



# AGENDA

**Thursday, January 19, 2012 - 10:00 AM**

**Board of County Commissioners Business Meeting**

Beginning Board Order No. 2012-05

**I. PUBLIC HEARING ON PROPOSED ZONING AND DEVELOPMENT ORDINANCE**

*(The following item(s) will be individually presented by County staff. Interested parties may appear and be heard during the testimony phase of any hearing. If a hearing is set for decision only, the evidence phase has been completed, so interested parties may no longer be heard. Applications or comments may be inspected, and calls or correspondence directed to, the Planning Division 150 Beaver Creek Road, Oregon City, Oregon 97045, (503) 742-4500.)*

1. **ZDO-232** - A Proposed Legislative Text Amendment to the Clackamas County Comprehensive Plan and Associated Amendment to the Zoning and Development Ordinance (Larry Conrad and Martha Fritzie, Planning Division, Rhett Tatum, County Counsel)

**Proposal:**

ZDO-232 is a proposed legislative text amendment to the Clackamas County Comprehensive Plan and associated amendments to the Zoning and Development Ordinance (ZDO). The primary purpose of the proposed text amendments is to adopt the SE 172<sup>nd</sup> Ave. /SE 109<sup>th</sup> Drive Corridor Management plan into Chapter 5 of the County's Comprehensive Plan, which is the County's Transportation System plan (TSP). The Corridor Management Plan includes planned new road alignments and existing road improvements for the SE 172<sup>nd</sup> Ave. /SE 109<sup>th</sup> Drive corridor, including a new major arterial between those two existing arterials. The Corridor Management plan also contains recommended design elements for the corridor.

**II. READING AND ADOPTION OF PREVIOUSLY APPROVED ZDO ORDINANCE** *(No public testimony on this item)* (Rhett Tatum, County Counsel)

1. ZDO-231-Mobile Vending Units)

**III. PREVIOUSLY APPROVED LAND USE BOARD ORDERS** *(No public testimony on this item)* (Rhett Tatum, County Counsel)

1. Z0860-86-ZZ – Historic Landmark Overlay
2. Z1287-90-ZZ – Historic Landmark Overlay

**IV. DISCUSSION ITEMS** *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who want to comment on a discussion item may do so when called on by the Chair.)*

**-NO DISCUSSION ITEMS SCHEDULED**

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

**VI. HOUSING AUTHORITY CONSENT AGENDA**

1. In The Matter of Writing Off Uncollectible Accounts for the Second Quarter of Fiscal Year 2012

**VII. 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**

1. Board Order No. \_\_\_\_\_ Approval of Mental Health Director's Designee to Authorize a Custody Hold Under ORS 426.233 - BH
2. Approval of a Behavioral Health Services Agreement with Catholic Community Services of Western Washington for Crisis Stabilization Services for Children, Intensive Community-Based Services for Children, and Respite Services for Children - BH
3. Approval of a Behavioral Health Services Agreement with Cedar Hills Psychiatric Hospital for Acute Inpatient Psychiatric Services - BH
4. Approval of a Behavioral Health Services Agreement with ColumbiaCare Services, Inc. for Outpatient Mental Health Services - BH
5. Approval of a Professional, Technical, and Consultant Service Contract with Iron Tribe for Peer Support Services – BH
6. Approval of Amendment # 2 to a Professional, Technical, and Consultant Service Contract with Iron Tribe for Peer Support Services - BH
7. Approval of a Behavioral Health Services Agreement with Portland DBT Program, PC for Outpatient Mental Health Services – BH
8. Approval of a Behavioral Health Services Agreement with Western Psychological & Counseling Services, PC for Outpatient Substance Abuse Services and Outpatient Mental Health Services - BH

**B. Finance Department**

1. Board Order No. \_\_\_\_\_ Establishing a Change Fund for Clackamas County Community Health - Sunnyside Health and Wellness Clinic
2. Board Order No. \_\_\_\_\_ Establishing a Change Fund for Clackamas County Community Health - Center Stone Clinic
3. Board Order No. \_\_\_\_\_ Creating a Petty Cash Account for Clackamas County Community Health - Sunnyside Health and Wellness Clinic
4. Board Order No. \_\_\_\_\_ Creating a Petty Cash Account for the Clackamas County Community Health - Center Stone Clinic

**C. Department of Employee Services**

1. Approval of the Labor Contract between Clackamas County and the Federation of Parole and Probation Officers (FOPPO)

**D. Elected Officials**

1. Approval of Previous Business Meeting Minutes – BCC

**VIII. WATER ENVIRONMENT SERVICES**

1. Acceptance of Easements on Behalf of Clackamas County Tri-City Service District for the Holly Lane Culvert Replacement
2. Approval of a Professional Services Agreement between Clackamas County Service District No. 1, Tri-City Service District, and Brown and Caldwell, Inc. for the Biosolids and Energy Program Development and Solids Handling Planning Efforts

**IX. 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.**

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



## Planning & Zoning

Development Services Building

150 Beaver Creek Road | Oregon City, OR | 97045

Phone: (503) 742-4500 | Fax: (503) 742-4550

E-mail: [zoninginfo@co.clackamas.or.us](mailto:zoninginfo@co.clackamas.or.us)

Web: <http://www.clackamas.us/transportation/planning/>

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### Board of County Commissioners Land Use Hearing Item Summary

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**File Number: ZDO-232**

**Board of County Commissioners Hearing Date: January 19, 2012**

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#### **PROPOSAL:**

ZDO-232 is a proposed legislative text amendment to the Clackamas County Comprehensive Plan and associated amendments to the Zoning and Development Ordinance (ZDO). The primary purpose of the proposed text amendment is to adopt the SE 172nd Avenue/ SE 190th Drive Corridor Management Plan into Chapter 5 of the County's Comprehensive Plan, which is the County's Transportation System Plan (TSP). The Corridor Management Plan includes planned new road alignments and existing road improvements for the SE 172nd Avenue/SE 190th Drive corridor, including a new major arterial between those two existing arterials. The Corridor Management Plan also contains recommended design elements for the corridor.

The proposed Comprehensive Plan amendments would:

- Adopt the Corridor Management Plan, by reference
- Add and/or amend Policies, Goals and Table V-5 in Chapter 5 of the Comprehensive Plan to reference the Corridor Management Plan;
- Amend Appendix A, which lists documents adopted by reference and Appendix B, which lists additional supporting documents.
- Amend Table V-1 and Maps V-1a through V-3, V-7a&b and V-10 to reflect the new roadway alignments.

The primary purpose of the associated Zoning and Development Ordinance (ZDO) amendment is to enable the use of a cycle track as a type of bikeway, as envisioned in the design elements in the Corridor Management Plan. The proposed amendments to the ZDO would:

- Expand the definition of "bikeway" to include "cycle track." A cycle track is defined as an 'exclusive "grade-separated" bike facility, elevated above the street level using a low-profile curb and a distinctive pavement material.'
- Provide additional references to Chapters 5 & 10 of the Comprehensive Plan in ZDO Section 1007 (Roads & Connectivity) to strengthen the ties between the two documents.

This adoption proposal concludes an approximately 18-month planning process in which the county, Metro, and the cities of Happy Valley, Damascus, and Gresham worked cooperatively to create a series of planned roadway improvements that would meet the needs of expected future

travel demand, including providing for pedestrian, bicycle and transit travel. The result of this collaborative effort is the Corridor Management Plan.

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**RELATED PRIOR BCC ACTION:**

On June 14, 2011, Larry Conrad, Principal Transportation Planner, met with the BCC to provide an update of the status of the development of corridor alignment alternatives and of the Corridor Management Plan. This study session was informational and therefore no specific direction was given by the Board.

On January 10, 2012, Larry Conrad again met with the BCC, along with Martha Fritzie, with the Planning & Zoning Division, to review background information about the Corridor Management Plan and provide the BCC with the opportunity to ask questions and familiarize themselves with the elements of the plan and the proposed new road alignments and road improvements prior to the hearing. Again, this study session was informational and no specific direction was given to staff.

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**PLANNING COMMISSION ACTION:**

Staff held an informational work session with the Planning Commission (PC) on October 24, 2011. A public hearing was held on December 12, 2011, for Planning Commission (PC) consideration of the proposed Comprehensive Plan and ZDO text amendments (ZDO-232). There was no testimony offered from the public or other jurisdictions or agencies at the hearing.

At the hearing, the Planning Commission recommended a few minor clarifying edits to Map 7-1 in the Corridor Management Plan and to the title of one of the plan's appendices. After recommending these changes, four of the five Planning Commissioners present voted to recommend approval of ZDO-232 to the BCC; one Commissioner voted to recommend denial. However, because the Planning Commission's Bylaws state that a minimum of five affirmative votes must be made for a formal recommendation of approval of a legislative Comprehensive Plan amendment to be made, no such recommendation from the PC can be forwarded to the Board at this time. As a technical matter, the amendments to Sections 200 and 1007 can be recommended with a majority of the quorum, therefore, this portion of the proposal is recommended for approval by the PC.

The edits recommended by the PC are reflected in the final draft of the Corridor Management Plan and appropriate edits were made to references to these documents within the proposed text amendments in ZDO-232.

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**CPO, HAMLET AND VILLAGE RECOMMENDATIONS:**

No written or oral testimony or recommendations have been received from any CPO, hamlet or village.

This project area is not within the boundaries of a CPO, hamlet or village; rather it lies within the county and the cities of Happy Valley and Damascus. Representatives from Damascus, Gresham, Happy Valley, and Metro were involved in the entire process of the development of the Corridor Management Plan as members of the Project Management Team (PMT). Both Happy Valley and Damascus will need to adopt the Corridor Management Plan into their transportation system plans (TSPs). Public hearings are planned in Happy Valley for the adoption of the Corridor Management Plan on January 24, 2012 (Planning Commission) and February 21, 2012 (City Council). Damascus will need to address the 172nd/190th corridor when its TSP is developed.

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**SIGNIFICANT ISSUES:**

The proposed changes to the Comprehensive Plan and ZDO were generally well-received; the Planning Commission identified and discussed relatively few issues at the hearing. Staff has identified two significant issues that emerged from PC consideration of this proposal.

1. *Project timing.* A question was raised about whether or not this type of planning is premature given current economic conditions and the fact that Damascus does not have an adopted Comprehensive Plan and associated urban-level zoning yet. Staff believes that the county should take advantage of this rare opportunity to plan a major facility ahead of development. In doing so, right-of-way can be preserved as development begins to occur and the project can be developed in the appropriate phases to fit both available funding and the needs in the area as it is urbanizing. Several Planning Commissioners agreed that this type of planning is prudent.

2. *Concern about adding a new urban project to the 20-year transportation project list in light of one commissioner's assertion that the rural area gets short-changed when it comes to transportation funds.* While the distribution of transportation funds is not within the purview of this project, it should be noted that improvements to SE 172nd Avenue, SE Foster Road, and SE 190th Drive have been on the County's TSP for at least 10 years. The new and revised alignments and the SE172nd – SE190th connector proposed in the Corridor Management Plan represent a refinement of these projects, and are designed at a level that would allow for right-of-way preservation as more urban levels of development begin to occur in this area. This plan is an attempt to do enhanced corridor planning and to build upon the County's previous expenditures on SE 172 Avenue, south of Sunnyside Road.

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**STAFF RECOMMENDATION:**

Staff from the Planning & Zoning and Transportation Planning Divisions recommends approval of ZDO-232, the Comprehensive Plan and Zoning & Development Ordinance amendments to adopt the SE 172nd Ave./ SE 190th Dr. Corridor Management Plan, as proposed in the included attachments.

## ORDINANCE NO. ZDO-231

**An Ordinance amending Sections  
202, 306, 501, 502, 503, 504, 505, 507, 508, 509, 601, 602, 603, 604, 606, 1001, 1010,  
1015, 1607, 1701, 1702, 1703, 1704 and 1707 and adopting a new Section 837 of the  
Clackamas County Zoning and Development Ordinance**

WHEREAS, in April 2011, the Board of County Commissioners directed the Planning and Zoning Division staff to pursue public outreach on the issue of developing new Zoning and Development Ordinance standards to regulate mobile vending units; and

WHEREAS, following public outreach, Planning and Zoning Division staff prepared draft language for consideration of amendments to the Zoning and Development Ordinance to address mobile vending units, and presented it to the Board of County Commissioners at a study session in October 2011; and

WHEREAS, during the October 2011 study session, the Board of County Commissioners directed Planning and Zoning Division staff to proceed with public hearings and to continue outreach efforts; and

WHEREAS, amendments to the Zoning and Development Ordinance are necessary to clarify the applicability of development review processes and standards to mobile vending units and to provide for a streamlined approach to the permitting of small-scale mobile vending unit developments; and

WHEREAS, the proposed amendments are consistent with the Clackamas County Comprehensive Plan, the Statewide Planning Goals and Guidelines and the Metro Urban Growth Management Functional Plan; and

WHEREAS, after a duly-noticed public hearing, the Clackamas County Planning Commission recommended approval of ZDO-231 on November 14, 2011; and

WHEREAS, the Board of County Commissioners held a public hearing on December 14, 2011, during which the BCC voted to make several revisions to the Planning Commission recommended draft amendments; now therefore;

The Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Sections 202, 306, 501, 502, 503, 504, 505, 507, 508, 509, 601, 602, 603, 604, 606, 1001, 1010, 1015, 1607, 1701, 1702, 1703, 1704 and 1707 of the Clackamas County Zoning and Development Ordinance are hereby

amended and a new Section 837 is added to the Clackamas County Zoning and Development Ordinance as shown in Exhibit A hereto.

**Section 2:** This ordinance shall be effective on January 31, 2012.

ADOPTED this 19th day of January, 2012

BOARD OF COUNTY COMMISSIONERS

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Chair

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Recording Secretary



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

In the Matter of Reducing the  
Historic Landmark Overlay of  
the William Finley House,  
described as T2S-R2E-Section  
19BB, Tax Lot 4100, A Clackamas  
County Historic Landmark



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

Whereas Steven Berliner has requested a reduction in the Historic Landmark Overlay for the William Finley House; and

Whereas the Historic Review Board at its public meeting on October 13, 2011 recommended that the Historic Landmark Overlay be reduced; and

Whereas on January 11, 2012, this matter came before the Board of County Commissioners for a public hearing and the Board made a preliminary decision to approve the reduction in the Historic Landmark Overlay;

Now THEREFORE, IT IS HEREBY ORDERED that the Historic Landmark Overlay for the William Finley House be reduced to Parcel 1 of Partition Plat 2010-017 as show in the attached exhibit; and

It is further ordered that the required changes be made in the relevant zoning maps.

DATED this 19th Day of January, 2012

\_\_\_\_\_  
Chair

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

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

In the Matter of Reducing the  
Historic Landmark Overlay of  
the Scanlon-Vorpahl House  
and Water Tower, described  
as T3S-R2E-Section 23B, Tax  
Lot 605, A Clackamas County  
Historic Landmark



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

Whereas Michelle Davenport has requested a reduction in the  
Historic Landmark Overlay for the Scanlon-Vorpahl House and Water Tower; and

Whereas the Historic Review Board at its public meeting on  
October 13, 2011 recommended that the Historic Landmark Overlay be reduced; and

Whereas on January 11, 2012, this matter came before the Board  
of County Commissioners for a public hearing and the Board made a preliminary  
decision to approve the reduction in the Historic Landmark Overlay;

Now THEREFORE, IT IS HEREBY ORDERED that the Historic  
Landmark Overlay for the Scanlon-Vorpahl House and Water Tower be reduced as  
described in the attached Historic Overlay Area Exhibit; and

It is further ordered that the required changes be made in the  
relevant zoning maps.

DATED this 19th Day of January, 2012

\_\_\_\_\_  
Chair

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

January 19, 2012

Board of Commissioners of the  
Housing Authority of Clackamas County

Members of the Board:

**In The Matter of Writing Off Uncollectible Accounts for the  
Second Quarter of Fiscal Year 2012**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests the approval to write off uncollectible rents, late charges and maintenance expenses for the second quarter of fiscal year 2012 (October 1, 2011 – December 31, 2011). The uncollectible amounts are detailed on the attached worksheets.

Uncollectible amounts for the second quarter of fiscal year 2012 will be \$3,027.96 for Low Rent Public Housing and \$500.41 for Local Project Fund. Of the total second quarter write offs, \$2,008.11 was for uncollected rents and \$1,520.26 was for maintenance repairs charged to tenants for repairs required to units before HACC could lease them to a new tenant.

The total amount proposed for transfer from Accounts Receivable to Collection Loss for the Second Quarter of fiscal year 2012 will be \$3,528.37. Total collection losses for fiscal year 2011 were \$33,058.65.

**Recommendation**

HACC recommends the approval to write off uncollectible rents, late charges and maintenance expenses and for the Executive Director to be authorized to approve the transfer of these accounts from Accounts Receivable to Collection Loss.

Respectfully submitted,



Cindy Becker  
Director

For information on this issue or copies of attachments  
Please contact Mary-Rain O'Meara at 503-655-8279



LPF Collection Loss for the period of

10/1/2011 to 12/31/2011  
Second Quarter of Fiscal Year 2012

Unit #	SS #	Name	Rent	Sundry	Total
303012-7	xxx-xx-4497	Debra Hubbard	500.41	-	500.41
					\$ -
					\$ -
					\$ -
					\$ -

Total Write-off 500.41 - 500.41

*Betty McKee*  
Accounting Specialist 1 - Betty McKee

*Richard A. Cuk*  
Finance Manager - Rich. Cronk

*Trell Anderson*  
Executive Director - Trell Anderson

January 19, 2012

Board of County Commissioners  
Clackamas County

Members of the Board:

**Board Order # \_\_\_\_\_ Approval of Mental Health Director's Designee  
to Authorize a Custody Hold Under ORS 426.233**

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of the Designation of Hazel Barrett, MA, LPC, by the Clackamas County Behavioral Health Director as an additional qualified mental health professional authorized under ORS 426.233 (copy attached) to direct a peace officer to take a person into custody and remove the person to a hospital or non-hospital facility approved by the Oregon Mental Health and Developmental Disability Services Division.

**Recommendation**

Staff recommends the Board approve the attached Board Order of Hazel Barrett, MA, LPC, as an additional qualified mental health professional authorized to direct a peace officer to take a person into custody under ORS 426.233.

Respectfully submitted,



Cindy Becker  
Director

For more information on this issue or copies of attachments,  
please contact Teri Beemer at 503 655-8356

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

In the Matter of the Designation of Hazel  
Barrett, MA, LPC as Mental Health  
Director Designee to Direct Peace Officer  
Custody Holds



ORDER NO.

This matter coming on at this time to be heard, and it appearing to this Board that Cindy Becker, Director of Health, Housing & Human Services Department, has recommended to this Board the approval of Hazel Barrett, MA, LPC, as an additional designee of the Behavioral Health Division Director, authorized under ORS 426.233 to direct a peace officer to take a person into custody and remove the person to a hospital or non-hospital facility approved by the Oregon Mental Health and Developmental Disability Services Division, and

This Board finds that it would be in the best interest of Clackamas County to approve said designation,

IT IS THEREFORE HEREBY ORDERED that Clackamas County approve the designation of Hazel Barrett, MA, LPC, as an additional qualified mental health professional authorized to direct a peace officer to take a person into custody under ORS 426.233.

ADOPTED this 19th day of January, 2012.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

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

**426.233 Authority of community mental health program director and of other persons; costs of transportation.** (1)(a) A community mental health program director operating under ORS 430.610 to 430.695 or a designee thereof, under authorization of a county governing body, may take one of the actions listed in paragraph (b) of this subsection when the community mental health program director or designee has probable cause to believe a person:

(A) Is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness; or

(B)(i) Is a mentally ill person placed on conditional release under ORS 426.125, outpatient commitment under ORS 426.127 or trial visit under ORS 426.273; and

(ii) Is dangerous to self or to any other person or is unable to provide for basic personal needs and is not receiving the care that is necessary for health and safety and is in need of immediate care, custody or treatment for mental illness.

(b) The community mental health program director or designee under the circumstances set out in paragraph (a) of this subsection may:

(A) Notify a peace officer to take the person into custody and direct the officer to remove the person to a hospital or nonhospital facility approved by the Oregon Health Authority;

(B) Authorize involuntary admission of, or, if already admitted, cause to be involuntarily retained in a nonhospital facility approved by the authority, a person approved for care or treatment at a nonhospital facility by a physician under ORS 426.232;

(C) Notify a person authorized under subsection (3) of this section to take the person into custody and direct the authorized person to remove the person in custody to a hospital or nonhospital facility approved by the authority;

(D) Direct a person authorized under subsection (3) of this section to transport a person in custody from a hospital or a nonhospital facility approved by the authority to another hospital or nonhospital facility approved by the authority as provided under ORS 426.235; or

(E) Direct a person authorized under subsection (3) of this section to transport a person in custody from a facility approved by the authority to another facility approved by the authority as provided under ORS 426.060.

(2) A designee under subsection (1) of this section must be recommended by the community mental health program director, meet the standards established by rule of the authority and be approved by the county governing body before assuming the authority permitted under subsection (1) of this section.

(3) The county governing body may, upon recommendation by the community mental health program director, authorize any person to provide custody and secure transportation services for a person in custody under ORS 426.228. In authorizing a person under this subsection, the county governing body shall grant the person the authority to do the following:

(a) Accept custody from a peace officer of a person in custody under ORS 426.228;

(b) Take custody of a person upon notification by the community mental health program director under the provisions of this section;

(c) Remove a person in custody to an approved hospital or nonhospital facility as directed by the community mental health program director;



(d) Transfer a person in custody to another person authorized under this subsection or a peace officer;

(e) Transfer a person in custody from a hospital or nonhospital facility to another hospital facility or nonhospital facility when directed to do so by the community mental health program director; and

(f) Retain a person in custody at the approved hospital or nonhospital facility until a physician makes a determination under ORS 426.232.

(4) A person authorized under subsection (3) of this section must be recommended by the community mental health program director, meet the standards established by rule of the authority and be approved by the governing body before assuming the authority granted under this section.

(5) The costs of transporting a person as authorized under ORS 426.060, 426.228 or 426.235 by a person authorized under subsection (3) of this section shall be the responsibility of the county whose peace officer or community mental health program director directs the authorized person to take custody of a person and to transport the person to a facility approved by the authority, but the county shall not be responsible for costs that exceed the amount provided by the state for that transportation. A person authorized to act under subsection (3) of this section shall charge the cost of emergency medical transportation to, and collect that cost from, the person, third party payers or otherwise legally responsible persons or agencies in the same manner that costs for the transportation of other persons are charged and collected. [1993 c.484 §5; 1997 c.531 §5; 2009 c.595 §405]

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board

**Approval of a Behavioral Health Services Agreement with  
Catholic Community Services of Western Washington for  
Crisis Stabilization Services for Children,  
Intensive Community-Based Services for Children, and  
Respite Services for Children**

Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department (H3S) requests the approval of a Behavioral Health Services Agreement with Catholic Community Services of Western Washington for Crisis Stabilization Services for Children, Intensive Community-Based Services for Children, and Respite Services for Children to Oregon Health Plan (OHP) members authorized by Clackamas Mental Health Organization (MHO).

Through this agreement, CCBHD subcontracts services for people who are OHP members capitated to Clackamas County. The previous agreement was reviewed by the Board of County Commissioners and approved on May 21, 2009.

Payment is based on current Medicaid rates. The agreement does not contain an upper limit; expenditures are controlled by CCBHD, Clackamas MHO staff who pre-authorize and monitor services on an on-going basis.

This agreement will be funded with Oregon Health Authority funds. No County General Funds are involved. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. It is effective January 1, 2012 and terminates on December 31, 2012. The contract is retroactive due to receiving the contract signed by the contractor late.

**Recommendation**

We recommend approval of this agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted



Cindy Becker  
Director

For information on this issue or copies of attachments,  
please contact Emily M. Zwetzig/H3S Office of Business Services at (503)742-5318.

# BEHAVIORAL HEALTH SERVICES AGREEMENT

This Behavioral Health Services agreement is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY" and CATHOLIC COMMUNITY SERVICES OF WESTERN WASHINGTON, hereinafter called "CONTRACTOR".

## AGREEMENT

### 1.0 Engagement

COUNTY hereby engages CONTRACTOR to provide services as described in Exhibit C, Scope of Work, attached hereto and incorporated herein. This agreement sets forth the terms under which CONTRACTOR will contract with COUNTY to provide mental health services to Oregon Health Plan Medicaid recipients enrolled with COUNTY's Mental Health Organization and residents of Clackamas County who are eligible for services as uninsured, indigent individuals.

