agreed to support Transferor's goal of not being a named respondent in the CAFO on the understanding the Transferor would contribute the District's (County's) share of the CAFO penalty, which this Agreement codifies;

NOW, THEREFORE, IT IS AGREED BY THE PARTIES AS FOLLOWS:

1. **Obligation of Transferor.** The Transferor agrees to pay the District a sum of Ten Thousand and 00/100 Dollars (\$10,000.00) to cover the District's portion of the CAFO penalties.
2. **Obligation of the District.** The District agrees to pay the EPA a sum of Ten Thousand and 00/100 Dollars (\$10,000.00) pursuant to the CAFO.
3. **Indemnity.** Transferor acknowledges that the District is obligated under the CAFO to make such payment, and that failure of payment could result in interest, penalties, attorney's fees for itself and the EPA, and/or the revocation of the CAFO and resumption of enforcement proceedings by the EPA against District. Transferor agrees to indemnify and hold harmless District and its officers, elected officials, agents and employees from any loss, claim, damage, or expense (including attorney's fees) arising from or out of Transferor's failure to meet its obligations under this Agreement.
4. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
5. **Amendments & Assignments.** The District and Transferor may amend this Agreement at any time only by written amendment executed by the District and Transferor. Neither party may transfer, assign or hypothecate this Agreement or the rights thereunder without the prior written consent of the other party, except in cases of transfer by operation of law.

6. **Third Party Beneficiary.** Each Party intends that this Agreement does not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the District or Transferor.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

KENNEDY/JENKS CONSULTANTS, INC.

CLACKAMAS COUNTY SERVICE
DISTRICT NO. 1

Kennedy/Jenks Consultants
303 Second Street, Suite 300 South
San Francisco, CA 94107

Company

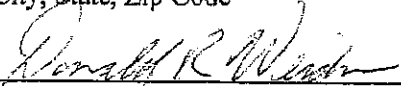
J. Michael Read, Interim Director

Address

Date

City, State, Zip Code

Approved as to form:



Authorized Signature

County Counsel

DONALD R. WEIDEN SECRETARY

Title

94-2147007

Federal Tax ID Number

10/30/2014

Date

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
AND
CLACKAMAS COUNTY**

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is entered into and between Clackamas County Service District No. 1, a county service district formed pursuant to ORS Chapter 451 (the "District"), and Clackamas County, a political subdivision of the State of Oregon (the "County").

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have the authority to perform;

WHEREAS, the District engaged in a project to repair the Hoodland outfall (the "Hoodland Project") in 2011, incorrectly obtaining a permit in the name of "Clackamas County WES" to perform in-water work, instead of the District's correct legal name;

WHEREAS, during the execution of the in-water portion of the Project, a violation of the Clean Water Act ("CWA") occurred;

WHEREAS, the Environmental Protection Agency ("EPA") required civil penalties be paid by the parties as a consequence of the CWA violation, pursuant to a consent agreement and final order ("CAFO");

WHEREAS, the County is named as a party on the CAFO as a result of the incorrect name being listed on the permit;

WHEREAS, the District desires to indemnify the County from any responsibility resulting from the Hoodland Project, CWA violations, and the CAFO;

NOW, THEREFORE, it is agreed by the parties as follows:

1. District Obligation.

- a. The District agrees to accept all liability and financial responsibility associated with the Hoodland Project, including but not limited to (i) retroactive or prospective expenses paid on behalf of the County, (ii) related CWA violation claims and costs, and (iii) any additional required permitting and mitigation expenses.
- b. The District agrees to pay the fine required under the CAFO, a sum of Ten Thousand and 00/100 Dollars (\$10,000.00), on behalf of the County.

2. **Indemnity.** The District acknowledges that the County is obligated under the CAFO to make such payment, and that failure of payment could result in interest, penalties, attorney's fees for itself and the EPA, and/or the revocation of the CAFO and resumption of enforcement proceedings by the EPA against the County. The District agrees to indemnify and hold harmless County and its officers, elected officials, agents and employees from any loss, claim, damage, or expense (including attorney's fees) arising from or out of District's failure to meet its obligations under this Agreement.
3. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions therein.
4. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.
5. **Integration.** This Agreement contains the entire agreement between the District and the County and supersedes all prior written or oral discussions or agreements.
6. **Amendment.** The District and the County may amend this Agreement at any time only by written amendment executed by both the District and the County.
7. **Assignment.** This Agreement shall not be assigned by either the District or the County without the written consent of the other party.
8. **Third Party Beneficiary.** Each party intends that this Agreement does not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the District or the County.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

CLACKAMAS COUNTY

CLACKAMAS COUNTY SERVICE
DISTRICT NO. 1

Chair

Chair

Date

Date

Recording Secretary

Approved by Counsel