

# AGENDA

## **Thursday January 31, 2019 – 6:00 PM** **BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2019-05

### **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

### **I. NORTH CLACKAMAS PARKS & RECREATION DISTRICT PRESENTATION** *(Following are items of interest to the citizens of the County)*

1. Presentation on the Milwaukie Bay Park Final Design (Heather Koch, Business & Community Services)

### **II. NORTH CLACKAMAS PARKS & RECREATION DISTRICT CITIZEN COMMUNICATION**

*(The Board, sitting as the North Clackamas Parks & Recreation District will call for statements from citizens regarding issues relating to North Clackamas Parks & Recreation District. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

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

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

#### **A. Health, Housing & Human Services**

1. Approval of the Section 108 Loan Pool Contract to the U.S. Department of Housing and Urban Development (HUD) – *Housing & Community Development*
2. Approval of a Contract Amendment with American Medical Response Northwest, Inc. for Ambulance Services – *Public Health*
3. Approval of a Professional Services Contract with Folk Time, Inc. for Peer Support Services for the Clackamas County Sheriff's Office Behavioral Health Unit – *Procurement*
4. Approval of Professional Services Contract with NAMI Clackamas County for Peer Mental Health Education & Support - *Procurement*

5. Approval of Professional Services Contract with Stay Clean, Inc. for Peer Support Services – *Procurement*
6. Approval of a Contract with RoJoy, LLC for the Operations of the Mt. Hood Express Bus Service in the Mt. Hood Area – *Procurement*

**B. Department of Transportation & Development**

1. Board Order No. \_\_\_\_\_ Vacating a Portion of SE Laurie Avenue, County Road No. 2276 Right of Way

**C. Elected Officials**

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

**D. Community Corrections**

1. Approval of an Intergovernmental Agreement between Clackamas County Community Corrections and the State of Oregon, Department of Corrections for Creation of an Application Program Interface

**E. Human Resources**

1. Approval of Contract with Origami Risk LLC. to Provide and Implement a Risk Management Information System - *Procurement*

**V. NORTH CLACKAMAS PARKS & RECREATION DISTRICT**

1. Approval of a Grant Agreement with Special Districts Insurance Services (SDIS) for Safety and Security at the North Clackamas Aquatic Park

**VI. DEVELOPMENT AGENCY**

1. Approval of the License Agreement with Patrick Murphy and Dyan Murphy for Temporary Access to Accommodate Development of the CIAO Site
2. Approval of the First Amendment to the Disposition Agreement with Clackamas Crossing, LLC

**VII. WATER ENVIRONMENT SERVICES**

1. Approval of Contract with ADS LLC, to conduct flow metering within the sewer system for the County's monitoring stations - *Procurement*

**VIII. COUNTY ADMINISTRATOR UPDATE**

**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. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. <https://www.clackamas.us/meetings/bcc/business>**

# Milwaukie Bay Park Final Design

**NCPRD Project Update to  
Board of County Commissioners  
January 31, 2019**



**CITY OF MILWAUKIE**



**NORTH CLACKAMAS  
PARKS & RECREATION DISTRICT**

# Previous Project Updates

## to Board of County Commissioners

- **Oct 2017 Board Update:** NCPRD kicked off collaboration with City for design and engineering
- **June 2018 Board Approval:** Contract with 2.ink Studio design team to test and revise previous 2010 plan



# Today's Update

*“During schematic design, the selected design team will refine the project components, identify project cost, and engage the community.”*

## Summer/Fall Progress

### Winter 18/19:

- Draft Alternative & Review
- Concept Cost Estimates

### Funding

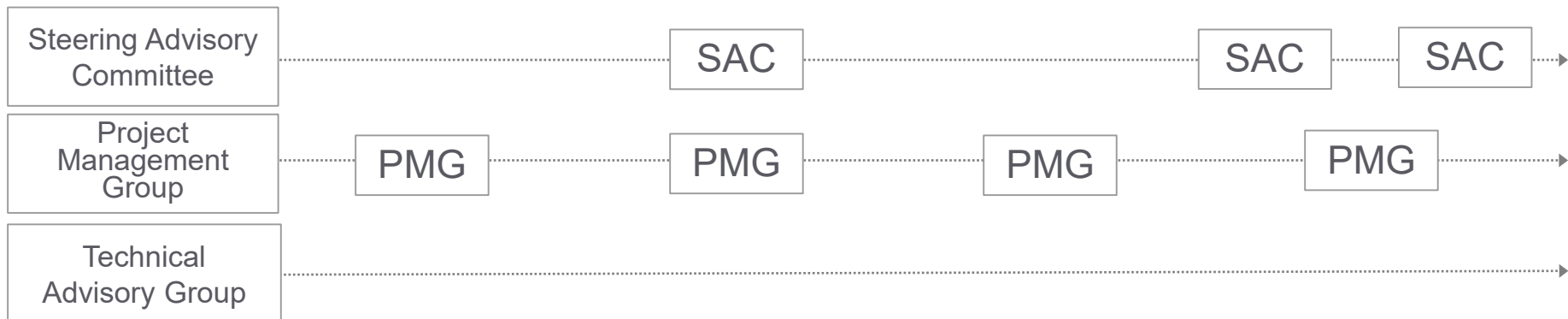
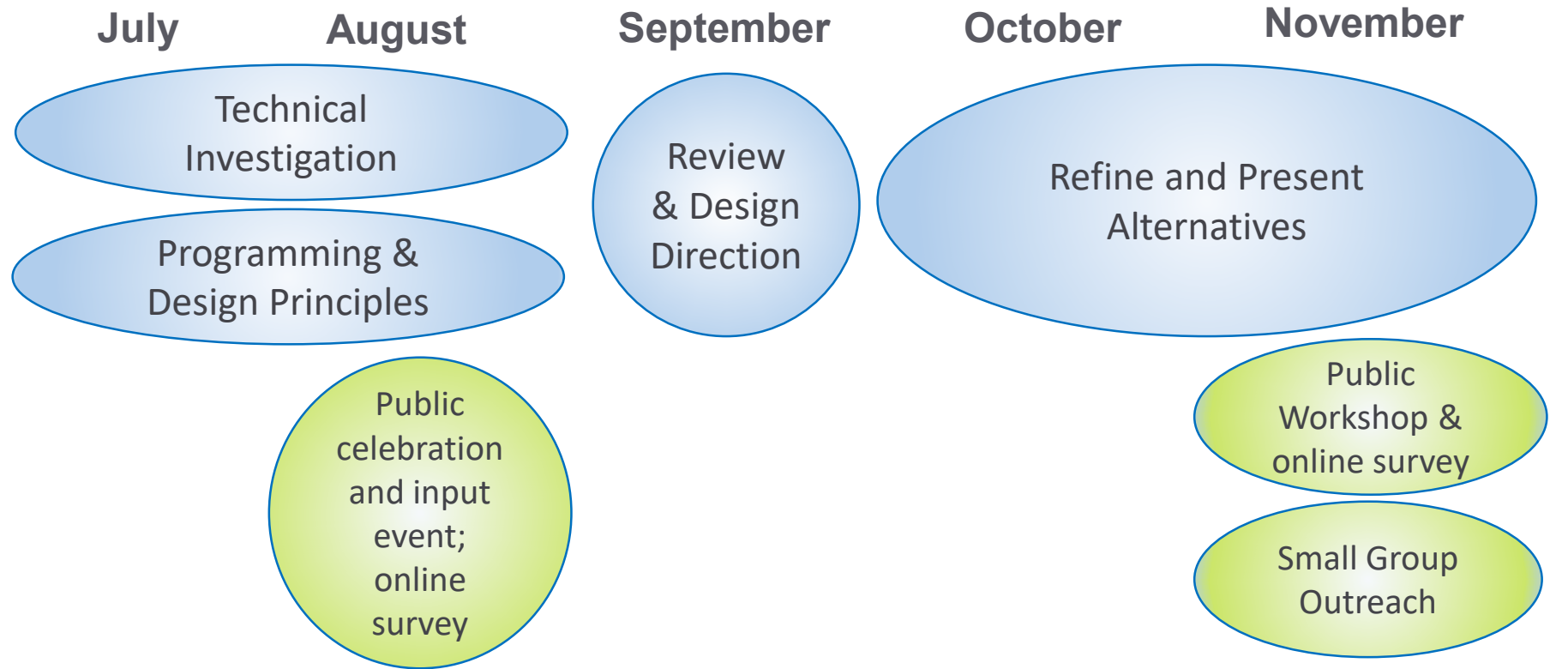
### Schedule

### Next Steps

### Discussion



# Summer/Fall 2018 Progress



# Where we are

**December/January**

Draft Preferred  
Alternative and  
Cost Estimate  
with Options

*For internal  
presentation and  
review*

**January/February**

## PRESENTATION AND REVIEW

- Board of County Commissioners
- Milwaukie City Council
- City and NCPRD Staff
- Steering Advisory Committee (SAC)  
& Technical Advisory Group (TAG)

**March**

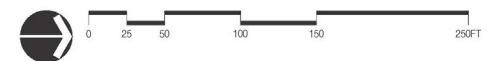
Final Design  
(Schematic)

*For public and  
planning review; to  
support funding  
plan*

# Draft Preferred Alternative



**DRAFT**  
**PREFERRED ALTERNATIVE**





# Concept Cost Estimates

## Estimates based on preferred alternative

- **\$\_\_\_\_\* million** (construction costs)
  - Includes contingencies & escalation ~25%
  - Does not include soft costs (estimated at \$\_\_\_\_\*m)

## City estimates going in to project

- **\$3 million estimated in Milwaukie's CIP 2017-22**  
(construction costs 2013, based on 2010 plan)
- **\$3.8 million included for Project Budget in RFP**  
(construction costs, with escalation from 2013)

## Accounting for difference

- Economy: 2010-2019 escalation
- Differences in estimating and past assumptions

# Funding

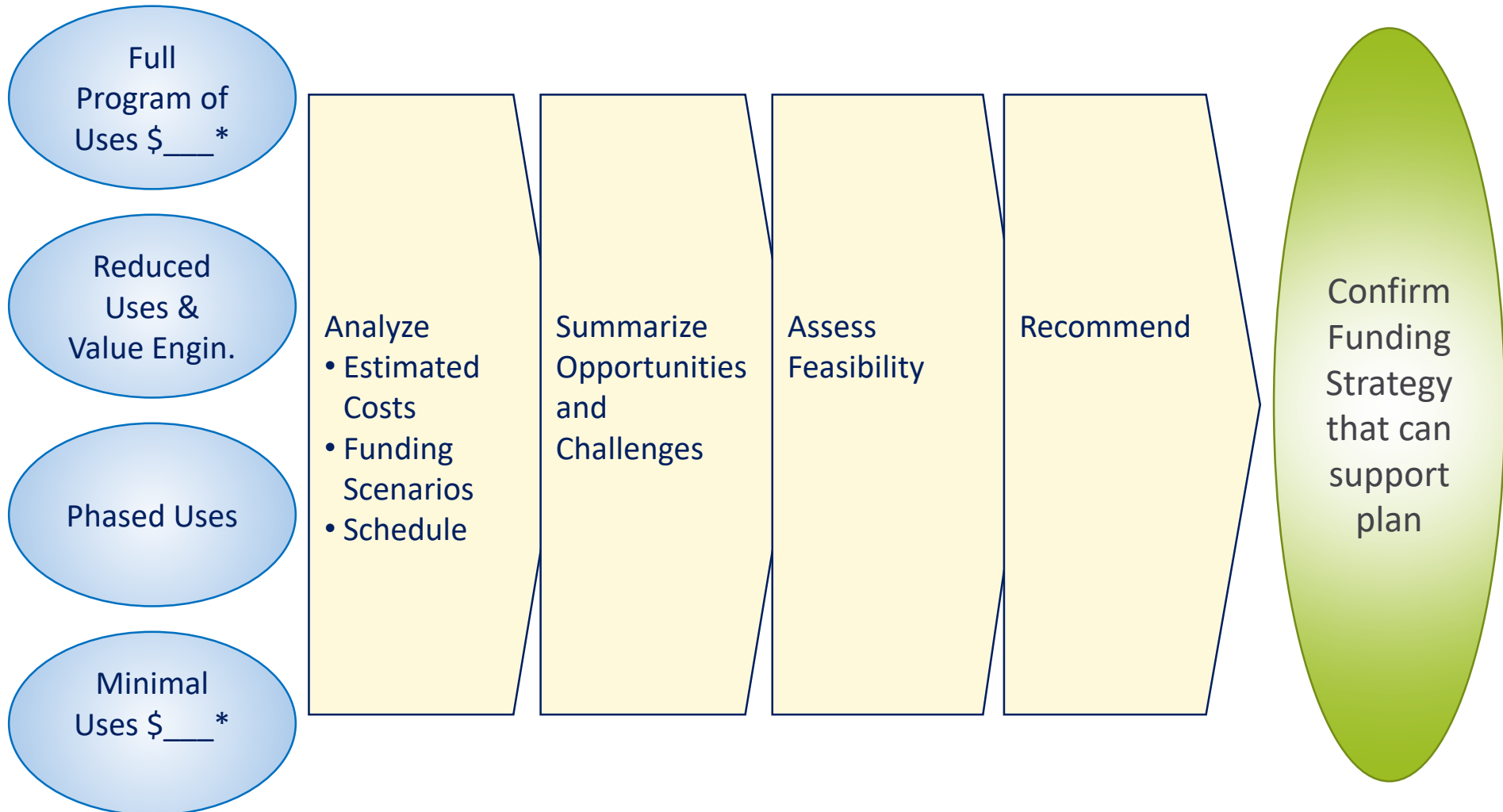
## NCPRD-City Development of Funding Strategy in 2018/19

Source	Potential Amount
NCPRD SDC Zone 1 funds	Up to 1,600,000
City funds	250,000
Metro Local Share (potential from pending bond measure)	500,000
Competitive Grants (parks, rec, state, regional, utility, etc.)	Up to 1,000,000
NCPRD General Obligation Bond	TBD
Other or private	TBD
<b>Estimated Total Funds</b>	<b>\$ 3,350,000</b>
<b>Estimated Cost (including soft costs)</b>	<b>\$ _____*</b>
<b>Estimate Gap in Funding</b>	<b>\$ _____*</b>

*\*Cost estimates available 1/29/19 prior to board meeting*

# Review phase

## Aligning Uses and Funding Sources



*\*Cost estimates available 1/29/19 prior to board meeting*

# Challenges

## Balancing goals

- Quality design: service and longevity
- Funding availability
- Feasibility of bond
- Timing of project

# Timeline for Project Completion



<b>Design &amp; Review</b>	ongoing – March 2019
<b>Funding Strategy</b>	ongoing – Jan 2020
<b>Construction Docs</b>	April 2019 – November 2019
<b>Permits/Approvals</b>	August 2019 – December 2019
<b>Bidding</b>	3 months; TBD per funding plan
<b>Construction</b>	12 months; TBD per funding plan

# Next Steps

- Continue District & City reviews
- Continue planning strategy for full funding
- Spring Public Meeting #3
- Design Development and Construction Documents



# Questions & comments?

For more information:

Heather Koch, Senior Planner

[HKoch@ncprd.com](mailto:HKoch@ncprd.com) / 503.742.4354



COPY

January 31, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of the Section 108 Loan Pool Contract to the  
U.S. Department of Housing and Urban Development (HUD)

<b>Purpose/Outcomes</b>	Board approval of the Section 108 Contract with U.S. Department of Housing and Urban Development (HUD).
<b>Dollar Amount and Fiscal Impact</b>	\$11,100,000 Section 108 Loan Guarantee funds to establish a loan pool for eligible community development projects.
<b>Funding Source</b>	U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) Section 108 program No County General Funds are involved.
<b>Duration</b>	NA
<b>Previous Board Action</b>	BCC Public Hearing on June 21, 2018, BCC Policy Session on January 29, 2019.
<b>Strategic Plan Alignment</b>	1. Build a strong infrastructure 2. Ensure safe, healthy and secure communities
<b>Contact Person</b>	Chuck Robbins, Community Development Director - (503) 655-8591
<b>Contract No.</b>	N/A

**BACKGROUND:**

The Housing and Community Development Division of the Health, Housing and Human Services Department requests that the Board approve the Section 108 Contract documents to establish a loan pool. The BCC approved the Section 108 application to HUD in a Public Hearing on June 21, 2018. On October 25, 2018 HUD sent the County Section 108 contract documents for review and signature. These contract documents do not include a request for any project loan funds at this time.

The U.S Department of Housing and Urban Development (HUD) Section 108 Loan Guarantee Program provides communities with a source of financing for large economic development, housing rehabilitation, public facility, and physical development projects. The funds can be used by a designated public entity to undertake eligible projects, or, alternatively, can be loaned to third party developers to undertake the projects.

The Housing and Community Development Division (HCD) Section 108 Loan Pool funds will be for:

- Acquiring property for affordable housing
- Rehabilitating publicly owned affordable housing projects
- Developing public facilities such as health centers, service centers and foodbanks

*Healthy Families. Strong Communities.*

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[www.clackamas.us](http://www.clackamas.us)



Section 108 follows the same regulatory and project eligibility requirements of the CDBG Program which can be found at this website: <https://www.hudexchange.info/programs/section-108/>

The Section 108 Loan documents will be submitted to HUD to establish a capital loan pool. No individual project applications are being submitted at this time. Individual project applications will be reviewed by HCD staff and submitted for review and approval by the Board prior to being submitted to HUD for approval. Projects will be required to demonstrate sufficient capacity to repay the Section 108 project loan, including interest and associated fees.

Each project loan would have a 20-year term with an initial interest rate that is variable based on the London Inter Bank Offered Rate (LIBOR) until the loan becomes permanent with fixed interest rates based on U.S Treasury Yields with a current interest rate of approximately 2.56%.

**RECOMMENDATION:**

Staff recommends that the Board of County Commissioners take the following actions:

- 1) Place the Section 108 Contract documents on the Consent Agenda for approval, and;
- 2) Direct HCD staff to have all Section 108 contract documents executed and submitted to HUD;
- 3) Authorize the Director of the Department of Health, Housing and Human Services to sign on behalf of Clackamas County any additional documents necessary for submitting contracts, receiving funds, and submitting reports to HUD.

Respectfully submitted,



Richard Swift, Director

**Attachments:**

- HUD Contract for the Loan Guarantee - contract
- Variable Fixed Rate Note – initial note to be adjusted with each new project loan
- Fiscal Agency Custodial Agreement – U.S. Bank accounts
- Signature Card – to be signed by persons approving loans and requesting funds
- Legal Opinion – to be signed by county counsel.

## AMENDMENT #1

### TO THE AMBULANCE CONTRACT BETWEEN CLACKAMAS COUNTY AND AMERICAN MEDICAL RESPONSE NORTHWEST, INC.

This Amendment #1 is entered into by and between Clackamas County, a political subdivision of the State of Oregon (“County”), and American Medical Response Northwest, Inc. (“Contractor”) and shall become part of the Contract entered into between both parties on May 1, 2014 (“Contract”).

The Purpose of the Amendment #1 is to make the following changes to the Contract:

1. **Section 1, Services and Term, Subsection B, Contract Extensions**, is hereby deleted and replaced with the following:  
  
**B. Contract Extensions.** The Board of County Commissioners will consider staff recommendations and, at the Board’s discretion, may extend the Contract term for an additional five (5) years. Contractor must be in substantial compliance with the terms of the Contract in order to be considered for a possible extension.
2. **Exercise of Extension.** By execution of this Amendment #1, the parties agree to exercise the extension set forth in amended Section 1, Subsection B. The Contract is hereby extended for an additional five (5) years and shall terminate at midnight on **May 1, 2024**.
3. **Section 6, Medical First Responders – Integration and Support, Subsection B, Cost Savings**, is hereby deleted and replaced with the following:  
  
**B. Cost Savings.** Contractor’s proposal identifies the cost savings associated with the reduction of staffed ambulance units based on a reduction in response time requirements (see table in section 5. E.) as \$363,737.00 per annum (“Cost Savings”). Contractor shall pay to the County the Cost Savings amount, as adjusted, on or before May 1 of each year.