### 2.0 Term

Services provided under the terms of this agreement shall commence January 1, 2012. This agreement shall terminate December 31, 2012 unless terminated by one or both parties as provided for below. This agreement may be renewed annually and amended by mutual consent of both parties.

### 3.0 Compensation and Fiscal Records

3.1 Compensation. COUNTY shall compensate CONTRACTOR as specified in Exhibit B, Compensation and Payment, for satisfactorily performing contracted services. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

3.2 Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should CONTRACTOR fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding payment for cause may continue until CONTRACTOR performs required services or establishes to COUNTY'S satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CONTRACTOR.

3.3 Financial Records. CONTRACTOR and its subcontractors shall maintain complete and legible financial records pertinent to authorized Covered Services delivered and payments received. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines such as outlined in Office of Management and Budget circulars A-87, A-122 and A-133. Financial records and supporting documents shall be retained for at least five (5) years after final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to CONTRACTOR were in excess of the amount to which CONTRACTOR was entitled, CONTRACTOR shall repay the amount of the excess to COUNTY.

### 4.0 Manner of Performance

4.1 Compliance with Applicable Laws and Regulations, and Special Federal Requirements. CONTRACTOR shall comply with all Federal, State and local laws, rules and regulations applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit F, Compliance with Applicable Law, attached hereto and incorporated herein. CONTRACTOR shall comply with OAR 410-120-1380, which establishes the requirements for compliance with Section 4751 of OBRA 1991 and ORS 127.649, Patient Self-Determination Act.

4.2 Subcontracts. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this agreement without obtaining prior written approval from COUNTY. CONTRACTOR shall not be relieved of any of CONTRACTOR's obligations hereunder by virtue of any such subcontract, and shall remain directly responsible for compliance with all the terms of this agreement.

4.3 Independent Contractor. CONTRACTOR certifies that it is an independent contractor and not an employee or agent of County, State or Federal government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the solely the responsibility of CONTRACTOR.

4.4 Workers' Compensation. CONTRACTOR certifies that it is an insured employer for purposes of the Oregon Workers' Compensation law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this agreement.

## 5.0 General Conditions

5.1 Indemnification. CONTRACTOR agrees to indemnify, save, hold harmless, and defend COUNTY, its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demand attributable in whole or in part to the acts or omissions of CONTRACTOR, and CONTRACTOR's officers, agents, and employees, in performance of this agreement.

CONTRACTOR shall defend, save, hold harmless and indemnify the State of Oregon, AMH and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of CONTRACTOR, or its agents or employees under this agreement.

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

5.2 Insurance. During the term of this agreement, CONTRACTOR shall maintain in force at its own expense each insurance noted below:

### 5.2.1 Commercial General Liability

Required by COUNTY       Not required by COUNTY

CONTRACTOR shall obtain, at CONTRACTOR's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute it.

### 5.2.2 Commercial Automobile Liability

Required by COUNTY       Not required by COUNTY

CONTRACTOR shall also obtain at CONTRACTOR's expense, and keep in effect during the term of the agreement, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.

5.2.3 Professional Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.

5.2.4 Additional Insurance Provisions. All required 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.

5.2.5 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

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

5.2.7 Certificates of Insurance. As evidence of the insurance coverage required by this agreement, CONTRACTOR shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until required certificates have been received, approved and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the agreement have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiring.

5.2.8 Independent Contractor Status. The service or services to be rendered under this agreement are those of an independent contractor. CONTRACTOR is not an officer, employee or agent of COUNTY as those terms are used in ORS 30.265.

5.2.9 Primary Coverage Clarification. CONTRACTOR's coverage will be primary in the event of a loss.

5.2.10 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 the agreement.

5.3 Controlling State Law. This agreement shall be governed and construed in accordance with the laws of the State of Oregon. Any action or suit involving this agreement shall be filed and tried in Clackamas County, Oregon.

5.4 Amendments. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.

5.5 Severability. If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall

not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.

5.8 Oregon Constitutional Limitations. 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 therefore. Any provisions herein, which would conflict with such law, are deemed inoperative to that extent.

5.9 Public Contracting Requirements. Pursuant to the requirements of ORS 279B-020 and ORS 279B.220 through 279B.335 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this agreement:

5.9.1 CONTRACTOR shall:

- a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the performance of the work provided for in this agreement.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in performance of this agreement.
- c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If CONTRACTOR fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this agreement as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.

5.9.3 CONTRACTOR shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.4 CONTRACTOR shall promptly, as due, make payment to any person or partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness and injury, to the employees of CONTRACTOR, of all sums that CONTRACTOR agrees to pay for the services and all monies and sums that CONTRACTOR collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

5.9.5 All employers working under this agreement are either subject employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

5.10 Integration. This agreement contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

## 6.0 Termination

6.1 Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon ninety (90) business days notice, in writing and delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY may terminate this agreement effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 The terms of the OHP Medicaid Demonstration Project are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding authorized by this agreement.

6.2.2 The termination, suspension or expiration of the MHO Contract.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. Alternatively, the parties may agree to modify the agreement to accommodate a reduction in funding.

6.2.4 COUNTY has evidence that CONTRACTOR has endangered or is endangering the health or safety of Clients, staff or the public. CONTRACTOR shall ensure the orderly and reasonable transfer of care in progress with Clients and shall work with COUNTY staff to accomplish same.

6.2.5 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of CONTRACTOR, or the lapse, relinquishment, suspension, expiration, cancellation or termination of CONTRACTOR's insurance as required in this agreement.

6.2.6 CONTRACTOR's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage CONTRACTOR's affairs, or the judicial declaration that CONTRACTOR is insolvent.

6.2.7 If CONTRACTOR fails to perform any of the other provisions of this agreement, or fails to pursue the work of this agreement in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.3 Notice of Default. COUNTY may also issue written notice of default (including breach of contract) to CONTRACTOR and terminate the whole or any part of this agreement if CONTRACTOR substantially fails to perform the following specific provisions: Exhibit D(2)(A) Licenses and, Certification; Exhibit D(2)(C) Quality Assurance and Utilization Review; and Exhibit D(3) Recordkeeping and Reporting. The rights and remedies of COUNTY related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

6.4 Transition. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. CONTRACTOR and COUNTY shall continue to perform all duties and obligations under this agreement with respect to Clients under care of CONTRACTOR to the date of termination.

**7.0 Notices**

Any notice under this agreement shall be deemed received the earlier of the time of delivery of two (2) business days after mailing certified and postage prepaid through the U.S. Postal Service addressed as follows:

If to CONTRACTOR:

Catholic Community Services of  
Western Washington  
5410 N 44<sup>th</sup> Street  
Tacoma, WA 98407-3799

If to COUNTY:

Clackamas County Behavioral Health Division  
2051 Kaen Road, # 387  
Oregon City, OR 97045

This agreement consists of seven (7) sections plus the following attachments, which by this reference are incorporated herein:

- |           |                                |
|-----------|--------------------------------|
| Exhibit A | Definitions                    |
| Exhibit B | Compensation and Payment       |
| Exhibit C | Scope of Work                  |
| Exhibit D | Performance Standards          |
| Exhibit E | Fraud and Abuse                |
| Exhibit F | Compliance with Applicable Law |

**CATHOLIC COMMUNITY SERVICES OF  
WESTERN WASHINGTON**

By: *Doug Crandall*  
~~Mary Stone Smith, Vice President/Director~~  
*Doug Crandall, Coo*

Date \_\_\_\_\_  
5410 N 44th Street  
Street Address \_\_\_\_\_  
Tacoma, Washington 98407-3799  
City/State/Zip \_\_\_\_\_  
(503) 758-8222 (503) 943-4994  
Phone \_\_\_\_\_ / Fax \_\_\_\_\_

**CLACKAMAS COUNTY**

Commissioner: Charlotte Lehan, Chair  
Commissioner: Jim Bernard  
Commissioner: Jamie Damon  
Commissioner: Ann Linger  
Commissioner: Paul Savas

Signing on Behalf of the Board:

\_\_\_\_\_  
Cindy Becker, Director  
Health, Housing and Human Services Department

Agreement Effective Date: \_\_\_\_\_, 20\_\_\_\_

S:\Admin\CONTRACTS\MHO\Expense\Catholic Community Services\2012-12-31 MHOagreement.docx



January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board

**Approval of a Behavioral Health Services Agreement with  
Cedar Hills Psychiatric Hospital for  
Acute Inpatient Psychiatric Services**

Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department (H3S) requests the approval of a Behavioral Health Services Agreement with Cedar Hills Psychiatric Hospital for Acute Inpatient Psychiatric Services to Oregon Health Plan (OHP) members authorized by Clackamas Mental Health Organization (MHO).

Through this agreement, CCBHD subcontracts services for people who are OHP members capitated to Clackamas County. The previous agreement was reviewed and approved by the Board of County Commissioners on September 10, 2008.

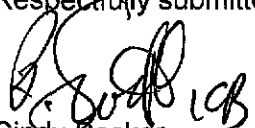
Payment is based on current Medicaid rates. The agreement does not contain an upper limit; expenditures are controlled by CCBHD, Clackamas MHO staff who pre-authorize and monitor services on an on-going basis.

This agreement will be funded with Oregon Health Authority funds. No County General Funds are involved. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. It is effective January 1, 2012 and terminates on December 31, 2012. The contract is retroactive due to receiving the contract signed by the contractor late.

**Recommendation**

We recommend approval of this agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted

  
Cindy Becker  
Director

For information on this issue or copies of attachments,  
please contact Emily M. Zwetzig/H3S Office of Business Services at (503)742-5318.

**ACUTE INPATIENT PSYCHIATRIC SERVICES AGREEMENT  
(BEHAVIORAL HEALTH SERVICES AGREEMENT)**

This Behavioral Health Services Agreement is between Clackamas County acting by and through its Department of Human Services, Behavioral Health Division, hereinafter called "COUNTY" and CEDAR HILLS PSYCHIATRIC HOSPITAL, hereinafter called "CONTRACTOR".

**AGREEMENT**

**1.0 Engagement**

COUNTY hereby engages CONTRACTOR to provide services as described in Exhibit C, Scope of Work, attached hereto and incorporated herein. This agreement sets forth the terms under which CONTRACTOR will contract with COUNTY to provide acute inpatient psychiatric services to Oregon Health Plan Medicaid recipients enrolled with COUNTY's Mental Health Organization and residents of Clackamas County who are eligible for services as uninsured, indigent individuals.

**2.0 Term**

Services provided under the terms of this agreement shall commence **January 1, 2012**. This agreement shall terminate **December 31, 2012** unless terminated by one or both parties as provided for below. This agreement may be renewed annually and amended by mutual consent of both parties.

**3.0 Compensation and Fiscal Records**

**3.1 Compensation.** COUNTY shall compensate CONTRACTOR as specified in Exhibit B, Compensation and Payment, for satisfactorily performing contracted services. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

**3.2 Withholding of Contract Payments.** Notwithstanding any other payment provision of this agreement, should CONTRACTOR fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding payment for cause may continue until CONTRACTOR performs required services or establishes to COUNTY'S satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CONTRACTOR.

**3.3 Financial Records.** CONTRACTOR and its subcontractors shall maintain complete and legible financial records pertinent to authorized Covered Services delivered and payments received. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines such as outlined in Office of Management and Budget circulars A-87, A-122 and A-133. Financial records and supporting documents shall be retained for at least five (5) years after final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to CONTRACTOR were in excess of the amount to which CONTRACTOR was entitled, CONTRACTOR shall repay the amount of the excess to COUNTY.

**4.0 Manner of Performance**

**4.1 Compliance with Applicable Laws and Regulations, and Special Federal Requirements.** CONTRACTOR shall comply with all Federal, State and local laws, rules and regulations applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit F, Compliance with Applicable Law, attached hereto and incorporated herein. CONTRACTOR shall comply with OAR 410-120-1380, which establishes the requirements for compliance with Section 4751 of OBRA 1991 and ORS 127.649, Patient Self-Determination Act.

4.2 Special Federal Requirements. Common rule restricts lobbying (Volume 55, No. 38 of Federal Register February 1990).

4.3 Subcontracts. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this agreement without obtaining prior written approval from COUNTY. CONTRACTOR shall not be relieved of any of CONTRACTOR's obligations hereunder by virtue of any such subcontract, and shall remain directly responsible for compliance with all the terms of this agreement.

4.4 Independent Contractor. CONTRACTOR certifies that it is an independent contractor and not an employee or agent of County, State or Federal government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the solely the responsibility of CONTRACTOR.

4.5 Workers' Compensation. CONTRACTOR certifies that it is an insured employer for purposes of the Oregon Workers' Compensation law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this agreement.

## 5.0 General Conditions

5.1 Indemnification. CONTRACTOR agrees to indemnify, save, hold harmless, and defend COUNTY, its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demand attributable in whole or in part to the acts or omissions of CONTRACTOR, and CONTRACTOR's officers, agents, and employees, in performance of this agreement.

CONTRACTOR shall defend, save, hold harmless and indemnify the State of Oregon, AMH and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of CONTRACTOR, or its agents or employees under this agreement.

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

5.2 Insurance. During the term of this agreement, CONTRACTOR shall maintain in force at its own expense each insurance noted below:

### 5.2.1 Commercial General Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall obtain, at CONTRACTOR's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute it.

### 5.2.2 Commercial Automobile Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall also obtain at CONTRACTOR's expense, and keep in effect during the term of the agreement, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.

5.2.3 Professional Liability

Required by COUNTY       Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.

5.2.4 Additional Insurance Provisions. All required 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.

5.2.5 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

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

5.2.7 Certificates of Insurance. As evidence of the insurance coverage required by this agreement, CONTRACTOR shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until required certificates have been received, approved and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the agreement have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiring.

5.2.8 Independent Contractor Status. The service or services to be rendered under this agreement are those of an independent contractor. CONTRACTOR is not an officer, employee or agent of COUNTY as those terms are used in ORS 30.265.

5.2.9 Primary Coverage Clarification. CONTRACTOR's coverage will be primary in the event of a loss.

5.2.10 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 the agreement.

5.3 Controlling State Law. This agreement shall be governed and construed in accordance with the laws of the State of Oregon. Any action or suit involving this agreement shall be filed and tried in Clackamas County, Oregon.

5.4 Amendments. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.

5.5 Severability. If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall

not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.

5.8 Oregon Constitutional Limitations. 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 therefore. Any provisions herein, which would conflict with such law, are deemed inoperative to that extent.

5.9 Public Contracting Requirements. Pursuant to the requirements of ORS 279B-020 and ORS 279B.220 through 279B.335 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this agreement:

5.9.1 CONTRACTOR shall:

a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the performance of the work provided for in this agreement.

b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in performance of this agreement.

c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.

d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If CONTRACTOR fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this agreement as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.

5.9.3 CONTRACTOR shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.4 CONTRACTOR shall promptly, as due, make payment to any person or partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness and injury, to the employees of CONTRACTOR, of all sums that CONTRACTOR agrees to pay for the services and all monies and sums that CONTRACTOR collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

5.10 Integration. This agreement contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

## 6.0 Term and Termination

6.1 Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon ninety (90) business days notice, in writing and delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY may terminate this agreement effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 The terms of the OHP Medicaid Demonstration Project are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding authorized by this agreement.

6.2.2 The termination, suspension or expiration of the MHO Contract.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. Alternatively, the parties may agree to modify the agreement to accommodate a reduction in funding.

6.2.4 COUNTY has evidence that CONTRACTOR has endangered or is endangering the health or safety of Clients, staff or the public. CONTRACTOR shall ensure the orderly and reasonable transfer of care in progress with Clients and shall work with COUNTY staff to accomplish same.

6.2.5 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of CONTRACTOR, or the lapse, relinquishment, suspension, expiration, cancellation or termination of CONTRACTOR's insurance as required in this agreement.

6.2.6 CONTRACTOR's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage CONTRACTOR's affairs, or the judicial declaration that CONTRACTOR is insolvent.

6.2.7 If CONTRACTOR fails to perform any of the other provisions of this agreement, or fails to pursue the work of this agreement in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.3 Notice of Default. COUNTY may also issue written notice of default (including breach of contract) to CONTRACTOR and terminate the whole or any part of this agreement if CONTRACTOR substantially fails to perform the following specific provisions: Exhibit D(2)(A) Licenses and, Certification; Exhibit D(2)(C) Quality Assurance and Utilization Review; and Exhibit D(3) Recordkeeping and Reporting. The rights and remedies of COUNTY related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

6.4 Transition. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. CONTRACTOR and COUNTY shall continue to perform all duties and obligations under this agreement with respect to Clients under care of CONTRACTOR to the date of termination.

**7.0 Notices**

Any notice under this agreement shall be deemed received the earlier of the time of delivery of two (2) business days after mailing certified and postage prepaid through the U.S. Postal Service addressed as follows:

If to CONTRACTOR:

Cedar Hills Psychiatric Hospital  
10300 SW Eastridge Street  
Portland, OR 97225

If to COUNTY:

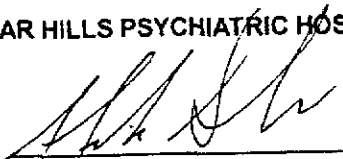
Clackamas County Behavioral Health Division  
2051 Kaen Road, # 367  
Oregon City, OR 97045

This agreement consists of seven (7) sections plus the following attachments, which by this reference are incorporated herein:

- |           |                                |
|-----------|--------------------------------|
| Exhibit A | Definitions                    |
| Exhibit B | Compensation and Payment       |
| Exhibit C | Scope of Work                  |
| Exhibit D | Performance Standards          |
| Exhibit E | Fraud and Abuse                |
| Exhibit F | Compliance with Applicable Law |

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

**CEDAR HILLS PSYCHIATRIC HOSPITAL**

By:   
Mike Sherbun, CEO

Date \_\_\_\_\_  
10300 SW Eastridge Street  
Street Address \_\_\_\_\_  
Portland, Oregon 97225  
City/State/Zip \_\_\_\_\_  
(503)260-7809 / (503)944-2224  
Phone \_\_\_\_\_ / Fax Numbers \_\_\_\_\_

**CLACKAMAS COUNTY**

Commissioner: Charlotte Lehan, Chair  
Commissioner: Jim Bernard  
Commissioner: Jamie Damon  
Commissioner: Ann Lininger  
Commissioner: Paul Savas

**Signing on Behalf of the Board:**

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

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January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board

**Approval of a Behavioral Health Services Agreement with  
ColumbiaCare Services, Inc. for  
Outpatient Mental Health Services**

Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department (H3S) requests the approval of a Behavioral Health Services Agreement with ColumbiaCare Services, Inc. for Outpatient Mental Health Services to Oregon Health Plan (OHP) members authorized by Clackamas Mental Health Organization (MHO).

Through this agreement, CCBHD subcontracts services for people who are OHP members capitated to Clackamas County. The previous agreement was reviewed by the Board of County Commissioners and approved on March 5, 2009.

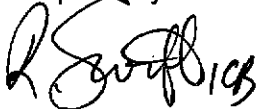
Payment is based on current Medicaid rates. The agreement does not contain an upper limit; expenditures are controlled by CCBHD, Clackamas MHO staff who pre-authorize and monitor services on an on-going basis.

This agreement will be funded with Oregon Health Authority funds. No County General Funds are involved. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. It is effective January 1, 2012 and terminates on December 31, 2012. The contract is retroactive due to receiving the contract signed by the contractor late.

**Recommendation**

We recommend approval of this agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted



Cindy Becker  
Director

For information on this issue or copies of attachments,  
please contact Emily M. Zwetzig/H3S Office of Business Services at (503)742-5318.



## BEHAVIORAL HEALTH SERVICES AGREEMENT

This Behavioral Health Services agreement is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY" and **COLUMBIACARE SERVICES, INC.**, hereinafter called "CONTRACTOR".

### AGREEMENT

#### 1.0 Engagement

COUNTY hereby engages CONTRACTOR to provide services as described in Exhibit C, Scope of Work, attached hereto and incorporated herein. This agreement sets forth the terms under which CONTRACTOR will contract with COUNTY to provide mental health services to Oregon Health Plan Medicaid recipients enrolled with COUNTY's Mental Health Organization and residents of Clackamas County who are eligible for services as uninsured, indigent individuals.

#### 2.0 Term

Services provided under the terms of this agreement shall commence **January 1, 2012**. This agreement shall terminate **December 31, 2012** unless terminated by one or both parties as provided for below. This agreement may be renewed annually and amended by mutual consent of both parties.

#### 3.0 Compensation and Fiscal Records

3.1 Compensation. COUNTY shall compensate CONTRACTOR as specified in Exhibit B, Compensation and Payment, for satisfactorily performing contracted services. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

3.2 Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should CONTRACTOR fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding payment for cause may continue until CONTRACTOR performs required services or establishes to COUNTY'S satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CONTRACTOR.

3.3 Financial Records. CONTRACTOR and its subcontractors shall maintain complete and legible financial records pertinent to authorized Covered Services delivered and payments received. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines such as outlined in Office of Management and Budget circulars A-87, A-122 and A-133. Financial records and supporting documents shall be retained for at least five (5) years after final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to CONTRACTOR were in excess of the amount to which CONTRACTOR was entitled, CONTRACTOR shall repay the amount of the excess to COUNTY.

#### 4.0 Manner of Performance

4.1 Compliance with Applicable Laws and Regulations, and Special Federal Requirements. CONTRACTOR shall comply with all Federal, State and local laws, rules and regulations applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit F, Compliance with Applicable Law, attached hereto and incorporated herein. CONTRACTOR shall comply with OAR 410-120-1380, which establishes the requirements for compliance with Section 4751 of OBRA 1991 and ORS 127.649, Patient Self-Determination Act.

4.2 Subcontracts. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this agreement without obtaining prior written approval from COUNTY. CONTRACTOR shall not be relieved of any of CONTRACTOR's obligations hereunder by virtue of any such subcontract, and shall remain directly responsible for compliance with all the terms of this agreement.

4.3 Independent Contractor. CONTRACTOR certifies that it is an independent contractor and not an employee or agent of County, State or Federal government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the solely the responsibility of CONTRACTOR.

4.4 Workers' Compensation. CONTRACTOR certifies that it is an insured employer for purposes of the Oregon Workers' Compensation law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this agreement.

## 5.0 General Conditions

5.1 Indemnification. CONTRACTOR agrees to indemnify, save, hold harmless, and defend COUNTY, its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demand attributable in whole or in part to the acts or omissions of CONTRACTOR, and CONTRACTOR's officers, agents, and employees, in performance of this agreement.

CONTRACTOR shall defend, save, hold harmless and indemnify the State of Oregon, AMH and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of CONTRACTOR, or its agents or employees under this agreement.

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

5.2 Insurance. During the term of this agreement, CONTRACTOR shall maintain in force at its own expense each insurance noted below:

### 5.2.1 Commercial General Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall obtain, at CONTRACTOR's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute it.

### 5.2.2 Commercial Automobile Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall also obtain at CONTRACTOR's expense, and keep in effect during the term of the agreement, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.

5.2.3 Professional Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.

5.2.4 Additional Insurance Provisions. All required 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.

5.2.5 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

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

5.2.7 Certificates of Insurance. As evidence of the insurance coverage required by this agreement, CONTRACTOR shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until required certificates have been received, approved and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the agreement have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiring.

5.2.8 Independent Contractor Status. The service or services to be rendered under this agreement are those of an independent contractor. CONTRACTOR is not an officer, employee or agent of COUNTY as those terms are used in ORS 30.265.

5.2.9 Primary Coverage Clarification. CONTRACTOR's coverage will be primary in the event of a loss.

5.2.10 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 the agreement.

5.3 Controlling State Law. This agreement shall be governed and construed in accordance with the laws of the State of Oregon. Any action or suit involving this agreement shall be filed and tried in Clackamas County, Oregon.

5.4 Amendments. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.

5.5 Severability. If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall

not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.

5.8 Oregon Constitutional Limitations. 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 therefore. Any provisions herein, which would conflict with such law, are deemed inoperative to that extent.

5.9 Public Contracting Requirements. Pursuant to the requirements of ORS 279B-020 and ORS 279B.220 through 279B.335 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this agreement:

5.9.1 CONTRACTOR shall:

- a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the performance of the work provided for in this agreement.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in performance of this agreement.
- c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If CONTRACTOR fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this agreement as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.