Beginning May 1, 2019, the Cost Savings will increase annually by two percent (2%) of the prior year’s Cost Savings amount. In no event shall the Cost Savings exceed \$400,000.00 per annum by the end of the 5-year extended contract term.

In accordance with applicable laws and regulatory guidance, the Cost Savings will be used solely for various EMS-related programs including, but not limited to, reimbursement to first responders for extending the transport response time and patient care, a hardship relief program for customers unable to pay ambulance service bills, or other permissible EMS-related programs. The specific allocation of Cost Savings funds for EMS-related programs shall be made by the County in its sole reasonable administrative discretion for EMS related programs in accordance with EMS industry standards and practice. Contractor will submit invoices to County documenting requests for hardship relief which the County may pay from the Cost Savings funds within 90 days of the end of each County fiscal year.

4. **Section 6, Medical First Responders – Integration and Support, Subsection J, Reimbursement for Supplies and Medications.** is hereby deleted and replaced with the following :

Contractor must reimburse first responders for medical supplies and medication utilized by first responders in direct patient care on a one-for-one basis when the patient is transported by Contractor. Reimbursement shall be based on Contractor’s cost to replace those supplies and medications, but will not apply to supplies lost due to expiration, waste, damage or other loss not related to direct patient treatment.

5. **Section 12, Patient Fees (Rates), Subsection D, Rate Adjustment, Section 2, Annual Rate Adjustment,** is hereby amended as follows:

The use of the “[T]he Portland-Salem – All Items index” for annual rate adjustments is hereby deleted and replaced with the “West Urban – All Items index.”

As of the date of this Amendment #1, the approved patient fee rates are as follows:

	APPROVED RATE
BLS Non-emergency	\$1,212.20
BLS Emergency	\$1,212.20
ALS-1 Non-emergency	\$1,212.20
ALS-1 Emergency	\$1,212.20
ALS-2	\$1,212.20
Mileage (per patient-loaded mile)	\$25.39

By execution of this Amendment #1, all previous adjustments made to the annual rate using the West Urban – All Items Index are hereby approved and ratified.

6. **Section 17, Quality Control, Subsection B, Patient Care, Section 3, Quality Improvement Staff,** is hereby deleted and replaced with the following:

Contractor shall assign a minimum average of 10 hours of dedicated staff time a month to function as the Contractor’s liaison to the Medical Director and to participate in activities that support the advancement of quality improvement /assurance activities in Clackamas County.

7. **Section 22, Insurance and Proof of Insurance, Subsection A, Insurance, Section 4,** is hereby deleted and replaced with the following:

If the Contractor has assistance of other persons in the performance of this Contract, the Contractor agrees to qualify and remain qualified for the terms of this Contract as an insured employer under ORS 656.407. Contractor shall maintain employer’s liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 each policy limit.

8. The Contract is hereby amended to add the following new sections:

**46. Additional Terms and Conditions.**

- A. **Termination.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if federal, state, or local laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; and (C) This Contract may be terminated for breach of contract pursuant to Section 33 of the Contract.
- B. **Compliance with Oregon law.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.
- C. **Tax Compliance Certification.** Contractor must, throughout the duration of this Contract and any extensions, comply with all applicable tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully complied with: (A) All applicable tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318; (B) Any applicable tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any Work performed by Contractor; (C) Any applicable tax

provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any applicable rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

- D. **Workers' Compensation and House of Labor.** Contractor represents its employees are exempt from the requirements of ORS 279B.235. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- E. **Conditions concerning payment, contributions, liens and withholding.** Contractor shall: (i) make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract (ii) pay all contributions or amounts due the Industrial Accident Fund from the Contractor or subcontractor incurred in the performance of the Contract; (iii) not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; (iv) pay to the Department of Revenue all sums withheld from employees under ORS 316.167. If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.
- F. **Conditions Concerning Payment for Medical Care.** The Contractor shall promptly, as due and as applicable, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor has agreed to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

**47. Confidentiality.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11)), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines, and corrective actions (including credit monitoring and identity restoration services) arising from disclosure of such Confidential Information caused by a data breach or a breach of Contractor's confidentiality obligations hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

**48. Strategic Plan.** The Clackamas County Emergency Medical Services Council is in the process of developing the Clackamas County Emergency Medical Services Strategic Plan

("Plan"). Contractor agrees to negotiate in good faith towards the drafting and implementation of the Plan.

Except as expressly amended above, all other terms and conditions of the Contract shall remain in full force and effect. By signature below, the parties agree to this Amendment #1, effective upon the date of the last signature below.

<p><b>CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS</b></p> <p>_____</p> <p>James Bernard, Chair</p> <p>_____</p> <p>Date</p> <p>ATTEST:</p> <p>_____</p> <p>Clerk of the Board</p> <p>APPROVED AS TO FORM:</p> <p>_____</p> <p>County Counsel</p>	<p><b>AMERICAN MEDICAL RESPONSE NORTHWEST, INC.</b></p> <p>DocuSigned by: <i>Edward Van Horne</i></p> <p>_____</p> <p><small>D7464D277ECA4F2...</small> Edward B. Van Horne, President &amp; CEO</p> <p>1/29/2019</p> <p>_____</p> <p>Date</p>
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performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.



Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines, and corrective actions (including credit monitoring and identity restoration services) arising from disclosure of such Confidential Information caused by a data breach or a breach of Contractor's confidentiality obligations hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

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Except as expressly amended above, all other terms and conditions of the Contract shall remain in full force and effect. By signature below, the parties agree to this Amendment #1, effective upon the date of the last signature below.

<b>CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS</b>	<b>AMERICAN MEDICAL RESPONSE NORTHWEST, INC.</b>
_____ James Bernard, Chair	_____ Thomas Wagner President, AMR West Region
_____ Date	_____ Date
ATTEST:	
_____ Clerk of the Board	
APPROVED AS TO FORM:	
_____ County Counsel	

**AMENDMENT #1**

**TO THE AMBULANCE CONTRACT BETWEEN CLACKAMAS COUNTY AND AMERICAN MEDICAL RESPONSE NORTHWEST, INC.**

This Amendment #1 is entered into by and between Clackamas County, a political subdivision of the State of Oregon ("County"), and American Medical Response Northwest, Inc. ("Contractor") and shall become part of the Contract entered into between both parties on May 1, 2014 ("Contract").

The Purpose of the Amendment #1 is to make the following changes to the Contract:

1. **Section 1, Services and Term, Subsection B, Contract Extensions**, is hereby deleted and replaced with the following:

**B. Contract Extensions.** The Board of County Commissioners will consider staff recommendations and, at the Board's discretion, may extend the Contract term for an additional five (5) years. Contractor must be in substantial compliance with the terms of the Contract in order to be considered for a possible extension.

2. **Exercise of Extension.** By execution of this Amendment #1, the parties agree to exercise the extension set forth in amended Section 1, Subsection B. The Contract is hereby extended for an additional five (5) years and shall terminate at midnight on **May 1, 2024**.

3. **Section 6, Medical First Responders – Integration and Support, Subsection B, Cost Savings**, is hereby deleted and replaced with the following:

**B. Cost Savings.** Contractor's proposal identifies the cost savings associated with the reduction of staffed ambulance units based on a reduction in response time requirements (see table in section 5. E.) as \$363,737.00 per annum ("Cost Savings"). Contractor shall pay to the County the Cost Savings amount, as adjusted, on or before May 1 of each year.

Beginning May 1, 2019, the Cost Savings will increase annually by two percent (2%) of the prior year's Cost Savings amount. In no event shall the Cost Savings exceed \$400,000.00 per annum by the end of the 5-year extended contract term.

In accordance with applicable laws and regulatory guidance, the Cost Savings will be used solely for various EMS-related programs including, but not limited to, reimbursement to first responders for extending the transport response time and patient care, a hardship relief program for customers unable to pay ambulance service bills, or other permissible EMS-related programs. The specific allocation of Cost Savings funds for EMS-related programs shall be made by the County in its sole reasonable administrative discretion for EMS related programs in accordance with EMS industry standards and practice. Contractor will submit invoices to County documenting requests for hardship relief which the County may pay from the Cost Savings funds within 90 days of the end of each County fiscal year.

4. ~~The first sentence of Section 6, Medical First Responders – Integration and Support, Subsection J, Reimbursement for Supplies and Medications,~~ is hereby deleted and replaced with the following :

Contractor must reimburse first responders for medical supplies and medication utilized by first responders in direct patient care on a one-for-one basis, when the patient is transported by Contractor. Reimbursement shall be based on ~~AMR's Contractor's~~ cost to replace those supplies and medications, but will not apply to supplies lost due to expiration, waste, damage or other loss not related to direct patient treatment.

5. **Section 12, Patient Fees (Rates), Subsection D, Rate Adjustment, Section 2, Annual Rate Adjustment,** is hereby amended as follows:

The use of the “[T]he Portland-Salem – All Items index” for annual rate adjustments is hereby deleted and replaced with the “West Urban – All Items index.”

As of the date of this Amendment #1, the approved patient fee rates are as follows:

	APPROVED RATE
BLS Non-emergency	\$1,212.20
BLS Emergency	\$1,212.20
ALS-1 Non-emergency	\$1,212.20
ALS-1 Emergency	\$1,212.20
ALS-2	\$1,212.20
Mileage (per patient-loaded mile)	\$25.39

By execution of this Amendment #1, all previous adjustments made to the annual rate using the West Urban – All Items Index are hereby approved and ratified.

6. ~~Section 17, Quality Control, Subsection B, Patient Care, Section 3, Quality Improvement Staff-Is, is~~ hereby deleted and replaced with the following:

Contractor shall assign a minimum average of 10 hours of dedicated staff time a month to function as the Contractor’s liaison to the Medical Director and to participate in activities that support the advancement of quality improvement /assurance activities in Clackamas County.

7. **Section 22, Insurance and Proof of Insurance, Subsection A, Insurance, Section 4,** is hereby deleted and replaced with the following:

If the Contractor has assistance of other persons in the performance of this Contract, the Contractor agrees to qualify and remain qualified for the terms of this Contract as an insured employer under ORS 656.407. Contractor shall maintain employer’s liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 each policy limit.

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8. The Contract is hereby amended to add the following new sections:

**46. Additional Terms and Conditions.**

~~A. **HIPAA Compliance.** Subject to the U.S. Health Insurance Portability and Accountability Act (HIPAA) of 1996 and its implementing regulation, the Standard of Privacy of Individuals Identifiable Health Information at 45 C.F.R. Part 160 and 164, Subpart A and E, the County is required to enter into a Business Associate Agreement, attached hereto as **Exhibit A** and incorporated by this reference herein, with the Contractor prior to the commencement of any work under this Contract. Contractor acknowledges and agrees that protected health information (“PHI”) disclosed by County to Contractor may only be used by or disclosed to Contractor pursuant the Business Associate Agreement or pursuant to a written consent in compliance with 42 C.F.R. Part 2, as may be amended from time to time. Contractor agrees to comply with any and all applicable privacy laws including without limitation, 42 C.F.R. Part 2.~~

~~B.A. **Termination.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if federal, state, or local laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; and (C) This Contract may be terminated for breach of contract pursuant to Section 33 of the Contract.~~

~~B.B. **Compliance with Oregon law.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.~~

~~B.C. **Tax Compliance Certification.** Contractor must, throughout the duration of this Contract and any extensions, comply with all applicable tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County’s setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result~~

of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully complied with: (A) All applicable tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318; (B) Any applicable tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any Work performed by Contractor; (C) Any applicable tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any applicable rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

**E.D. Workers' Compensation and House of Labor.** Contractor represents its employees are exempt from the requirements of ORS 279B.235. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

**F.E. Conditions concerning payment, contributions, liens and withholding.** Contractor shall: (i) make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract (ii) pay all contributions or amounts due the Industrial Accident Fund from the Contractor or subcontractor incurred in the performance of the Contract; (iii) not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; (iv) pay to the Department of Revenue all sums withheld from employees under ORS 316.167. If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.

**G.F. Conditions Concerning Payment for Medical Care.** The Contractor shall promptly, as due and as applicable, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor has agreed to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

**48. 47. Confidentiality.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of

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this Contract, including but not limited to Personal Information (as “Personal Information” is defined in ORS 646A.602(1)(~~7~~)), shall be deemed to be confidential information of the County (“Confidential Information”). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County’s request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor’s possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor’s employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor’s employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor’s report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines, and corrective actions (including credit monitoring and identity restoration services) arising from disclosure of such Confidential Information caused by a data breach or a breach of Contractor's confidentiality obligations hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

**49.48. Strategic Plan.** The Clackamas County Emergency Medical Services Council is in the process of developing the Clackamas County Emergency Medical Services Strategic Plan ("Plan"). Contractor agrees to negotiate in good faith towards the drafting and implementation of the Plan.

Except as expressly amended above, all other terms and conditions of the Contract shall remain in full force and effect. By signature below, the parties agree to this Amendment #1, effective upon the date of the last signature below.

<b>CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS</b>	<b>AMERICAN MEDICAL RESPONSE NORTHWEST, INC.</b>
_____	_____
James Bernard, Chair	<del>Thomas Wagner</del>
_____	<del>Edward B. Van Horne, President, AMR West</del>
Date	<del>Region &amp; CEO</del>
ATTEST:	_____
_____	Date
Clerk of the Board	
APPROVED AS TO FORM:	
_____	
County Counsel	

Board of Commissioners  
Clackamas County

Members of the Board:

Approval of a Professional Services Contract with Folk Time, Inc. for  
Peer Support Services for the Clackamas County Sheriff's Office Behavioral Health Unit

<b>Purpose/Outcomes</b>	To provide peer support services at the Clackamas Mental Health Center (Clackamas MHC) for the Clackamas County Sheriff's Office/Behavioral Health Unit (CCSO-BHU).
<b>Dollar Amount and Fiscal Impact</b>	The maximum contract value is \$529,869.
<b>Funding Source</b>	No County General Funds State of Oregon, Community Mental Health Plan (CMHP) funds
<b>Duration</b>	Effective January 1, 2019 and through June 30, 2020, with an option to extend to June 30, 2022.
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	1. Increase self-sufficiency for our clients. 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Mary Rumbaugh, Director, Behavioral Health Division 503-742-5305
<b>Contract No.</b>	#8141

**BACKGROUND:**

The Behavioral Health Division (BHD) of the Health, Housing & Human Services Department requests the approval of Professional Services Contract #8141 with Folk-Time, Inc. On September 12, 2018, a Request for Proposals (RFP) for eight peer-delivered services programs. The RFP closed October 24, 2018, and Folk-Time was selected by the review committee to be awarded a contract to provide peer support services to consumers served by the Clackamas County Sheriff's Office Behavioral Health Unit. Peer support services are provided directly to consumers of County Behavioral Health services in collaboration with County service teams. BHD has partnered with Folk Time, Inc. for behavioral health services since 2010.

The contract, effective January 1, 2019 through June 30, 2020, with an option to extend to June 30, 2022, has a maximum value of \$529,869. County Counsel reviewed and approved this contract.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing and Human Services

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





CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal Services Contract (this "Contract") is entered into between FolkTime Inc. in Oregon, ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of its Health Housing and Human Services Department ("H3S").

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective on January 1, 2019. Unless earlier terminated or extended, this Contract shall expire on June 30, 2020. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured. This Contract may be renewed for an additional two (2) year term upon the written agreement of both parties to this Contract.

2. Scope of Work. This Contract covers the Scope of Work described as Project 3: Adult Peer Delivered Services - Clackamas County Crisis Clinic as set forth in the RFP #2018-45 Behavioral Health Peer Delivered Services including all addenda thereto ("RFP"), attached and hereby incorporated by reference as Attachment "A." This contract is funded in whole or in part by state or federal funds. As such, this Contract is subject to the additional terms and conditions described in Exhibits A, C, E, F, J, L, M, N and P.

3. Consideration. The County agrees to pay Contractor for accomplishing the Work required by this Contract, from available and authorized funds, a sum not to exceed two hundred twenty-seven thousand dollars (\$227,000.00) for the initial term of this Contract, which expires on June 30, 2020, and the total Contract value including the two year renewal term shall not exceed five hundred twenty-nine thousand eight hundred sixty-nine dollars (\$529,869.00). If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [ ] Yes [X] No

If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: http://www.clackamas.us/bids/terms.html. Travel expense reimbursement is not in excess of the not to exceed consideration.

6. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract including Exhibits A, C, E, F, J, L, M, N, P Attachment "A", and the Contractor's Proposal attached and hereby incorporated by reference as Attachment "B". Work shall be performed in accordance with a schedule approved by the County.

5. Contractor Data.

Address: 232 SE 80th Avenue, Portland OR 97215

Contractor Contract Administrator: Shannon Farr

Phone No.: 503-756-0066

Email: sfarr@folktime.org

MWESB Certification: [ ] DBE # [ ] MBE # [ ] WBE # [ ] ESB #

Payment information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to backup withholding.

## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.

Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.

5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this

Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
- 9. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Attachment C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit C**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County

Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us), or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of County. County and Contractor intend that such Work Product be deemed “work made for hire” of which County shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County’s consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty in this Contract that Contractor has

complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any Work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

**20. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

**21. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is

determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.
- (C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- (D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and

attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

- 28. CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor

has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

**29. CRIMINAL BACKGROUND CHECK REQUIREMENTS.** Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

**30. Further Assurances.** Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

**31. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**





**ATTACHMENT A  
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

**SCOPE OF WORK**

Contractor shall provide Behavioral Health Peer Delivered Services (“Work”). Work is described in the Request for Proposals #2018-45 Behavioral Health Peer Delivered Services issued September 12, 2018 (“RFP”) including all addenda thereto, included in this Attachment “A.” Insofar as the RFP includes Project Specific Scope and Expectations as stated therein, this Contract covers Project 3: Adult Peer Delivered Services –Crisis Clinic. Work is further described in Vendor’s Response to RFP, hereby attached and incorporated by reference as Attachment “B.”

The County Contract administrator for this Contract is: Ally Linfoot

**INVOICES AND PAYMENTS**

- a. Consideration Rates – Fixed Fee basis of \$12,611.10 per month for this Contract’s eighteen (“18”) month initial term. Should a renewal option be exercised, the consideration rate shall be \$12,619.54 per month for the resulting twenty-four (“24”) month term.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462. Payment for all Work performed under this Contract, including all optional renewals, shall not exceed the total maximum sum of **\$529,869.00**. Invoices shall be submitted to: Ally Linfoot, either by mail at 150 Beaver Creek RD, Oregon City OR, 97045 or email at [ALinfoot@co.clackamas.or.us](mailto:ALinfoot@co.clackamas.or.us).
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.



**REQUEST FOR PROPOSALS #2018-45**

**FOR**

**BEHAVIORAL HEALTH PEER DELIVERED SERVICES**

BOARD OF COUNTY COMMISSIONERS

JIM BERNARD, Chair  
SONYA FISCHER, Commissioner  
KEN HUMBERSTON, Commissioner  
PAUL SAVAS, Commissioner  
MARTHA SCHRADER, Commissioner

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Donald Krupp  
County Administrator

George Marlton  
Procurement Division Director

Peter Madaus  
Analyst

**PROPOSAL CLOSING DATE, TIME AND LOCATION**

DATE: September 12, 2018

TIME: 2:00 PM, Pacific Time

PLACE: Clackamas County Procurement Division  
Clackamas County Public Services Building  
2051 Kaen Road, Oregon City, OR 97045

## **SCHEDULE**

Request for Proposals Issued.....	September 12, 2018
Protest of Specifications Deadline.....	September 19, 2018, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	October 3, 2018, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	October 24, 2018, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	January 1, 2019

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**SECTION 1  
NOTICE OF REQUEST FOR PROPOSALS (RFP)**

Notice is hereby given that Clackamas County (“County”) through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, October 24, 2018** (“Closing”), to provide **Behavioral Health Peer Delivered Services**. No Proposals will be received or considered after that time.

As a result of this RFP, the County intends to enter into contracts for the eight (8) Behavioral Health Peer Delivered Services projects (“Project”) listed below in “Table 1.0” and further specified in “Section 3” of this RFP:

<b>Table 1.0</b>	
<i><b>Project</b></i>	<i><b>Not to Exceed 3.5 Year Budget</b></i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	\$142,000.00
Project 2: Adult Peer Delivered Services – Jail Support	\$426,000.00
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	\$532,500.00
Project 4: Adult Peer Delivered Services – Community Education	\$213,000.00
Project 5: Adult Peer Delivered Services – Villebois Community	\$710,000.00
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	\$439,500.00
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	\$342,500.00
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	\$287,500.00
*The “Not to Exceed 3.5 Year Budgets” amounts shall be included in proposal responses and shall not be construed to guarantee or represent the total contract value for any contracts that might result from this RFP.	

Each proposer entity shall only submit one proposal package in response to this RFP. This RFP is structured to allow proposer entities to include multiple Projects in one proposal package should they choose to do so. The resulting contract(s) from this RFP shall include a one and a half (1.5) year initial term with one (1) mutual renewal option for two (2) additional years.

Proposal packets are available from 7:00 AM to 6:00 PM Monday through Thursday at Clackamas County Procurement Division, Clackamas County Public Services Building, 2051 Kaen Road, Oregon City, OR 97045, telephone (503) 742-5444 or may be obtained at <http://www.clackamas.us/bids/>. Sealed Proposals are to be sent to Clackamas County Procurement Services – Attention George Marlton, Director at the above Kaen Road address. Sealed Proposals may be emailed to [procurement@clackamas.us](mailto:procurement@clackamas.us) or sent to Clackamas County at the above Kaen Road address.

Contact Information

All communications with the County regarding this RFP shall only be directed to **Peter Madaus**, [pmadaus@co.clackamas.or.us](mailto:pmadaus@co.clackamas.or.us), (503) 742-5451.

The Board of County Commissioners reserves the right to reject any and all Proposals not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, the Board of County Commissioners will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of Clackamas County and will reserve the right to award the contract to the contractor whose Proposal shall be best for the public good.

Clackamas County encourages bids from Minority, Women, and Emerging Small Businesses.

## SECTION 2 INSTRUCTIONS TO PROPOSERS

Clackamas County (“County”) reserves the right to reject any and all Proposals received as a result of this RFP. County Local Contract Review Board Rules (“LCRB”) govern the procurement process for the County.

**2.1 Modification or Withdrawal of Proposal:** Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided that a written request is received by the County Procurement Division Director, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

**2.2 Requests for Clarification and Requests for Change:** Proposers may submit questions regarding the specifications of the RFP. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, at the Procurement Division address as listed in Section 1 of this RFP. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit County to correct, prior to the opening of Proposals, RFP terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. County will consider all requested changes and, if appropriate, amend the RFP. County will provide reasonable notice of its decision to all Proposers that have provided an address to the Procurement Division for this procurement. No oral or written instructions or information concerning this RFP from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFP.

**2.3 Protests of the RFP/Specifications:** Protests must be in accordance with LCRB C-047-0730. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, or within three (3) business days of issuance of any addendum, at the Procurement Division address listed in Section 1 of this RFP. Protests may not be faxed. Protests of the RFP specifications must include the reason for the protest and any proposed changes to the requirements.

**2.4 Addenda:** If any part of this RFP is changed, an addendum will be provided to Proposers that have provided an address to the Procurement Division for this procurement. It shall be Proposers responsibility to regularly check the Bids and Contract Information page at <http://www.clackamas.us/bids/> for any published Addenda or response to clarifying questions.

**2.5 Submission of Proposals:** All Proposals must be submitted in a sealed envelope bearing on the outside, the name and address of the Proposer, the Project title, and Closing date/time. Proposals must be submitted in accordance with Section 5.

All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFP. Proposals that include orders or qualifications may be rejected as irregular. All Proposals must include a signature that affirms the Proposer’s intent to be bound by the Proposal (may be on cover letter, on the Proposal, or the Proposal Certification Form) shall be signed. If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor. The Proposals will be considered by the County to be submitted in confidence and are not subject to public disclosure until the notice of intent to award has been issued.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by telephone or fax.

**2.6 Post-Selection Review and Protest of Award:** County will name the apparent successful Proposer(s) in “Notice of Intent to Award” letter(s). Identification of the apparent successful Proposer(s) is procedural only and creates no right of the named Proposer(s) to award of the contract. Competing Proposer(s) will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given seven (7) calendar days from the date on the “Notice of Intent to Award” letter to review the file at the Procurement Division office and file a written protest of award, pursuant to LCRB C-047-0740. Any award protest must be in writing and must be delivered by hand-delivery or mail to the address for the Procurement Division as listed in Section 1 of this RFP.

Only actual Proposers may protest if they believe they have been adversely affected because the Proposer would be eligible to be awarded the contract in the event the protest is successful. The basis of the written protest must be in accordance with ORS 279B.410 and shall specify the grounds upon which the protest is based. Written protests shall specify the Project(s) listed under Section 3 of this RFP to which the protest applies. In order to be an adversely affected Proposer with a right to submit a written protest, a Proposer must be next in line for award, i.e. the protester must claim that all higher rated Proposers are ineligible for award because they are non-responsive or non-responsible.

County will consider any protests received and:

- a. reject all protests and proceed with final evaluation of, and any allowed contract language negotiation with, the apparent successful Proposer(s) and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer(s); OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer(s) as nonresponsive, if such Proposer(s) is unable to demonstrate that its Proposal(s) complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name new apparent successful Proposer(s); OR
- c. reject all Proposals and cancel the procurement in whole, or with respect to any single Project or group of Projects named under Section 3 of this RFP.

**2.7 Acceptance of Contractual Requirements:** Failure of the selected Proposer(s) to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of County.

**2.8 Public Records:** Proposals are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFP and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.501(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

**“This information constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”**

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” ORS 192.500(1). Therefore, non-disclosure of documents, or any portion of a document submitted as part of a Proposal, may depend upon official or judicial determinations made pursuant to the Public Records Law.

**2.9 Investigation of References:** County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any



other factor relevant to this RFP. County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer(s) in order to complete its investigation.

**2.10 RFP Proposal Preparation Costs and Other Costs:** Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by County), or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by County.

**2.11 Clarification and Clarity:** County reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

**2.12 Right to Reject Proposals:** County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by County.

**2.13 Cancellation:** County reserves the right to cancel or postpone this RFP at any time or to award no contract.

**2.14 Proposal Terms:** All Proposals, including any price quotations, will be valid and firm through a period of one hundred and eighty (180) calendar days following the Closing date. County may require an extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.

**2.15 Oral Presentations:** At County's sole option, Proposers may be required to give an oral presentation of their Proposals to County, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Procurement Division will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by County. **Note:** Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, **written Proposals should be complete.**

**2.16 Usage:** It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

**2.17 Review for Responsiveness:** Upon receipt of all Proposals, the Procurement Division or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

**2.18 RFP Incorporated into Contract:** This RFP will become part of the Contract between County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFP, their Proposal(s), and the terms of the Sample Contract.

**2.19 Communication Blackout Period:** Except as called for in this RFP, Proposers may not communicate with members of the Evaluation Committee or other County employees or representatives about the RFP during the procurement process until the apparent successful Proposer(s) are selected, and all protests, if any, have been resolved. Communication in violation of this restriction may result in rejection of a Proposer.

**2.20 Prohibition on Commissions and Subcontractors:** County will contract directly with persons/entities capable of performing the requirements of this RFP. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process. Contractor shall not use subcontractors to perform the Work unless specifically pre-authorized in writing to do so by the County. Contractor represents that any employees assigned to perform the Work, and any authorized subcontractors performing the Work, are fully qualified to perform the tasks assigned to them, and shall perform the Work in a competent and professional manner. Contractor shall not be permitted to add on any fee or charge for subcontractor Work. Contractor shall provide, if requested, any documents relating to subcontractor's qualifications to perform required Work.

**2.21 Ownership of Proposals:** All Proposals in response to this RFP are the sole property of County, and subject to the provisions of ORS 192.410-192.505 (Public Records Act).

**2.22 Clerical Errors in Awards:** County reserves the right to correct inaccurate awards resulting from its clerical errors.

**2.23 Rejection of Qualified Proposals:** Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFP or the Sample Contract.

**2.24 Collusion:** By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFP, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

**2.25 Evaluation Committee:** Proposals will be evaluated by a committee consisting of representatives from County and potentially external representatives. County reserves the right to modify the Evaluation Committee make-up in its sole discretion.

**2.26 Commencement of Work:** The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by County.

**2.27 Best and Final Offer:** County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

**2.28 Nondiscrimination:** The successful Proposer agrees that, in performing the work called for by this RFP and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.

**2.29 Intergovernmental Cooperative Procurement Statement:** Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the contractor and the participating public agency and shall not impact the contractor's obligation to County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their

Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

**SECTION 3  
SCOPE OF WORK**

**3.1. INTRODUCTION**

Clackamas County’s Behavioral Health Division (“Behavioral Health”) is seeking qualified programs and organizations to provide peer delivered support services in the areas of mental health and substance use. Services are to be provided within Clackamas County (“County”) and serving adults, children, youth, and families residing in the County or individuals moving to the County upon release from a correctional facility, juvenile detention facility, psychiatric or substance use treatment in-patient facility, or hospital. The County intends to enter into multiple contracts as a result of this solicitation.

In submitting a response to this RFP, the proposer certifies that paid staff providing services under any contract issued will be paid a living wage and receive appropriate benefits.

**Please direct all Technical/Specifications or Procurement Process Questions to the indicated representative referenced in the Notice of Request for Proposals and note the communication restriction outlined in Section 2.19.**

**3.2 BACKGROUND**

Since 2010, Behavioral Health has consistently worked to create a comprehensive Peer Delivered Services System of Care. We support a system of care that promotes a family’s and individual’s resiliency and recovery from mental health and substance use. Behavioral Health believes peer support is a critical element of recovery. Peer Services supports this system by ensuring individuals and families with children are empowered and drive the process of reaching and sustaining recovery, wellness, and resilience while building an inclusive community.

The outcome of this RFP process will be the availability of an array of peer delivered support services reaching a broad population of adults, youth and young adults in transition, family members and caregivers. These services will be provided to individuals and families who may also require support within other systems such as corrections, addictions, juvenile justice, child welfare, and others.

Please read this RFP carefully as Clackamas County seeks to fulfill several lines of peer support services. The Scopes of Work for each peer support service covered under this RFP are individually outlined in this Section. The peer support services are:

Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups
Project 2: Adult Peer Delivered Services – Jail Support
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic
Project 4: Adult Peer Delivered Services – Community Education
Project 5: Adult Peer Delivered Services – Villebois Community
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth
Project 7: Children and Families – Family Navigator / Emergency Room Diversion
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors

Proposers may submit a proposal for one or more of the above Projects. If Proposer submits a proposal for more than one Project, the proposal must be very clear and complete for each Project and follow instructions in Section 5.

### **3.3. SCOPE AND EXPECTATIONS FOR ALL PROJECTS**

#### **3.3.1. STAFF STANDARDS**

Contractor shall complete the following for all staff:

- A successful criminal history records check through the State of Oregon Background Check Unit (“BCU”) compliant with ORS Chapter 181 and OAR 407-007-0000 to OAR 407-007-0370.
- Positive clearance through the General Services Administration System for Award Management (“SAM”) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General’s (“OIG”) List of Excluded Individuals/Entities at time of hire and monthly thereafter.
- Review appropriate education and academic degrees;
- Review licenses or certificates, as required;
- Review relevant work history or qualifications;
- Document and certify that the staff’s education, experience, competence, and supervision are adequate to permit the staff to perform the assigned duties.

In addition, Contractor shall ensure all staff with direct one-on-one contact with the County residents:

- Complete Oregon Health Authority approved training program for Peer Delivered Services and adherence to all requirements in the Traditional Health Worker administrative rules including, OAR 410-180-0300 to OAR 410-180-0380.

County will provide technical assistance to Contractor on exclusion process through SAM and OIG, upon which time, the County will delegate to the Contractor the responsibility of exclusion checks. County may review Contractor’s adherence to exclusion checks during routine contract compliance monitoring.

Contractor shall not permit any person to provide services under this Contract if that person is listed on the non-procurement portion of the General Service Administration’s SAM in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension” (2 CFR Part 180).

In addition, Contractor shall not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 “Program Integrity – Medicare and State Health Care Programs Subpart B”.

If Contractor is unable to adhere with requirements listed, Contractor shall communicate directly with Clackamas County’s Peer Services Coordinator a plan for meeting contract requirements.

#### **3.3.1. REPORTING REQUIREMENTS**

Behavioral Health’s Peer Delivered Services has developed the following general outcome measures that must be reported to the County on a quarterly basis.

Individuals Served:

- Number of individuals served during the reporting period.
- Number of new individuals served during the reporting period.
- Number of individuals who concluded support services during the reporting period.

Experience of Services:

- Does the individual feel they would have returned to a higher level of care or to a corrections setting if not for Peer Delivered Services?
- Does the individual feel their quality of life has improved overall?
- Has there been an increase in natural supports?

Training, Workshops, Support Groups:

- Number of continuing education/training programs or classes attended by Peer Support Specialists during the quarter.
- Number of workshops, support groups, or presentations provided for individuals receiving peer support services.
- Number of outreach activities conducted to inform and engage community partners and potential referral sources about the role of Peer Support Specialists and the Support Services available.

These reporting requirements will be included in any contract awarded. There may be additional reporting requirements dependent on the type of funding available for the contract and the specific type of peer support being provided through the contract. Please review the sample contract and exhibits associated with the program(s) for which you would like to propose to find additional reporting and related requirements.

### **3.4. PROJECT SPECIFIC SCOPE AND EXPECTATIONS**

#### **3.4.1. PROJECT 1: ADULT PEER DELIVERED SERVICES – DUAL DIAGNOSIS SUPPORT GROUPS**

**Budget:**

\$142,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults with mental health and addictions seeking recovery support in a group setting.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Comprehensive and current referral network with community agencies and system partners through an outreach specialist to promote recovery support groups
- Monthly fellowship meetings for group leaders.
- Maintenance of eight (8) or more chapters/groups that serve a minimum of 750 contacts throughout the duration of the contract.
- Supports/services including a focus on special populations, such as veterans.
- Ongoing outreach that includes dissemination of informational literature about meeting times, locations, and upcoming events.
- Workshops/trainings/support groups that will be available as well as opportunities for leadership development provided through the organization for those individuals being served.

### **3.4.2. PROJECT 2: ADULT PEER DELIVERED SERVICES – JAIL SUPPORT**

#### **Budget:**

\$426,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

#### **Target Populations:**

Adults residing in Clackamas County Jail seeking recovery support for substance use and may also have co-occurring mental health issues.

#### **Service Components:**

Please provide a plan for providing the following services/supports:

- Weekly support groups, workshops and/or recovery curriculum within Clackamas County Jail.
- Collaborative work processes with the County services to begin engagement and access services and resources when appropriate.
- Workshops/trainings/support groups that will be available, as well as opportunities for leadership development provided through the organization for those individuals being served once they have been released from jail
- Peer support services within the jail.

#### **Staffing:**

- 1.0 FTE for a Lead Peer Recovery Mentor.
- 1.5 FTE Peer Support Specialists (PSS). At least one PSS must be male.

### **3.4.3. PROJECT 3: ADULT PEER DELIVERED SERVICES – CLACKAMAS COUNTY CRISIS CLINIC**

#### **Budget:**

\$532,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

#### **Target Populations:**

Adults with mental health or co-occurring mental health and addiction who are seeking services through the County's crisis mental health walk-in clinic located in Clackamas County, OR.

#### **Service Components:**

Please provide a plan for providing the following services/supports:

- Cooperative work processes with the County to promote a recovery oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
- Supports for individuals experiencing:
  - Recurring hospitalizations
  - Frequent police contact
  - New diagnoses
  - Difficulty engaging with natural community supports
- Both 1:1 support and group support.

#### **Staffing:**

The peer support team will work in collaboration with service teams located at the County's crisis walk-in clinic. Work will be performed both on site at the crisis clinic and in the community.

- 2 – 0.8 FTE Peer Support Specialists
- 1 – 0.4 FTE Peer Supervisor

### **3.4.4. PROJECT 4: ADULT PEER DELIVERED SERVICES – COMMUNITY EDUCATION**

**Budget:**

\$213,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Family members, caregivers, and individuals seeking mental health education and group support for themselves and/or their loved ones. Priority for participation and enrollment in programs shall be granted to County residents.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Family member and caregiver support groups.
- Peer support groups.
- Public education and outreach through curriculum and educational programming.
- Information regarding community resources.
- A variety of peer activities.

### **3.4.5. PROJECT 5: ADULT PEER DELIVERED SERVICES – VILLEBOIS COMMUNITY**

**Budget:**

\$710,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults living in supportive housing in the Villebois Community at Renaissance Court Apartments, Rain Garden Apartments, and The Charleston Apartments located in Wilsonville, OR.

**Service Components:**

Please provide a plan for providing the following services/supports:

- 1:1 peer support for residents requesting support.
- Assistance in crisis and eviction prevention.
- Referrals to community resources.
- Coordination and facilitation of various group activities based on input from residents.

**Staffing:**

- 2 FTE Peer Wellness Specialist

### **3.4.6. PROJECT 6: TRANSITION AGE YOUTH PEER DELIVERED SERVICES – AFTER SCHOOL DROP IN FOR LGBTQ+ YOUTH**

**Budget:**

\$439,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Provide support services to youth/young adults between the ages of 14-20 years who identify as lesbian, gay, bisexual, transgender, queer, intersex (“LGBTQI”).

**Service Components:**



Please provide a plan for providing the following services/supports:

- Collaborative work processes with the County to promote a support system that focuses on hope, choice, personal responsibility, and self-determination.
- Support and coordination to high schools and middle schools within the County for the development of Gay Straight Alliances (“GSA”).
- Coordination of an annual GSA summit.
- A minimum of (1) one day per week drop-in programming for LGBTQI youth/young adults.

**Additional Questions:**

Please describe:

- The process used to develop GSA’s within schools.
- Drop-in programming that will be offered.
- Any activities available to youth/young adults including workshops, trainings, leadership development, and social activities that will be available and provided by the organization.

**3.4.7. PROJECT 7: CHILDREN AND FAMILIES – FAMILY NAVIGATOR / EMERGENCY ROOM DIVERSION**

**Budget:**

\$342,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Provide support to families entering the Emergency Department (“ED”) within the County for a child experiencing a mental health crisis.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Assistance, attendance and/or participation in supportive services for parents/caregivers navigating ED services.
- System navigation services and supports.
- Ongoing local resource information for families to access independently.
- Support of the development of and connection of families to natural supports within their community.
- Family Navigator will be required to collaborate closely with hospital systems and other system partners.

**Staffing:**

- 1.0 FTE Family Navigator

**3.4.8. PROJECT 8: ADULT PEER DELIVERED SERVICES – PEER SUPPORT FOR OPIOID OVERDOSE SURVIVORS**

**Budget:**

\$287,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults having recently survived an opioid overdose that require a response by emergency medical services in the County.