5.9.3 CONTRACTOR shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.4 CONTRACTOR shall promptly, as due, make payment to any person or partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness and injury, to the employees of CONTRACTOR, of all sums that CONTRACTOR agrees to pay for the services and all monies and sums that CONTRACTOR collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

5.9.5 All employers working under this agreement are either subject employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

5.10 Integration. This agreement contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

## 6.0 Termination

6.1 Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon ninety (90) business days notice, in writing and delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY may terminate this agreement effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 The terms of the OHP Medicaid Demonstration Project are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding authorized by this agreement.

6.2.2 The termination, suspension or expiration of the MHO Contract.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. Alternatively, the parties may agree to modify the agreement to accommodate a reduction in funding.

6.2.4 COUNTY has evidence that CONTRACTOR has endangered or is endangering the health or safety of Clients, staff or the public. CONTRACTOR shall ensure the orderly and reasonable transfer of care in progress with Clients and shall work with COUNTY staff to accomplish same.

6.2.5 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of CONTRACTOR, or the lapse, relinquishment, suspension, expiration, cancellation or termination of CONTRACTOR's insurance as required in this agreement.

6.2.6 CONTRACTOR's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage CONTRACTOR's affairs, or the judicial declaration that CONTRACTOR is insolvent.

6.2.7 If CONTRACTOR fails to perform any of the other provisions of this agreement, or fails to pursue the work of this agreement in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.3 Notice of Default. COUNTY may also issue written notice of default (including breach of contract) to CONTRACTOR and terminate the whole or any part of this agreement if CONTRACTOR substantially fails to perform the following specific provisions: Exhibit D(2)(A) Licenses and Certification; Exhibit D(2)(C) Quality Assurance and Utilization Review; and Exhibit D(3) Recordkeeping and Reporting. The rights and remedies of COUNTY related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

6.4 Transition. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. CONTRACTOR and COUNTY shall continue to perform all duties and obligations under this agreement with respect to Clients under care of CONTRACTOR to the date of termination.

RECEIVED

JAN 03 2012

PSB CH Admin

7.0 Notices

Any notice under this agreement shall be deemed received the earlier of the time of delivery of two (2) business days after mailing certified and postage prepaid through the U.S. Postal Service addressed as follows:

If to CONTRACTOR:

ColumbiaCare Services, Inc.  
3587 Heathrow Way  
Medford, OR 97504


If to COUNTY:

Clackamas County Behavioral Health Division  
2051 Kaen Road, # 367  
Oregon City, OR 97045

This agreement consists of seven (7) sections plus the following attachments, which by this reference are incorporated herein:

- Exhibit A Definitions
- Exhibit B Compensation and Payment
- Exhibit C Scope of Work
- Exhibit D Performance Standards
- Exhibit E Fraud and Abuse
- Exhibit F Compliance with Applicable Law

**COLUMBIACARE SERVICES, INC.**

By:   
Robert C. Beckett, Executive Director

Date \_\_\_\_\_  
3587 Heathrow Way  
Street Address  
Medford, Oregon 97504  
City/State/Zip  
(541) 858-8170 / (541) 858-8167  
Phone / Fax

**CLACKAMAS COUNTY**

Commissioner: Charlotte Lehan, Chair  
Commissioner: Jim Bernard  
Commissioner: Jamie Damon  
Commissioner: Ann Liningner  
Commissioner: Paul Savas

**Signing on Behalf of the Board:**

\_\_\_\_\_  
Cindy Becker, Director  
Health, Housing and Human Services Department

Agreement Effective Date: \_\_\_\_\_, 20\_\_\_\_

S:\Admin\CONTRACTS\WHO\Expense\ColumbiaCare Services, Inc\2012-12-31MHOagreement.docx

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board

**Approval of a Professional, Technical, and Consultant Service Contract with  
Iron Tribe for Peer Support Services**

Clackamas County Behavioral Health Division of the Health, Housing and Human Services Department requests the approval of a Professional, Technical, and Consultant Service Contract with Iron Tribe for Peer Support Services to adults receiving addiction treatment services who are also involved with the child welfare system.

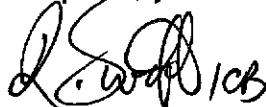
Services provided through this agreement include supporting individuals working toward addiction recovery and/or mental wellness. Assistance is provided to access services, i.e. 12 step programs, support groups; assist in problem solving; assist in navigating systems including child welfare; all avenues to support individuals in recovery. This agreement has not previously been reviewed by the Board.

The total amount of this contract shall be \$378,406. Funding is provided through the Oregon Health Authority, Community Mental Health Program agreement; no County General Funds are involved. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. It is effective January 1, 2012 and terminates on December 31, 2012. The contract is retroactive due to contract negotiations taking longer than anticipated.

**Recommendation**

We recommend approval of this agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted



Cindy Becker  
Director

For information on this issue or copies of attachments,  
please contact Emily M. Zwetzig/H3S Office of Business Services at (503)742-5318.

# PROFESSIONAL, TECHNICAL, AND CONSULTANT SERVICE CONTRACT

This contract is between Clackamas County acting by and through its Health, Housing, and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY", and IRON TRIBE, hereinafter called "CONTRACTOR".

## I. SCOPE OF SERVICES

- A. CONTRACTOR agrees to accomplish the following work under this contract: Provide peer support services to adults receiving addiction services within Clackamas County who are also involved with the child welfare system. Services are more fully described in Exhibit A.
- B. CONTRACTOR agrees that CONTRACTOR, its agents and employees shall maintain the confidentiality of any client identifying information, written or otherwise, with which they may come in contact, in accordance with all applicable provisions of state and federal statutes, rules and regulations, and shall comply with the same in the event of requests for information by any person or federal, state or local agency. In addition, the CONTRACTOR acknowledges the existence of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, 45 CFR Parts 160-164, and agrees that CONTRACTOR and CONTRACTOR's agents and employees will comply with all applicable requirements of HIPAA related to the confidentiality of client records or other client identifying information.
- C. Services required under the terms of this agreement shall commence January 1, 2012. This agreement shall terminate December 31, 2012.

## II. COMPENSATION AND RECORDS

- A. Compensation: COUNTY shall compensate CONTRACTOR for satisfactorily performing the services identified in Section I at a rate as follows:

The total payment to CONTRACTOR shall not exceed: \$378,406.

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

CONTRACTOR may submit an invoice for up to 50% of the maximum compensation under this contract at contract initiation. Payment of this invoice is considered an advance.

CONTRACTOR shall submit monthly invoices by the 10<sup>th</sup> of the month following the month services were delivered. Invoices will reflect actual cost of services. Invoices will be reconciled against the advance payment until the advance is fully expended. Invoices shall include an expenditure report.

- B. Method of Payment: CONTRACTOR shall submit invoices and required reports as described in Exhibit A to:

Clackamas County Behavioral Health Division  
Attention: Ally Linfoot  
2051 Kaen Road, # 367  
Oregon City, Oregon 97045

Within thirty (30) days after receipt of the invoice, provided COUNTY has approved the service specified on the invoice, COUNTY shall pay the amount requested to CONTRACTOR.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should CONTRACTOR fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of



payment for cause may continue until CONTRACTOR submits required reports, performs required services, or establishes to COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CONTRACTOR.

- 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 five (5) years after receipt of final payment under this contract; provided that any records and 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 CONTRACTOR which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcripts.

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

### III. MANNER OF PERFORMANCE

- A. **Compliance with Applicable Laws and Regulations:** CONTRACTOR shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this contract.
- B. **Special Federal Requirements:** Common rule restricts lobbying. See Volume 55, No. 38 of Federal Register, February 1990.
- C. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from the COUNTY.
- D. CONTRACTOR certifies that it is an independent contractor and not an employee or agent of the COUNTY, State, or Federal Government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of the CONTRACTOR.

### IV. GENERAL CONDITIONS

- A. **Indemnity:** CONTRACTOR agrees to indemnify, defend and hold harmless the COUNTY, its officers, commissioners 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 CONTRACTOR and CONTRACTOR's officers, agents and employees, in performance of this contract.
- B. **Insurance:** During the term of this contract, CONTRACTOR shall maintain in force at its own expense, each insurance noted below:

#### 1. **Commercial General Liability**

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall obtain, at CONTRACTOR's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

**2. Commercial Automobile Liability**

Required by COUNTY                       Not required by COUNTY

CONTRACTOR shall also obtain at CONTRACTOR's expense, and keep in effect during the term of the contract, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.

**3. Professional Liability**

Required by COUNTY                       Not required by COUNTY

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

**4. Additional Insured Provisions**

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

**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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

**6. Insurance Carrier Rating**

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

**7. Certificates of Insurance**

As evidence of the insurance coverage required by this contract, CONTRACTOR shall furnish a Certificate of Insurance to COUNTY. No contract shall be in effect until the required certificates have been received, approved and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the contract have been compiled with. A renewal certificate will be sent to COUNTY 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. CONTRACTOR is not an officer, employee or agent of COUNTY as those terms are used in ORS 30.265.

**9. Primary Coverage Clarification**

CONTRACTOR'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 the contract.

- C. Amendments: The terms of this contract shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.
- D. Termination: This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' notice, in writing and delivered by certified mail or in person.
1. COUNTY may terminate this contract effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:
    - a. If COUNTY funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
    - b. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this contract.
    - c. If any license or certificate required by law or regulation to be held by the CONTRACTOR to provide the services required by this contract is for any reason denied, revoked, or not renewed.
    - d. If CONTRACTOR fails to provide services, outcomes, reports as specified by COUNTY in this contract.
    - e. Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
  2. COUNTY by written notice of default (including breach of contract) to CONTRACTOR may terminate the whole or any part of this agreement:
    - a. If CONTRACTOR fails to provide services called for by this contract within the time specified herein or any extension thereof; or
    - b. If CONTRACTOR fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.
    - c. If CONTRACTOR fails to provide services, outcomes, or reports as specified by COUNTY in this contract.
    - d. The rights and remedies of COUNTY provided in the above clause related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

E. Oregon Public Contracting Provisions and Constitutional Limitations: Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235, and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this contract:

1. CONTRACTOR shall:
  - a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the prosecution of the work provided for in this contract.
  - b. Pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of this agreement.
  - c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
  - d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
2. If CONTRACTOR fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.
3. Employees shall be paid at least time and one-half for all overtime worked in excess of 40 hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC Section 201 to 209 from receiving overtime.
4. CONTRACTOR shall promptly, as due, make payment to any person, partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness and injury, to the employees of CONTRACTOR, of all sums which CONTRACTOR agrees to pay for the services and all moneys and sums that CONTRACTOR collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.
5. CONTRACTOR, if it is an employer of one or more workers subject to workers compensation coverage under ORS Chapter 656, shall qualify as an insured employer under ORS 656.017 or as an exempt employer under ORS 656.126. CONTRACTOR shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.
6. This contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.

F. Future Support: COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this contract.

G. Integration: This contract contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

This contract consists of four (4) sections plus the following exhibit which by this reference is incorporated herein:

Exhibit A	Scope of Services
Exhibit B	FY 2012 Financial Transactions and Audit Requirements
Exhibit C	Subrecipient Terms and Conditions


**Iron Tribe – Addiction Peer Support  
PROFESSIONAL, TECHNICAL, AND CONSULTANT SERVICE CONTRACT  
Page 6 of 15**

This contract consists of four (4) sections plus the following exhibit which by this reference is incorporated herein:

Exhibit A	Scope of Services
Exhibit B	FY 2012 Financial Transactions and Audit Requirements
Exhibit C	Subrecipient Terms and Conditions

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

**IRON TRIBE**

By:   
Harold R. Cubbedge, Executive Director

Date 12-28-2011  
PO Box 90384  
Street Address  
Marylhurst, Oregon 97290  
City/State/Zip  
(503)754-3495  
Phone / Fax

**CLACKAMAS COUNTY**

Commissioner: Charlotte Lehan, Chair  
Commissioner: Jim Bernard  
Commissioner: Jamie Damon  
Commissioner: Ann Lininger  
Commissioner: Paul Savas

Signing on behalf of the Board:

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

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board:

**Approval of Amendment # 2 to a  
Professional, Technical, and Consultant Service Contract with  
Iron Tribe for Peer Support Services**

The Clackamas County Behavioral Health Division of the Health, Housing and Human Services Department requests the approval Amendment # 2 to a Professional, Technical, and Consultant Service contract with Iron Tribe for Peer Support Services.

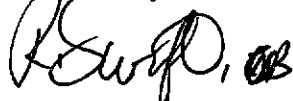
Iron Tribe provides peer support services to adults receiving addiction and/or mental health services within Clackamas County who have recently been released or will soon be released from jail or prison and are returning to the Clackamas County community. This agreement was previously reviewed and approved by the Board on July 7, 2011.

The maximum contract value is increased \$176,225 to an amended contract value of \$348,845. Original cost estimates were understated for the complete program service model requested and proposed. No County General Funds are involved. County Counsel has reviewed and approved this contract as part of the H3S contract standardization project. The amendment is effective date upon signature. The contract terminates June 30, 2012.

**Recommendation**

We recommend the approval of this amendment and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,



Cindy Becker  
Director

For information on this issue or copies of attachments,  
please contact Emily M. Zwetzig/H3S Office of Business Services at (503) 742-5318.

**Contract Amendment**  
**Health, Housing and Human Services Department**

DHS Contract Number BH-34-11/12 Board Agenda Number 070711-A10  
and Date July 7, 2011

Division Behavioral Health Amendment No. 2

Contractor Iron Tribe

Amendment Requested By Karen Slothower, H3S, Office of Business Services Manager

Changes:  Scope of Services  Contract Budget  
 Contract Time  Other \_\_\_\_\_

**Justification for Amendment:**

Contractor provides peer support services to adults receiving addiction and/or mental health services within Clackamas County who have recently been released or will soon be released from jail or prison returning to the Clackamas County community. The amendment adds funds to continue to provide services. Original estimates were understated.

Compensation is increased by \$176,225 to an amended contract value of \$348,845. This amendment is effective upon signature and continues through June 30, 2012.

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:** Section II. COMPENSATION AND RECORDS, paragraph A.

A. Compensation: COUNTY shall compensate CONTRACTOR for satisfactorily performing the services identified in Section I at a rate as follows:

The total payment to CONTRACTOR shall not exceed: **\$172,620.**

**TO READ:**

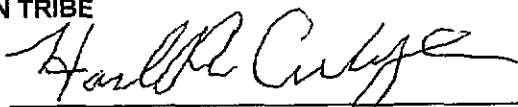
A. Compensation: COUNTY shall compensate CONTRACTOR for satisfactorily performing the services identified in Section I at a rate as follows:

The total payment to CONTRACTOR shall not exceed: **\$348,845.**

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

**IRON TRIBE**

By:

  
Harold R. Cubbedge, Executive Director

12-28-2011

Date

PO Box 90384

Street Address

Portland, Oregon 97290

City/State/Zip

(503)754-3495 /

Phone

/ Fax

**CLACKAMAS COUNTY**

Commissioner: Charlotte Lehan, Chair

Commissioner: Jim Bernard

Commissioner: Jamie Damon

Commissioner: Ann Lininger

Commissioner: Paul Savas

**Signing on Behalf of the Board:**

Cindy Becker, Director

Health, Housing and Human Services Department

Date

COPY

Cindy Becker  
Director

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board

**Approval of a Behavioral Health Services Agreement with  
Portland DBT Program, PC for  
Outpatient Mental Health Services**

Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department (H3S) requests the approval of a Behavioral Health Services Agreement with Portland DBT Program, PC for Outpatient Mental Health Services to Oregon Health Plan (OHP) members authorized by Clackamas Mental Health Organization (MHO).

Through this agreement, CCBHD subcontracts services for people who are OHP members capitated to Clackamas County. The previous agreement was reviewed and approved by the Board of County Commissioners on December 11, 2008.

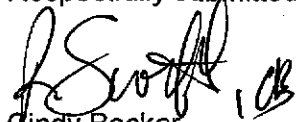
Payment is based on current Medicaid rates. The agreement does not contain an upper limit; expenditures are controlled by CCBHD, Clackamas MHO staff who pre-authorize and monitor services on an on-going basis.

This agreement will be funded with Oregon Health Authority funds. No County General Funds are involved. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. It is effective January 1, 2012 and terminates on December 31, 2012. The contract is retroactive due to receiving the contract signed by the contractor late.

**Recommendation**

We recommend approval of this agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted



Cindy Becker  
Director

For information on this issue or copies of attachments,  
please contact Emily M. Zwetzig/H3S Office of Business Services at (503)742-5318.



# BEHAVIORAL HEALTH SERVICES AGREEMENT

This Behavioral Health Services agreement is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY" and PORTLAND DBT PROGRAM, PC, hereinafter called "CONTRACTOR".

## AGREEMENT

### 1.0 Engagement

COUNTY hereby engages CONTRACTOR to provide services as described in Exhibit C, Scope of Work, attached hereto and incorporated herein. This agreement sets forth the terms under which CONTRACTOR will contract with COUNTY to provide mental health services to Oregon Health Plan Medicaid recipients enrolled with COUNTY's Mental Health Organization and residents of Clackamas County who are eligible for services as uninsured, indigent individuals.

### 2.0 Term

Services provided under the terms of this agreement shall commence January 1, 2012. This agreement shall terminate December 31, 2012 unless terminated by one or both parties as provided for below. This agreement may be renewed annually and amended by mutual consent of both parties.

### 3.0 Compensation and Fiscal Records

3.1 Compensation. COUNTY shall compensate CONTRACTOR as specified in Exhibit B, Compensation and Payment, for satisfactorily performing contracted services. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

3.2 Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should CONTRACTOR fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding payment for cause may continue until CONTRACTOR performs required services or establishes to COUNTY'S satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CONTRACTOR.

3.3 Financial Records. CONTRACTOR and its subcontractors shall maintain complete and legible financial records pertinent to authorized Covered Services delivered and payments received. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines such as outlined in Office of Management and Budget circulars A-87, A-122 and A-133. Financial records and supporting documents shall be retained for at least five (5) years after final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to CONTRACTOR were in excess of the amount to which CONTRACTOR was entitled, CONTRACTOR shall repay the amount of the excess to COUNTY.

### 4.0 Manner of Performance

4.1 Compliance with Applicable Laws and Regulations, and Special Federal Requirements. CONTRACTOR shall comply with all Federal, State and local laws, rules and regulations applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit F, Compliance with Applicable Law, attached hereto and incorporated herein. CONTRACTOR shall comply with OAR 410-120-1380, which establishes the requirements for compliance with Section 4751 of OBRA 1991 and ORS 127.649, Patient Self-Determination Act.

4.2 Subcontracts. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this agreement without obtaining prior written approval from COUNTY. CONTRACTOR shall not be relieved of any of CONTRACTOR's obligations hereunder by virtue of any such subcontract, and shall remain directly responsible for compliance with all the terms of this agreement.

4.3 Independent Contractor. CONTRACTOR certifies that it is an independent contractor and not an employee or agent of County, State or Federal government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the solely the responsibility of CONTRACTOR.

4.4 Workers' Compensation. CONTRACTOR certifies that it is an insured employer for purposes of the Oregon Workers' Compensation law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this agreement.

## 5.0 General Conditions

5.1 Indemnification. CONTRACTOR agrees to indemnify, save, hold harmless, and defend COUNTY, its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demand attributable in whole or in part to the acts or omissions of CONTRACTOR, and CONTRACTOR's officers, agents, and employees, in performance of this agreement.

CONTRACTOR shall defend, save, hold harmless and indemnify the State of Oregon, AMH and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of CONTRACTOR, or its agents or employees under this agreement.

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

5.2 Insurance. During the term of this agreement, CONTRACTOR shall maintain in force at its own expense each insurance noted below:

### 5.2.1 Commercial General Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall obtain, at CONTRACTOR's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute it.

### 5.2.2 Commercial Automobile Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall also obtain at CONTRACTOR's expense, and keep in effect during the term of the agreement, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.

5.2.3 Professional Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.

5.2.4 Additional Insurance Provisions. All required 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.

5.2.5 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 COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

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

5.2.7 Certificates of Insurance. As evidence of the insurance coverage required by this agreement, CONTRACTOR shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until required certificates have been received, approved and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the agreement have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiring.

5.2.8 Independent Contractor Status. The service or services to be rendered under this agreement are those of an independent contractor. CONTRACTOR is not an officer, employee or agent of COUNTY as those terms are used in ORS 30.265.

5.2.9 Primary Coverage Clarification. CONTRACTOR's coverage will be primary in the event of a loss.

5.2.10 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 the agreement.

5.3 Controlling State Law. This agreement shall be governed and construed in accordance with the laws of the State of Oregon. Any action or suit involving this agreement shall be filed and tried in Clackamas County, Oregon.

5.4 Amendments. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.

5.5 Severability. If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall

not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.

5.8 Oregon Constitutional Limitations. 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 therefore. Any provisions herein, which would conflict with such law, are deemed inoperative to that extent.

5.9 Public Contracting Requirements. Pursuant to the requirements of ORS 279B-020 and ORS 279B.220 through 279B.335 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this agreement:

5.9.1 CONTRACTOR shall:

- a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the performance of the work provided for in this agreement.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in performance of this agreement.
- c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If CONTRACTOR fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this agreement as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.

5.9.3 CONTRACTOR shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.4 CONTRACTOR shall promptly, as due, make payment to any person or partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness and injury, to the employees of CONTRACTOR, of all sums that CONTRACTOR agrees to pay for the services and all monies and sums that CONTRACTOR collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

5.9.5 All employers working under this agreement are either subject employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

5.10 Integration. This agreement contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

## 6.0 Termination

6.1 Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon ninety (90) business days notice, in writing and delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY may terminate this agreement effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 The terms of the OHP Medicaid Demonstration Project are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding authorized by this agreement.

6.2.2 The termination, suspension or expiration of the MHO Contract.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. Alternatively, the parties may agree to modify the agreement to accommodate a reduction in funding.

6.2.4 COUNTY has evidence that CONTRACTOR has endangered or is endangering the health or safety of Clients, staff or the public. CONTRACTOR shall ensure the orderly and reasonable transfer of care in progress with Clients and shall work with COUNTY staff to accomplish same.

6.2.5 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of CONTRACTOR, or the lapse, relinquishment, suspension, expiration, cancellation or termination of CONTRACTOR's insurance as required in this agreement.

6.2.6 CONTRACTOR's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage CONTRACTOR's affairs, or the judicial declaration that CONTRACTOR is insolvent.

6.2.7 If CONTRACTOR fails to perform any of the other provisions of this agreement, or fails to pursue the work of this agreement in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.3 Notice of Default. COUNTY may also issue written notice of default (including breach of contract) to CONTRACTOR and terminate the whole or any part of this agreement if CONTRACTOR substantially fails to perform the following specific provisions: Exhibit D(2)(A) Licenses and, Certification; Exhibit D(2)(C) Quality Assurance and Utilization Review; and Exhibit D(3) Recordkeeping and Reporting. The rights and remedies of COUNTY related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

6.4 Transition. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. CONTRACTOR and COUNTY shall continue to perform all duties and obligations under this agreement with respect to Clients under care of CONTRACTOR to the date of termination.

**7.0 Notices**

Any notice under this agreement shall be deemed received the earlier of the time of delivery of two (2) business days after mailing certified and postage prepaid through the U.S. Postal Service addressed as follows:

If to CONTRACTOR:

Portland DBT Program, PC  
5200 SW Macadam Avenue, Suite 580  
Portland, OR 97239

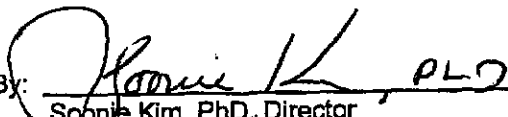
If to COUNTY:

Clackamas County Behavioral Health Division  
2051 Kaen Road, # 367  
Oregon City, OR 97045

This agreement consists of seven (7) sections plus the following attachments, which by this reference are incorporated herein:

- |           |                                |
|-----------|--------------------------------|
| Exhibit A | Definitions                    |
| Exhibit B | Compensation and Payment       |
| Exhibit C | Scope of Work                  |
| Exhibit D | Performance Standards          |
| Exhibit E | Fraud and Abuse                |
| Exhibit F | Compliance with Applicable Law |

**PORTLAND DBT PROGRAM, PC**

By:   
Sooni Kim, PhD, Director  
Date 11/17/2011  
Street Address 5200 SW Macadam Avenue, Suite 580  
City/State/Zip Portland, Oregon 97239  
Phone (503)231-7854 / Fax (503)231-8153

**CLACKAMAS COUNTY**

Commissioner: Charlotte Lehan, Chair  
Commissioner: Jim Bernard  
Commissioner: Jamie Damon  
Commissioner: Ann Lininger  
Commissioner: Paul Savas

Signing on Behalf of the Board:

Cindy Becker, Director  
Health, Housing and Human Services Department

Agreement Effective Date: \_\_\_\_\_, 20 \_\_\_\_

S:\Admin\CONTRACTS\WHO\Expense\Portland DBT Program, PC\2012-12-31\MHO\agreement.docx

COPY

Cindy Becker  
Director

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board

**Approval of a Behavioral Health Services Agreement with  
Western Psychological & Counseling Services, PC for  
Outpatient Substance Abuse Services and Outpatient Mental Health Services**

Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department (H3S) requests the approval of a Behavioral Health Services Agreement with Western Psychological & Counseling Services, PC for Outpatient Substance Abuse Services and Outpatient Mental Health Services to Oregon Health Plan (OHP) members authorized by Clackamas Mental Health Organization (MHO).

Through this agreement, CCBHD subcontracts services for people who are OHP members capitated to Clackamas County. The previous agreement was reviewed and approved by the Board of County Commissioners on March 19, 2009.

Payment is based on current Medicaid rates. The agreement does not contain an upper limit; expenditures are controlled by CCBHD, Clackamas MHO staff who pre-authorize and monitor services on an on-going basis.

This agreement will be funded with Oregon Health Authority funds. No County General Funds are involved. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. It is effective January 1, 2012 and terminates on December 31, 2012. The contract is retroactive due to receiving the contract signed by the contractor late.

**Recommendation**

We recommend approval of this agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted



Cindy Becker  
Director

For information on this issue or copies of attachments,  
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# BEHAVIORAL HEALTH SERVICES AGREEMENT

This Behavioral Health Services agreement is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY" and WESTERN PSYCHOLOGICAL & COUNSELING SERVICES, PC, hereinafter called "CONTRACTOR".

## AGREEMENT

### 1.0 Engagement

COUNTY hereby engages CONTRACTOR to provide services as described in Exhibit C, Scope of Work, attached hereto and incorporated herein. This agreement sets forth the terms under which CONTRACTOR will contract with COUNTY to provide mental health services to Oregon Health Plan Medicaid recipients enrolled with COUNTY's Mental Health Organization and residents of Clackamas County who are eligible for services as uninsured, indigent individuals.

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5.2.9 Primary Coverage Clarification. CONTRACTOR's coverage will be primary in the event of a loss.

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5.3 Controlling State Law. This agreement shall be governed and construed in accordance with the laws of the State of Oregon. Any action or suit involving this agreement shall be filed and tried in Clackamas County, Oregon.

5.4 Amendments. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.

5.5 Severability. If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall

not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

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5.9.1 CONTRACTOR shall:

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- b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in performance of this agreement.
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- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If CONTRACTOR fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this agreement as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.

5.9.3 CONTRACTOR shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.4 CONTRACTOR shall promptly, as due, make payment to any person or partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness and injury, to the employees of CONTRACTOR, of all sums that CONTRACTOR agrees to pay for the services and all monies and sums that CONTRACTOR collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

5.9.5 All employers working under this agreement are either subject employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

5.10 Integration. This agreement contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

## 6.0 Termination

6.1 Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon ninety (90) business days notice, in writing and delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY may terminate this agreement effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 The terms of the OHP Medicaid Demonstration Project are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding authorized by this agreement.

6.2.2 The termination, suspension or expiration of the MHO Contract.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. Alternatively, the parties may agree to modify the agreement to accommodate a reduction in funding.

6.2.4 COUNTY has evidence that CONTRACTOR has endangered or is endangering the health or safety of Clients, staff or the public. CONTRACTOR shall ensure the orderly and reasonable transfer of care in progress with Clients and shall work with COUNTY staff to accomplish same.

6.2.5 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of CONTRACTOR, or the lapse, relinquishment, suspension, expiration, cancellation or termination of CONTRACTOR's insurance as required in this agreement.

6.2.6 CONTRACTOR's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage CONTRACTOR's affairs, or the judicial declaration that CONTRACTOR is insolvent.

6.2.7 If CONTRACTOR fails to perform any of the other provisions of this agreement, or fails to pursue the work of this agreement in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.3 Notice of Default. COUNTY may also issue written notice of default (including breach of contract) to CONTRACTOR and terminate the whole or any part of this agreement if CONTRACTOR substantially fails to perform the following specific provisions: Exhibit D(2)(A) Licenses and, Certification; Exhibit D(2)(C) Quality Assurance and Utilization Review; and Exhibit D(3) Recordkeeping and Reporting. The rights and remedies of COUNTY related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

6.4 Transition. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. CONTRACTOR and COUNTY shall continue to perform all duties and obligations under this agreement with respect to Clients under care of CONTRACTOR to the date of termination.



MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board:

**Board Order Establishing a Change Fund for  
Clackamas County Community Health Sunnyside Health and Wellness Clinic**

The attached Board Order establishes a change fund for the Clackamas County Community Health Sunnyside Health and Wellness Clinic located at 9775 SE Sunnyside Road, Suites 200, 600 and 800, Clackamas, Oregon 97015.

Community Health has requested a \$560. change fund for their new Sunnyside Clinic. Four check-in points will be established to serve clients. Each station will carry a \$115.00 till. The largest percentage of the patient population tends to carry cash rather than using a checking account. Payment collection is required at point of service. This requires a sufficient amount at each check-out point to make change for large bills.

In addition, a backup change fund of \$100.00 will be held in the office to help provide extra cash for the tills and avoid multiple bank runs for till replenishment. The clinic will have a locking safe on-site and a Policy and Procedure for cash handling. All employees handling cash will be provided appropriate training.

There is no budget impact and the change fund is still subject to all accounting controls and ORS regulations. This item has also been reviewed and approved by County Counsel.

**RECOMMENDATION**

Staff respectfully recommends that the Board adopt the attached board order establishing a Change Fund for the Clackamas County Community Health Sunnyside Health and Wellness Clinic in the amount of \$560.00.

Sincerely,

Marc S. Gonzales  
Finance Director

cc: Karen Slothower, Director of the Office of Business Services

For Information on this issue or attachments please contact  
Karen Slothower at (503) 742-5322

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

In the Matter of an Order for  
The Establishment of a  
Change Fund at Community Health  
Sunnyside Health and Wellness Clinic

ORDER NO.

This matter coming regularly before the Board of County Commissioners, and it appearing that Marc Gonzales, Director of the Clackamas County Department of Finance, has recommended to this Board the establishment of a change fund located at Clackamas County Community Health's Sunnyside Health and Wellness Clinic, in the amount of \$560.00 and,

It further appearing that \$560.00 will be transferred from the Community Health cash account to the Change Fund Custodian account for Community Health's Sunnyside Health and Wellness Clinic and,

It further appearing that the Change Fund will be periodically audited by the County Department of Finance, and the Board being fully advised,

NOW, THEREFORE, IT IS HEREBY ORDERED that Clackamas County Finance Division issue a check in the amount of \$560.00 to the Change Fund Custodian account for Clackamas County Community Health's Sunnyside Health and Wellness Clinic payable from the Community Health cash account.

DATED this 19th day of January 2012.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

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



MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

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

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board:

**Board Order Establishing a Change Fund for  
Clackamas County Community Health Center Stone Clinic**

The attached Board Order establishes a change fund for the Clackamas County Community Health Center Stone Clinic located at 11211 SE 82<sup>nd</sup> Avenue, Portland, Oregon 97086.

Community Health has requested a change fund for their new Center Stone Clinic. One check-in point will be established to serve clients. The station will carry a \$115.00 till. The largest percentage of the patient population tends to carry cash rather than using a checking account. Payment collection is required at point of service. This demands a sufficient amount at the check-out point to make change for large bills.

In addition, a backup change fund of \$100.00 will be held in the office to help provide extra cash for the till in order to avoid multiple bank runs for till replenishment. The clinic will have a locking safe on-site and a Policy and Procedure for cash handling. All employees handling cash will be provided appropriate training.

There is no budget impact and the change fund is still subject to all accounting controls and ORS regulations. County Counsel has reviewed and approved this agenda item.

**RECOMMENDATION**

Staff respectfully recommends that the Board adopt the attached board order establishing a Change Fund for the Clackamas County Community Health Center Stone Clinic in the amount of \$215.00.

Sincerely,

Marc S. Gonzales  
Finance Director

cc: Karen Slothower, Director of the Office of Business Services

For Information on this issue or attachments please contact  
Karen Slothower at (503) 742-5322

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

In the Matter of an Order for  
The Establishment of a  
Change Fund at Community Health  
Center Stone Clinic

}  
ORDER NO.

This matter coming regularly before the Board of County Commissioners, and it appearing that Marc Gonzales, Director of the Clackamas County Department of Finance, has recommended to this Board the establishment of a change fund located at Clackamas County Community Health Center Stone Clinic, in the amount of \$215.00 and,

It further appearing that \$215.00 will be transferred from the Community Health cash account to the Change Fund Custodian account for the Community Health Center Stone Clinic and,

It further appearing that the Change Fund will be periodically audited by the County Department of Finance, and the Board being fully advised,

NOW, THEREFORE, IT IS HEREBY ORDERED that Clackamas County Finance Division issue a check in the amount of \$215.00 to the Change Fund Custodian account for Clackamas County Community Health Center Stone Clinic payable from the Community Health cash account.

DATED this 19th day of January 2012.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

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





MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board:

**Board Order Creating a Petty Cash Account for the  
Clackamas County Community Health Sunnyside Health and Wellness Clinic**

The attached Board Order creates a Petty Cash Account for the Clackamas County Community Health Sunnyside Health & Wellness Clinic located at 9775 SE Sunnyside Road, Suites 200, 600 and 800, Clackamas, Oregon 97015.

This fund in the amount of \$100.00 will be used for emergent needs, as necessary, for internal clinical operations, as well as general office supplies. This program will maintain a *Petty Cash Ledger and Petty Cash Reconciliation Form* for documentation of funds disbursed and funds on hand.

There is no budget impact and the Petty Cash Account is still subject to all accounting controls and ORS regulations. This item has been reviewed and approved by County Counsel.

**RECOMMENDATION**

Staff respectfully recommends that the Board adopt the attached board order creating a Petty Cash Account for the Clackamas County Community Health Sunnyside Health & Wellness Clinic in the amount of \$100.00.

Sincerely,

Marc S. Gonzales  
Finance Director

cc: Karen Slothower, Director of Business Services

For Information on this issue or attachments please contact  
Karen Slothower at (503) 742-5322

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

In the Matter of an Order for  
Creating a Petty Cash  
Account for Clackamas County  
Community Health Sunnyside  
Health and Wellness Center Clinic

ORDER NO.

This matter coming regularly before the Board of County Commissioners, and it appearing that Marc Gonzales, Director of the Clackamas County Department of Finance, has recommended to this Board the creation of a Petty Cash Account in the amount of \$100, to be located at the Clackamas County Community Health Sunnyside Health and Wellness Clinic, and,

It further appearing that \$100.00 will be transferred from the Community Health cash account to the Petty Cash Custodian Account for the Community Health Sunnyside Health and Wellness Clinic and,

It further appearing that an accounting with supporting receipts will be kept of the expenditures, and the claims with supporting receipts showing the nature of the expenditures will be turned into the County Department of Finance for review and recording before the funds will be replenished, and that the fund will be periodically audited by the County Department of Finance, and the Board being fully advised,

NOW, THEREFORE, IT IS HEREBY ORDERED that Clackamas County Finance Division issue a check in the amount of \$100.00 to the Petty Cash Custodian Account for the Community Health Sunnyside Health and Wellness Clinic payable from the Community Health cash account.

Dated this 19<sup>th</sup> day of January 2012.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

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



MARC GONZALES  
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board:

**Board Order Creating a Petty Cash Account for the  
Clackamas County Community Health Center Stone Clinic**

The attached Board Order creates a Petty Cash Account for the Clackamas County Community Health Center Stone Clinic located at 11211 SE 82<sup>nd</sup> Avenue, Portland, Oregon 97086.

This fund in the amount of \$100.00 will be used for emergent needs, as necessary, for internal clinical operations, as well as general office supplies. This program will maintain a Petty Cash Ledger and Petty Cash Reconciliation Form for documentation of funds disbursed and funds on hand.

There is no budget impact and the Petty Cash Account is still subject to all accounting controls and ORS regulations. This agenda item has been reviewed and approved by County Counsel.

**RECOMMENDATION**

Staff respectfully recommends that the Board adopt the attached board order creating a Petty Cash Account for the Community Health Center Stone Clinic in the amount of \$100.00.

Sincerely,

Marc S. Gonzales  
Finance Director

cc: Karen Slothower, Director of Business Services

For Information on this issue or attachments please contact  
Karen Slothower at (503) 742-5322

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

In the Matter of an Order for  
Creating a Petty Cash  
Account for Clackamas County  
Community Health Center Stone Clinic

ORDER NO.

This matter coming regularly before the Board of County Commissioners, and it appearing that Marc Gonzales, Director of the Clackamas County Department of Finance, has recommended to this Board the creation of a Petty Cash Account in the amount of \$100, to be located at the Clackamas County Community Health Center Stone Clinic, and,

It further appearing that \$100.00 will be transferred from the Community Health cash account to the Petty Cash Custodian Account for the Community Health Center Stone Clinic and,

It further appearing that an accounting with supporting receipts will be kept of the expenditures, and the claims with supporting receipts showing the nature of the expenditures will be turned into the County Department of Finance for review and recording before the funds will be replenished, and that the fund will be periodically audited by the County Department of Finance, and the Board being fully advised,

NOW, THEREFORE, IT IS HEREBY ORDERED that Clackamas County Finance Division issue a check in the amount of \$100.00 to the Petty Cash Custodian Account for the Community Health Center Stone Clinic payable from the Community Health cash account.

Dated this 19<sup>th</sup> day of January 2012.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

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



Nancy Drury  
Director

**DEPARTMENT OF EMPLOYEE SERVICES**

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

January 11, 2012

Clackamas County Board of County Commissioners

Members of the Board:

**APPROVAL OF THE LABOR CONTRACT BETWEEN CLACKAMAS COUNTY  
AND  
FEDERATION OF PAROLE AND PROBATION OFFICERS (FOPPO)**

Negotiations have concluded with the Federation of Parole and Probation Officers (FOPPO) which represents Probation and Parole Officer union employees. The union membership has voted to ratify the contract for the 2011-12, 2012-13 and 2013-14 fiscal years. The contract is attached with signatures from the union's negotiating team and the County's chief negotiator.

We request that the Board of County Commissioners approve the attached contract at their meeting on January 19, 2012.

The significant wage, benefit and language highlights follow:

The parties negotiated a zero percent (0%) cost of living adjustment for July 1, 2011. For the FY 2012 – 2013 a cost of living adjustment with an increase of 100% of the change in the CPI-W for each year with a minimum of 1.5% and a maximum of 4.5% to the Wages and Classification Schedule. Employees shall be compensated for the fiscal year 2013 – 2014 with an increase of 100% of the change in the CPI-W for each year with a minimum of 2.0% and a maximum of 4.5% to the Wages and Classification Schedule.

For the remainder of the calendar year 2011, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of \$1030.18. Effective January 1, 2012, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of \$1303.58. Effective January 1, 2013, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of 105% of the 2012 County Contribution. Effective January 1, 2014, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of 105% of the 2013 County contribution. The County agrees to pay cash back to employees who provide proof of other medical coverage and who opt out of medical coverage through the County. For the remainder of calendar year 2011, cash back will be \$121.00 per employee per month. Effective January 1, 2012, cash back will be equal to \$130.00 per month and will increase by 5% on January 1, 2012 and January 1, 2014.

A probation officer shall be designated to take calls outside of regular business hours (8 am- 5 pm). The on-call probation officer shall receive an additional \$150.00 per week in addition to call out pay, under Section 8 of this Article, as compensation. Employees will be offered the opportunity to bid one week at a time on a rotating seniority basis.

RECOMMENDATION

**It is recommended that the Clackamas County Board of County Commissioners approve the attached contract for FOPPO for 2011-2014.**

  
Nancy Drury, DES Director

Attachments

2011 – 2014 FOPPO Contract

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2011-2014 A G R E E M E N T  
between  
CLACKAMAS COUNTY, OREGON  
and  
FEDERATION OF OREGON PAROLE AND PROBATION OFFICERS

**PREAMBLE**

This Agreement is entered into by Clackamas County, Oregon, hereinafter referred to as the County, and the Federation of Oregon Parole and Probation Officers, hereinafter referred to as the Federation.

The parties agree as follows:

**ARTICLE 1 - RECOGNITION**

Section 1. The County recognizes the Federation as the exclusive bargaining agent for the purpose of establishing wages, hours and other conditions of employment for all County employees classified as Probation and Parole Officer I, II, and Probation and Parole Specialist and Probation and Parole Officer, Senior; except supervisory and confidential employees, temporary employees (those hired for a period of time not to exceed six months' continuous service in any given calendar year) and employees regularly working a schedule of less than 20 hours per week.

Section 2. The Federation and Community Corrections agree to meet twice a year regarding the utilization of temporary employees by Community Corrections. The meetings will be staffed by a representative from DES. The meetings will take place within ten (10) working days of March 15 and September 15 each year. The purpose of the meetings will be to assess Community Correction's use of temporary employees, the duration of their assignments and whether or not the positions should be converted to full time positions.

**ARTICLE 2 - PRESERVATION OF PUBLIC RIGHTS**

The Federation recognizes that an area of responsibility must be reserved to the County if County government is to effectively serve the public. Therefore, the County shall have the full and complete right to manage and direct its business and it is recognized that the following responsibilities of management are exclusively functions to be exercised by the County and are not subject to negotiation insofar as this right does not affect the meaning, interpretation or application of any other terms of this Agreement:

1. The determination of the governmental services to be rendered to the citizens of Clackamas County.
2. The determination of the County's financial, budgetary and accounting procedures.
3. The management and direction of the work force including, but not limited to, the right to determine the methods, processes and manner of performing work; the right to hire, promote, transfer within the same pay range and retain employees; the right to discipline or discharge for just cause; the right to lay off for lack of funds; the right to abolish positions or reorganize the departments or division; the right to determine schedules of work; the right to purchase, dispose of and assign equipment or supplies; and the right to contract or subcontract any work.

The County, in exercise of the above-mentioned functions, will not discriminate against any employee because of his membership in the Federation.

**ARTICLE 3 - HOURS OF WORK**

**1. Work Period.**

Both parties agree that the members of this bargaining unit are law enforcement personnel under the meaning of the Fair Labor Standards Act and are therefore subject to Section 7k of that act. Overtime will be paid to employees covered by this agreement for any hours worked exceeding the maximum number of hours permitted within the specified work period. The work period shall be determined by the county. However, the work period shall be no less than fourteen (14) days nor more than twenty eight (28) days.

**2. Irregular Hours.**

It is recognized by both parties that employees in the bargaining unit work irregular hours in the performance of their duties.

**3. Overtime.**

The Union acknowledges that from time to time overtime work will be required. An employee who performs authorized work for more than eighty (80) hours in a fourteen (14)-day period shall be compensated at straight time for all hours worked up to eighty six (86) hours under the 7k work period. All hours worked in excess of eighty six (86) hours within the fourteen (14)-day work period shall be compensated at time and one half (1.5) their regular rate for each hour worked. Compensation for such hours will be in the form of compensatory time, or may be paid in cash at the County's discretion where budgeted funds are available.

**4. Work Schedule.**

Schedules shall be arranged in accordance with current work rules (See Appendix B) and the work day shall begin no earlier than 6:30 a.m. and end no later than 10:00 p.m. In light of the requirement that Adult Parole and Probation Officers must often work irregular hours and must also be flexible in the hours they work in order to meet caseload demands, it is recognized that Parole and Probation Officers may adjust or flex their work hours within the 80-hour, 14-day period referenced in Section 3 above, provided such flexing of hours does not create an overtime liability. Examples of situations that may require flexing of schedules include: caseload demands, planned medical/dental appointments, etc. When such action results in a work schedule change, the employee must notify his/her supervisor, and when practicable, receive prior permission from their supervisor to work those hours. It is understood that evening and weekend work is a recognized part of the PPO's irregular work schedule.

**5. Hours of Operation.**

The office shall be open and staffed to give service to the public during regular business hours Monday through Friday. However, these hours may be modified to meet the needs of clients and the public.

**ARTICLE 4 - HOLIDAYS**

**1. Holidays.**

The following days shall be recognized and observed as paid holidays:

- New Year's Day (January 1st)
- Floating Holiday
- Martin Luther King, Jr.'s Birthday (3rd Monday in Jan.)
- President's Day (Third Monday in February)
- Memorial Day (Last Monday in May)
- Independence Day (July 4th)
- Labor Day (First Monday in September)
- Veterans' Day (November 11th)
- Thanksgiving Day (Fourth Thursday in November)
- Christmas Day (December 25th)
- Every day appointed by the Board of County Commissioners as a holiday.

It is recognized by the parties that the floating holiday listed above shall be taken at the discretion of the employee and may be taken in conjunction with another holiday listed above or at any other time the employee may elect. Provided, however, that if the number of employees requesting a particular day off as a floating holiday would interfere with the need of the County to maintain sufficient staff to keep the office operating effectively that the County may require a reasonable number of employees to be available on a particular day. Time off for a floating holiday where this may occur will be allowed on the basis of seniority (that is, the most senior employees will be allowed the time off). New employees who qualify for paid holidays will be eligible for a floating holiday after ninety (90) days of employment. The floating holidays must be taken during the calendar year in which they are earned and may not be carried forward into the following calendar year.

**2. Weekend Holidays.**

If any such holidays fall on Sunday, the succeeding Monday shall be deemed to be the holiday that year. If ever the holiday shall fall on a Saturday, the preceding Friday, shall be deemed to be the holiday.

**3. Holiday During Leave.**

Should an employee be on authorized leave when a holiday occurs, such holiday shall not be charged against such leave.

**4. Holiday Work.**

If an employee works on any of the holidays listed above, s/he shall, in addition to his holiday pay, receive time off at one and one-half times provided in Article III Section 3 above.

**ARTICLE 5 - SICK LEAVE**

**1. Accrual.**

Employees shall accrue unlimited sick leave at the rate of eight (8) hours for each month worked, to be used in the event of their illness or illness of a member of their immediate family.

Employees in a paid status for 88 hours (prorated for FTE status) or more in any month shall accrue sick leave for the next month on the first day of that month.

Absence due to sickness in excess of three (3) consecutive days or three (3) or more non-consecutive absences within a calendar month may be required to be verified by a health care provider's (HCP) certificate at the order of the County.

**2. Bereavement.**

Exclusive of regular sick leave, an employee shall be granted not more than three (3) work days leave of absence off with full pay in event of the death of a member of his or her immediate family for the purpose of making household adjustments and/or to attend the funeral. The use of bereavement leave must be used within three months of the death of the family member, unless approved otherwise by the appointing authority. A request to use bereavement leave for the death of an individual outside of the immediate family is subject to the approval by the Department Director.

Where deemed necessary after review by the Community Corrections Director, the employee may be granted up to two (2) additional days for travel time.

Consistent with the needs of the County and as approved by the Department Director, an employee shall be granted not more than three (3) hours of bereavement leave to attend the funeral or memorial services for a current Clackamas County employee or retiree.

**3. Immediate Family.**

An employee's immediate family shall be defined as spouse, domestic partner, parents, spouse's parents, children, brother, sister, and grandparents. Stepchildren or stepparents residing with the employee shall be included in the definition of immediate family. In relationships other than those set forth above, bereavement leave of absence may be granted by the Department Director upon the request of the employee for a maximum of three (3) consecutive working days.

**4. Conversion to Retirement Benefit.**

Pursuant to ORS 237.153 (or the ORS as amended hereafter) the County shall report all allowable, unused sick leave hours to PERS upon separation from County employment.

**5. Hours Charged.**

For employees working a standard eight (8) hour work day, for each day of sick leave taken, eight (8) hours

will be charged against accrued sick leave. For employees working a flexible schedule, each day of sick leave shall be charged as the number of hours the employee is scheduled to work on the day reported as sick leave.

**6. Maternity Leave.**

The period of disability associated with pregnancy and/or childbirth shall be granted in accordance with the County's policy on Family Medical Leave as outlined in Employment Policy and Practice No. 10.