**Service Components:**

Please provide a plan for providing the following services/supports:

- 1:1 peer support for recent survivors of an opioid overdose who may or may not currently be in recovery
- Referrals to community resources
- “Bridging services” to those wanting to access treatment and other recovery supports
- SUD system navigation supports
- Assistance to individuals in identifying wellness and recovery goals
- Document supports provided to each individual
- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

**Staffing:**

This position collaborate and works closely with the HOPE Team

(<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center

(<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

**3.5. TERM OF CONTRACT:**

The term of the contract shall be from the effective date through **June 30, 2020** with the option for one (1) additional two (2) year renewal thereafter subject to the mutual agreement of the parties.

Throughout the term of the resulting contracts, the funding sources for the Project may increase or decrease. As applicable to each Project, the County reserves the right to issue amendments to the resulting contracts and either increase or decrease the budget and thereby adjust the service level accordingly. Any such decrease or increase shall also take into account the need for services, performance under the contract, and other factors related to the County’s best interest.

The fees proposed shall be fixed for the initial term of the contract (through June 30, 2020). For the renewal discussions, the County may consider a budgetary increase limited to the percentage reflected by the latest measurement of the Consumer Price Index, West Region (<https://www.bls.gov/regions/west/home.htm>). The County’s budgetary increase considerations may include factors such as availability of funding, the County’s best interest, and other factors as determined by the County.

**3.6. SAMPLE CONTRACT:** Submission of a Proposal in response to this RFP indicates Proposer's willingness to enter into a contract containing substantially the same terms (including insurance requirements) of the sample contract identified below. No action or response to the sample contract is required under this RFP. Any objections to the sample contract terms should be raised in accordance with Paragraphs 2.2 or 2.3 of this RFP, pertaining to requests for clarification or change or protest of the RFP/specifications, and as otherwise provided for in this RFP. This RFP and all supplemental information in response to this RFP will be a binding part of the final contract.

The applicable Sample Professional Services Contract for this RFP can be found at <http://www.clackamas.us/bids/terms.html>.

Professional Services Contract (unless checked, item does not apply)

The following paragraphs of the Professional Services Contract will be applicable:

- Article I, Paragraph 4 – Travel and Other Expense is Authorized
- Article II, Paragraph 29 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Exhibit A – On-Call Provision

Any contracts resulting from this RFP shall include insurance requirements which shall meet or exceed any and all applicable requirements as set forth in the below exhibits:

- Exhibit A Definitions (CMHP)
- Exhibit B Definitions (OHP)
- Exhibit C Insurance (CMHP)
- Exhibit D Insurance (OHP)
- Exhibit E CMHP Required Provider Contract Provisions
- Exhibit F CHMP Required Federal Terms & Conditions
- Exhibit G OHP Required Federal Terms & Conditions
- Exhibit H CMHP Service Element – MHS 20
- Exhibit I CMHP Service Element – MHS 37 EDD
- Exhibit J CMHP Service Element – MHS 25
- Exhibit K CMHP Service Element – MHS 66
- Exhibit L Performance Standards
- Exhibit M Certification Statement for Independent Contractor
- Exhibit N Qualified Service Organization Business Associate Agreement
- Exhibit O Business Associate Agreement
- Exhibit P CMHP Service Element MHS 37 Jail Diversion

<b>CONTRACT EXHIBITS FOR EACH PROJECT</b>	
<b>Project</b>	<b>Required Exhibits</b>
<b>1. Adult Peer Delivered Services – Dual Diagnosis Support Groups</b>	A, C, E, F, K, L, M, N, P, Q
<b>2. Adult Peer Delivered Services – Jail Support</b>	A, C, E, F, K, L, M, N, P, Q
<b>3. Adult Peer Delivered Services – Clackamas County Crisis Clinic</b>	A, C, E, F, J, L, M, N, P, Q, R
<b>4. Adult Peer Delivered Services – Community Education</b>	B, D, G, L, M, O, P, Q
<b>5. Adult Peer Delivered Services – Villebois Community</b>	A, C, E, F, H, L, M, N, P, Q
<b>6. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth</b>	B, D, G, L, M, N, P, Q
<b>7. Children and Families – Family Navigator / Emergency Room Diversion</b>	A, C, E, F, I, L, M, N, P, Q
<b>8. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors</b>	B, D, G, L, M, N, P, Q

All Exhibits are subject to change and/or amendment (e.g., as required by County’s funding sources).

**SECTION 4  
EVALUATION PROCEDURE**

**4.1** An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals independently by Project in accordance with the below criteria. The evaluation committee may recommend awards on a Project-by-Project basis based solely on the written responses or may request Proposal interviews/presentations. Interviews/presentations, if deemed beneficial by the evaluation committee, will consist of the highest scoring Proposers for each Project. The invited Proposers will be notified of the time, place, and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.

Written Proposals must be complete and no additions, deletions, or substitutions will be permitted during the interview/presentation (if any). The evaluation committee will recommend award of contracts to the final County decision maker based on the highest scoring Proposal. The County decision maker reserves the right to accept the recommendation, award to different Proposers, or reject all Proposals and cancel the RFP.

Proposers are not permitted to directly communicate with any member of the evaluation committee during the evaluation process. All communication will be facilitated through the Procurement representative.

**4.2 Evaluation Criteria**

<u>Category</u>	<u>Points Available:</u>
General Information (Section 5.4.)	0-30
Program Design (Section 5.5. A.)	0-40
Workshops/Support Groups/Training (Section 5.5. B.)	0-40
Staffing Plan and Development (Section 5.5. C.)	0-35
Quality Assurance (Section 5.5. D.)	0-30
Budget (Section 5.5. E.)	0-25
<b>Available points</b>	<b>0-200</b>

**4.3** Once selections have been made, the County will enter into contract negotiations. During negotiations, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contracts. The negotiations will identify a level of work and associated fee that best represent the efforts required. If the County is unable to come to terms with the highest scoring Proposer for each Project, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple Projects and the County deems it is in its interest to not authorize any particular Project, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer for each Project.

**SECTION 5  
PROPOSAL CONTENTS**

**5.1. Vendors must observe submission instructions and be advised as follows:**

**5.1.1.** Complete Proposals may be mailed to the below address or emailed to [Procurement@clackamas.us](mailto:Procurement@clackamas.us). The subject line of the email must identify the RFP title. Proposers are encouraged to contact Procurement to confirm receipt of the Proposal. If the Proposal is mailed, an original copy and an electronic copy (on compact disk or jump drive) must be included. The Proposal (hardcopy or email) must be received by the Closing Date and time indicated in Section 1 of the RFP.

**5.1.2.** Mailing address including Hand Delivery, US Mail, UPS and FEDEX:

Clackamas County Procurement Division – Attention George Marlton, Director  
Clackamas County Public Services Building  
2051 Kaen Road  
Oregon City, OR 97045

**5.1.3.** County reserves the right to solicit additional information or Proposal clarification from the vendors, or any one vendor, should the County deem such information necessary.

**5.2. PROPOSALS**

**Provide in order the information as specified in sections 5.3., 5.4., 5.5., 5.6., 5.7., and 5.8. below:**

**5.3. PROPOSED PROJECT(S) COVER PAGE**

Using the following table format, indicate which Project or Projects are included in your proposal:

<i><b>Project</b></i>	<i><b>Included in Proposal*</b></i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	
Project 2: Adult Peer Delivered Services – Jail Support	
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	
Project 4: Adult Peer Delivered Services – Community Education	
Project 5: Adult Peer Delivered Services – Villebois Community	
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	
*Any mark in this column, such as a checkmark or an “X”, indicates that the Project listed in the corresponding row shall be included in the Proposal. Blank rows in this column shall indicate that the Project listed in the corresponding row shall not be included in the proposal. The County shall, at its sole discretion, determine which Project or Projects are included with each proposal.	

**5.4. General Information (0-30 Points, Page Limit 3 pages plus Organizational Chart)**

Proposals must include the following general organizational information. **Proposals that include more than one Project shall only include one (1) “General Information” response.** Please describe or provide

- Organization’s mission statement and organizational goals.
- Organization’s history, relevant experience and capacity to provide peer support services of similar scope and type to those listed in the projects included in your proposal.

- Current relationships with system partners your organization may have such as, police, hospitals, and other community support organizations as relevant to the Projects included in your proposal.
- Ability, if any, to document services electronically.
- Organizational Chart and a clear description of the management and governance of the organization.  
(include as attachment)

#### 5.5. Service Information:

Proposals must include the following information related to the provision of peer delivered support services. **Proposals that include more than one Project must include a separate response to section “5.5 A.”, “5.5 B.” and “5.5 E.” for each Project that the proposal includes.** For example, a proposal that includes two (2) Projects, must include two (2) separate responses (one for each Project) including the information as specified in section “5.5 A.”, “5.5 B.”, and “5.5 E.”.

#### A. Program design, strategy, and capacity (0-40 Points, Page limit 4)

Please describe the following:

- Where services would be provided in Clackamas County.
- The peer support philosophy including the rationale and research used to support the model.
- The plan and/or planning process used to ensure the scope of individual peer services and supports are defined and driven by the individual receiving the support.
- Any training provided and/or certification(s) of peer support staff, paid or unpaid.
- How you identify the target population to be served (i.e. children, youth/young adults in transition, adults, families, older adults), experience serving this population and capacity to serve the population, including the number of individuals and/or families to be served.
- Your organization's ability to provide culturally-responsive services including services to persons whose primary language may not be English.

#### B. Workshops, Support Groups, and Training (0-40 Points, Page limit 3)

Please describe the following:

- Any workshops the organization is able to provide for people receiving support services or for the broader community. These workshops may include, but are not limited to, classes providing education on specific mental health diagnosis; informational classes on community resources; supportive employment or housing; alternative pathways to recovery, etc.
- Support groups the organization is able to provide for people receiving support services or to the broader community. These groups may include, but are not limited to Hearing Voices groups; AA, NA, DDA, or other anonymous groups supporting sobriety; group support for depression, anxiety, and other mental health conditions, etc.
- Trainings offered by the organization that benefits the peer support specialist workforce. These trainings may include, but are not limited to, training to become a peer support specialist; trauma informed approaches to peer support; leadership skill building; system navigation, etc.

#### C. Staffing Plan and Development (0-35 Points, Page limit 3)

Please describe the following:

- Supervision procedures and support for staff, both paid and unpaid.
- How your organization identifies and assures that peer providers have lived experience relevant to the role of peer providers.
- Opportunities for peer providers to network and receive support from other peer providers.

- How your organization promotes self-care and provides specific accommodations when necessary.
- Job descriptions of those providing direct services as well as their direct supervisors.
- Plan for training and staff development.

**D. Quality Assurance (0-30 Points, Page limit 3)**

Please describe the following:

- Organizational outcome measures, if established, and how are they measured and monitored
- Organization’s process for protecting client confidentiality. Do you have a written policy addressing this topic?
- Organization’s process for handling internal and external grievances. Do you have a written policy addressing this topic?
- Organization’s process for ensuring continuous quality improvement.
- Plan for organizational sustainability.

**E. Budget Proposal (0-25 Points, Page limit 2)**

Please complete and submit **one provided “Budget Form” for each proposed Project** (e.g., if your proposal includes two (2) Projects, complete two separate budget forms - one for each Project). An electronic version of the “Budget Form” can be found at the following website: <https://www.clackamas.us/bids>

**Each budget form shall only include the proposer’s budget to deliver one Project.** Budget forms shall not reflect the costs that assume multiple Projects have been awarded. If multiple Projects are awarded to a single proposer, any resulting budgetary adjustments shall be made in the course of contract negotiations. Please review the sample contract and exhibits applicable to the Project(s) included in your proposal to guide the formation of your budget. For example, if exhibits applicable to your proposed Projects include allowable cost requirements, you might review them to ensure that your budget reflects a spending plan that is compliant with allowable cost requirements.

**5.6. Fees**

Please complete and submit the provided Budget Form. List the not-to-exceed amount you propose for each category indicated in the form. Monthly fees under contracts resulting from this RFP shall be calculated by dividing the budget for the initial contract term by the number of months it encompasses. Fees for renewed contracts resulting from this RFP will be calculated according to renewal negotiations and/or the conditions outlined in “Section 1” of this RFP.

**5.7. References**

Provide up to three (3) references from clients your firm has served similar to the County, preferably in the past three (3) years, for whom Proposer has provided services that are similar in nature to those included in your organization’s proposal. Provide the name, address, email, and phone number of the references.

**5.8. Completed Proposal Certification (see the below form)**



REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 1  
September 27, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #1. Except as expressly amended below, all other terms and conditions of the original RFP shall remain unchanged.

**The following changes are made to Section 3.4.8**

**1. Service Components: Remove in its entirety the following bullet point on page twelve (12) of the RFP:**

- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

**And replace with the following:**

- Collaborating with diverse stakeholders in the community and others within the Health, Housing, and Human Services Department.

**2. Staffing: Remove and replace in its entirety the following on page twelve (12) of the RFP:**

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

**And replace with the following:**

- 1.0 FTE Peer Support Specialist in recovery from an opioid addiction and preferably with mental health lived experience.
- This position is partnered with a community paramedic team and will be working with American Medical Response, Inc. and Clackamas Fire.

End of Addendum #1

REQUEST FOR PROPOSALS #2018-45  
 Behavioral Health Peer Delivered Services  
 ADDENDUM NUMBER 2  
 October 2, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #2. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The “CONTRACT EXHIBITS FOR EACH PROJECT” tables found in Section 3.6 on page 14 and Section 6.0.1 on page 21 of the RFP are hereby removed and replaced by the following:

<b>CONTRACT EXHIBITS FOR EACH PROJECT</b>	
<b>Project</b>	<b>Required Exhibits</b>
<b>9.</b> Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N
<b>10.</b> Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N
<b>11.</b> Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P
<b>12.</b> Adult Peer Delivered Services – Community Education	B, D, G, L, M, O
<b>13.</b> Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N
<b>14.</b> Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N
<b>15.</b> Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N
<b>16.</b> Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N

End of Addendum #2

REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 3  
October 24, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #3. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP Closing Date and Time is hereby changed from October 24, 2018 at 2:00 PM, Pacific Time to October 29, 2018 at 2:00 PM, Pacific Time. This change hereby amends all applicable references to the Closing Date and Time found in RFP #2018-45.

End of Addendum #3

REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 4  
November 7, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”), on September 27, 2018 published Addendum #1, on October 3, 2018 published Addendum #2, and on October 24, 2018 published Addendum #3. The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #4. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP is hereby amended to remove all references to Project 7: Children and Families – Family Navigator / Emergency Room Diversion and Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors.

It is the County’s intent to promptly re-issue an RFP for Projects 7 and 8.

End of Addendum #4

**ATTACHMENT B  
VENDOR'S RESPONSE TO RFP**

**EXHIBIT A**  
**DEFINITIONS (CMHP)**

Whenever used in this Contract, the following terms shall have the meanings set forth below:

“Allowable Costs” means the costs described in 2 CFR Part 200 or 45 CFR Part 75, as applicable, except to the extent such costs are limited or excluded by other provisions of this Contract.

“AMH” means the former Addictions & Mental Health Division of the State of Oregon, now known as the Department of Human Services of the State of Oregon (DHS).

“Client” or “Individual” means with respect to a particular service provided by Contract any individual receiving that service, in whole or in part, with funds provided under this Contract.

“Community Mental Health Program” or “CMHP” means a centrally organized and coordinated program of services for persons with mental and emotional disorders, developmental disabilities, and addiction dependencies operated by, or contractually affiliated with a LMHA and operated in a specific geographic area of the State of Oregon.

“Community Outcome Management and Performance Accountability Support System (COMPASS)” means the DHS (formally AMH) project to implement a new contracts system, roll out an optional free electronic health records systems (OWITS), and enhance the collection of data through MOTS.

“Contractor” means the entity contracted by the County.

“Coordinated Care Organizations” or “CCO” means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414-625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

“County” means Clackamas County, a political subdivision of the State of Oregon.

“DHS” means the Department of Human Services of the State of Oregon, formerly known as the Addictions & Mental Health Division (AMH).

“Intergovernmental Agreement” means the 2017-2019 Intergovernmental Agreement for the Financing of Community Addictions and Mental Health Services between the State of Oregon, acting by and through its Oregon Health Authority and Clackamas County, as amended from time to time.

“LMHA” means Local Mental Health Authority.

“Measures and Outcomes Tracking System” or “MOTS” means the DHS (formally AMH) data system that stores client data submitted by Contractor and/or County.

“Mental Health Services” means treatment Services for Individuals diagnosed with serious mental health illness, or other mental or emotional disturbance, posing a danger to the health and safety of themselves or others.

“OAR” means the Oregon Administrative Rules as promulgated by the Oregon Health Authority and as amended from time to time.

“Oregon Health Authority” or “OHA” means the agency within the State of Oregon that is responsible for substance use disorders services, problem gambling prevention and treatment services, children and adult

mental health services, and maintaining custody of persons committed to the state, by courts, for care and treatment of mental illness.

“OWITS” means Oregon Web Infrastructure for Treatment Services, an optional free electronic health records systems.

“Provider” means a person or entity providing the particular Services, or portion thereof, in this Agreement.

“Provider Contract” or “Provider Agreement” means this Contract or a subcontract to purchase the particular Services, or a portion thereof, in this Contract.

“Trauma Informed Services” means Services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and substance use disorders Services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

**EXHIBIT C  
INSURANCE (CMHP)**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

**1. Workers Compensation.** Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126. Contractors shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

**2. Professional Liability.**      **Required by County**      **Not required by County**

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages because of personal injury, bodily injury, death, or damage to property caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

If this box is checked Professional Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.

**3. General Liability.**              **Required by County**      **Not required by County**

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage for the protection of the **County and the State of Oregon, and its officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Contract.

If this box is checked General Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

**4. Automobile Liability.**          **Required by County**      **Not required by County**

**Commercial Automobile Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury, Death, and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**Commercial Automobile Liability** insurance limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

**Personal Automobile Liability** insurance limits shall be not less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000/property damage.

**5. Physical Abuse and Molestation Liability.**  **Required by County**      **Not required by County**



Physical Abuse and Molestation Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. Coverage shall be provided through either general liability or professional liability coverage. Proof of Sex Abuse/Molestation insurance coverage must be provided.

6. **Privacy and Network Security.**     **Required by County**     **Not required by County**

Privacy and Network Security coverages shall be obtained and maintained to provide protection against liability for (a) system attack; (b) denial or loss of service attacks; (c) spread of malicious software code; (d) unauthorized access and use of computer systems; and (e) liability from the loss or disclosure of confidential data with limit of \$1,000,000 per claim/annual aggregate.

If this box is checked Privacy and Network Security limit shall be at least \$4,000,000.

7. **Additional Insured Provision.** The insurance, other than Professional Liability (except to the extent it only applies to Commercial General Liability exposures), Workers' Compensation, Personal Automobile Liability and Pollution Liability Insurance, shall include **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as an additional insured.

8. **Primary Coverage Clause.** Contractor's insurance shall apply as primary and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above. This must be noted on the insurance certificate.

9. **Cross-Liability Clause.** A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, pollution and errors and omissions policies required by this Contract.

10. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Contract, for a minimum of twenty-four (24) months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under the Provider Contract; or (ii) the expiration of all warranty periods provided under the Contract. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor may request and County may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

11. **Self-insurance.** Contractor may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Contractor's self-insurance program complies with all applicable laws, provides coverage equivalent in both type and level to that required in this Exhibit, and is reasonably acceptable to County. Contractor shall furnish an acceptable insurance certificate to County for any insurance coverage required by this Contract that is fulfilled through self-insurance. Stop-loss insurance and reinsurance coverage against catastrophic and unexpected expenses may not be self-insured.