**7. Parental Leave.**

Parental leave will be granted in accordance with the County's policy on Parental Leave as outlined in Employment Policy and Practice No. 9.

**8. Family Medical Leave.**

Family Medical Leave will be granted in accordance with the County's policy as outlined in Employment Policy and Practice No. 10.

**9. Communicable Disease.**

Should an employee be exposed to serious communicable disease in conduct of official duties, the employee shall be provided immunization against or testing of such communicable disease without loss of wages or cost to the employee where immunization will prevent such disease from occurring. If exposure resulted from contact with client or client associates or family, employee shall be granted leave with pay for the immunization or testing.

**10. Sick Leave (Over 30 days).**

If an employee is on authorized sick leave for more than 30 days, the agency shall provide coverage during that time to the extent needed in the opinion of the agency. On return, the supervisor and employee shall meet to discuss completion dates for work assigned.

**11. Vacation Option.**

Employees who are absent on sick leave for a period in excess of their accrued sick leave shall use their accrued vacation time to cover such time off. At the option of the employee, the employee may retain up to 40 hours of vacation time prior to being placed on leave without pay.

**12. Leave Donation.**

Leave Donation will be granted in accordance with Employment Policy and Practice No. 46.

**ARTICLE 6 - VACATION LEAVE**

**1. Accrual.**

A. Employees having served in the County service for six (6) consecutive full-calendar months, shall be credited with 52.2 hours of vacation leave, and thereafter, vacation leave shall be accrued in accordance with the following:

(1) Less than five (5) years of unbroken service, 104.4 hours per year, accrued at the rate of 8.7 hours per month.

(2) Five (5) to ten (10) years, but less than ten (10) years of unbroken service, 128.4 hours per year, accrued at the rate of 10.7 hours per month.

(3) Ten (10) years to fifteen (15) years, but less than fifteen (15) years of unbroken service, 152.4 hours per year, accrued at the rate of 12.7 hours per month.

(4) Fifteen (15) to twenty (20) years, but less than twenty (20) years of unbroken service, 176 hours per year, accrued at the rate of 14.7 hours per month.

(5) After twenty (20) years of unbroken service, 192.4 hours per year, accrued at the rate of 16.7 hours per month.

(6) The maximum vacation accrual shall be 280 hours. Vacation accrual may be extended temporarily during the yearly cycle of January 1 through December 31. Effective January 1 of each

calendar year, accruals exceeding the maximum shall be reduced to the maximum. Employees will not be compensated for surplus hours that are lost.

Employees in a paid status for 88 hours (prorated for FTE status) or more in any month shall accrue vacation leave for the next month on the first day of that month.

Layoffs up to two (2) years and leaves of absences are not considered breaks in service in applying this Article. Time in service for the purposes of determining eligibility for accelerated vacation accrual rates shall only accrue in calendar months in which the employee has been in a paid status, working half-time or greater, for at least eleven (11) work days.

B. Employees hired prior to July 1, 2000 may make a one-time election to enroll in the vacation sell back program by submitting a written request to Payroll no later than February 1, 2001. Once enrolled in this program, an employee may not return to his/her previous accrual schedule. B. All employees hired on or after July 1, 2000 or employees hired prior to July 1, 2000 who have elected to enroll in the Vacation Sell Back program accrue vacation in the following manner:

- (1) Employees having served in the County service for six (6) consecutive full-calendar months, shall be credited with seventy-two (72) hours of vacation leave, and thereafter, vacation leave shall be accrued at the rate of twelve (12) hours vacation leave per month regardless of years of service.
- (2) Employees who have used at least forty (40) hours of vacation time in a calendar year may elect to sell back forty (40) hours vacation during that same calendar year. To receive compensation in lieu of time off, the employee must submit a completed Request to Sell Vacation form to Payroll no later than December 31<sup>st</sup> of that calendar year.
- (3) The maximum vacation accrual shall be 280 hours. Vacation accrual may be extended temporarily during the yearly cycle of January 1 through December 31. Effective January 1 of each calendar year, accruals exceeding the maximum shall be reduced to the maximum. Employees will not be compensated for surplus hours that are lost.

## **2. *Vacation Times.***

Employees shall be permitted to choose either split vacation time usage or entire vacation time usage. Whenever possible, consistent with the needs of the County and requirements for a vacation relief, employees shall have the right to determine vacation times, but in any case, vacation times shall be selected on the basis of seniority; however, each employee shall be permitted to exercise his right of seniority only once in any calendar year.

## **3. *Termination or Death.***

After six (6) months of service, upon the termination of any employee for any reason, or in the event of the death of an employee, all accumulated vacation shall be paid either to the employee or his heirs, whichever the case may be.

## **4. *Hours Charged.***

For employees working a standard eight (8)-hour work day, for each full day taken as vacation, eight (8)-hours will be charged against accrued vacation leave. For employees working a flexible schedule, each day of vacation shall be charged as the number of hours the employee is scheduled to work.

## **5. *Retiring Employees.***

In the last year of employment prior to retirement, an employee who was hired prior to July 1, 2000, will be able to sell back up to fifty (50) hours of vacation. The employee will be responsible to notify the County of intent to retire in order to exercise this provision. This is a one-time option.



## ARTICLE 7 - OTHER LEAVES

### 1. *Leave of Absence.*

Leaves of absence without pay for a limited period, not to exceed ninety (90) days, shall be granted for any reasonable purpose subject to the approval of the Department Director or Appointing Authority. Leaves shall be granted consistent with the needs of the County, and may be renewed or extended for any reasonable period by the Board of County Commissioners or its designee. No leave will be granted to an employee to accept employment in any other capacity unless authorized by the Department Director in advance. Exceptions may be granted where other employment is incidental to or a necessary requisite for the purposes for which the leave was granted. After seven (7) years of employment, leaves of absence without pay for a limited period, not to exceed twelve (12) months, may be granted for any reasonable purpose, with the approval of the Department Director. Such leaves may be renewed for any reasonable period.

### 2. *Jury Duty.*

Employees shall be granted leave with full pay any time they are required to report for jury duty or jury service, in lieu of jury fees. Employees who are excused from jury service before the end of their work day shall immediately report their availability for assignment to their supervisor.

### 3. *Educational Leave.*

After completing three (3) years of service, an employee may request a leave-of-absence without pay for educational purposes subject to approval of the Department Director or Appointing Authority. Educational Leave is for enrollment at an accredited school, when it is related to his employment. The period of such leave-of-absence shall not exceed one (1) year, but it may be renewed or extended subject to approval of the Department Director or Appointing Authority, at the request of the employee. One (1) year leaves-of-absence with any requested extension, for education purposes, may not be provided more than once in any three (3) year period. Employees may also be granted leaves-of-absence with or without pay for educational purposes, for additional lengths of time, to attend conferences, seminars, briefing sessions, or other functions of a similar nature that are intended to improve or upgrade the individual skill or professional ability, provided it does not interfere with the operation of the County.

### 4. *Military and Peace Corps.*

Military and Peace Corps leave shall be granted to the employee in accordance with Federal Law and/or Oregon Revised Statutes.

## ARTICLE 8 - HEALTH AND WELFARE

### 1. *County Contribution.*

The County agrees to contribute toward the monthly composite premium for each medical coverage to fulltime employees and their eligible family members, effective on the first day of the month following the benefit-waiting period described in Section 9. The design of the medical plans and eligibility of family members shall be determined by the Benefits Review Committee as described in Section 8.

For the remainder of the calendar year 2011, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of \$1030.18.

Effective January 1, 2012, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of \$1303.58.

Effective January 1, 2013, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of 105% of the 2012 County Contribution.

Effective January 1, 2014, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of 105% of the 2013 County contribution.

The County agrees to pay cash back to employees who provide proof of other medical coverage and who opt out of medical coverage through the County. For the remainder of calendar year 2011, cash back will

be \$121.00 per employee per month. Effective January 1, 2012, cash back will be equal to \$130.00 per month and will increase by 5% on January 1, 2012 and January 1, 2014.

The County and the union will make an assertive effort to support plan design changes through the Benefits Review Committee as may be needed to keep the total annual increase at or below five percent (5%) each year.

The design of the medical plan(s) shall be the authority of the Benefits Review Committee as described in Section 8.

**2. Flexible Benefits.**

The County agrees to provide the Clackamas County Flexible Benefits Program for employees who are working in a position regularly scheduled for 30 hours or more per week.

Bargaining unit employees agree to cooperate fully with the Benefits Division regarding participation and administration of the program.

**3. Life Insurance.**

The County agrees to contribute an amount equal to the premium for a life insurance plan with a death benefit of \$50,000 to full-time employees. The design of the life insurance plan shall be the authority of the Benefits Review Committee as described in Section 8. Employees will become eligible on the first day of the month following four the Benefit Waiting Period described in Section 9.

**4. Dental Insurance.**

The County agrees to provide dental coverage to full-time employees and their eligible family members, effective the first day of the month following the benefit waiting period described in Section 9. The design of the dental plans and eligibility of family members shall be determined by the Benefits Review Committee as described in Section 8.

The County agrees to contribute 100% of a composite dental program premium, or the premium for a comparable plan, including orthodontic coverage in the amount of \$1500.

**5. Long-Term Disability Insurance.**

The County agrees to provide non-duty disability insurance coverage to full-time employees effective the first day of the month following the benefit waiting period described in Section 9. The design of the disability plan shall be determined by the Benefits Review Committee, as described in Section 8.

The County agrees to contribute up to the full premium amount for disability insurance coverage with a benefit of 60% of up to \$3,333 in monthly salary after an elimination period of the first 30 days of each period of total disability or the exhaustion of accumulated sick leave, whichever occurs later.

**6. Less Than Full-Time Employees.**

For the purpose of eligibility for benefits, full-time employees are those regularly working thirty (30) or more hours per week. Regular part-time employees shall be entitled to County-paid medical coverage as described in Section 1, and shall be entitled to purchase dental insurance as described in Section 4.

**7. Job Share**

(A) "Job sharing position" means a full-time position that may be held by two individuals on a shared time basis whereby the individuals holding the position work less than full time.

(B) Job sharing is a voluntary program. An employee who wishes to participate in job sharing may submit a written request to the Appointing Authority to be considered for job share positions. The Appointing Authority shall determine if job sharing is appropriate for a specific position. Determination of job sharing in a new position is the exclusive right of the Appointing Authority.

(C) Job share employees shall accrue vacation leave and sick leave on a pro rata share of

the normal accrual rate for a full-time position.

(D) Job sharing employees shall be entitled to a prorated share of the full benefit package for one full-time position. The employer contribution will be a maximum of 100% for insurance benefits during the term of this agreement. Each job share employee has the right to obtain medical and dental insurance by paying the difference between their prorated share and the full premium amount through payroll deduction.

(E) For purposes of layoff, individuals filling a job share position which totals a full time equivalent, shall be considered as one full time equivalent. Service credits shall be determined by averaging the two individual scores and the two individuals treated as one.

(F) If one job sharing partner is removed, dismissed, resigns or otherwise is separated from the job, the Appointing Authority has the right to determine if job sharing is still appropriate for the position. If the Appointing Authority determines that job sharing is not appropriate for the position or the Appointing Authority is unable to recruit qualified employees for the job share position, the remaining employee shall have the right to assume the position on a full time basis.

#### **8. Benefits Review Committee.**

A Labor-Management Benefits Review Committee shall have the responsibility for deciding the level, scope, and design of benefit plans offered to employees for medical and vision coverage, dental coverage, and for disability and life insurance. The primary emphasis in plan design shall be to provide a comprehensive, competitive benefit program at a reasonable cost.

The Committee shall be comprised of members from management and from County bargaining units. Each bargaining unit adopting these provisions shall be entitled to appoint one voting member to the Committee for every two hundred (200) members in their bargaining unit with a minimum of one (1) member. It is understood that bargaining units which do not adopt these provisions will be entitled to appoint one nonvoting member to the Committee. Management membership will consist of voting members in a number equal to the voting bargaining unit membership. However, a bargaining unit or the County may appoint fewer members than it is entitled to but retain the same number of votes as described above. The Committee shall meet at least quarterly, or more frequently as required. Decisions of the Committee will be made by a majority of votes.

The Committee shall make plan design decisions for medical, vision, dental, disability, and life insurance plans at least 120 days prior to the beginning of the succeeding plan year, unless the County waives such requirement.

Payment for and funding of benefit plans selected by the Committee shall be in a proportion and manner determined through collective bargaining with each separate bargaining unit.

The County shall provide administrative coordination and support for the Committee. The Committee at its request shall be provided all financial information and related reports as may be available.

The County will make decisions on the following issues after consideration of Committee recommendations: carrier selection, third party administrator selection, employee benefits consultant selection, selection of alternate funding arrangements, and other optional benefit programs.

Problems with benefit coverage will be brought up at the Labor-Management meeting for resolution.

#### **9. Benefit Waiting Period.**

Benefits shall become effective on the first day of the calendar month following two (2) calendar months of continuous employment. Two (2) full calendar months of continuous employment shall be defined as being in a paid status on the first working day of the month and continuously thereafter for two full calendar months, except that an employee may take an approved leave without pay not to exceed ten (10) working days, or eight (8) working days for employees on a four-day work week, or the prorated equivalent for part-

time employees.

**10. Plan Changes Required by Law or Insurance Carrier.**

The County shall act to update any mandated coverage or changes caused by Federal or State laws, rules and regulations and may make changes to take advantage of any enhancements made available by the insurance carriers. The County does not guarantee against unilateral changes in benefits initiated solely by the insurance carriers.

In the event the County agrees to a greater maximum contribution for any other bargaining unit participating in the Benefits Review Committee for January 1, 2013 and/or January 1, 2014, the maximum contribution shall be increased to an amount equal to the rate agreed to with that bargaining unit.

**ARTICLE 9 - WAGES**

**1. Wages and Classification Schedule.**

For the fiscal year 2011 – 2012 employees shall be compensated in accordance with the wage schedule which shall be published on the Department of Employee Services website, which represents a total increase of 0% to each salary step..

Employees shall be compensated for the fiscal year 2012 – 2013 with an increase of 100% of the change in the CPI-W for each year with a minimum of 1.5% and a maximum of 4.5% to the Wages and Classification Schedule.

Employees shall be compensated for the fiscal year 2013 – 2014 with an increase of 100% of the change in the CPI-W for each year with a minimum of 2.0% and a maximum of 4.5% to the Wages and Classification Schedule. *An updated pay plan will be published by the County each year by July 1 and posted on the County intranet and internet.*

The Consumer Price Index (CPI) used in calculating wage adjustments shall be based on the Consumer Price Index – Urban Wage Earners and Clerical Workers (CPI-W), U.S. Cities Average for All Items, as reported by the U.S. Department of Labor. The change in the CPI-W shall be the 12 months change as reported for the previous December (this calculation is not a point-to-point calculation using the index number from one December to the next, but instead is an averaging method using the “Annual” column of the “12 Months Percent Change” table, in which the annual percentage change figures for each of the previous 12 months are totaled and then divided by 12).

**2. Travel Expense Reimbursement.**

The County shall reimburse an employee at the current County Travel Policy rate for travel expenses incurred while performing the duties of his/her position when required in an employee's regular work. The County shall provide employees with use of County cars to perform work duties or will reimburse an employee for personal auto expense at the current County Travel Policy rate per mile where required in an employee's regular work. Any exception to the use of County cars or mileage reimbursement expenses must have pre-approval from the employees supervisor or manager.

**3. Retirement Contributions.**

The County shall pay both employer and employee contribution to the Public Employees Retirement fund for the employee members participating in PERS or OPSRP as set by the Oregon legislature for the term of this Agreement. Eligibility for PERS/OPSRP is subject to ORS 238.015, 238A.100 & 238A.110.

In the event that during the life of this agreement, it becomes impossible for reasons of law, regulation or decisions for the County to pay the six percent (6%) employee contribution to PERS, then that sum shall be contributed on behalf of the employee to a retirement benefit, such as a transition account, state retirement account, County deferred compensation plan, or other individual retirement account. The intent of the parties is that the employees will be made whole in terms of the six percent (6%) retirement contribution made by the County.

Further, the County shall direct PERS that all members of the bargaining unit shall be entitled to Police and Fire Retirement provisions. The County shall pay Police and Fire Retirement provisions for the members of this bargaining unit retroactive to the date that the member became a qualified Police and Fire PERS member due to County employment.

**4. Computation of Hourly Rate.**

The computation of the hourly rate included in the Salary Range Schedule and used to compensate part-time employees working at a particular range and step shall be computed upon the following equation:

$$\frac{\text{Yearly salary assigned to full-time position}}{\text{Number of hours normally worked yearly in position}} = \text{dollars per hour}$$

$$37.5 \text{ hours per week} = \frac{\text{Yearly salary}}{1950 \text{ hours per year}} = \text{dollars per hour}$$

$$40 \text{ hours per week} = \frac{\text{Yearly salary}}{2080 \text{ hours per year}} = \text{dollars per hour}$$

$$\text{Continuous operations} = \frac{\text{Yearly salary}}{2080 \text{ hours per year}} = \text{dollars per hour}$$

**5. Out-of-Class Pay.**

When an employee is assigned, in writing by his/her supervisor, the duties of a higher classification for five (5) consecutive days or more, or for more than a total of ten (10) work days within a calendar year, the employee shall be compensated for such work at the minimum of the range of the higher paid classification or a 5% increase, whichever is higher.

**6. Deferred Compensation.**

An amount equivalent to one percent (1%) of the employee compensation as set forth in Appendix A shall be placed into a deferred compensation plan for each employee, the plan to be administered by a provider with whom Clackamas County has contracted for deferred compensation services.

**7. Longevity.**

Employees covered by the bargaining unit shall be eligible for longevity pay as a percentage of gross salary for number of continuous years of regular status county service in the following amounts based upon accumulation of the established time employed in a paid status.

Years of Continuous Service	Longevity Percentage
5 Years	1 %
10 Years	1.5%
15 Years	2.0%
20 Years	2.5%
25 Years	3.0%
30 Years	3.5%

Continuous service for the purpose of determining eligibility for longevity accrual rates shall be service unbroken by separation from County employment that results in a new date of hire.

**8. Call-Out Pay.**

Whenever a Parole and Probation Officer is called to perform work duties during hours when not regularly scheduled to work (whether the work requires the employee to leave home or not) it will be considered a minimum of thirty (30)-minutes worked or the amount of time actually performing work, whichever is greater. Compensatory time will be given or may be paid at the County's discretion. Multiple calls received within a thirty (30)-minute minimum are considered part of the thirty (30)-minute minimum. Additional calls after the thirty (30)-minute period will result in another thirty (30)- minute minimum time worked.

This section does not apply to voluntary changes made in a work schedule initiated by the employee and approved by the supervisor.

**9. Field Training Officer.**

Employees assigned in writing by the department to Field Training Officer (FTO) duties will be paid 5% higher than the employee's current base pay while performing such duties. Employees assigned in writing and as directed by the department management to provide firearms, motivational interviewing or defense tactics training instruction for Clackamas County will also be paid 5% higher than the employee's current base pay while performing such duties. Employees acting in multiple capacities under this section may not receive more than a single 5% premium.

**10. Bilingual Skills Pay.**

A. When an employee is required to use a second (or more) language, including American Sign Language (ASL), as a condition for holding a particular position, the employee will receive a 5% increase which will be added to the employee's regular salary. "Required use" shall be documented by an approved Position Classification Questionnaire or the "Certification of Bilingual Requirement" document.

B. It is not the intent of the parties that the re-designation of a position to "bilingual required" would be done for the sole purpose of superseding the layoff provisions of this agreement.

**11. Assignment, Selection, and Termination for Temporary Probation and Parole Officer, Senior.**

Assignment and selection of employees to fill Probation and Parole Officer, Senior positions shall be at the sole discretion of the County. Assignments for over thirty (30) continuous days will be posted in the affected work unit for no less than five (5) work days. Employees in the work unit interested in the Probation and Parole Officer, Senior assignment shall submit a letter of interest to the unit supervisor and will be considered for the assignment. An employee assigned to the assignment for one (1) year or more shall be given ten (10) days written notice prior to the termination of such assignment. A copy of the written termination notice will be simultaneously given the Federation.

**12. On- Call Probation Officer**

A probation officer shall be designated to take calls outside of regular business hours (8 a.m.- 5 p.m.). The on-call probation officer shall receive an additional \$150.00 per week in addition to call out pay, under Section 8 of this Article, as compensation. Employees will be offered the opportunity to bid one week at a time on a rotating seniority basis.

**ARTICLE 10 - DISCIPLINE AND DISCHARGE**

**1. Disciplinary Measures.**

Disciplinary action for regular employees shall be for just cause. Discipline includes the following steps and shall normally be progressive as outlined below but the disciplinary process may be entered at any step and every step need not be utilized, depending upon the severity of the incident causing the disciplinary action:

- A. Verbal reprimand, which may be documented in writing;
- B. Written reprimand;
- C. Reduction in pay;

- D. Suspension without pay;
- E. Demotion;
- F. Discharge.

The County shall not impose a reduction in pay, suspension without pay, demotion or discharge of a non-probationary employee without appropriate pre-disciplinary due process procedures. Counseling is not disciplinary in nature.

Effect of Verbal Reprimand. Verbal reprimands over one (1) year old shall not be a basis for progressive disciplinary actions. Verbal reprimands are not subject to grievance beyond the Board of County Commissioners. All non-economic discipline shall be considered stale after thirty- six (36) months from the date of the discipline unless the employee has been disciplined for the same or similar misconduct, (in which case the 36 months begin after the last discipline issued). Stale discipline may not be used for the purposes of progressive discipline.

**2. Due Process.**

Pre-disciplinary "due process" means written notice, to the employee and FOPPO, of the charges and the facts upon which the charges are based, notice of the maximum range of discipline under consideration, and an opportunity to meet with the decision maker or his/her designee. Such a meeting may be recorded by any party at the meeting. The County shall provide the Federation and the affected employee with all the documents which are relied upon. The employee and/or the Federation may submit a written rebuttal to an oral or written reprimand which shall be maintained with the record of reprimand. employee.

**3. Avoidance of Embarrassment.**

If the Department Director or designee has reason to discipline an employee, the Department Director or designee shall make a reasonable effort to impose such discipline in a manner that will not unduly embarrass the employee before other employees or the general public.

**4. Federation Representation in Interview and Discipline Process.**

The County acknowledges the right of the employee to have a representative of the Federation present at meetings with the employee, which could lead to discipline.

**5. Probationary Employee**

A probationary employee and/or FOPPO shall be afforded the opportunity to grieve any alleged violation, misapplication and/or misinterpretation of the Agreement related to a probationary employee; however, this shall not include any matter involving discipline or discharge related to a probationary employee.

**6. Employee Status Definitions.**

Probation: The probationary period is a working test period during which classified employees are required to demonstrate fitness by actual performance of the duties of the position to which they are appointed.

Regular employee: Means a classified employee who has been appointed to an allocated position and who has successfully completed a probationary period for a position.

**ARTICLE 11 - LAYOFF AND RECALL**

**1. Reason for Layoff.**

The department head may lay off an employee because the employee is physically unable to perform the job, and there is no other job the employee can perform. The department head may also lay off an employee because of shortage of funds or work or reorganization of the unit, if, in the opinion of the department head, there is no satisfactory alternative to lay off such as voluntary demotion, furlough, or reduced work week. Discussions regarding layoffs may be initiated by either the employer or the Federation. The County retains the final authority to determine whether layoffs should occur.

**2. Layoff.**

When a layoff occurs, Probation and Parole Officers shall be laid off according to seniority. Temporary, probationary, unallocated and/or non-regular Probation and Parole Officer positions must be eliminated

before regular Probation and Parole Officers are laid off by the County, except when a layoff occurs because an employee was physically unable to perform the job.

**3. Seniority.**

Seniority is defined as the length of continuous service in the Parole and Probation Officer classifications.

**4. Bumping.**

When an employee is laid off due to a reduction in the work force, the employee shall be permitted to exercise bumping rights by displacing an employee with less seniority in the same or lower classification in the department. If funds are increased and a higher level position is reestablished, the bumping employee will be restored to the higher level position.

**5. Recall.**

Those employees who are laid off shall be eligible before new hires for recall to their classification for a period of three (3) years without loss of seniority or benefits subject to contract limitations. Recall shall be on the basis of seniority or merit as described in #3 above.

**6. Alternatives.**

The parties agree that the Union may fully raise alternatives to layoff that the County will fully consider.

## ARTICLE 12 - SETTLEMENT OF DISPUTES

**1. Grievance Procedure.**

A. Grievances are defined as alleged violations of this Agreement and must be initiated within twenty-one (21) calendar days of their alleged occurrence. For purposes of calculating the 21 calendar days, all days that an affected employee is on leave shall not count. Grievances filed in a timely manner shall be processed according to this Article. Upon mutual written agreement by the County or their designee and the Federation or their designee, when the nature of the grievance is such that it would be perfunctory or ineffectual to proceed at a lower step, the grievance may be initiated at the lowest step where successful solution may be reasonably expected. Employees are encouraged to resolve their problems informally at the immediate supervisor level. If such a problem cannot be resolved, the following procedure shall be followed:

B. Step 1. Any employee, with notice to the Federation, or the Federation on an employee's behalf, may file a grievance in writing with the affected employee's immediate supervisor within twenty-one (21) calendar days from the date of the alleged breach of this Agreement. The supervisor shall respond in writing to the grievance within ten (10) calendar days to the party filing the Step 1 grievance with a copy to the Federation, if the Federation did not file the Step 1 grievance.

Step 2. If the grievance remains unresolved, the employee or the Federation shall appeal the Step 1 denied grievance to the Department Director within ten (10) calendar days after the response required by Step 1 was due. The Department Director or designated representative shall respond in writing to the grievance within ten (10) calendar days after receipt of the Step 2 grievance. The Step 2 response shall be provided to the Federation and the affected employee(s).

Step 3. If the grievance remains unresolved at Step 2, the Federation may appeal the grievance to the Sheriff within ten (10) calendar days after the response required by Step 2 was due. The Sheriff or his/her designee shall respond in writing to the Federation within ten (10) calendar days after receipt of the Step 3 grievance.

Step 4. If the grievance remains unresolved at Step 3, the Federation may appeal the grievance to the BCC within ten (10) calendar days after the response required by Step 3 was due. The BCC or designee shall respond in writing within ten (10) calendar days after receipt of the Step 4 grievance.

C. The intent of both parties is to process grievances at each step in as short a period of time as is practical. If a grievance is not advanced to the next step within ten (10) calendar days of a written decision, it shall be deemed waived. Employees and the Federation shall be assured freedom from reprisal for use of the grievance procedure. Employees shall have the right to process grievances with or without



representation by the Federation through Step 2 of the grievance process. However, if an employee is processing a grievance without Federation representation, the County shall ensure that the Federation has received a copy of any and all information and materials related to the grievance at the same time that the County provides such information and/or materials to the employee. A Federation representative shall have the right to be present for any meetings related to grievances and/or their disposition, when the employee has not requested the Federation's representation, upon request. The County will timely inform the Federation of such meetings and collaboratively work with the Federation to ensure that a Federation representative is available for such scheduled meetings.

D. All grievances shall be reduced to writing and submitted on the form identified as Official Statement of Grievance Form.

E. Time limits specified in this procedure must be observed, unless either party requests a specific extension of time which, if agreed to, must be agreed to in writing and shall become part of the grievance record. Within twenty-one (21) calendar days of an alleged violation of this Agreement, the Federation or a group of employees may file a grievance on behalf of one (1) or more employees where such employees are similarly affected by an action taken by the Agency. Such grievances shall be signed by at least one (1) of the affected employees and/or Federation representative and shall be filed at the lowest step where the person hearing the grievance has the authority to resolve it.

Any grievance, having progressed through the steps outlined in Article XII (Grievance Procedure), and remaining unresolved, may be submitted by the Federation to arbitration for settlement. To be valid, the request for arbitration must be in writing and from the Federation and received by the Employer within ten (10) calendar days after receipt of the Board of County Commissioners' response.

## **2. Arbitration Procedure.**

A. If arbitration is requested, the parties shall attempt to agree upon an arbitrator who shall act as sole arbitrator of the dispute. The parties agree that any decision of the arbitrator which is within the scope of this Agreement shall be final and binding upon them. In the event that the parties fail to agree upon the selection of an arbitrator, a list of seven (7) arbitrators shall be requested from the Employment Relations Board of the State of Oregon. The list requested shall consist of an odd number of arbitrators. After the flip of a coin has determined which party shall strike first, each party shall, in turn, strike one arbitrator at a time from the list until one name remains. The arbitrator whose name remains shall act as the arbitrator of the dispute. The arbitrator shall not have the authority to modify, add to, alter or detract from the provisions of this Agreement. The arbitrator shall exercise all powers relating to admissibility of evidence, conduct of the hearing and arbitration procedures, provided that in so doing, he shall not contravene any provisions of this Agreement. The compensation of the arbitrator and all expenses incurred by him shall be borne by the party against whom the arbitrator's decision is adverse. However, the arbitrator shall have the power to require the parties to share in the expense of the arbitration proceeding in any proportion that the arbitrator deems reasonable. The arbitrator's decision is due within thirty (30) days of the close of the hearing although the arbitrator's failure to meet the time shall not affect his jurisdiction over the dispute.

B. If the arbitrator is faced with a question of arbitrability at the arbitration hearing, then the arbitrator shall be obliged to first hear arguments and evidence and decide that question. If the arbitrator affirmatively decides the question of arbitrability in favor of arbitration, then the arbitrator may hear arguments and evidence on the merits of the grievance. If requested by either the Federation or the County, the hearings for a question of arbitrability shall be held separately from any hearing on the merits of the grievance. The decision(s) of the arbitrator shall be binding on both parties to this Agreement.

## **3. Discrimination Complaints.**

An employee alleging any form of discrimination may file a complaint with the Department Director or his/her designated representative for processing according to Community Corrections Division policy governing investigation and resolution of alleged discrimination complaints. An employee may also file a

written complaint with the Director of Employee Services as provided by the County's policy on Equal Employment Opportunity. If an employee is not satisfied with these investigatory processes, a complaint may be submitted to appropriate outside governmental bodies. Discrimination complaints will not be subject to the grievance procedure unless the Bureau of Labor and Industries or other such body declines jurisdiction in the matter; then the grievance may be processed through the grievance procedure.

**4. Release Time.**

The Federation President, a Grievance Committee member, or a Federation Executive Board member, shall be allowed reasonable time and opportunity, without loss of pay, to assist an employee to pursue a grievance or dispute through the steps of the grievance procedure as outlined in Section 1 above.

**ARTICLE 13 - WORKERS' COMPENSATION**

1. All County employees shall be insured under the provisions of the Oregon State Workers' Compensation Act for injuries that arise out of and occur in the course and scope of their work for the County. Both parties agree to the principle that the employee shall suffer no financial disadvantage, nor shall the employee have a financial advantage by being in disability status.
2. The County shall compensate the employee from the County's Risk Management Claims for on-the-job injuries where the claim has been accepted in an amount equal to the injured employee's regular pay, including any regular additional pay, such as longevity, that the employee was receiving at the time of the injury and would have continued to receive had there been no injury.

Compensation under this Article shall be subject to the following conditions:

- A. The day of injury shall be considered a work day, and the employee will receive his normal salary for that day.
- B. In most instances, the waiting period, as stated in ORS 656.210, will be charged to sick leave unless total temporary disability exceeds fourteen (14) consecutive days. Then, Workers' Compensation covers from the first day.
- C. The employee's regular pay will be subject to all standard deductions, such as income tax and employee benefits, as required or allowed under Federal and State law.
- D. While the employee is receiving wage continuation under this provision, s/he will continue to receive all other County health and welfare benefits s/he was enrolled in at the time of the injury unless prohibited by law, rule, regulation or provider contract.
- E. If the absence due to injury reaches a period of six (6) months or more, the injured employee must present to the Board of County Commissioners a physician's statement setting forth the nature of injuries, current condition, and anticipated length of absence or date of return. After said six (6) month period, it shall be at the discretion of the Board whether or not to continue payment and benefits beyond that guaranteed under the statutes governing Workers Compensation benefits. Full medical and dental insurance coverage shall be provided for a minimum of 12 months. Further coverage shall be at the discretion of the Board.
- F. In Section 2E above physician shall mean attending physician as provided under Workers' Compensation law, ORS 656.005(12), OAR 436-010-005 and OAR 436-010-0210 as may be later amended.

**ARTICLE 14 - UNION SECURITY, CHECKOFF AND FAIR SHARE AGREEMENT**

1. The County and the Federation agree to a "Fair Share" agreement for all employees whose classification or job title is included in Article I of this Agreement.
2. Inasmuch as it is required that the Federation represent every employee within the bargaining unit, making each employee thus a recipient of the Federation's services, it is mutually agreed and recognized by the parties that each employee who is an employee of the County and covered by the bargaining unit set forth in Article I to which the Federation serves as the bargaining agent, but who is not a member and chooses to remain not a member of the Federation, shall proportionately and fairly share in the cost of the collective bargaining process. Therefore, the cost per employee is fixed proportionately at the amount of dues uniformly required of each member of the Federation, which amount shall be deducted from each

Federation member and each non-Federation member's compensation and remitted to the Treasury of the Federation.

3. Such uniform amounts as the Federation Treasurer certifies to the County as the dues approved by the members of the Federation shall remain as the reasonable amount to be deducted hereunder.

4. A like amount in lieu of dues will be automatically deducted from employees in the bargaining unit who have not signed an authorization form requesting Federation membership dues deduction. It is understood that the like amount in lieu of dues shall only be used as directed by the Constitution and Bylaws of the Federation.

Employees terminating with less than ten (10) working days in any calendar month will not be subject to dues or a like amount in lieu of dues deduction.

5. Any individual employee objecting on bona fide religious tenets or teachings of a church or religious body of which such employee is a member, will inform the County and the Federation of his/her objection. The employee will meet with the representative of the Federation and establish a mutually satisfactory arrangement for distribution of a contribution of an amount of money equivalent to regular Federation membership dues to a non-religious charity.

6. The County will not be held liable for check-off errors but will make proper adjustments with the Federation for errors as soon as is practicable if notified within ten (10) days of the error. In no case shall such an adjustment extend beyond the following pay period. In order for both parties to have adequate information on dues check-off, an updated list of eligible members of the bargaining unit will be delivered by the Federation to the County Payroll Division.

7. The County and the Federation agree that temporary employees or part time less than half time employees are paid at the same wage rate as bargaining unit members in the same classification. In recognition of the collective bargaining efforts by the Federation on behalf of those employees, temporary employees or part time less than half time employees should proportionally and fairly share in the cost of the collective bargaining process. The cost of such services for those employees is fixed at three-quarters of the amount of dues uniformly required of each member of the Federation, which amount shall be deducted each pay period from each temporary or part-time less than half time employee's wages, and remitted monthly to the Treasurer of the Federation.

## **ARTICLE 15 - FEDERATION RIGHTS**

### **1. Access to Workers.**

Authorized representatives of the Federation may visit the work locations of employees covered by this agreement at reasonable times, provided that such visitations will not interfere with the work of the employees.

### **2. Notification to County.**

The Federation shall notify the County in writing of the names of all authorized representatives, Federation representatives and officers. Said list shall be updated as necessary.

### **3. Federation Negotiators.**

Employees selected by the Federation to act as Federation representatives for the purpose of negotiating amendments or modifications to this agreement shall be known as the Federation of Oregon Parole and Probation Officers Negotiating Committee. The names of employees so designated shall be certified in writing to the County by the Association. The Negotiating Committee shall consist of three (3) members and a Federation President. All negotiation meetings with the Board of County Commissioners or its representatives shall be held during working hours, on the County's premises without loss of pay.

### **4. No Discrimination.**

The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, marital status, race, color, religion, national origin, disability, gender identity, sexual orientation, or political affiliation. The Federation shall share equally with the County, the responsibility for applying this provision of the Agreement. All reference to employees in this Agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees. The County agrees not to interfere with the rights of employees to become members of

the Federation, and there shall be no discrimination, interference, restraint, or coercion by the County, or any County representative, against any employee because of Federation membership or because of any employee activity in an official capacity on behalf of the Federation, or for any other cause. Nothing in this section shall be construed to limit the County's right to effectively and efficiently run the County's operations.

**5. Union Business.**

Elected officers and negotiators will be allowed a reasonable amount of work hours to handle labor relations matters. This will include that time necessary to attend Labor-Management meetings when scheduled by mutual agreement. The Federation representative must record any time more than fifteen (15) minutes involved in Federation business during paid County time on their department's timekeeping system with the exception of approved vacation or compensatory time (and with the exception of unpaid lunch or breaks, depending on department policy).

**ARTICLE 16 - MISCELLANEOUS**

**1. Existing Conditions.**

All future work rules and benefits which are mandatory subjects of collective bargaining shall be subject to mutual agreement before becoming effective. Changes in all existing conditions which are mandatory subjects of collective bargaining shall be negotiated with the Federation. Whenever such conditions or changes or new conditions are established, they shall be posted prominently on all bulletin boards for a period of ten (10) consecutive days.

**2. Contract Distribution.**

The County agrees to furnish each employee in the bargaining unit with a copy of the Union Agreement. New employees shall be provided a copy of the contract at the time of hire.

**3. Policy Number 321.5**

The County agrees to abide by Policy Number 321.5 dated January 24, 2000.

**4. Car Mileage Reimbursement.**

It is the policy of the County that employees who are required by their supervisor to use their personal automobile for authorized County work shall receive mileage for such use at the current mileage allowance rate.

**5. Agency Training Policy.**

The County shall manage the training program for staff through the Agency Training Policy. The parties agree that any changes to the Agency Training Policy shall be referred to the Labor/Management Committee for discussion prior to implementation.

**6. Work Rules.**

Work rules shall not conflict with the terms of this Agreement. Employees shall comply with County-wide work rules as outlined in the Personnel Ordinance, Section XV, "Employee Responsibilities."

**7. Electronic Mail.**

1. Federation representatives (those persons holding positions as officers within the Federation) may use the County email system to communicate concerning collective bargaining matters.

2. "Collective bargaining matters" means any of the following:

- A. official Federation announcements to the Federation membership (such as meeting subjects, dates and times);
- B. the meaning, interpretation or application of this Agreement;

C. the presentation and adjustment of grievances;

D. matters directly related to the collective bargaining relationship between the County and the Federation.

3. Federation members may use the County email system to contact Federation representatives regarding collective bargaining matters, including any of the following purposes:

A. to arrange a date, time and location for a meeting concerning the meaning, interpretation or application of this Agreement;

B. to ask a question regarding meaning, interpretation, or application of this Agreement;

C. to present a grievance regarding the meaning, interpretation or application of this Agreement;

D. to request Federation representation in matters concerning the meaning, application or interpretation of this Agreement.

4. It is understood that there is no expectation of confidentiality or privacy concerning communications sent over the County email system, and that the County reserves the right to access and disclose all messages sent over the County email system for any purpose.

5. The County email system will not be used for political purposes at any time, and this limitation shall override any of the permissible uses of the email system listed above. "Political purposes" shall include matters related to support or opposition to candidates or measures in any election (County elections, union elections, or otherwise).

#### **8. Surveillance Cameras**

1. Camera recordings may be accessed, reviewed and preserved as the County deems necessary. Recordings will not be used for yearly performance evaluations, unless disciplinary action has been imposed from evidence derived from a specific recording.

2. In the event information revealed on camera raises concerns regarding employee conduct, the County will retain the recording and agrees to provide a copy of the recording to the Federation and the employee in advance of any pre-disciplinary meetings.

3. The County understands that it has the burden of proving that "just cause" exists to support the discipline or discharge of any non-probationary employee.

### **ARTICLE 17 - SAFETY AND HEALTH**

#### **1. Facility Standards Maintenance.**

The employer and the agency agree to abide by and maintain in its facilities and work operations standards of safety and health in accordance with the State of Oregon Safe Employment Act (ORS 654.001 to 654.295 and 654.991).

#### **2. Safe Place of Employment.**

It is the responsibility of the Agency and Employer to make every reasonable effort to provide and maintain a safe place of employment. It is the responsibility of all employees to practice safe working habits and to report any observed unsafe conditions immediately. Employee recourse to unsafe working conditions would be handled as follows:

Employees will report any personally observed unsafe practice or conditions to the immediate supervisor. If the practice or condition is not remedied in a timely manner by the immediate supervisor, the employee shall submit the matter to the Federation representative to take up with a higher authority.

**3. First Aid Kits.**

The Agency will provide first aid kits designed to serve at least the number of employees in each office.

**4. First Aid Training.**

The Agency will insure multimedia first aid training has been provided each new employee within the first year of entry into the bargaining unit.

**5. Communicable Disease.**

If, in the conduct of official duties, the employee is exposed to serious communicable diseases which would require immunization or testing, the employee shall be provided immunization against or testing for such communicable disease without cost to the employee where immunization will prevent such disease from occurring. The employee shall be granted leave with pay with no loss of accrued sick leave or other leave for the immunization or testing.

**6. Protective Clothing.**

If any employee is required to wear protective clothing, such protective clothing shall be furnished to the employee by the Agency. The cost of maintaining including cleaning, laundering, and tailoring shall be paid by the Agency.

**7. Vehicles.**

Each vehicle which is provided for use by Parole and Probation Officers shall be properly maintained in a safe and serviceable condition. Each vehicle will have in it a first aid kit, a fire extinguisher, two communicable disease kits and jumper cables. The County shall make available to the field staff no less than three (3) cage cars equipped as specified above.

**8. Safety Equipment.**

Body armor will be provided to all field officers upon request and replaced by the County per manufacturer's warranty (currently 5 years). Any new body armor the County purchases will consist of vest rated at Threat Level IIIA flexible (with side panels), which itself will be replaced upon expiration of the manufacturer's useful life. The County shall make available to all field officers a secure locker in which to store body armor and other safety equipment (lock to be provided by the field officer). Replacement of lost body armor or other safety equipment not secured in lockers when not in use shall be the responsibility of the field officer.

**9. Ammunition.**

The County shall provide all ammunition for mandatory firearms training. The field officer shall provide their own ammunition for all other firearms range practices.

**10. Automobile Registration.**

The County will allow employees to register their personal automobiles at the Community Corrections Division address if provided by law and provide adequate parking.

**ARTICLE 18 - TRANSFERS**

In the event a position becomes vacant within the division, eligible employees within the classification will be notified in writing and will be allowed to request transfer into said position. Selection and final approval of any transfer will rest with the division head.

**ARTICLE 19 - SAVINGS CLAUSE**

Should any Article, Section, or portion thereof, of this Agreement be held unlawful and unenforceable by any Court of competent jurisdiction, such decision of the Court shall apply only to the specific Article, Section or portion thereof, directly specified in the decisions; upon the issuance of such a decision, the parties agree immediately to negotiate a substitute, if possible, for the invalidated Article,

Section or portion thereof.

## ARTICLE 20 – LEGAL FEES

Section 1. The COUNTY agrees to reimburse bargaining unit members (employees) for the reasonable, usual, and customary legal fees and costs charged by an attorney as a direct result of criminal charges, investigation of use of deadly force, or a grand jury appearance against the employee arising out of the employee's involvement in the scope of the regular performance of his or her duty as an employee for the County. The County's obligation of reimbursement is subject to the following:

A. To receive reimbursement under this Article, the employee must select an attorney from a list of attorneys that have been mutually agreed upon by the Union and the County Council. Neither party shall unreasonably oppose the inclusion of an attorney on the list. Within sixty (60) days of the execution of this agreement, the Union shall submit to the County Council, the names and professional biographies of the attorneys the Union proposes for inclusion on the list. If the County Council does not object in writing to an attorney on the list within twenty (20) working days, the attorney shall be included on this list. The names on the list shall be reviewed every six (6) months upon the request of either party. If no attorney on the list is available to represent the employee, the employee may obtain another attorney of his or her choosing; however, the County's obligation to reimburse will arise only if the County Council receives written notice of the selected attorney from the Union within five (5) working days of the employee or Union learning of the lack of availability of an attorney from the predetermined list. Following the initial meeting between the employee and the attorney, the Union shall arrange for the attorney to provide the County at no cost to the County a preliminary estimate of the anticipated legal fees, costs, and expenses. This preliminary estimate shall be directed to the County Council, the Sheriff, Risk Management, and the Union.

B. Before becoming obligated under this Article, the County shall be presented with a sworn affidavit by the attorney listing an hourly breakdown of the time spent and a brief description of the purpose of such time. If the County, in its discretion feels the charges exceed the reasonable, usual, and customary fees normally charged, the parties shall submit the matter to the Oregon State Bar Fee Arbitration program for resolution. The decision of the OSB fee arbitrator or arbitration panel shall be final and binding as the County's obligation under this Article. Under no circumstances shall the provision of this Article give rise to a claim of any sort against the County by the attorney retained or selected by the Union member.

C. Reimbursement will not be made in those instances where:

1. The employee is convicted by verdict or plea, or pleads no contest to any criminal charges arising out of the incident; or
2. The County sustains disciplinary charges on the basis of the employee's actions, which formed the basis for the possible criminal liability, and the County's sustaining of the charges is upheld in all or part on any grievance or appeal of discipline; or
3. The employee resigns from employment following notification that criminal charges, grand jury proceedings, a disciplinary investigation or disciplinary charges are pending.

D. The County shall have no obligation to reimburse an employee, the Union, or counsel for the Union for legal fees or costs in any instance where the employee or the Union elect to have counsel for the Union represent the employee involved in the incident at any stage of the criminal proceeding, including, but not limited to, any grand jury proceeding.

E. Any reimbursement required by the County shall be made only at the conclusion of all criminal and disciplinary proceedings against the employee relating to or arising out of the incident and are subject to the following monetary maximums:

1. Legal fees relating to a grand jury investigation and/or appearance: \$5000.
2. Legal fees relating to post-grand jury indictment or other charging instrument: \$10,000.

Section 2. The County recognizes that it is not entitled to the work product of the attorneys involved in this program. The County recognizes there exists an attorney/client privilege between the attorney and the employee.

Section 3. This Article will apply only to legal fees incurred after the date this contract is signed for cases that begin after that date.

#### **ARTICLE 21 - TERMINATION**

1. A. This Agreement shall become effective no later than the fourth payroll date following the ratification by the BCC and FOPPO, and shall remain in full force and effect until the 30th day of June, 2014, and each year thereafter, unless either party shall notify the other in writing not later than March 1, that it desires to either terminate or modify this Agreement. In the event notice to modify is given, negotiations shall begin not later than April 1. In the event that the notification of termination is given, it shall become effective thirty (30) days after the notice is received.

B. The County will submit this Agreement for ratification by the BCC as soon as lawful following ratification of this Agreement by FOPPO.

2. This Agreement may be amended at any time by mutual agreement of the Federation and County; such amendments shall be in writing and signed by both parties.



IN WITNESS WHEREOF, the parties hereto have set their hands

this \_\_\_\_\_ day of \_\_\_\_\_, 2012  
FOR THE FEDERATION OF OREGON  
PAROLE AND PROBATION OFFICERS:

FOR CLACKAMAS COUNTY:

\_\_\_\_\_  
Danelle Cloyes, FOPPO President


\_\_\_\_\_  
Chair, Board of County Commissioners

\_\_\_\_\_  
Brent Taylor, PPO

\_\_\_\_\_  
Mary Raethke, Recording Secretary

\_\_\_\_\_  
Daryl Garrettson, Chief Negotiator

\_\_\_\_\_  
Chris Hoy, Director

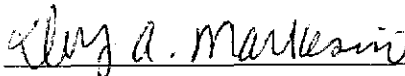


\_\_\_\_\_  
Mark Stotik, Employee & Labor Relations  
Manager

\_\_\_\_\_  
Jenna Morrison,  
Community Corrections Manager



\_\_\_\_\_  
Erin A. Tokos, Human Resources Analyst



\_\_\_\_\_  
Ivy A. Markesino, Human Resources Analyst

## **APPENDIX B**

### **WORK RULES**

1. An employee shall submit their work schedule in advance to their supervisor for approval.
2. One employee's work schedule shall not be so extraordinary as to burden another employee's work schedule.
3. To insure adequate coverage at all times, each employee must notify their supervisor weekly of any change in their approved work schedule and where practicable, must receive prior approval
4. An employee shall work no more than eighty (80) hours in a fourteen (14) day work period. Any overtime shall have prior supervisory approval when practicable.
5. Each employee must submit a signed time sheet to their supervisor at the end of each biweekly pay period.
6. Split shifts are allowed.
7. An employee may not schedule work in excess of ten (10) hours in a work day, without prior supervisor approval.
8. An employee shall work not more than six (6) days in a row without prior supervisory approval.
9. Employees are entitled to a half (.5) hour paid lunch, subject to being called back to duty.
10. Work scheduled on holidays shall be with prior management approval.