12. **Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. Contractor will maintain the insurance in full force throughout the duration of this Contract. No Contract shall be in effect until the required certificates have been received, approved, and accepted by County. A renewal certificate will be sent to County ten (10) days prior to coverage

expiration. The insurance for general liability and commercial automobile liability must include an endorsement naming **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as additional insureds with respect to the Work under this Contract. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County, 2051 Kaen Road, Suite 154, Oregon City, Oregon 97045

Certificates of Insurance should be submitted electronically or by mail to:

BHcontracts@clackamas.us

Clackamas County  
Contracts Administration  
2051 Kaen Road, Suite 154  
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 14. Waiver of Subrogation.** Contractor agrees to waive their rights of subrogation arising from the Work performed under this Contract.
- 15. Notice of cancellation or change.** There shall be no cancellation, material change, exhaustion of aggregate limits, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Behavioral Health Division, 2051 Kaen Road, Suite 154, Oregon City, OR 97045 or [BHcontracts@clackamas.us](mailto:BHcontracts@clackamas.us).
- 16. Insurance Compliance.** The County will be entitled to enforce Contractor compliance with the insurance requirements, and will take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Contract as permitted by the Contract, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Contractor to work under this Contract when the County is aware that the Contractor is not in compliance with the insurance requirements.

**EXHIBIT E**  
**CMHP REQUIRED PROVIDER CONTRACT PROVISIONS**

1. **Expenditure of Funds.** Contractor may expend the funds paid to Contractor under this Contract solely on the delivery of contracted services subject to the following limitations (in addition to any other restrictions or limitations imposed by this Contract):
  - a) Contractor may not expend on the delivery of Services any funds paid to Contractor under this Contract in excess of the amount reasonable and necessary to provide quality delivery of these Services.
  - b) If this Contract requires Contractor to deliver more than one service, Contractor may not expend funds paid to Contractor under this Contract for a particular service on the delivery of any other service.
  - c) If this Contract requires Contractor to deliver Substance Use Disorders and Problem Gambling Services, Contractor may not use the funds paid to Contractor under this Contract for such services to:
    - 1) Provide inpatient hospital services;
    - 2) Make cash payments to intended recipients of health services;
    - 3) Purchase or improve land, to purchase, construct or permanently improve (other than minor remodeling) any building or other facility or to purchase major medical equipment;
    - 4) Satisfy any requirement for expenditure of non-federal funds as a condition for receipt of federal funds (whether the federal funds are received under this Contract or otherwise); or
    - 5) Carry out any program prohibited by section 245(b) of the Health Omnibus Programs Extension Act of 1988 (codified at 42 U.S.C. 300ee-5), which generally prohibits funds provided under this Contract from being used to provide Individuals with hypodermic needles or syringes so that such Individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse.
  - d) Contractor may expend funds paid to Contractor under this Contract only in accordance with OMB Circulars or 45 CFR Part 75, as applicable on Allowable Costs. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. If Contractor expends less than \$750,000 in a fiscal year beginning on or after that date, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials. Contractor, if subject to this requirement, shall at Contractor's own expense submit to OHA a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to OHA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Contractor responsible for the financial management of funds received under this Contract. Copies of all audits must be submitted to OHA within thirty (30) calendar days of completion. Audit costs for audits not required in accordance with the Single Audit Act are unallowable. Contractor may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.
2. **Records Maintenance, Access and Confidentiality.**
  - a) **Access to Records and Facilities.** County, the Oregon Health Authority, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of

Contractor that are directly related to this Contract, the funds paid to Contractor hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, Contractor shall permit authorized representatives of County and the Oregon Health Authority to perform site reviews of all services delivered by Contractor hereunder.

- b) **Retention of Records.** Contractor shall retain and keep accessible all books, documents, papers, and records, that are directly related to this Contract, the funds paid to Contractor hereunder or to any services delivered hereunder, for a minimum of 6 years, or such longer period as may be required by other provisions of this Contract or applicable law, following the termination or expiration of this Contract. If there are unresolved audit or other questions at the end of the six-year period, Contractor shall retain the records until the questions are resolved.
- c) **Expenditure Records.** Contractor shall document the expenditure of all funds paid to Contractor under this Contract. Unless applicable federal law requires Contractor to utilize a different accounting system, Contractor shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit County and the Oregon Health Authority to verify how the funds paid to Contractor under this Contract were expended.
- d) **Client Records.** Unless otherwise specified in this Contract, Contractor shall create and maintain a client record for each client who receives services under this Contract. The client record must contain:
  - 1) Client identification;
  - 2) Problem assessment;
  - 3) Treatment, training and/or care plan;
  - 4) Medical information when appropriate; and
  - 5) Progress notes including service termination summary and current assessment or evaluation instrument as designated by the Oregon Health Authority in administrative rules.

Contractor shall retain client records in accordance with OAR 166-150-0005 through 166-150-0215 (State Archivist). Unless OAR 166-150-0005 through 166-150-0215 requires a longer retention period, client records must be retained for a minimum of six years from termination or expiration of this Contract.

- e) **Safeguarding of Client Information.** Contractor shall maintain the confidentiality of client records as required by applicable state and federal law, including without limitation, ORS 179.495 to 179.507, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by the Oregon Health Authority, implementing the foregoing laws, and any written policies made available to Contractor by County or by the Oregon Health Authority. Contractor shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to County and the Oregon Health Authority for review and inspection as reasonably requested by County or the Oregon Health Authority.
- f) **Data Reporting.** All Individuals receiving Services with funds provided under this Contract must be enrolled and that Individual's record maintained in the Measures and Outcome Tracking System (MOTS) as specified in OHA's MOTS Reference Manual, located at: <http://www.oregon.gov/oha/amh/mots/Pages/resource.aspx>, and the "Who Reports in MOTS Policy," as stated below:

### **Which Behavioral Health Providers are Required to Report in MOTS?**

The data collection system for the Health Systems Division (HSD) is the Measures and Outcomes Tracking System or MOTS. In general, behavioral health providers who are either licensed or have a letter of approval from the HSD (or the former Addictions & Mental Health Division [AMH]), and receive public funds to provide treatment services are required to report to MOTS. In addition to the general rule above, there are four basic ways to classify who is required to submit data to MOTS:

- 1) Providers with HSD Agreements that deliver treatment services (this includes Community Mental Health Programs [CMHP], Local Mental Health Authorities [LMHA] and other types of community behavioral health providers); These programs should all have a license or letter of approval from the HSD or AMH;
- 2) Providers that are subcontractors (can be a subcontractor of a CMHP or other entity that holds a contract with HSD or OHA, such as a Mental Health Organization [MHO], or a Coordinated Care Organization [CCO]);
- 3) Providers that HSD does not contract with but are required to submit data to MOTS by State/Federal statute or rule; These include DUII providers and methadone maintenance providers; and
- 4) Providers that contract with other governmental agencies (e.g., Oregon Youth Authority [OYA] or the Department of Corrections [DOC] to deliver mental health and/or substance abuse services).

Note: Primary care physicians that provide a single service on behalf of the CMHP are not required to report the MOTS status or service level data.

If you have questions, contact MOTS Support at [MOTS.Support@state.or.us](mailto:MOTS.Support@state.or.us).

### **3. Alternative Formats of Written Materials.** In connection with the delivery of Services, Contractor shall:

- a) Make available to a Client, without charge to the Client, upon the Client's, the County's or the Oregon Health Authority's request, any and all written materials in alternate, if appropriate, formats as required by the Oregon Health Authority's administrative rules or by the Oregon Health Authority's written policies made available to Contractor.
- b) Make available to a Client, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, any and all written materials in the prevalent non-English languages in the area served by Contractor.
- c) Make available to a Client, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, oral interpretation services in all non-English languages in the area served by Contractor.
- d) Make available to a Client with hearing impairments, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, sign language interpretation services and telephone communications access services.

For purposes of the foregoing, "written materials" includes, without limitation, all written materials created or delivered in connection with the services and all Contractor contracts related to this Contract. The County may develop its own forms and materials and with such forms and materials the County shall be responsible for making them available to a Client, without charge to the Client or OHA, in the prevalent non-English language. OHA shall be responsible for making its forms and materials available, without charge to the Client or CMHP, in the prevalent non- English language.

4. **Reporting Requirements.** Contractor shall prepare and furnish the following information to County and the Oregon Health Authority when a service is delivered under this Contract:
  - a) Client, service and financial information as specified in the applicable Service Description attached hereto and incorporated herein by this reference.
  - b) All additional information and reports that County or the Oregon Health Authority reasonably requests.
  
5. **Compliance with Law.** Contractor shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Contract or to the delivery of services hereunder. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract:
  - a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations;
  - b) all state laws governing operation of community mental health programs, including without limitation, all administrative rules adopted by the Oregon Health Authority related to community mental health programs or related to client rights, OAR 943-005-0000 through 943-005-0070, prohibiting discrimination against Individuals with disabilities;
  - c) all state laws requiring reporting of client abuse; and
  - d) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of services under this Contract.

These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. All employers, including Contractor, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. In addition, Contractor shall comply, as if it were County thereunder, with the federal requirements set forth in **Exhibit F** to the certain 2017-2019 Intergovernmental Contract for the Financing of Community Mental Health, Substance Use Disorders, and Problem Gambling Services between County and the Oregon Health Authority dated as of July 1, 2017, which Exhibit is incorporated herein by this reference. For purposes of this Contract, all references in this Contract to federal and state laws are references to federal and state laws as they may be amended from time to time.

6. Unless Contractor is a State of Oregon governmental agency, Contractor agrees that it is an independent contractor and not an agent of the State of Oregon, the Oregon Health Authority or County.
  
7. To the extent permitted by applicable law, Contractor shall defend (in the case of the state of Oregon and the Oregon Health Authority, subject to ORS Chapter 180), save and hold harmless the State of Oregon and Clackamas County, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the operations of the Contractor, including but not limited to the activities of Contractor or its officers, employees, subcontractors or agents under this Contract.

8. Contractor understands that Contractor may be prosecuted under applicable federal and state criminal and civil laws for submitting false claims, concealing material facts, misrepresentation, falsifying data system input, other acts of misrepresentation, or conspiracy to engage therein.
9. Contractor shall only conduct transactions that are authorized by the County for transactions with the Oregon Health Authority that involve County funds directly related to this Contract.
10. Contractor(s) that are not units of local government as defined in ORS 190.003 shall obtain, at Contractor's expense, and maintain in effect with respect to all occurrences taking place during the term of the Contract, insurance requirements as defined in this Contract and incorporated herein by this reference.
11. Contractor(s) that are not units of local government as defined in ORS 190.003, shall indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (Indemnitee) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of the officers, agents, employees or subcontractors of the contractor (Claims). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Contractor from and against any and all Claims.
12. Contractor shall include sections 1 through 11, in substantially the form set forth above, in all permitted Contractor contracts under this Contract.
13. Ownership of Intellectual Property.
  - a) Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA and the County will not own the right, title and interest in any intellectual property created or delivered by the Contractor in connection with the Services. With respect to that portion of the intellectual property that the Contractor owns, Contractor grants to OHA and the County a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 13.a.(1) on OHA and the County's behalf; and (3) sublicense to third parties the rights set forth in Section 13.a.(1).
  - b) If state or federal law requires that OHA or County grant to the United States a license to any intellectual property, or if state or federal law requires that OHA or the United States own the intellectual property, then Contractor shall execute such further documents and instruments as OHA may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or OHA. To the extent that OHA becomes the owner of any intellectual property created or delivered by Contractor in connection with the Services, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to Contractor to use, copy, distribute, display, build upon and improve the intellectual property.

**EXHIBIT F**  
**CMHP REQUIRED FEDERAL TERMS AND CONDITIONS**

Contractor shall comply with the following federal requirements. For purposes of this Contract, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** Contractors shall comply with all federal laws, regulations, and executive orders applicable to the Contract or to the delivery of Services. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. No federal funds may be used to provide Services in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Contract, including amendments, exceeds \$150,000 Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C.1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractors shall include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.
- 4. Energy Efficiency.** Contractors shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et.seq. (Pub. L. 94-163).
- 5. Truth in Lobbying.** By signing this Contract, Contractor certifies, to the best of the Contractor's knowledge and belief that:

  - a.** No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal



contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative Contract.

- b.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c.** Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
- d.** This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- e.** No part of any federal funds paid to Contractor under this Contract shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
- f.** No part of any federal funds paid to Contractor under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g.** The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h.** No part of any federal funds paid to Contractor under this Contract may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

- 6. Resource Conservation and Recovery.** Contractor shall comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act

(codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

7. **Audits.** Subrecipients, as defined in 45 CFR 75.2, shall comply with applicable Code of Federal Regulations (CFR) governing expenditure of federal funds. If a sub-recipient expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. Copies of all audits must be submitted to County within thirty (30) calendar days of completion. If a sub recipient expends less than \$750,000 in a fiscal year beginning on or after December 26, 2014, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials.
8. **Debarment and Suspension.** Contractor shall not permit any person or entity to be a provider if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Providers with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
9. **Drug-Free Workplace.** Contractor shall comply with the following provisions to maintain a drug-free workplace: (i) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing Services to OHA clients. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of Services under this Contract a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Contract, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction; (v) Notify OHA within ten (10) calendar days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any provider to comply with subparagraphs through (vii) above; (ix) Neither Contractor, or any of Contractor's employees, officers, agents may provide any Service required under this Contract while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or Contractor's performance of

essential job function or creates a direct threat to OHA clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Contract.

10. **Pro-Children Act.** Contractor shall comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
11. **Medicaid Services.** To the extent Contractor provides any Service in which costs are paid in whole or in part by Medicaid, Contractor shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
  - a. Keep such records as are necessary to fully disclose the extent of the services provided to Individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
  - b. Comply with all disclosure requirements of 42 CFR Part 1002.4(a) and 42 CFR 455 Subpart (B).
  - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396 (a) (57) and (w), 42 CFR Part 431.107 (b) (4), and 42 CFR Part 489 subpart I.
  - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Contractor shall acknowledge Contractor's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
  - e. Entities receiving \$5 million or more annually (under this Contract and any other Medicaid agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, providers, and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a (a) (68).
12. **ADA.** Contractor shall comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 U.S.C. 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of Services.
13. **Agency-Based Voter Registration.** If applicable, Contractor shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an Individual may apply for or receive an application for public assistance.
14. **Disclosure.**
  - a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an Individual, the

date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (Individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- c. County or OHA reserves the right to take such action required by law, or where County or OHA has discretion, it deems appropriate, based on the information received (or the failure to receive) from the provider, fiscal agent or managed care entity.

**15. Special Federal Requirements Applicable to Substance Use Disorders Services for Agencies receiving Substance Abuse Prevention and Treatment (SAPT) Block Grant funds (CFDA 93.959).**

- a. **Order for Admissions:**
  - (1) Pregnant women who inject drugs;
  - (2) Pregnant substance abusers;
  - (3) Other Individuals who inject drugs; and
  - (4) All others.
- b. **Women's or Parent's Services.** If Contractor provides A&D 61 and A&D 62 Services, Contractor must:
  - (1) Treat the family as a unit and admit both women or parent and their children if appropriate.
  - (2) Provide or arrange for the following services to pregnant women and women with dependent children:
    - (a) Primary medical care, including referral for prenatal care;
    - (b) Pediatric care, including immunizations, for their children;
    - (c) Gender-specific treatment and other therapeutic interventions, e.g. sexual and physical abuse counseling, parenting training, and child care;
    - (d) Therapeutic interventions for children in custody of women or parent in treatment, which address, but are not limited to, the children's developmental needs and issues of abuse and neglect; and
    - (e) Appropriate case management services and transportation to ensure that women or parents and their children have access to the

services in (a) through (d) above.

- c. **Pregnant Women.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must:
- (1) Within the priority categories, if any, set forth in a particular Service Description, give preference in admission to pregnant women in need of treatment, who seek or are referred for and would benefit from such Services, within 48 hours;
  - (2) If Contractor has insufficient capacity to provide treatment Services to a pregnant woman, Contractor must refer the women to another Provider with capacity or if no available treatment capacity can be located, the outpatient Provider that the Individual is enrolled with will ensure that Interim Services are being offered. Counseling on the effects of alcohol and drug use on the fetus must be given within 48 hours, including a referral for prenatal care; and
  - (3) Perform outreach to inform pregnant women of the availability of treatment Services targeted to them and the fact that pregnant women receive preference in admission to these programs.
- d. **Intravenous Drug Abusers.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must:
- (1) Within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women described above, give preference in admission to intravenous drug abusers;
  - (2) Programs that receive funding under the grant and that treat Individuals for intravenous substance abuse, upon reaching 90 percent of its capacity to admit Individuals to the program, must provide notification of that fact to the State within 7 calendar days;
  - (3) If Contractor receives a request for admission to treatment from an intravenous drug abuser, Contractor must, unless it succeeds in referring the Individual to another Provider with treatment capacity, admit the Individual to treatment not later than:
    - (a) 14 calendar days after the request for admission to Contractor is made;
    - (b) 120 calendar days after the date of such request if no Provider has the capacity to admit the Individual on the date of such request and, if Interim Services are made available not less than 48 hours after such request; or
    - (c) If Contractor has insufficient capacity to provide treatment Services to an intravenous drug abuser, refer the intravenous drug abuser to another Provider with capacity or if no available treatment capacity can be located, the outpatient provider that the Individual is enrolled with will ensure that interim services are being offered. If the Individual is not enrolled in outpatient treatment and is on a waitlist for residential treatment, the provider from the Contractor of the Individual's residence that is referring the Individual to residential services will make available counseling and education about human immunodeficiency virus(HIV) and tuberculosis (TB), risk of sharing needles, risks of transmission to sexual partners and infant, steps to ensure HIV and TB transmission does not occur, referral for HIV or TB treatment services, if necessary, within 48 hours.
- e. **Infectious Diseases.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services Contractor must:
- (1) Complete a risk assessment for infectious disease including Human

- Immunodeficiency Virus (HIV) and tuberculosis, as well as sexually transmitted diseases, based on protocols established by OHA, for every Individual seeking Services from Contractor; and
- (2) Routinely make tuberculosis services available to each Individual receiving Services for alcohol/drug abuse either directly or through other arrangements with public or non-profit entities and, if Contractor denies an Individual admission on the basis of lack of capacity, refer the Individual to another provider of tuberculosis Services.
  - (3) For purposes of (2) above, “tuberculosis services” means:
    - (a) Counseling the Individual with respect to tuberculosis;
    - (b) Testing to determine whether the Individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the Individual; and
    - (c) Appropriate treatment services.
- f. **OHA Referrals.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must, within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women and intravenous drug users described above, give preference in Substance Use Disorders and Problem Gambling Service delivery to persons referred by OHA.
- g. **Barriers to Treatment.** Where there is a barrier to delivery of any Substance Use Disorder and Problem Gambling Service due to culture, gender, language, illiteracy, or disability, Contractor shall develop support services available to address or overcome the barrier, including:
  - (1) Providing, if needed, hearing impaired or foreign language interpreters.
  - (2) Providing translation of written materials to appropriate language or method of communication.
  - (3) Providing devices that assist in minimizing the impact of the barrier.
  - (4) Not charging clients for the costs of measures, such as interpreters, that are required to provide nondiscriminatory treatment.
- h. **Misrepresentation.** Contractor shall not knowingly or willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or Services for which payments may be made by County or OHA.
- i. **Oregon Residency.** Substance Use Disorders Services funded through this Contract, except for A&D 60 Problem Gambling Client Finding Outreach Services, A&D 80, A&D 81, A&D 82 and A&D 83, may only be provided to residents of Oregon. Residents of Oregon are Individuals who live in Oregon. There is no minimum amount of time an Individual must live in Oregon to qualify as a resident so long as the Individual intends to remain in Oregon. A child’s residence is not dependent on the residence of his or her parents. A child living in Oregon may meet the residency requirement if the caretaker relative with whom the child is living is an Oregon resident.
- j. **Tobacco Use.** If Contractor has Substance Use Disorders Services treatment capacity that has been designated for children, adolescents, pregnant women, and women with dependent children, Contractor must implement a policy to eliminate smoking and other use of tobacco at the facilities where the Services are delivered and on the grounds of such facilities.
- k. **Client Authorization.** Contractor must comply with 42 CFR Part 2 when delivering a Substance Use Disorder Service that includes disclosure of Client information for purposes of eligibility determination. Contractor must obtain Client authorization for disclosure of billing information, to the extent and in the manner required by 42 CFR Part 2, before a Disbursement Claim is submitted with respect to delivery of a Substance Use Disorder Service to that Individual.