Water Quality Protection  
Surface Water Management  
Wastewater Collection & Treatment  
Michael S. Kuenzi, P.E.  
Director

January 19, 2012

Board of Commissioners  
Clackamas County

Members of the Board:

ACCEPTANCE OF EASEMENTS ON BEHALF OF  
CLACKAMAS COUNTY TRI-CITY SERVICE DISTRICT FOR THE  
HOLLY LANE CULVERT REPLACEMENT

The attached culvert, slope and access easements have been acquired for the Holly Lane Culvert Replacement project and will benefit properties located in the Tri-City Service District.

NAME	TAXLOT	COST
Jeffrey H. and Shari Garvison	22E33A03001	Donated
Timothy William and Judyth Garvison Fisher		

The easements, which are described in the attached Exhibits "A" and "B", have been prepared to comply with state statutes and allowed the District to proceed with the project. District Counsel has reviewed the easements as to form.

RECOMMENDATION

Staff respectfully recommends that the Board of County Commissioners accept the attached easements as submitted, and approve said easements being recorded free of charge and originals returned to Tri-City Service District.

Sincerely,

  
Michael S. Kuenzi  
Director

For information on this issue or copies of attachments, please contact Trista Crase, 503-742-4566

After recording, return to:  
Clackamas County Tri-City Service District  
150 S. Beaver Creek Road, Suite 430  
Oregon City, OR 97045

Accepted By Clackamas County

Agenda Date & Number: \_\_\_\_\_

OR

Board Order Number: \_\_\_\_\_

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*Reserve this area for recording stamp*

**PERMANENT CULVERT, SLOPE AND ACCESS EASEMENT  
TRI-CITY SERVICE DISTRICT**

KNOW ALL PERSONS BY THESE PRESENTS, THAT Timothy William and Judyth Garvison Fisher, (Grantor), hereby grants, bargains, sells and conveys to Tri-City Service District, a county service district organized under Chapter 451 ("District"), its heirs, successors and assigns, (Grantee), a right and easement for the replacement, repair and maintenance of a culvert, and free access to all slopes of cuts or fills and inspection of slopes and related appurtenances, in, under, upon, and across Grantor's real property located in Clackamas County, State of Oregon, and more particularly described as follows:

**Tax Lot # 22E33A 02000**

See Exhibit "A" for easement legal description.

See Exhibit "B" for map of easement.

Grantee shall have the right to enter upon this real property for the purposes described in this document. Grantee may remove trees, shrubs, brush, paving or other materials within the easement area to accomplish the replacement, repair or maintenance of the culvert, with the following exception. All trees that are greater than 6" DBH and are also greater than 10-feet from the proposed new fill area and/or necessary stream channel riprap armoring, shall not be removed without prior approval from Grantor. All removed trees shall remain property of Grantor and shall be stacked in a location as agreed to with Grantor, said single location being within 200-feet of where initially removed. Grantor will initial the final Exhibit A and Exhibit B to indicate agreement to final area covered by improvements and this easement.

Grantor, Grantor's heirs, successors, assigns or representatives, shall not construct or maintain any building or other structures upon the described easement without prior written approval from the District. In addition, Grantor, Grantor's heirs, successors, assigns or representatives shall not substantially alter the configuration of the material forming the slope, including alteration by addition or removal of material, without prior written approval from the District. The Grantor is allowed to grade and add gravel surfacing to the roadway constructed through this easement.

This easement does not obligate the public or Grantee to replace landscaping, fencing, shrubs or trees that may be placed within the easement area in the future, and which interferes with Grantee's use of the easement area for the purposes described in this document. Grantee will stabilize and reseed the slope following any work it performs in the easement area. Grantee agrees to repair any damage to the property caused by Grantee's incidental use of the land outside the easement area and return such area to a similar condition consistent with use and site conditions. It is understood and agreed that the District, shall never be required to remove the dirt or other materials placed by it upon said easement.

Grantor hereby covenants to and with Grantee, its successors and assigns, that Grantor is the owner of the property which is free from all encumbrances except for easements, mortgages, conditions and restrictions of record.

The true consideration for this conveyance is zero DOLLARS and NO/100 (\$0.00).

Statutory Land Use Disclaimer: Before signing or accepting this instrument, the person transferring the property interest should inquire about the person's rights, if any, under ORS 195.300, 195.301, and 195.305 to 195.336, and sections 5 to 11, Chapter 424, Oregon Laws 2007. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring the property interest to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest practices, as defined in ORS 30.930, and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301, and 195.305 to 195.336 and sections 5 to 11, Chapter 424, Oregon Laws 2007.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this 10 day of NOVEMBER 2011.

[Signature]  
Name

[Signature]  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

STATE OF OREGON )  
County of Washington ) ss.

This instrument was signed and attested before me this 10<sup>th</sup> day of November 2011,  
by Timothy W. Fisher and Judyth G. Fisher

[Signature]  
Notary Public for State of Oregon  
My Commission Expires: 12-30-14



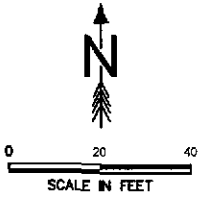
## Exhibit "A"

Slope easement being part of that tract of land described in deed to Timothy William and Judyth Garvison Fisher recorded April 15, 1981, under Recorder's Fee No. 81-13303 (commonly referred to as tax lot 22E33A 02000), located in the Northeast quarter of Section 33, T2S, R2W, W.M., Clackamas County, Oregon.

Slope easement described as follows;

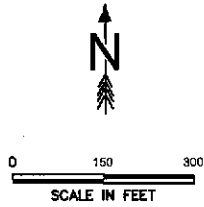
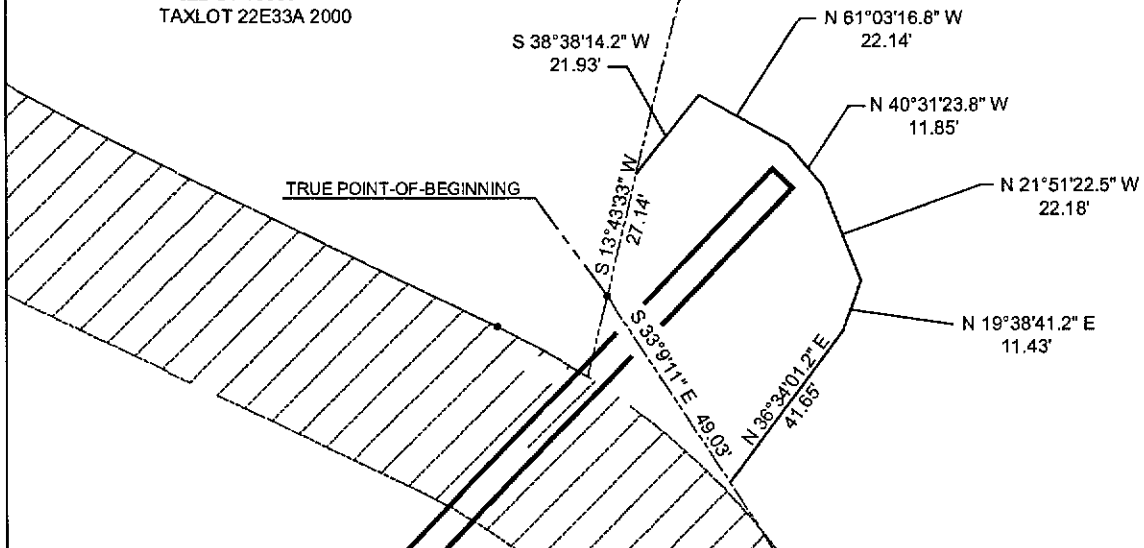
Beginning at the most southeasterly corner of Parcel 3, Partition Plat 2001-131 as recorded in Clackamas County, Oregon; thence, N 33° 09' 11" W, 486.61 feet to a point of intersection with the most westerly corner of property under Recorder's Fee No. 81-13303, and said point being the true point-of-beginning; thence, S 33° 09' 11" E, 49.03 feet, to a point on said property line; thence, N 36° 34' 01.2' E, 41.65 feet; thence, N 19° 38' 41.2' E, 11.43 feet; thence, N 21° 51' 22.5" W, 22.18 feet; thence N 40° 31' 23.8" W, 11.85 feet; thence N 61° 03' 16.8" W, 22.14 feet; thence, S 38° 38' 14.2' W, 21.93 feet more or less to a point of intersection with the west line of said property; thence, southerly along the west line of said property, S 13° 43' 33" W, 27.14 feet more or less to a point of intersection with the most westerly corner of said property and the true point-of-beginning.

Grantor Initials: no 997



# EXHIBIT B

DEED 81-13303  
TAXLOT 22E33A 2000



EXISTING EASEMENTS

### LEGEND



ROADWAY EASEMENT

SLOPE  
EASEMENT  
AREA

TL 22E33A 03000

TL 22E33A 02000

APPROXIMATION



After recording, return to:  
Clackamas County Tri-City Service District  
150 S. Beaver Creek Road, Suite 430  
Oregon City, OR 97045

Accepted By Clackamas County

*Reserve this area for recording stamp*

Agenda Date & Number: \_\_\_\_\_  
OR

Board Order Number: \_\_\_\_\_

**PERMANENT CULVERT, SLOPE AND ACCESS EASEMENT  
TRI-CITY SERVICE DISTRICT**

KNOW ALL PERSONS BY THESE PRESENTS, THAT Jeffrey H Garvison and Shari Garvison,

(Grantor), hereby grants, bargains, sells and conveys to Tri-City Service District, a county service district organized under Chapter 451 ("District"), its heirs, successors and assigns, (Grantee), a permanent right and easement for the construction, reconstruction, upgrade, replacement, repair and maintenance of a culvert, and free access to all slopes of cuts or fills and inspection of slopes and related appurtenances, in, under, upon, and across Grantor's real property located in Clackamas County, State of Oregon, and more particularly described as follows:

**Tax Lot # 22E33A 03001**

See Exhibit "A" for permanent easement legal description.  
See Exhibit "B" for map of permanent easement.

Grantee shall have the right to enter upon this real property for the purposes described in this document. Grantee may remove trees, shrubs, brush, paving or other materials within the easement area whenever necessary to accomplish these purposes. It is also agreed by all parties that after this initial construction is completed, the slope easement boundaries will be revised to match the actual area covered by the new improvements and the remaining area within this currently described easement will become strictly an access easement. This revised easement will replace the Exhibit A and Exhibit B in this document before final recording. Grantor will initial the final Exhibit A and Exhibit B to acknowledge the final area covered by this slope and access easement.

Grantor, Grantor's heirs, successors, assigns or representatives, shall not construct or maintain any building or other structures upon the above described real property without prior written approval from the District. In addition, Grantor, Grantor's heirs, successors, assigns or representatives shall not alter the configuration of the material forming the slope, including alteration by addition or removal of material, without prior written approval from the District.

This easement does not obligate the public or Grantee to replace landscaping, fencing, shrubs or trees that may be placed within the easement area in the future, and which interferes with Grantee's use of the easement area for the purposes described in this document. Grantee will stabilize and reseed the slope following any work in the easement area. Grantee agrees to repair any damage to the property caused by Grantee's incidental use of the land outside the easement area and return such area to a similar condition consistent with use and site conditions. It is understood and agreed that the District, shall never be required to remove the dirt or other materials placed by it upon said property.

Grantor hereby covenants to and with Grantee, its successors and assigns, that Grantor is the owner of the property which is free from all encumbrances except for easements, mortgages, conditions and restrictions of record and will warrant and defend the rights herein granted from all lawful claims whatsoever, except as stated in this document.

The true consideration for this conveyance is zero DOLLARS and NO/100 (\$0.00).

Statutory Land Use Disclaimer: Before signing or accepting this instrument, the person transferring the property interest should inquire about the person's rights, if any, under ORS 195.300, 195.301, and 195.305 to 195.336, and sections 5 to 11, Chapter 424, Oregon Laws 2007. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring the property interest to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest practices, as defined in ORS 30.930, and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301, and 195.305 to 195.336 and sections 5 to 11, Chapter 424, Oregon Laws 2007.

In witness whereof, the above named Grantor has hereunto set Grantor's hand to this document on this 19<sup>th</sup> day of December 2011.

Jeffrey H. Garrison  
Printed Name

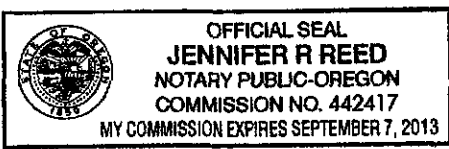
[Signature]  
Signature

Shari Garrison  
Printed Name

[Signature]  
Signature

STATE OF OREGON )  
County of Clackamas ) ss.

This instrument was signed and attested before me this 19<sup>th</sup> day of December 2011,  
by Jeffrey H Garrison and Shari Garrison



Jennifer R Reed  
Notary Public for State of Oregon  
My Commission Expires: September 7, 2013

## Exhibit "A"

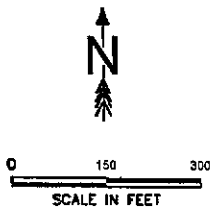
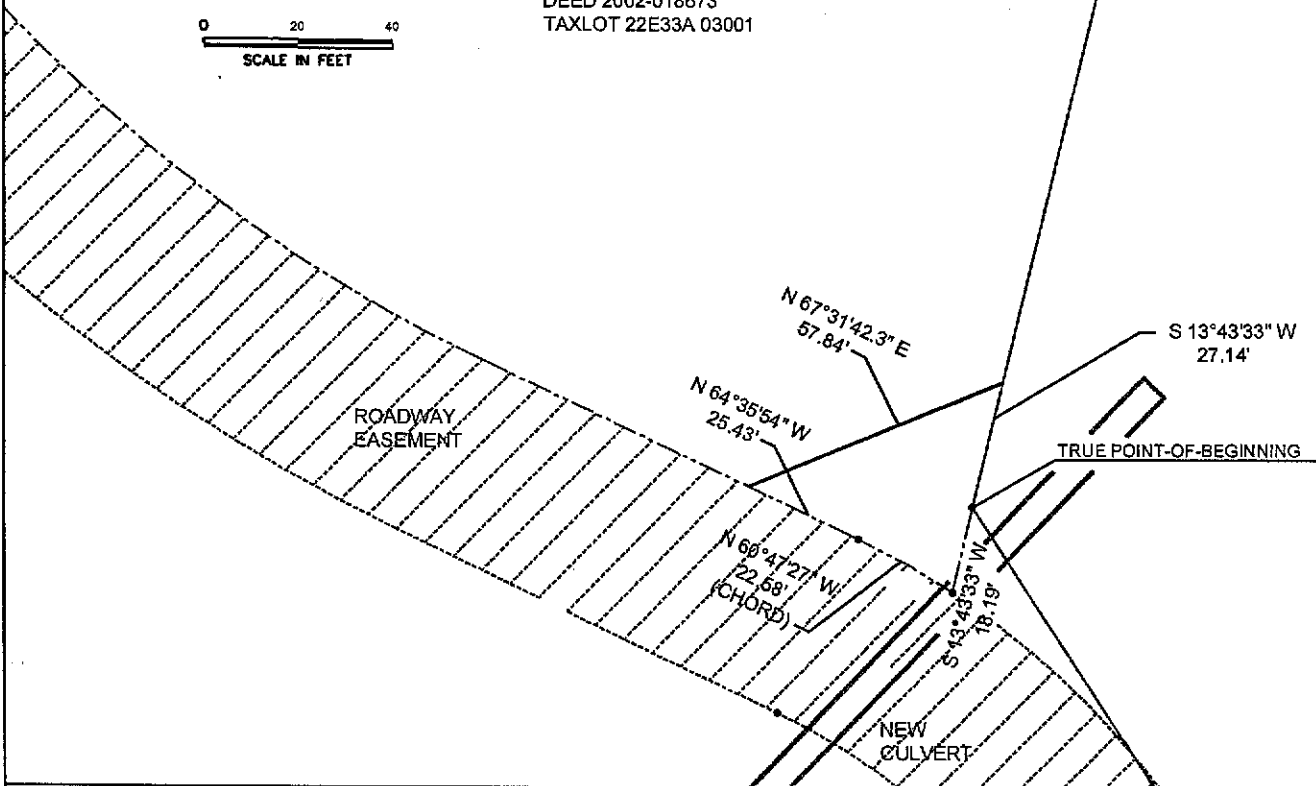
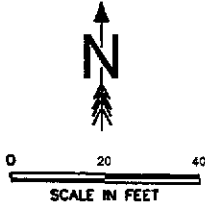
Slope easement being part of that tract of land described in Statutory Special Warranty Deed to Jeffrey H Garvison and Shari Garvison recorded under fee 2002-018673 in Clackamas County, Oregon, (commonly referred to as tax lot 22E33A 03001), located in the Northeast quarter of Section 33, T2S, R2W, W.M., Clackamas County, Oregon.

Slope easement described as follows;

Beginning at the most northeasterly corner of Parcel 4 as described on Clackamas County Partition Plat No. 2001-131; thence, S 13° 43' 33" W, 200.00 feet to a point of intersection with the most westerly corner of a tract of land deeded to Timothy William and Judyth Garvison Fisher recorded April 15, 1981, under Recorder's Fee No. 81-13303, and said point also being the true point-of-beginning; thence, S 13° 43' 33" W, a distance of 18.19 feet more or less to a point of intersection with the most southerly corner of said Parcel 4; thence, westerly along the arc of a 170.00 foot radius curve through a central angle of 07° 36' 54", (the cord of which bears N 60° 47' 27" W, 22.58 feet), an arc distance of 22.59 feet to a point of tangency on said property line; thence, N 64° 35' 54" W, a distance of 25.43 feet to a point on said property line; thence, N 67° 31' 42.3" E, 57.84 feet more or less to a point of intersection with the easterly property line of said Parcel 4; thence, southerly along said property line S 13° 43' 33" W, 27.14 feet more or less to a point of intersection with the most westerly corner of a tract of land deeded to Timothy William and Judyth Garvison Fisher recorded April 15, 1981, under Recorder's Fee No. 81-13303, and said point also being the true point-of-beginning.

# EXHIBIT B

DEED 2002-018673  
TAXLOT 22E33A 03001



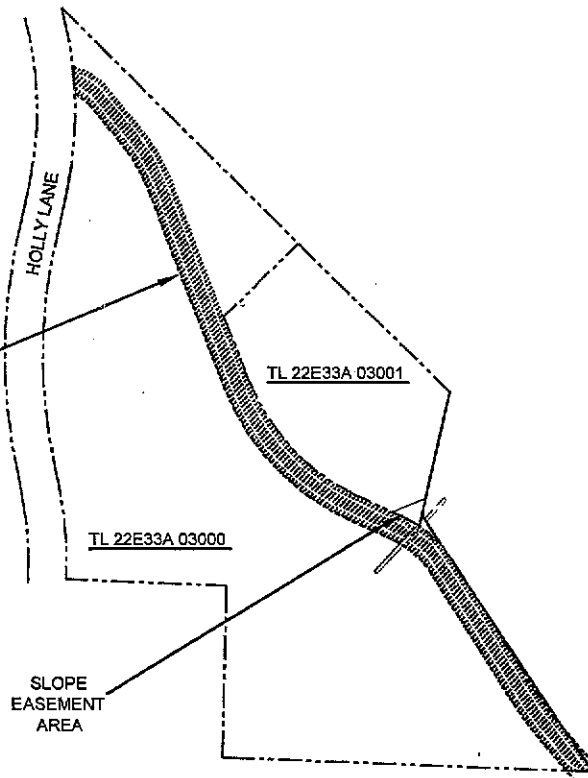
## LEGEND



ROADWAY EASEMENT

EXISTING  
ROADWAY  
EASEMENT

SLOPE  
EASEMENT  
AREA





Beyond clean water.

Water Quality Protection  
Surface Water Management  
Wastewater Collection & Treatment

Michael S. Kuenzi, P.E.  
Director

January 19, 2012

Board of County Commissioners  
Clackamas County

Members of the Board:

**APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN  
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1, TRI-CITY SERVICE DISTRICT,  
AND BROWN AND CALDWELL, INC. FOR THE  
BIOSOLIDS AND ENERGY PROGRAM DEVELOPMENT AND SOLIDS HANDLING  
PLANNING**

Phase 1 of the Capacity Management Program constructed new liquids treatment capacity for Clackamas County Service District No. 1 (CCSD #1) to fully support the existing customer base and accommodate anticipated growth within CCSD#1 through FY 2020. However, the Phase I construction did not address the associated need for investing in additional solids handling capabilities to meet similar growth pressures. The decision to delay this investment was driven by a greater need to control steep rate increases associated with the Phase I work.

The Tri-City Service District (TCSD) is facing similar solids challenges. The original facility did not construct solids and liquids capabilities that were matched from a capacity standpoint. TCSD facility needs were discussed in 2007-08 with the TCSD site committee, Advisory Committee and the BCC as part of the conditional use permit process for CCSD#1 prior to their Phase I construction at the Tri-City plant. In 2010, TCSD invested in temporary solids handling equipment as a back-up system to be utilized by TCSD for mitigating near term operating pressure. In addition, it was envisioned that CCSD#1 could utilize these facilities under emergency conditions at a unit reimbursement rate. This reimbursement was codified in an Intergovernmental Agreement. The objective of this temporary investment was to afford staff the time needed to reassess the future direction of the biosolids program for both Districts.

The biosolids program itself is a very costly and labor intensive effort for both Districts and continued reliance on a land application strategy may be in jeopardy given the increased national public pressure to limit the use of biosolids as an organic fertilizer. At the same time, staff also recognizes that its biosolids program can, and does, produce a unique, safe and valuable product that is a sustainable alternative to petroleum based fertilizers.

The fundamental strategy of the current biosolids programs for CCSD#1 and TCSD have not been assessed in over thirty years. Last year, staff proposed to its Advisory Committees to move forward with an assessment of whether a co-investment in similar solids handling strategies could potentially reduce each Districts long term risk and lower

annual operating cost by diversifying into new technologies or strategies that CCSD#1 and TCSD could never afford to pursue independently. Part of this co-investment strategy extends beyond the biosolids activities and into energy production. Currently, both Districts produce methane gas as part of the solids digestion process. The utilization of methane either for heating or power generation has historically been very limited. The proposed scope of work will investigate how to maximize the potential energy source at the Tri-City, Kellogg, and the Hoodland wastewater treatment plants in an integrated effort to answering the question of where the Biosolids program should head. .

Overall, staff's intent is to develop and select a comprehensive business strategy to realize the highest economic benefit for our biosolids and energy production programs, and plan for and design the next solids handling capacity construction project to support anticipated growth and any proposed change in the current biosolids and energy programs. Staff solicited proposals to support the efforts and received proposals from three teams. Brown and Caldwell's (B&C) submittal was ranked the highest and staff entered into negotiations for professional services for the first phase of work in an amount not-to-exceed \$311,922. The contract has been structured to award the work to B&C in phases as the work and the scope is refined. Staff envisions subsequent phases, from planning through design, to be executed upon successful completion of each phase of work. Staff will bring the scope and contract amendments back to the Board and the District Advisory committees for approval prior to giving notice to proceed on each phase of work.

This cost for the effort will be split evenly between the two Districts. Both CCSD#1 and TCSD have approved budget funds in FY 2011-12 to start the effort.

**RECOMMENDATION:**

For these reasons, the Districts recommend that:

- 1) The Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of both CCSD#1 and TCSD approve the agreement for professional services for the Biosolids and Energy Program Development and Solids Handling Planning effort between the Districts and Brown and Caldwell, Inc., and
- 2) Authorize the Director of Water Environment Services enter into an agreement with Brown and Caldwell, Inc. for the first phase of professional services for an amount not to exceed \$311,922.

Sincerely,



Michael Kuenzi  
Director

For more information on this issue or copies of attachments, please contact Trista Crase at 503-742-4566.

**AGREEMENT TO FURNISH CONSULTING SERVICES  
TO  
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 AND TRI-CITY SERVICE DISTRICT  
FOR  
BIOSOLIDS AND ENERGY PROGRAM DEVELOPMENT AND SOLIDS HANDLING  
PLANNING**

THIS AGREEMENT TO FURNISH CONSULTING SERVICES (this "Agreement"), made and entered into on this \_\_\_\_\_ day of January in the year 2012 by and between CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 and TRI-CITY SERVICE DISTRICT, each a county service district formed under Oregon Revised Statutes ("ORS") 451 (together, the "DISTRICTS") and Brown and Caldwell, Inc., a California corporation (the "CONSULTANT").

**RECITALS**

WHEREAS, the DISTRICTS intend to engage the CONSULTANT to provide strategic planning support for long term operational and capital needs related to the biosolids area as described with greater detail on Exhibit A on the schedule therein included, hereinafter called the "PROJECT;" and

WHEREAS, while the DISTRICTS engaged a competitive selection process for the PROJECT and for additional follow-up work in subsequent phases for additional planning and project design and CONSULTANT was selected for this entire scope of work, CONSULTANT acknowledges that such work, to the extent work requirements and funds allow, will proceed without redoing the competitive selection and pursuant to separately negotiated contracts that will be subject to review by the Board of County Commissioners as the governing body of each of the DISTRICTS;

NOW, THEREFORE, the DISTRICTS and the CONSULTANT for the considerations hereinafter set forth agree as follows:

**ARTICLE 1 - SERVICES OF THE CONSULTANT**

The CONSULTANT agrees to perform, in accordance with applicable District, local, state and federal laws, statutes, ordinances, rules and regulations, professional services in connection with the PROJECT as stated and defined in Exhibit A (the "Services").

**ARTICLE 2 - DISTRICTS' RESPONSIBILITIES**

Unless otherwise specifically modified in Exhibit A the DISTRICTS will:

- 2.1 Provide adequate information to the CONSULTANT regarding the DISTRICTS' requirements for the PROJECT.
- 2.2 Assist the CONSULTANT by making available all reasonably available information and technical data pertinent to the PROJECT.

2.3 Obtain approvals and permits from governmental authorities having jurisdiction over the PROJECT, and such approvals and consents from others as may be necessary for completion of the PROJECT (excepting any personal qualifications or certifications required for CONSULTANT to perform the work contemplated hereunder).

### **ARTICLE 3 – CONSULTANT’S RESPONSIBILITIES**

**3.1** The CONSULTANT agrees to complete the Services according to the schedule also set forth in Exhibit A (the “Schedule”). If the DISTRICTS have requested significant modifications or changes in the scope of the PROJECT pursuant to Section 3.3, the time of performance of the CONSULTANT’s services shall be adjusted accordingly.

#### **3.2 Standards of Performance**

3.2.1 The standard of care for all professional services performed or furnished by CONSULTANT under this Agreement will be the care and skill ordinarily used by a competent member of CONSULTANT’s profession.

3.2.2 CONSULTANT shall be responsible for the accuracy of its services and documents resulting there from, and DISTRICTS shall not be responsible for discovering deficiencies therein. CONSULTANT shall correct such deficiencies without additional compensation, except to the extent such action is solely attributable to deficiencies in DISTRICTS-furnished information.

3.2.3 CONSULTANT and DISTRICTS shall comply with applicable Laws or Regulations and DISTRICTS-mandated standards. Any changes to these requirements during the term of this Agreement shall not be the basis for any modifications to CONSULTANT’s scope of services, times of performance, or compensation.

#### **3.3 Notice of Changes**

In the normal course of administering the work under this Agreement, the DISTRICTS may give directives to the CONSULTANT, either written or verbal, which may constitute a change to the Services or Schedule. If an instruction, directive or decision is given that the CONSULTANT believes is a change in scope or schedule, the CONSULTANT shall notify the DISTRICTS within seven (7) calendar days of receiving such directive or instruction. The notice shall state the general nature of the change, but need not include a detailed cost or impact estimate. Failure to give timely written notice relieves the DISTRICTS from any obligation to adjust the contract amount, scope or schedule as an amendment to the Agreement. To the extent District agrees that a change in the Services required or the Schedule has occurred, the parties shall agree to an amendment to this Agreement pursuant to the process set forth in Paragraph 6.24 hereof.

#### **3.5 CONSULTANT's Project Manager**

The CONSULTANT shall assign personnel to do the work in the capacities and amounts



designated in Exhibit A. The CONSULTANT shall not change these personnel assignments without the prior written consent of the DISTRICT's Project Manager (as defined in Paragraph 4.3), which consent shall not be unreasonably withheld.

#### **ARTICLE 4 - AUTHORIZATION AND PROJECT MANAGER**

4.1 Specific authorization to proceed with the Services shall be granted in writing by the DISTRICTS within a reasonable time after the execution of this Agreement. The CONSULTANT shall not proceed with the work without such authorization. The DISTRICTS' Project Manager shall have authority to give such authorizations.

4.2 This Agreement shall be effective as of the CONSULTANT's receipt of the written authorization to proceed and shall be completed as set forth in the Schedule.

#### **4.3 DISTRICTS' Project Manager**

The DISTRICT's Project Manager is authorized to approve work and billings hereunder, approve subconsultants, give notices referred to herein, terminate this Agreement as provided herein and carry out any other DISTRICT actions referred to herein. The DISTRICTS' Project Manager shall be Doug Waugh.

#### **ARTICLE 5 - PAYMENTS TO CONSULTANT**

In accordance with the terms and conditions of this Agreement, the DISTRICTS shall compensate the CONSULTANT as follows:

#### **5.1 Compensation**

5.1.1 The DISTRICTS agrees to pay the CONSULTANT an amount equal to Three Hundred Eleven Thousand Nine Hundred Twenty-Two and no/100 Dollars (\$311,922.00) for the Services as billed monthly. Notwithstanding anything else to the contrary herein, the total compensation under this Agreement shall not exceed Three Hundred Eleven Thousand Nine Hundred Twenty-Two and no/100 Dollars (\$311,922.00) without prior written approval of the DISTRICTS.

5.1.2 The CONSULTANT is entitled to no compensation for the correction or revision of any errors or deficiencies in the services provided.

5.1.3 The DISTRICTS may withhold from payments due the CONSULTANT such sums as are necessary, in the DISTRICTS' sole and absolute discretion, to protect the DISTRICTS against any loss or damage which may result from negligence or unsatisfactory work by the CONSULTANT, the failure of the CONSULTANT to perform as required under this Agreement, or claims filed against the CONSULTANT or the DISTRICTS relating to the CONSULTANT's services or

work under this Agreement.

- 5.1.4 The DISTRICTS enter into this Agreement jointly to gain efficiencies in administration and similarities of needs and services required. For the purposes of CONSULTANT, each of CCSD#1 and TCSD shall be obligated for no more than fifty percent (50%) of the total compensation hereunder, and are not jointly or severally liable for each other's portion of the Agreement consideration.

## **5.2 Billing and Payment Procedure**

- 5.2.1 The CONSULTANT will provide monthly percentage complete invoices to the DISTRICTS for work performed during the preceding month. The percentage complete invoices will be accompanied with a summary cost itemization and supported by a monthly progress report tied to the milestones indicated in the Schedule. The CONSULTANT shall maintain detailed records to support these charges and such records shall be available to the DISTRICTS for audit and copying. The DISTRICTS shall pay monthly payments to the CONSULTANT within 30 days of the DISTRICTS' receipt of the CONSULTANT's monthly statement. Interest on unpaid payments due shall accrue at the rate of 1% per month beginning the 60th day after the DISTRICTS' receipt of the CONSULTANT's statement. No interest shall be paid on disputed amounts.

## **ARTICLE 6 - GENERAL CONDITIONS**

### **6.1 Early Termination of Agreement**

- 6.1.1 The DISTRICTS and the CONSULTANT, by mutual written agreement, may terminate this Agreement at any time.
- 6.1.2 The DISTRICTS, on thirty (30) days' prior written notice to the CONSULTANT, may terminate this Agreement for any reason deemed appropriate in its sole discretion.
- 6.1.3 Either the DISTRICTS or the CONSULTANT may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the party giving notice may terminate the Agreement at any time thereafter by giving a written notice of termination stating the effective date of the termination.

### **6.2 Payment on Early Termination**

- 6.2.1 In the event of termination under Paragraphs 6.1.1 or 6.1.2, hereof, the DISTRICTS shall pay the CONSULTANT for work performed in accordance with the

Agreement prior to the termination date.

- 6.2.2 In the event of termination under Paragraph 6.1.3 hereof by the CONSULTANT due to a breach by the DISTRICTS, then the DISTRICT shall pay the CONSULTANT as provided in Paragraph 6.3.3.
- 6.2.3 In the event of termination under Paragraph 6.1.3 hereof by the DISTRICTS due to a breach by the CONSULTANT, then the DISTRICTS shall pay the CONSULTANT as provided in Paragraph 6.3.1, subject to set off of excess costs, as provided for in Paragraphs 6.1.3 and 6.3.
- 6.2.4 In the event of early termination, all of the CONSULTANT's work product will become and remain property of the DISTRICTS.

### **6.3 Remedies**

- 6.3.1 In the event of termination under Paragraph 6.1.3 by the DISTRICTS due to a breach by the CONSULTANT, then the DISTRICTS may complete the work either itself, or by agreement with another consultant or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the compensation provided under Paragraph 5.1.1 hereof, then the CONSULTANT shall promptly pay to the DISTRICTS the amount of the excess.
- 6.3.2 The remedies provided to the DISTRICTS under Paragraph, 6.1, 6.2, and 6.3 hereof for a breach by the CONSULTANT shall not be exclusive. The DISTRICTS also shall be entitled to any other equitable and legal remedies that may be available.
- 6.3.3 In the event of breach of this Agreement by the DISTRICTS, then the CONSULTANT's remedy shall be limited to termination of the Agreement and receipt of payment as provided in Paragraphs 6.1 and 6.2 hereof.

### **6.4 Indemnification and Insurance**

- 6.4.1 The CONSULTANT agrees to indemnify, save harmless and defend the DISTRICTS, their officers, commissioners, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, errors, or omissions of the CONSULTANT or CONSULTANT's officers, owners, employees, agents, or its subcontractors or anyone over which CONSULTANT has a right to control.
- 6.4.2 The CONSULTANT agrees to furnish the DISTRICTS evidence of comprehensive general (including contractual liability) and automobile liability insurance in the amount of not less than \$1,000,000 combined single limit for personal injury and property damage for the protection of the DISTRICTS, its officers, commissioners,

agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to the CONSULTANT's, or any subcontractors, in the performance of this Agreement. The insurance shall include the DISTRICTS, its officers, commissioners, agents and employees, as additional insureds and refer to and support the CONSULTANT's obligation to hold harmless the DISTRICTS, its officers, commissioners, agents, and employees.

- 6.4.3 The CONSULTANT agrees to furnish the DISTRICTS evidence of professional liability insurance coverage (errors and omissions, on a claims-made basis) in the amount of not less than \$1,000,000 because of personal injury, bodily injury, death or damage to property.

## **6.5 Oregon Law and Forum**

- 6.5.1 This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 6.5.2 Any litigation between the DISTRICTS and the CONSULTANT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon. The parties agree, however, to resolve any disputes between the parties in the manner described in Paragraph 6.23.

## **6.6 Workers' Compensation Coverage Requirements**

The CONSULTANT is an independent contractor for purposes of the Oregon Workers' Compensation Law, as set forth in ORS Chapter 656 ("Workers' Comp Law") and is solely liable for any workers' compensation coverage under this Agreement. If the CONSULTANT hires subconsultants for the performance of this Agreement, the CONSULTANT agrees to require that the subconsultant(s) shall comply with ORS Chapter 656. The signing of this Agreement shall constitute the declaration of independent contractor status by the CONSULTANT.

- 6.6.1 The CONSULTANT will be solely responsible for payment of any local, state or federal taxes required as a result of this Agreement.
- 6.6.2 This Agreement is not intended to entitle the CONSULTANT to any benefits generally granted to DISTRICTS, officers, or employees. Without limitation, but by way of illustration, the benefits not intended to be extended by this contract to the CONSULTANT are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime pay, Social Security, workers' compensation, unemployment compensation, or retirement benefits (except so far as benefits are required by law if the CONSULTANT is presently a member of the Public Employees Retirement System).

## **6.7 Subcontracts**

The CONSULTANT shall not subcontract its work under this Agreement, in whole or in part, without the prior written approval of the DISTRICTS. The CONSULTANT shall require subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the CONSULTANT as specified in this Agreement. Notwithstanding DISTRICTS approval of a subcontractor, the CONSULTANT shall remain obligated for full performance hereunder, and the DISTRICTS shall incur no obligation other than its obligations to the CONSULTANT hereunder. The CONSULTANT agrees that if subcontractors are employed in the performance of this Agreement, the CONSULTANT and its subcontractors are subject to the requirements of the Workers' Comp Law.

## **6.8 Assignment**

The CONSULTANT shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the DISTRICTS which may be granted or withheld in its sole and absolute discretion. The DISTRICTS may assign this Agreement at any time and shall provide CONSULTANT with notice of such assignment within thirty (30) days of such assignment.

## **6.9 Notice**

Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing with such notice deemed delivered either upon actual receipt or three (3) days after deposit in U.S. Mail, whichever shall first occur:

If to the DISTRICTS: Clackamas County Service District No. 1  
c/o Water Environment Services  
9101 SE Sunnybrook Blvd., Suite 441  
Clackamas, Oregon 97015  
ATTN: Doug Waugh, Capital Planning Manager

Copy to: County Counsel  
c/o Water Environment Services  
9101 SE Sunnybrook Blvd., Suite 441  
Clackamas, Oregon 97015  
ATTN: Chris Storey

If to the CONSULTANT: Brown & Caldwell, Inc.  
6500 SW Macadam Blvd., Ste. 200  
Portland, OR 97239-3565  
ATTN: Dan Laffitte

## **6.10 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.

## **6.11 Integration**

This Agreement contains the entire agreement between the DISTRICTS and the CONSULTANT and supersedes all prior written or oral discussions or agreements.

## **6.12 Funds**

The DISTRICTS certify that sufficient funds are available and authorized for expenditure pursuant to this Agreement in Fiscal Year 2011-12. The funds needed for the balance of the Agreement are subject to appropriation by the Board of County Commissioners, acting as the governing body of the DISTRICTS (the "Board"), during budget processes. If the Board does not appropriate funds for subsequent fiscal years for the balance of this contract, the DISTRICTS may immediately terminate this Agreement by giving written notice of termination to the CONSULTANT. The CONSULTANT shall not be entitled to compensation for any work performed after the date of such written termination notice. The DISTRICTS shall also have the right to accelerate or decelerate the work to match funding limitations. Any termination for lack of funds shall not constitute an "Early Termination" as such term is used in Paragraph 6.1.

## **6.13 Estimates of Cost**

The estimates of cost for a PROJECT provided for herein are to be prepared by the CONSULTANT through exercise of experience and judgment in applying currently available cost data. The CONSULTANT will keep the DISTRICTS apprised of changes throughout the PROJECT that significantly impact the estimated costs provided.

## **6.14 Ownership of Documents**

- 6.14.1 All work the CONSULTANT performs under this Agreement shall be considered work made for hire and shall be the sole and exclusive property of the DISTRICTS. The DISTRICT shall own any and all data, documents, plans, copyrights, specifications, working papers and any other materials the CONSULTANT produces in connection with this Agreement. On completion or termination of the Agreement the CONSULTANT shall promptly deliver these materials to the Project Manager.
- 6.14.2 The CONSULTANT may retain for its own records and at its own cost copies of the materials referred to in Paragraph 6.14.1 hereof.

- 6.14.3 Any use the DISTRICTS makes of the materials referred to in Paragraph 6.14.1 hereof, except for purposes of the work contemplated by this Agreement, shall be at the DISTRICTS' risk.

### **6.15 Commencement of Work**

The CONSULTANT agrees that work being done pursuant to this Agreement will not be commenced until after:

- 6.15.1 Workers' compensation insurance is obtained, as specified in Paragraph 6.6.
- 6.15.2 This Agreement is fully executed by all parties and approved by the Board and/or Director when applicable.
- 6.15.3 The receipt of a written authorization to proceed from the Project Manager.

### **6.16 Release of Information**

No information relative to the PROJECT shall be released by the CONSULTANT for publication, advertising, communication with the media, the public, other clients of the CONSULTANT, or any other person for any other purpose, without prior written approval of the DISTRICTS.

### **6.17 Maintenance of Records**

The CONSULTANT shall maintain books and accounts of payroll costs, travel, subsistence, field contracted services of others and reimbursable expenses pertaining to each PROJECT in accordance with generally accepted professional practices, appropriate accounting procedures and applicable local, state or federal laws, statutes, ordinances, or rules and regulations. The DISTRICTS or its authorized representative shall have the authority to inspect, audit and copy, on reasonable notice and from time to time, any records of the CONSULTANT regarding its billings or any record arising from or related to this Agreement. Records shall be maintained and available until three (3) years after the date of final PROJECT billing or until three (3) years after the date of resolution of any litigation or claim.

### **6.18 Audit of Payments**

- 6.18.1 The DISTRICTS, either directly or through a designated representative, may audit the records of the CONSULTANT at any time during the three (3) year period established by Paragraph 6.17.
- 6.18.2 If an audit discloses that payments to the CONSULTANT were in excess of the amount to which the CONSULTANT was entitled, then the CONSULTANT shall immediately repay the amount of the excess to the DISTRICTS.

## 6.19 Public Contracting Law

Pursuant to the requirements of ORS Chapters 279A and 279C, the following terms and conditions are made a part of this Agreement:

- 6.19.1 The CONSULTANT agrees that it shall:
  - 6.19.1.1 Make payments promptly, as due, to all persons supplying to CONSULTANT labor or materials for the performance of work contemplated by this Agreement.
  - 6.19.1.2 Pay all contributions or amounts due the Industrial Accident Fund incurred in the performance of this Agreement.
  - 6.19.1.3 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167 or its successor statutes.
  - 6.19.1.4 Not permit any lien or claim to be filed or prosecuted against the State of Oregon, Clackamas County, the DISTRICTS, any municipality, municipal corporation, or subdivision thereof, on account of any labor or material furnished for the performance of work contemplated by this Agreement.
- 6.19.2 If the CONSULTANT fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the CONSULTANT by any person in connection with this Agreement, as such claim becomes due, the proper office representing DISTRICTS may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the CONSULTANT by reason of this Agreement. Further, the CONSULTANT or any first-tier subcontractor under this Agreement fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the CONSULTANT by any person in connection with this Agreement within thirty (30) days after receipt of payment from DISTRICTS or the CONSULTANT, as applicable, then such person shall owe the unpaid person the amount due plus interest charges commencing at the end of the ten (10) day period under ORS 279C.580(4) and ending upon final payment unless subject to a good faith dispute as defined in ORS 279C.580. The rate of interest shall be as set forth in ORS 279C.515(2).
- 6.19.3 No person shall be employed for more than eight (8) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100(5) or as defined in the DISTRICTS' Contract Review Board Rules, the laborer shall be paid at least time and a half pay for all overtime in excess of eight (8) hours a day and for work performed on Saturday and on any legal holiday, as specified in ORS 279C.
- 6.19.4 If this Agreement is for personal services as defined in ORS 279C or as defined in



the DISTRICTS' Contract Review Board Rules, the laborer shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime.

- 6.19.5 The CONSULTANT shall promptly, as due, make payment to any person, partnership, association, corporation, or other entity furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of the CONSULTANT, of all sums which the CONSULTANT agrees to pay for such services and all moneys and sums which the CONSULTANT collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.
- 6.19.6 The CONSULTANT and all employers working under this Agreement are subject employers under ORS 656.017.
- 6.19.7 The CONSULTANT shall demonstrate that an employee drug testing program is in place before commencing work on the Project.

## **6.20 Equal Employment Opportunity**

During the performance of this Agreement, the CONSULTANT agrees as follows:

- 6.20.1 The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, age, mental or physical handicap or a national origin. The CONSULTANT agrees that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, marital status, age, mental or physical handicap, or national origin. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment notices to be provided setting forth the provisions of this Equal Opportunity Clause.
- 6.20.2 The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, marital status, age, physical or mental handicap or national origin.
- 6.20.3 The CONSULTANT will send to each labor union or representative of workers with which CONSULTANT has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or workers' representative of the CONSULTANT's commitments under this Equal Opportunity Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

## 6.21 Survival

All express representations, indemnifications or limitations of liability included in this Agreement shall survive its completion and/or termination for any reason.

## 6.22 Headings

The headings used in this Agreement are for general reference only and are not part of the contract language. This Agreement should be construed without giving any meaning to any headings included herein.

## 6.23 Dispute Resolution

Any controversy or claim arising out of or relating to this Agreement or any related agreement shall be settled by arbitration in accordance with the following provisions:

6.23.1 Disputes Covered. The parties agree to arbitrate all disputes of every kind relating to or arising out of this Agreement. Disputes include actions for breach of contract with respect to this Agreement, as well as any claim based upon tort or any other causes of action relating to the Agreement or the PROJECT, such as claims based upon an allegation of fraud or misrepresentation and claims based upon a federal or state statute. In addition, the arbitrators selected according to procedures set forth below shall determine the arbitrability of any matter brought to them, and their decision shall be final and binding on the parties.

6.23.2 Forum. The forum for the arbitration shall be Clackamas County, Oregon.

6.23.3 Law. The governing law for the arbitration shall be the law of the State of Oregon, without reference to its conflicts of laws provisions.

6.23.4 Selection. There shall be three arbitrators, unless the parties are able to agree on a single arbitrator. In the absence of such agreement within ten (10) days after the initiation of an arbitration proceeding, DISTRICTS shall select one arbitrator and CONSULTANT shall select one arbitrator, and those two arbitrators shall then select, within ten (10) days, a third arbitrator. If those two arbitrators are unable to select a third arbitrator within such ten (10)-day period, a third arbitrator shall be appointed by the commercial panel of the American Arbitration Association. The decision in writing of at least two of the three arbitrators shall be final and binding upon the parties.

6.23.5 Administration. The arbitration shall be administered by the American Arbitration Association.

6.23.6 Rules. The rules of arbitration shall be the Commercial Arbitration Rules of the American Arbitration Association, as modified by any other instructions that the parties may agree upon at the time, except that each party shall have the right to conduct discovery in any manner and to the extent authorized by the Federal Rules of Civil Procedure as interpreted by the federal courts. If there is any conflict between those Rules and the provisions of this

section, the provisions of this section shall prevail.

6.23.7 Substantive Law. The arbitrators shall be bound by and shall strictly enforce the terms of this Agreement and may not limit, expand or otherwise modify its terms. The arbitrators shall make a good faith effort to apply substantive applicable law, but an arbitration decision shall not be subject to review because of errors of law. The arbitrators shall be bound to honor claims of privilege or work-product doctrine recognized at law, but the arbitrators shall have the discretion to determine whether any such claim of privilege or work product doctrine applies.

6.23.8 Decision. The arbitrators' decision shall provide a reasoned basis for the resolution of each dispute and for any award. The arbitrators shall not have power to award damages in connection with any dispute in excess of actual compensatory damages and shall not multiply actual damages or award consequential or punitive damages.

6.23.9 Expenses. Each party shall bear its own fees and expenses with respect to the arbitration and any proceeding related thereto and the parties shall share equally the fees and expenses of the American Arbitration Association and the arbitrators.

6.23.10 Remedies; Award. The arbitrators shall have power and authority to award any remedy or judgment that could be awarded by a court of law in the State of Oregon. The award rendered by arbitration shall be final and binding upon the parties, and judgment upon the award may be entered in any court of competent jurisdiction in the United States.

## **6.24 Amendments**

The DISTRICTS and the CONSULTANT may amend this Agreement at any time only by written amendment executed by the DISTRICTS and the CONSULTANT. Any amendment that increases the amount of compensation payable to the CONSULTANT in excess of the amounts authorized in prior Board approvals shall be subject to approval by the Board. The Director or person designated by Board order may execute amendments to the Agreement to increase compensation within the limits of the authority established by the DISTRICTS' Contract Review Board Rules and within the limits authorized by prior Board approvals. The Project Manager may agree to and execute any other amendment on behalf of the DISTRICTS.

## **6.25 Waiver**

The DISTRICTS and the CONSULTANT shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

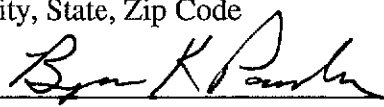
## **6.26 Time is of the essence of this Agreement.**

*[Signature Page Follows]*

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.

CONSULTANT:

CLACKAMAS COUNTY SERVICE  
DISTRICT NO. 1

Brown & Caldwell, Inc.  
6500 SW Macadam Ave., Suite 200  
Address  
Portland, OR 97239  
City, State, Zip Code  
  
Authorized Signature  
Vice President  
Title  
94-1446346  
Federal Tax ID Number  
January 11, 2012  
Date

Michael S. Kuenzi, Director  
Date  
TRI-CITY SERVICE DISTRICT  
Michael S. Kuenzi, Director  
Date