16. **Community Mental Health Block Grant (CFDA 93.958).** All funds, if any, awarded under this Contract for Mental Health Services are subject to the federal use restrictions and requirements set forth in Catalog of Federal Domestic Assistance Number 93.958 and to the federal statutory and regulatory restrictions imposed by or pursuant to the Community Mental Health Block Grant portion of the Public Health Services Act, 42 U.S.C. 300x-1 *et. seq.*, and Contractor shall comply with those restrictions.
17. **Substance Abuse Prevention and Treatment (CFDA 93.959).** To the extent Contractor provides any Service in which costs are paid in whole or in part by the Substance Abuse, Prevention, and Treatment Block Grant, Contractor shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 U.S.C. 300x through 300x-66) and 45 CFR 96.130 regarding the sale of tobacco products. Regardless of funding source, to the extent Contractor provides any substance abuse prevention or treatment services, Contractor shall comply with the confidentiality requirements of 42 CFR Part 2. CMHP may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.
18. **Information Required by 2 CFR Subtitle B with guidance at 2 CFR Part 200.** All required data elements in accordance with 45 CFR 75.352 are available at: <http://www.oregon.gov/oha/amh/Pages/federal-reporting.aspx>.

**EXHIBIT J**  
**MHS 25 COMMUNITY CRISIS SERVICES FOR ADULTS AND CHILDREN**

**1. Service Description**

**a. Purpose:**

Community Crisis Services for Adults and Children (MHS 25 Services) are immediately available mental health crisis assessment, triage, and intervention Services delivered to Individuals experiencing the sudden onset of psychiatric symptoms or the serious deterioration of mental or emotional stability or functioning. MHS 25 Services are of limited duration and are intended to stabilize the Individual and prevent further serious deterioration in the Individual's mental status or mental health condition.

**i. Definitions:**

- 1. Care Coordination** means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs. Care Coordination includes facilitating communication between the family, natural supports, community resources, and involved Providers for continuity of care by creating linkages to and managing transitions between levels of care and transitions for young adults in transition to adult services.
- 2. Community-based** means that Services and supports must be provided in an Individual's home and surrounding community and not solely based in a traditional office-setting.
- 3. Crisis** means either an actual or perceived urgent or emergent situation that occurs when an Individual's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent a serious deterioration in the Individual's mental or physical health or to prevent referral to a significantly higher level of care.
- 4. Crisis Line Services** means phone-based Services that establish immediate communication links and provide supportive interventions and information for Individuals in an urgent or emergent situation.
- 5. Mobile Crisis Response Time** means the time from the point when a professional decision is made that a face-to-face intervention is required, to the time the actual face-to-face intervention takes place in the community.
- 6. Mobile Crisis Services** means Mental Health Services for Individuals in Crisis, provided by mental health practitioners who respond to behavioral health Crises onsite at the location in the community where the Crisis arises and who provide a face-to-face therapeutic response. The goal of Mobile Crisis Services is to help an Individual resolve a psychiatric crisis in the least restrictive setting possible, and to avoid unnecessary hospitalization, inpatient psychiatric treatment, involuntary commitment, and arrest or incarceration.
- 7. Screening** means the process to determine whether the Individual needs further assessment to identify circumstances requiring referrals or additional Services and supports.
- 8. Service Plan** means a comprehensive plan for Services and supports provided to or coordinated for an Individual and his or her family, per OAR 309-019-0105104) as applicable, that is reflective of the assessment and the intended outcomes of Service.

**ii. MHS 25 Services shall include, but are not limited to, the following:**



1. Provide Crisis Services to 24 hours a day, 7 days a week face-to-face or telephone Screening to determine the need for immediate Services for any Individual requesting assistance or for whom assistance is requested;
2. A mental health assessment concluding with written recommendations by a Qualified Mental Health Professional or a Qualified Mental Health Associate, as defined in OAR 309-019-0105(94) QMHP and (95) QMHA, regarding the need for further treatment;
3. Provide brief Crisis intervention;
4. In the case of a child, appropriate child and family psychological, psychiatric, and other medical interventions delivered by or under the direct supervision of a Qualified Mental Health Professional, that are specific to the assessment and identified in the initial treatment plan, and any community placements necessary to protect and stabilize the child as quickly as possible;
5. In the case of an adult, appropriate psychological, psychiatric, and other medical interventions delivered by or under the direct supervision of a Qualified Mental Health Professional, that are specific to the assessment and identified in the initial treatment plan, and any community placements necessary to protect and stabilize the Individual as quickly as possible;
6. Connect the Individual with ongoing Services and supports;
7. Arrangement for the provision of involuntary psychiatric Services at a hospital or non-hospital facility approved by OHA, when an Individual's behavior requires it;
8. Crisis Line Services shall be provided in accordance with OAR 309-019-0300 through 309-019-0320; and
9. Mobile Crisis Services:

The effectiveness of Mobile Crisis Services in de-escalating a Crisis and diverting hospitalization or arrest is enhanced by team members competent in performing an assessment and delivering an effective course of intervention. These Services provide access to a multi-disciplinary support team and ready resources, such as access to urgent appointments, brief respite services, and the ability to provide brief follow-up care when indicated.

Contractor shall provide Mobile Crisis Services according to OAR 309-019-0151 including, but not limited to:

- a. 24 hours a day, 7 days a week capability to conduct a face-to-face mental health status examination of an Individual by a Qualified Mental Health Professional (QMHP) (in accordance with OAR 309-019-0125(10) or Qualified Mental Health Associate (QMHA) (in accordance with OAR 309-019-0125(9)) under the supervision of a QMHP. Examination is used to determine the Individual's condition and the interventions necessary to stabilize the Individual and the need for immediate Services for any Individual requesting assistance or for whom assistance is requested;
- b. A face-to-face therapeutic response delivered in a public setting at locations in the community where the Crisis arises including, but not limited to, an Individual's home, schools, residential programs, nursing homes, group home settings, and hospitals to enhance community integration;
- c. Services that are generally delivered in a natural environment by or under the supervision of a QMHP, such as QMHAs and peers, and resulting in a Service Plan. Disposition of Services shall maintain as the primary goal with diversion

from hospitalization and incarceration through clinically appropriate Community-based supports and Services;

- d. Eliminating the need for transportation (frequently provided by law enforcement officers or emergency services) to a hospital's emergency department or a community crisis site;
- e. Are not intended to be restricted to services delivered in hospitals or at residential programs;
- f. Mental Health Crisis assessment;
- g. Brief Crisis intervention;
- h. Assistance with placement in crisis respite or residential services;
- i. Initiation of commitment process, if applicable;
- j. Assistance with hospital placement;
- k. Connecting Individuals with ongoing supports and Services; and
- l. Coordination with Crisis Line Services providers to support seamless transitions of care.

10. Provide disaster response, Crisis counseling Services to include:

- a. Responding to local disaster events by:
  - i. Providing Crisis counseling and critical incident stress debriefing to disaster victims; police, firefighters and other "first-responders"; disaster relief shelters; and the community-at-large.
  - ii. Coordinating Crisis counseling Services with County Emergency Operations Manager (CEOM); and providing Crisis counseling and stress management Services to Emergency Operations Center staff according to agreements established between the CMHP and CEOM.
- b. Assisting CMHP's in the provision of these Services as part of a mutual aid agreement.

2. **Performance Requirements**

- a. Contractor shall comply with OAR 309-019-0100 through 309-019-0320, as such rules may be revised from time to time.
- b. Contractor shall maintain a Certificate of Approval in accordance with OAR309-008-0100 through 309-008-1600, as such rules may be revised from time to time.

3. **Reporting Requirements**

All Individuals receiving MHS 25 Services with funds provided through this Contract must be enrolled and that Individual's record maintained in the Measures and Outcomes Tracking System (MOTS) as specified in OHA's MOTS Reference Manual, located at:

<http://www.oregon.gov/OHA/amh/mots/Pages/resource.aspx> .

Contractor shall provide timely and relevant information to County as needed to enable County to submit reports to the State of Oregon on the delivery of all Services supported with funds provided through this Contract.

**EXHIBIT L**  
**PERFORMANCE STANDARDS**

**A. General Performance Standards**

1. Contractor ensures that all staff employed or contracted by Contractor who provide services or are otherwise engaged in activities under this Contract are fully aware of and in compliance with the terms and conditions of this Contract.
2. Contractor assures that all of Contractor's employees and independent contractors providing services under this Contract will work within the scope of their credentials and any applicable licensure or registration. Contractor shall not allow services to be provided by an employee or independent contractor who does not have a valid license or certification required by state or federal law.

**B. Staff Standards**

Contractor will provide the following for all staff who are in direct contact with County clients:

- Completion of a successful criminal history records check through the Background Check Unit, a Shared Service of the Department of Human Services and the Oregon Health Authority and compliant with ORS 181A.200 and OAR 943-007-0001 to 943-007-0501;
- Appropriate education and academic degrees;
- Licenses or certificates, as required; and
- Relevant work history or qualifications.

**C. Monitoring**

County shall monitor services provided by Contractor and has the right to require Contractor's compliance with established standards and performance requirements relative to the services provided, administrative and fiscal management, and with all obligations and conditions stated in this Contract.

County may conduct compliance monitoring related to this Contract. Contractor shall cooperate with County in such monitoring. County shall provide Contractor twenty (20) business days written notice of any Contract compliance monitoring activity that requires any action or cooperation by Contractor. Notice of monitoring shall include the date monitoring shall occur, names of individuals conducting the monitoring, and instructions and requests for information.

**D. Abuse Reporting**

Contractor shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if Contractor were a mandatory abuse reporter. If Contractor is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. Contractor shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

**E. Confidentiality**

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.

**EXHIBIT M**  
**CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR**  
(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result;  
**AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- \_\_\_\_\_ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- \_\_\_\_\_ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- \_\_\_\_\_ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- \_\_\_\_\_ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- \_\_\_\_\_ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature \_\_\_\_\_

Date \_\_\_\_\_

Contractor Printed Name: \_\_\_\_\_

**EXHIBIT N**  
**QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT**

This Qualified Service Organization Business Associate Agreement (“Agreement”) is entered into as of \_\_\_\_\_ (“Effective Date”) by and between **Clackamas County Health, Housing and Human Services, Behavioral Health Division** (“Covered Entity”), Health Centers Division Alcohol and Drug Treatment Program (“Program”) and **FolkTime Inc. in Oregon** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations (“HIPAA”), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 (“Confidentiality Rule”).

**RECITALS**

**Whereas**, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;

**Whereas**, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Services Agreement”);

**Whereas**, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

**Whereas**, the Parties agree to establish safeguards for the protection of such information;

**Whereas**, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules **and** the Confidentiality Rule;

**Now, therefore**, the parties hereby agree as follows:

**SECTION I – DEFINITIONS**

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
  - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
  - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
  - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.

- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.10 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.11 “Program” shall have the meaning given to such term under the Confidentiality Rule, 42 CFR §2.11.
- 1.12 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
- 1.13 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
- 1.14 “Qualified Service Organization” shall have the meaning defined under the Confidentiality Rule, 42 CFR §2.11.
- 1.15 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.16 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.17 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.18 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.19 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

## **SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE**

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;

- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
- 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
- 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it



- provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
- 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
  - 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
  - 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

### **SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:**

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly, information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.
- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
  - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,
  - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further

disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

#### **SECTION IV – NOTICE OF PRIVACY PRACTICES**

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. The Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.

#### **SECTION V – BREACH NOTIFICATION REQUIREMENTS**

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
- a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
  - b. By notice in plain language including and to the extent possible:
    - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
    - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
    - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
    - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
  - c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
  - d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

## SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible.
- If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.
- Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.
- 6.3 **Effect of Termination.**
- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

## SECTION VII – GENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Agreement to the Confidentiality Rule, HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Covered Entity.** Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution Covered Entity agrees to indemnify, defend and hold harmless the Business Associate and its employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Covered Entity’s breach of Section 4.1 of this Agreement. Accordingly, on demand, Covered Entity shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Covered Entity’s breach hereunder. Covered Entity’s obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Section II and III of this Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.6 **Survival.** The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.
- 7.7 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.

(Signature Page for QSOBAA Follows)



**EXHIBIT P**  
**MHS 37 – Jail Diversion**

**1. Service Description**

Exhibit MHS 37 – Jail Diversion Services increase Mental Health’s interaction with Individuals with Serious and Persistent Mental Illness (SPMI) who are involved with justice or law enforcement solely due to a mental health reason and are charged with low-level crimes, resulting in the reduction or avoidance of arrests, jail admissions, lengths of stay in jail, and recidivism through the availability of alternative community-based services, programs, or treatments.

SPMI means the current Diagnostic and Statistical Manual, Fifth Edition (DSM V) of the American Psychiatric Association diagnostic criteria for at least one of the following conditions, as a primary diagnosis for an adult 18 years of age or older:

- a. Schizophrenia and other psychotic disorders;
- b. Major Depressive Disorder;
- c. Bipolar Disorder;
- d. Anxiety disorders limited to Obsessive-Compulsive Disorder (OCD) and Post-Traumatic Stress Disorder (PTSD);
- e. Schizotypal Personality Disorder; or
- f. Borderline Personality Disorder

**2. Performance Requirements**

All Providers shall adopt the “**Sequential Intercept Model**” (SIM) through the GAINS Center to more effectively deal with mentally ill Individuals who come into contact with law enforcement personnel. All Providers shall use the SIM to identify and intervene upon “points of interception” or opportunities for interventions to prevent Individuals with SPMI from entering or penetrating deeper into the criminal justice system.

Contractor shall provide the following, subject to the not-to-exceed amount of this Contract, pre-booking and post-booking Exhibit MHS 37 – Jail Diversion Services:

- a. Create partnerships or diversion agreements between law enforcement agencies, jails, both circuit and municipal courts, and local mental health providers;
- b. Create opportunities for Individuals to access housing in addition to vocational and educational services;
- c. Provide support services to prevent or curtail relapses and other crises;
- d. Assist Individuals to negotiate and minimize continuing criminal sanctions as they make progress in recovery and meet criminal justice obligations; and
- e. Promote peer support and the social inclusion of Individuals with or in recovery from mental and substance use disorders in the community.

**3. Reporting Requirements**

All Individuals receiving Exhibit MHS 37 – Jail Diversion Services with funds provided through this Contract must be enrolled and that Individual’s record maintained in the Measures and Outcomes Tracking System (MOTS) as specified in OHA’s MOTS

Reference Manual, located at: <http://www.oregon.gov/OHA/HSD/AMH-MOTS/pages/resource.aspx> .

Contractor shall provide timely and relevant information to County as needed to enable County to submit reports to the State of Oregon on the delivery of all Services supported with funds provided through this Contract.

Board of Commissioners  
Clackamas County

Members of the Board:

Approval of Professional Services Contract with  
NAMI Clackamas County for Peer Mental Health Education & Support

<b>Purpose/Outcomes</b>	Provides Mental Health education and support in Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	Contract maximum value is \$213,000
<b>Funding Source</b>	No County General Funds involved State of Oregon, Oregon Health Plan (OHP) funds
<b>Duration</b>	Effective January 1, 2019 through June 20, 2020, with an option to extend to June 30, 2022.
<b>Previous Board Action</b>	No previous Board action
<b>Strategic Plan Alignment</b>	1. Increase self-sufficiency for our clients. 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Mary Rumbaugh, Director, Behavioral Health Division, 503-742-5305
<b>Contract No.</b>	#8143

**Background**

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Professional Services Contract #8143 with NAMI Clackamas County. On September 12, 2018, a Request for Proposals (RFP) was issued for eight peer-delivered services programs. The RFP closed October 24, 2018, and NAMI Clackamas County was selected by the review committee to be awarded a contract to provide Mental Health Education and Support in Clackamas County.

This contract, effective January 1, 2019 and terminates June 30, 2020, with an option to extend through June 30, 2022, has a maximum value is \$213,000. This contract was reviewed and approved by County Counsel.

**Recommendation**

We recommend Board approval of this contract and authorization for Richard Swift to sign on behalf of the County.

Respectfully submitted,

Richard Swift, Director  
Health, Housing and Human Services

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





CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal Services Contract (this "Contract") is entered into between NAMI Clackamas ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of its Health Housing and Human Services Department ("H3S").

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective on January 1, 2019. Unless earlier terminated or extended, this Contract shall expire on June 30, 2020. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured. This Contract may be renewed for an additional two (2) year term upon the written agreement of both parties to this Contract.

2. Scope of Work. This Contract covers the Scope of Work described as Project 4: Adult Peer Delivered Services - Community Education as set forth in the RFP #2018-45 Behavioral Health Peer Delivered Services including all addenda thereto ("RFP"), attached and hereby incorporated by reference as Attachment "A." This contract is funded in whole or in part by state or federal funds. As such, this Contract is subject to the additional terms and conditions described in Exhibits B, D, G, L, M, and O.

3. Consideration. The County agrees to pay Contractor for accomplishing the Work required by this Contract, from available and authorized funds, a sum not to exceed ninety-one thousand two hundred eighty-five dollars and fifty cents. (\$91,285.50) for the initial term of this Contract, which expires on June 30, 2020, and the total Contract value including the two year renewal term shall not exceed two hundred thirteen thousand dollars (\$213,000.00). If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [ ] Yes [X] No

If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: http://www.clackamas.us/bids/terms.html. Travel expense reimbursement is not in excess of the not to exceed consideration.

6. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract including Exhibits B, D, G, L, M, O, Attachment "A", and the Contractor's Proposal attached and hereby incorporated by reference as Attachment "B". Work shall be performed in accordance with a schedule approved by the County.

5. Contractor Data.

Address: 10202 SE 32ne Avenue Suite 501, Milwaukie, OR 97222

Contractor Contract Administrator: Michele Veenker

Phone No.: 503-344-5050

Email: michele@namicc.org

MWESB Certification: [ ] DBE # [ ] MBE # [ ] WBE # [ ] ESB #

Payment information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to backup withholding.

## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.

Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.

5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this

Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
- 9. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Attachment C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit D**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County

Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us), or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of County. County and Contractor intend that such Work Product be deemed “work made for hire” of which County shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County’s consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty in this Contract that Contractor has

complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any Work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

**20. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

**21. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is

determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.
- (C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- (D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and

attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

- 28. CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor

has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

**29. CRIMINAL BACKGROUND CHECK REQUIREMENTS.** Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

**30. Further Assurances.** Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

**31. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**





**ATTACHMENT A  
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

**SCOPE OF WORK**

Contractor shall provide Behavioral Health Peer Delivered Services (“Work”). Work is described in the Request for Proposals #2018-45 Behavioral Health Peer Delivered Services issued September 12, 2018 (“RFP”) including all addenda thereto, included in this Attachment “A.” Insofar as the RFP includes Project Specific Scope and Expectations as stated therein, this Contract covers Project 4: Adult Peer Delivered Services – Community Education. Work is further described in Vendor’s Response to RFP, hereby attached and incorporated by reference as Attachment “B.”

The County Contract administrator for this Contract is: Ally Linfoot

**INVOICES AND PAYMENTS**

- a. Consideration Rates – Fixed Fee basis of \$5,071.41 per month for this Contract’s eighteen (“18”) month initial term. Should a renewal option be exercised, the consideration rate shall be \$5,071.43 per month for the resulting twenty-four (“24”) month term.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462. Payment for all Work performed under this Contract, including all optional renewals, shall not exceed the total maximum sum of **\$213,000.00**. Invoices shall be submitted to: Ally Linfoot, either by mail at 150 Beaver Creek RD, Oregon City OR, 97045 or email at [ALinfoot@co.clackamas.or.us](mailto:ALinfoot@co.clackamas.or.us).
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.



**REQUEST FOR PROPOSALS #2018-45**

**FOR**

**BEHAVIORAL HEALTH PEER DELIVERED SERVICES**

BOARD OF COUNTY COMMISSIONERS

JIM BERNARD, Chair  
SONYA FISCHER, Commissioner  
KEN HUMBERSTON, Commissioner  
PAUL SAVAS, Commissioner  
MARTHA SCHRADER, Commissioner

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Donald Krupp  
County Administrator

George Marlton  
Procurement Division Director

Peter Madaus  
Analyst

**PROPOSAL CLOSING DATE, TIME AND LOCATION**

DATE: September 12, 2018

TIME: 2:00 PM, Pacific Time

PLACE: Clackamas County Procurement Division  
Clackamas County Public Services Building  
2051 Kaen Road, Oregon City, OR 97045

**SCHEDULE**

Request for Proposals Issued.....	September 12, 2018
Protest of Specifications Deadline.....	September 19, 2018, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	October 3, 2018, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	October 24, 2018, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	January 1, 2019

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**SECTION 1  
NOTICE OF REQUEST FOR PROPOSALS (RFP)**

Notice is hereby given that Clackamas County (“County”) through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, October 24, 2018** (“Closing”), to provide **Behavioral Health Peer Delivered Services**. No Proposals will be received or considered after that time.

As a result of this RFP, the County intends to enter into contracts for the eight (8) Behavioral Health Peer Delivered Services projects (“Project”) listed below in “Table 1.0” and further specified in “Section 3” of this RFP:

<b>Table 1.0</b>	
<i><b>Project</b></i>	<i><b>Not to Exceed 3.5 Year Budget</b></i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	\$142,000.00
Project 2: Adult Peer Delivered Services – Jail Support	\$426,000.00
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	\$532,500.00
Project 4: Adult Peer Delivered Services – Community Education	\$213,000.00
Project 5: Adult Peer Delivered Services – Villebois Community	\$710,000.00
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	\$439,500.00
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	\$342,500.00
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	\$287,500.00
*The “Not to Exceed 3.5 Year Budgets” amounts shall be included in proposal responses and shall not be construed to guarantee or represent the total contract value for any contracts that might result from this RFP.	

Each proposer entity shall only submit one proposal package in response to this RFP. This RFP is structured to allow proposer entities to include multiple Projects in one proposal package should they choose to do so. The resulting contract(s) from this RFP shall include a one and a half (1.5) year initial term with one (1) mutual renewal option for two (2) additional years.

Proposal packets are available from 7:00 AM to 6:00 PM Monday through Thursday at Clackamas County Procurement Division, Clackamas County Public Services Building, 2051 Kaen Road, Oregon City, OR 97045, telephone (503) 742-5444 or may be obtained at <http://www.clackamas.us/bids/>. Sealed Proposals are to be sent to Clackamas County Procurement Services – Attention George Marlton, Director at the above Kaen Road address. Sealed Proposals may be emailed to [procurement@clackamas.us](mailto:procurement@clackamas.us) or sent to Clackamas County at the above Kaen Road address.

Contact Information

All communications with the County regarding this RFP shall only be directed to **Peter Madaus**, [pmadaus@co.clackamas.or.us](mailto:pmadaus@co.clackamas.or.us), (503) 742-5451.

The Board of County Commissioners reserves the right to reject any and all Proposals not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, the Board of County Commissioners will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of Clackamas County and will reserve the right to award the contract to the contractor whose Proposal shall be best for the public good.

Clackamas County encourages bids from Minority, Women, and Emerging Small Businesses.

## SECTION 2 INSTRUCTIONS TO PROPOSERS

Clackamas County (“County”) reserves the right to reject any and all Proposals received as a result of this RFP. County Local Contract Review Board Rules (“LCRB”) govern the procurement process for the County.

**2.1 Modification or Withdrawal of Proposal:** Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided that a written request is received by the County Procurement Division Director, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

**2.2 Requests for Clarification and Requests for Change:** Proposers may submit questions regarding the specifications of the RFP. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, at the Procurement Division address as listed in Section 1 of this RFP. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit County to correct, prior to the opening of Proposals, RFP terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. County will consider all requested changes and, if appropriate, amend the RFP. County will provide reasonable notice of its decision to all Proposers that have provided an address to the Procurement Division for this procurement. No oral or written instructions or information concerning this RFP from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFP.

**2.3 Protests of the RFP/Specifications:** Protests must be in accordance with LCRB C-047-0730. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, or within three (3) business days of issuance of any addendum, at the Procurement Division address listed in Section 1 of this RFP. Protests may not be faxed. Protests of the RFP specifications must include the reason for the protest and any proposed changes to the requirements.

**2.4 Addenda:** If any part of this RFP is changed, an addendum will be provided to Proposers that have provided an address to the Procurement Division for this procurement. It shall be Proposers responsibility to regularly check the Bids and Contract Information page at <http://www.clackamas.us/bids/> for any published Addenda or response to clarifying questions.

**2.5 Submission of Proposals:** All Proposals must be submitted in a sealed envelope bearing on the outside, the name and address of the Proposer, the Project title, and Closing date/time. Proposals must be submitted in accordance with Section 5.

All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFP. Proposals that include orders or qualifications may be rejected as irregular. All Proposals must include a signature that affirms the Proposer’s intent to be bound by the Proposal (may be on cover letter, on the Proposal, or the Proposal Certification Form) shall be signed. If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor. The Proposals will be considered by the County to be submitted in confidence and are not subject to public disclosure until the notice of intent to award has been issued.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by telephone or fax.

**2.6 Post-Selection Review and Protest of Award:** County will name the apparent successful Proposer(s) in “Notice of Intent to Award” letter(s). Identification of the apparent successful Proposer(s) is procedural only and creates no right of the named Proposer(s) to award of the contract. Competing Proposer(s) will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given seven (7) calendar days from the date on the “Notice of Intent to Award” letter to review the file at the Procurement Division office and file a written protest of award, pursuant to LCRB C-047-0740. Any award protest must be in writing and must be delivered by hand-delivery or mail to the address for the Procurement Division as listed in Section 1 of this RFP.

Only actual Proposers may protest if they believe they have been adversely affected because the Proposer would be eligible to be awarded the contract in the event the protest is successful. The basis of the written protest must be in accordance with ORS 279B.410 and shall specify the grounds upon which the protest is based. Written protests shall specify the Project(s) listed under Section 3 of this RFP to which the protest applies. In order to be an adversely affected Proposer with a right to submit a written protest, a Proposer must be next in line for award, i.e. the protester must claim that all higher rated Proposers are ineligible for award because they are non-responsive or non-responsible.

County will consider any protests received and:

- a. reject all protests and proceed with final evaluation of, and any allowed contract language negotiation with, the apparent successful Proposer(s) and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer(s); OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer(s) as nonresponsive, if such Proposer(s) is unable to demonstrate that its Proposal(s) complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name new apparent successful Proposer(s); OR
- c. reject all Proposals and cancel the procurement in whole, or with respect to any single Project or group of Projects named under Section 3 of this RFP.

**2.7 Acceptance of Contractual Requirements:** Failure of the selected Proposer(s) to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of County.

**2.8 Public Records:** Proposals are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFP and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.501(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

**“This information constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”**

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” ORS 192.500(1). Therefore, non-disclosure of documents, or any portion of a document submitted as part of a Proposal, may depend upon official or judicial determinations made pursuant to the Public Records Law.

**2.9 Investigation of References:** County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any



other factor relevant to this RFP. County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer(s) in order to complete its investigation.

**2.10 RFP Proposal Preparation Costs and Other Costs:** Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by County), or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by County.

**2.11 Clarification and Clarity:** County reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

**2.12 Right to Reject Proposals:** County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by County.

**2.13 Cancellation:** County reserves the right to cancel or postpone this RFP at any time or to award no contract.

**2.14 Proposal Terms:** All Proposals, including any price quotations, will be valid and firm through a period of one hundred and eighty (180) calendar days following the Closing date. County may require an extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.

**2.15 Oral Presentations:** At County's sole option, Proposers may be required to give an oral presentation of their Proposals to County, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Procurement Division will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by County. **Note:** Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, **written Proposals should be complete.**

**2.16 Usage:** It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

**2.17 Review for Responsiveness:** Upon receipt of all Proposals, the Procurement Division or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

**2.18 RFP Incorporated into Contract:** This RFP will become part of the Contract between County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFP, their Proposal(s), and the terms of the Sample Contract.

**2.19 Communication Blackout Period:** Except as called for in this RFP, Proposers may not communicate with members of the Evaluation Committee or other County employees or representatives about the RFP during the procurement process until the apparent successful Proposer(s) are selected, and all protests, if any, have been resolved. Communication in violation of this restriction may result in rejection of a Proposer.

**2.20 Prohibition on Commissions and Subcontractors:** County will contract directly with persons/entities capable of performing the requirements of this RFP. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process. Contractor shall not use subcontractors to perform the Work unless specifically pre-authorized in writing to do so by the County. Contractor represents that any employees assigned to perform the Work, and any authorized subcontractors performing the Work, are fully qualified to perform the tasks assigned to them, and shall perform the Work in a competent and professional manner. Contractor shall not be permitted to add on any fee or charge for subcontractor Work. Contractor shall provide, if requested, any documents relating to subcontractor's qualifications to perform required Work.

**2.21 Ownership of Proposals:** All Proposals in response to this RFP are the sole property of County, and subject to the provisions of ORS 192.410-192.505 (Public Records Act).

**2.22 Clerical Errors in Awards:** County reserves the right to correct inaccurate awards resulting from its clerical errors.

**2.23 Rejection of Qualified Proposals:** Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFP or the Sample Contract.

**2.24 Collusion:** By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFP, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

**2.25 Evaluation Committee:** Proposals will be evaluated by a committee consisting of representatives from County and potentially external representatives. County reserves the right to modify the Evaluation Committee make-up in its sole discretion.

**2.26 Commencement of Work:** The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by County.

**2.27 Best and Final Offer:** County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

**2.28 Nondiscrimination:** The successful Proposer agrees that, in performing the work called for by this RFP and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.

**2.29 Intergovernmental Cooperative Procurement Statement:** Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the contractor and the participating public agency and shall not impact the contractor's obligation to County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their

Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

**SECTION 3  
SCOPE OF WORK**

**3.1. INTRODUCTION**

Clackamas County’s Behavioral Health Division (“Behavioral Health”) is seeking qualified programs and organizations to provide peer delivered support services in the areas of mental health and substance use. Services are to be provided within Clackamas County (“County”) and serving adults, children, youth, and families residing in the County or individuals moving to the County upon release from a correctional facility, juvenile detention facility, psychiatric or substance use treatment in-patient facility, or hospital. The County intends to enter into multiple contracts as a result of this solicitation.

In submitting a response to this RFP, the proposer certifies that paid staff providing services under any contract issued will be paid a living wage and receive appropriate benefits.

**Please direct all Technical/Specifications or Procurement Process Questions to the indicated representative referenced in the Notice of Request for Proposals and note the communication restriction outlined in Section 2.19.**

**3.2 BACKGROUND**

Since 2010, Behavioral Health has consistently worked to create a comprehensive Peer Delivered Services System of Care. We support a system of care that promotes a family’s and individual’s resiliency and recovery from mental health and substance use. Behavioral Health believes peer support is a critical element of recovery. Peer Services supports this system by ensuring individuals and families with children are empowered and drive the process of reaching and sustaining recovery, wellness, and resilience while building an inclusive community.

The outcome of this RFP process will be the availability of an array of peer delivered support services reaching a broad population of adults, youth and young adults in transition, family members and caregivers. These services will be provided to individuals and families who may also require support within other systems such as corrections, addictions, juvenile justice, child welfare, and others.

Please read this RFP carefully as Clackamas County seeks to fulfill several lines of peer support services. The Scopes of Work for each peer support service covered under this RFP are individually outlined in this Section. The peer support services are:

Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups
Project 2: Adult Peer Delivered Services – Jail Support
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic
Project 4: Adult Peer Delivered Services – Community Education
Project 5: Adult Peer Delivered Services – Villebois Community
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth
Project 7: Children and Families – Family Navigator / Emergency Room Diversion
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors

Proposers may submit a proposal for one or more of the above Projects. If Proposer submits a proposal for more than one Project, the proposal must be very clear and complete for each Project and follow instructions in Section 5.

### **3.3. SCOPE AND EXPECTATIONS FOR ALL PROJECTS**

#### **3.3.1. STAFF STANDARDS**

Contractor shall complete the following for all staff:

- A successful criminal history records check through the State of Oregon Background Check Unit (“BCU”) compliant with ORS Chapter 181 and OAR 407-007-0000 to OAR 407-007-0370.
- Positive clearance through the General Services Administration System for Award Management (“SAM”) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General’s (“OIG”) List of Excluded Individuals/Entities at time of hire and monthly thereafter.
- Review appropriate education and academic degrees;
- Review licenses or certificates, as required;
- Review relevant work history or qualifications;
- Document and certify that the staff’s education, experience, competence, and supervision are adequate to permit the staff to perform the assigned duties.

In addition, Contractor shall ensure all staff with direct one-on-one contact with the County residents:

- Complete Oregon Health Authority approved training program for Peer Delivered Services and adherence to all requirements in the Traditional Health Worker administrative rules including, OAR 410-180-0300 to OAR 410-180-0380.

County will provide technical assistance to Contractor on exclusion process through SAM and OIG, upon which time, the County will delegate to the Contractor the responsibility of exclusion checks. County may review Contractor’s adherence to exclusion checks during routine contract compliance monitoring.

Contractor shall not permit any person to provide services under this Contract if that person is listed on the non-procurement portion of the General Service Administration’s SAM in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension” (2 CFR Part 180).

In addition, Contractor shall not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 “Program Integrity – Medicare and State Health Care Programs Subpart B”.

If Contractor is unable to adhere with requirements listed, Contractor shall communicate directly with Clackamas County’s Peer Services Coordinator a plan for meeting contract requirements.

#### **3.3.1. REPORTING REQUIREMENTS**

Behavioral Health’s Peer Delivered Services has developed the following general outcome measures that must be reported to the County on a quarterly basis.

Individuals Served:

- Number of individuals served during the reporting period.
- Number of new individuals served during the reporting period.
- Number of individuals who concluded support services during the reporting period.

Experience of Services:

- Does the individual feel they would have returned to a higher level of care or to a corrections setting if not for Peer Delivered Services?
- Does the individual feel their quality of life has improved overall?
- Has there been an increase in natural supports?

Training, Workshops, Support Groups:

- Number of continuing education/training programs or classes attended by Peer Support Specialists during the quarter.
- Number of workshops, support groups, or presentations provided for individuals receiving peer support services.
- Number of outreach activities conducted to inform and engage community partners and potential referral sources about the role of Peer Support Specialists and the Support Services available.

These reporting requirements will be included in any contract awarded. There may be additional reporting requirements dependent on the type of funding available for the contract and the specific type of peer support being provided through the contract. Please review the sample contract and exhibits associated with the program(s) for which you would like to propose to find additional reporting and related requirements.

### **3.4. PROJECT SPECIFIC SCOPE AND EXPECTATIONS**

#### **3.4.1. PROJECT 1: ADULT PEER DELIVERED SERVICES – DUAL DIAGNOSIS SUPPORT GROUPS**

**Budget:**

\$142,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults with mental health and addictions seeking recovery support in a group setting.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Comprehensive and current referral network with community agencies and system partners through an outreach specialist to promote recovery support groups
- Monthly fellowship meetings for group leaders.
- Maintenance of eight (8) or more chapters/groups that serve a minimum of 750 contacts throughout the duration of the contract.
- Supports/services including a focus on special populations, such as veterans.
- Ongoing outreach that includes dissemination of informational literature about meeting times, locations, and upcoming events.
- Workshops/trainings/support groups that will be available as well as opportunities for leadership development provided through the organization for those individuals being served.

### **3.4.2. PROJECT 2: ADULT PEER DELIVERED SERVICES – JAIL SUPPORT**

**Budget:**

\$426,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults residing in Clackamas County Jail seeking recovery support for substance use and may also have co-occurring mental health issues.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Weekly support groups, workshops and/or recovery curriculum within Clackamas County Jail.
- Collaborative work processes with the County services to begin engagement and access services and resources when appropriate.
- Workshops/trainings/support groups that will be available, as well as opportunities for leadership development provided through the organization for those individuals being served once they have been released from jail
- Peer support services within the jail.

**Staffing:**

- 1.0 FTE for a Lead Peer Recovery Mentor.
- 1.5 FTE Peer Support Specialists (PSS). At least one PSS must be male.

### **3.4.3. PROJECT 3: ADULT PEER DELIVERED SERVICES – CLACKAMAS COUNTY CRISIS CLINIC**

**Budget:**

\$532,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults with mental health or co-occurring mental health and addiction who are seeking services through the County’s crisis mental health walk-in clinic located in Clackamas County, OR.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Cooperative work processes with the County to promote a recovery oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
- Supports for individuals experiencing:
  - Recurring hospitalizations
  - Frequent police contact
  - New diagnoses
  - Difficulty engaging with natural community supports
- Both 1:1 support and group support.

**Staffing:**

The peer support team will work in collaboration with service teams located at the County’s crisis walk-in clinic. Work will be performed both on site at the crisis clinic and in the community.

- 2 – 0.8 FTE Peer Support Specialists
- 1 – 0.4 FTE Peer Supervisor

### **3.4.4. PROJECT 4: ADULT PEER DELIVERED SERVICES – COMMUNITY EDUCATION**

**Budget:**

\$213,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Family members, caregivers, and individuals seeking mental health education and group support for themselves and/or their loved ones. Priority for participation and enrollment in programs shall be granted to County residents.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Family member and caregiver support groups.
- Peer support groups.
- Public education and outreach through curriculum and educational programming.
- Information regarding community resources.
- A variety of peer activities.

### **3.4.5. PROJECT 5: ADULT PEER DELIVERED SERVICES – VILLEBOIS COMMUNITY**

**Budget:**

\$710,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults living in supportive housing in the Villebois Community at Renaissance Court Apartments, Rain Garden Apartments, and The Charleston Apartments located in Wilsonville, OR.

**Service Components:**

Please provide a plan for providing the following services/supports:

- 1:1 peer support for residents requesting support.
- Assistance in crisis and eviction prevention.
- Referrals to community resources.
- Coordination and facilitation of various group activities based on input from residents.

**Staffing:**

- 2 FTE Peer Wellness Specialist

### **3.4.6. PROJECT 6: TRANSITION AGE YOUTH PEER DELIVERED SERVICES – AFTER SCHOOL DROP IN FOR LGBTQ+ YOUTH**

**Budget:**

\$439,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Provide support services to youth/young adults between the ages of 14-20 years who identify as lesbian, gay, bisexual, transgender, queer, intersex (“LGBTQI”).

**Service Components:**



Please provide a plan for providing the following services/supports:

- Collaborative work processes with the County to promote a support system that focuses on hope, choice, personal responsibility, and self-determination.
- Support and coordination to high schools and middle schools within the County for the development of Gay Straight Alliances (“GSA”).
- Coordination of an annual GSA summit.
- A minimum of (1) one day per week drop-in programming for LGBTQI youth/young adults.

**Additional Questions:**

Please describe:

- The process used to develop GSA’s within schools.
- Drop-in programming that will be offered.
- Any activities available to youth/young adults including workshops, trainings, leadership development, and social activities that will be available and provided by the organization.

**3.4.7. PROJECT 7: CHILDREN AND FAMILIES – FAMILY NAVIGATOR / EMERGENCY ROOM DIVERSION**

**Budget:**

\$342,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Provide support to families entering the Emergency Department (“ED”) within the County for a child experiencing a mental health crisis.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Assistance, attendance and/or participation in supportive services for parents/caregivers navigating ED services.
- System navigation services and supports.
- Ongoing local resource information for families to access independently.
- Support of the development of and connection of families to natural supports within their community.
- Family Navigator will be required to collaborate closely with hospital systems and other system partners.

**Staffing:**

- 1.0 FTE Family Navigator

**3.4.8. PROJECT 8: ADULT PEER DELIVERED SERVICES – PEER SUPPORT FOR OPIOID OVERDOSE SURVIVORS**

**Budget:**

\$287,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults having recently survived an opioid overdose that require a response by emergency medical services in the County.

**Service Components:**

Please provide a plan for providing the following services/supports:

- 1:1 peer support for recent survivors of an opioid overdose who may or may not currently be in recovery
- Referrals to community resources
- “Bridging services” to those wanting to access treatment and other recovery supports
- SUD system navigation supports
- Assistance to individuals in identifying wellness and recovery goals
- Document supports provided to each individual
- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

**Staffing:**

This position collaborate and works closely with the HOPE Team

(<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center

(<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

**3.5. TERM OF CONTRACT:**

The term of the contract shall be from the effective date through **June 30, 2020** with the option for one (1) additional two (2) year renewal thereafter subject to the mutual agreement of the parties.

Throughout the term of the resulting contracts, the funding sources for the Project may increase or decrease. As applicable to each Project, the County reserves the right to issue amendments to the resulting contracts and either increase or decrease the budget and thereby adjust the service level accordingly. Any such decrease or increase shall also take into account the need for services, performance under the contract, and other factors related to the County’s best interest.

The fees proposed shall be fixed for the initial term of the contract (through June 30, 2020). For the renewal discussions, the County may consider a budgetary increase limited to the percentage reflected by the latest measurement of the Consumer Price Index, West Region (<https://www.bls.gov/regions/west/home.htm>). The County’s budgetary increase considerations may include factors such as availability of funding, the County’s best interest, and other factors as determined by the County.

**3.6. SAMPLE CONTRACT:** Submission of a Proposal in response to this RFP indicates Proposer's willingness to enter into a contract containing substantially the same terms (including insurance requirements) of the sample contract identified below. No action or response to the sample contract is required under this RFP. Any objections to the sample contract terms should be raised in accordance with Paragraphs 2.2 or 2.3 of this RFP, pertaining to requests for clarification or change or protest of the RFP/specifications, and as otherwise provided for in this RFP. This RFP and all supplemental information in response to this RFP will be a binding part of the final contract.

The applicable Sample Professional Services Contract for this RFP can be found at <http://www.clackamas.us/bids/terms.html>.

Professional Services Contract (unless checked, item does not apply)

The following paragraphs of the Professional Services Contract will be applicable:

- Article I, Paragraph 4 – Travel and Other Expense is Authorized
- Article II, Paragraph 29 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Exhibit A – On-Call Provision

Any contracts resulting from this RFP shall include insurance requirements which shall meet or exceed any and all applicable requirements as set forth in the below exhibits:

- Exhibit A Definitions (CMHP)
- Exhibit B Definitions (OHP)
- Exhibit C Insurance (CMHP)
- Exhibit D Insurance (OHP)
- Exhibit E CMHP Required Provider Contract Provisions
- Exhibit F CHMP Required Federal Terms & Conditions
- Exhibit G OHP Required Federal Terms & Conditions
- Exhibit H CMHP Service Element – MHS 20
- Exhibit I CMHP Service Element – MHS 37 EDD
- Exhibit J CMHP Service Element – MHS 25
- Exhibit K CMHP Service Element – MHS 66
- Exhibit L Performance Standards
- Exhibit M Certification Statement for Independent Contractor
- Exhibit N Qualified Service Organization Business Associate Agreement
- Exhibit O Business Associate Agreement
- Exhibit P CMHP Service Element MHS 37 Jail Diversion

<b>CONTRACT EXHIBITS FOR EACH PROJECT</b>	
<b>Project</b>	<b>Required Exhibits</b>
<b>1. Adult Peer Delivered Services – Dual Diagnosis Support Groups</b>	A, C, E, F, K, L, M, N, P, Q
<b>2. Adult Peer Delivered Services – Jail Support</b>	A, C, E, F, K, L, M, N, P, Q
<b>3. Adult Peer Delivered Services – Clackamas County Crisis Clinic</b>	A, C, E, F, J, L, M, N, P, Q, R
<b>4. Adult Peer Delivered Services – Community Education</b>	B, D, G, L, M, O, P, Q
<b>5. Adult Peer Delivered Services – Villebois Community</b>	A, C, E, F, H, L, M, N, P, Q
<b>6. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth</b>	B, D, G, L, M, N, P, Q
<b>7. Children and Families – Family Navigator / Emergency Room Diversion</b>	A, C, E, F, I, L, M, N, P, Q
<b>8. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors</b>	B, D, G, L, M, N, P, Q

All Exhibits are subject to change and/or amendment (e.g., as required by County’s funding sources).

**SECTION 4  
EVALUATION PROCEDURE**

**4.1** An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals independently by Project in accordance with the below criteria. The evaluation committee may recommend awards on a Project-by-Project basis based solely on the written responses or may request Proposal interviews/presentations. Interviews/presentations, if deemed beneficial by the evaluation committee, will consist of the highest scoring Proposers for each Project. The invited Proposers will be notified of the time, place, and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.

Written Proposals must be complete and no additions, deletions, or substitutions will be permitted during the interview/presentation (if any). The evaluation committee will recommend award of contracts to the final County decision maker based on the highest scoring Proposal. The County decision maker reserves the right to accept the recommendation, award to different Proposers, or reject all Proposals and cancel the RFP.

Proposers are not permitted to directly communicate with any member of the evaluation committee during the evaluation process. All communication will be facilitated through the Procurement representative.

**4.2 Evaluation Criteria**

<u>Category</u>	<u>Points Available:</u>
General Information (Section 5.4.)	0-30
Program Design (Section 5.5. A.)	0-40
Workshops/Support Groups/Training (Section 5.5. B.)	0-40
Staffing Plan and Development (Section 5.5. C.)	0-35
Quality Assurance (Section 5.5. D.)	0-30
Budget (Section 5.5. E.)	0-25
<b>Available points</b>	<b>0-200</b>

**4.3** Once selections have been made, the County will enter into contract negotiations. During negotiations, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contracts. The negotiations will identify a level of work and associated fee that best represent the efforts required. If the County is unable to come to terms with the highest scoring Proposer for each Project, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple Projects and the County deems it is in its interest to not authorize any particular Project, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer for each Project.

**SECTION 5  
PROPOSAL CONTENTS**

**5.1. Vendors must observe submission instructions and be advised as follows:**

**5.1.1.** Complete Proposals may be mailed to the below address or emailed to [Procurement@clackamas.us](mailto:Procurement@clackamas.us). The subject line of the email must identify the RFP title. Proposers are encouraged to contact Procurement to confirm receipt of the Proposal. If the Proposal is mailed, an original copy and an electronic copy (on compact disk or jump drive) must be included. The Proposal (hardcopy or email) must be received by the Closing Date and time indicated in Section 1 of the RFP.

**5.1.2.** Mailing address including Hand Delivery, US Mail, UPS and FEDEX:

Clackamas County Procurement Division – Attention George Marlton, Director  
Clackamas County Public Services Building  
2051 Kaen Road  
Oregon City, OR 97045

**5.1.3.** County reserves the right to solicit additional information or Proposal clarification from the vendors, or any one vendor, should the County deem such information necessary.

**5.2. PROPOSALS**

**Provide in order the information as specified in sections 5.3., 5.4., 5.5., 5.6., 5.7., and 5.8. below:**

**5.3. PROPOSED PROJECT(S) COVER PAGE**

Using the following table format, indicate which Project or Projects are included in your proposal:

<i><b>Project</b></i>	<i><b>Included in Proposal*</b></i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	
Project 2: Adult Peer Delivered Services – Jail Support	
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	
Project 4: Adult Peer Delivered Services – Community Education	
Project 5: Adult Peer Delivered Services – Villebois Community	
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	
<i>*Any mark in this column, such as a checkmark or an “X”, indicates that the Project listed in the corresponding row shall be included in the Proposal. Blank rows in this column shall indicate that the Project listed in the corresponding row shall not be included in the proposal. The County shall, at its sole discretion, determine which Project or Projects are included with each proposal.</i>	

**5.4. General Information (0-30 Points, Page Limit 3 pages plus Organizational Chart)**

Proposals must include the following general organizational information. **Proposals that include more than one Project shall only include one (1) “General Information” response.** Please describe or provide

- Organization’s mission statement and organizational goals.
- Organization’s history, relevant experience and capacity to provide peer support services of similar scope and type to those listed in the projects included in your proposal.

- Current relationships with system partners your organization may have such as, police, hospitals, and other community support organizations as relevant to the Projects included in your proposal.
- Ability, if any, to document services electronically.
- Organizational Chart and a clear description of the management and governance of the organization.  
(include as attachment)

#### **5.5. Service Information:**

Proposals must include the following information related to the provision of peer delivered support services. **Proposals that include more than one Project must include a separate response to section “5.5 A.”, “5.5 B.” and “5.5 E.” for each Project that the proposal includes.** For example, a proposal that includes two (2) Projects, must include two (2) separate responses (one for each Project) including the information as specified in section “5.5 A.”, “5.5 B.”, and “5.5 E.”.

#### **A. Program design, strategy, and capacity (0-40 Points, Page limit 4)**

Please describe the following:

- Where services would be provided in Clackamas County.
- The peer support philosophy including the rationale and research used to support the model.
- The plan and/or planning process used to ensure the scope of individual peer services and supports are defined and driven by the individual receiving the support.
- Any training provided and/or certification(s) of peer support staff, paid or unpaid.
- How you identify the target population to be served (i.e. children, youth/young adults in transition, adults, families, older adults), experience serving this population and capacity to serve the population, including the number of individuals and/or families to be served.
- Your organization's ability to provide culturally-responsive services including services to persons whose primary language may not be English.

#### **B. Workshops, Support Groups, and Training (0-40 Points, Page limit 3)**

Please describe the following:

- Any workshops the organization is able to provide for people receiving support services or for the broader community. These workshops may include, but are not limited to, classes providing education on specific mental health diagnosis; informational classes on community resources; supportive employment or housing; alternative pathways to recovery, etc.
- Support groups the organization is able to provide for people receiving support services or to the broader community. These groups may include, but are not limited to Hearing Voices groups; AA, NA, DDA, or other anonymous groups supporting sobriety; group support for depression, anxiety, and other mental health conditions, etc.
- Trainings offered by the organization that benefits the peer support specialist workforce. These trainings may include, but are not limited to, training to become a peer support specialist; trauma informed approaches to peer support; leadership skill building; system navigation, etc.

#### **C. Staffing Plan and Development (0-35 Points, Page limit 3)**

Please describe the following:

- Supervision procedures and support for staff, both paid and unpaid.
- How your organization identifies and assures that peer providers have lived experience relevant to the role of peer providers.
- Opportunities for peer providers to network and receive support from other peer providers.

- How your organization promotes self-care and provides specific accommodations when necessary.
- Job descriptions of those providing direct services as well as their direct supervisors.
- Plan for training and staff development.

**D. Quality Assurance (0-30 Points, Page limit 3)**

Please describe the following:

- Organizational outcome measures, if established, and how are they measured and monitored
- Organization’s process for protecting client confidentiality. Do you have a written policy addressing this topic?
- Organization’s process for handling internal and external grievances. Do you have a written policy addressing this topic?
- Organization’s process for ensuring continuous quality improvement.
- Plan for organizational sustainability.

**E. Budget Proposal (0-25 Points, Page limit 2)**

Please complete and submit **one provided “Budget Form” for each proposed Project** (e.g., if your proposal includes two (2) Projects, complete two separate budget forms - one for each Project). An electronic version of the “Budget Form” can be found at the following website: <https://www.clackamas.us/bids>

**Each budget form shall only include the proposer’s budget to deliver one Project.** Budget forms shall not reflect the costs that assume multiple Projects have been awarded. If multiple Projects are awarded to a single proposer, any resulting budgetary adjustments shall be made in the course of contract negotiations. Please review the sample contract and exhibits applicable to the Project(s) included in your proposal to guide the formation of your budget. For example, if exhibits applicable to your proposed Projects include allowable cost requirements, you might review them to ensure that your budget reflects a spending plan that is compliant with allowable cost requirements.

**5.6. Fees**

Please complete and submit the provided Budget Form. List the not-to-exceed amount you propose for each category indicated in the form. Monthly fees under contracts resulting from this RFP shall be calculated by dividing the budget for the initial contract term by the number of months it encompasses. Fees for renewed contracts resulting from this RFP will be calculated according to renewal negotiations and/or the conditions outlined in “Section 1” of this RFP.

**5.7. References**

Provide up to three (3) references from clients your firm has served similar to the County, preferably in the past three (3) years, for whom Proposer has provided services that are similar in nature to those included in your organization’s proposal. Provide the name, address, email, and phone number of the references.

**5.8. Completed Proposal Certification (see the below form)**



REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 1  
September 27, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #1. Except as expressly amended below, all other terms and conditions of the original RFP shall remain unchanged.

**The following changes are made to Section 3.4.8**

**1. Service Components: Remove in its entirety the following bullet point on page twelve (12) of the RFP:**

- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

**And replace with the following:**

- Collaborating with diverse stakeholders in the community and others within the Health, Housing, and Human Services Department.

**2. Staffing: Remove and replace in its entirety the following on page twelve (12) of the RFP:**

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

**And replace with the following:**

- 1.0 FTE Peer Support Specialist in recovery from an opioid addiction and preferably with mental health lived experience.
- This position is partnered with a community paramedic team and will be working with American Medical Response, Inc. and Clackamas Fire.

End of Addendum #1

REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 2  
October 2, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #2. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The “CONTRACT EXHIBITS FOR EACH PROJECT” tables found in Section 3.6 on page 14 and Section 6.0.1 on page 21 of the RFP are hereby removed and replaced by the following:

<b>CONTRACT EXHIBITS FOR EACH PROJECT</b>	
<b>Project</b>	<b>Required Exhibits</b>
<b>9.</b> Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N
<b>10.</b> Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N
<b>11.</b> Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P
<b>12.</b> Adult Peer Delivered Services – Community Education	B, D, G, L, M, O
<b>13.</b> Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N
<b>14.</b> Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N
<b>15.</b> Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N
<b>16.</b> Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N

End of Addendum #2

REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 3  
October 24, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #3. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP Closing Date and Time is hereby changed from October 24, 2018 at 2:00 PM, Pacific Time to October 29, 2018 at 2:00 PM, Pacific Time. This change hereby amends all applicable references to the Closing Date and Time found in RFP #2018-45.

End of Addendum #3

REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 4  
November 7, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”), on September 27, 2018 published Addendum #1, on October 3, 2018 published Addendum #2, and on October 24, 2018 published Addendum #3. The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #4. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP is hereby amended to remove all references to Project 7: Children and Families – Family Navigator / Emergency Room Diversion and Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors.

It is the County’s intent to promptly re-issue an RFP for Projects 7 and 8.

End of Addendum #4

**ATTACHMENT B  
VENDOR'S RESPONSE TO RFP**

## **EXHIBIT B DEFINITIONS (OHP)**

Whenever used in this Contract, the following terms shall have the meanings set forth below:

Allowable Costs: Costs described in OMB Circular A-87 except to the extent such costs are limited or excluded by other provisions of this Contract.

AMH: State of Oregon, Department of Human Services, Addictions and Mental Health Division (now known as the Department of Human Services of the State of Oregon [DHS]).

CCO: Coordinated Care Organization is an entity that has been certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care services.

Contractor: The entity contracted by the County.

County: Clackamas County Behavioral Health Division.

Covered Services: Medically appropriate services specified in OAR 410-141-3120, "Operations and Provision of Health Services" and limited in accordance with OAR 410-141-3420, "Billing and Payment" for OHP Members. The term "Covered Services" may be expanded, limited, or otherwise changed pursuant to the Clackamas County Health Share of Oregon/Clackamas Participation Agreement and OARs. Covered Services may also refer to authorized services provided to uninsured, indigent clients.

Department: DHS (formally AMH) contracts with County to establish and finance community mental health and addition programs; County, in turn, subcontracts certain services to Contractor.

DHS: the Department of Human Services of the State of Oregon (formerly known as the Addictions & Mental Health Division [AMH]).

Federal Funds: Funds paid to Contractor under this Contract that are received from an agency, instrumentality or program of the Federal government of the United States.

Health Share of Oregon: A Coordinated Care Organization (CCO) serving Oregon Health Plan enrollees of Clackamas, Multnomah, and Washington Counties.

Individual: An individual accessing publicly funded behavioral health services who is either an OHP Member or is determined eligible for services as an uninsured, indigent individual.

Mental Health Services: Treatment services for individuals diagnosed with serious mental health illness, or other mental or emotional disturbance posing a danger to the health and safety of themselves or others.

Medicaid: Federal funds received by OHA under the Title XIX of the Social Security Act and Children's Health Insurance Program Funds administered jointly with Title XIX funds as part of State medical assistance program by OHA.

Misexpenditure: Money, other than an overexpenditure disbursed to Contractor by County under this Contract and expended by Contractor that:

- (a) is identified by the Federal government as expended contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money, for which the Federal government has requested reimbursement by the State of Oregon and whether in the form of a Federal determination of improper use of Federal funds, a Federal notice of disallowance, or otherwise; or
- (b) is identified by the County, State of Oregon or OHA as expended in a manner other than that permitted by this Contract, including without limitation, any money expended by Contractor, contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money; or
- (c) is identified by the County, State of Oregon or OHA as expended on the delivery of a service that did not meet the standards and requirements of this Contract with respect to that service.

Measures and Outcomes Tracking System (MOTS): the DHS (formally AMH) data system that stores client data submitted by Contractor and/or County.

OAR: Oregon Administrative Rules duly promulgated by the Oregon Health Authority and as amended from time to time.

OHA: The State of Oregon, acting by and through its Oregon Health Authority.

OHP Member: An individual found eligible by a division of the Oregon Department of Human Services to receive services under the OHP (Oregon Health Plan) Medicaid Demonstration Project or State Children's Health Insurance Program and who is enrolled with County as Health Share of Oregon/Clackamas.

Oregon Web Infrastructure for Treatment Services (OWITS): Is 1) an optional free electronic health records system available to Counties and their Providers to submit the MOTS data, and 2) a system to manage the DSH (formally AMH) services.

Primary Source Verification: Verification from the original source of a specific credential (education, training, licensure) to determine the accuracy of the qualifications of an individual health care practitioner. Examples of primary source verification include, but are not limited to, direct correspondence, telephone verification and internet verifications.

Third Party Resources: Any individual, entity, or program that is, or may be, liable to pay all or part of the cost of any Covered Service furnished to an OHP Member, including but not limited to: private health insurance or group health plan; employment-related health insurance; medical support from absent parents; workers' compensation; Medicare; automobile liability insurance; other federal programs such as Veteran's Administration, Armed Forces Retirees and Dependent

Act, Armed Forces Active Duty and Dependents Military Medical Benefits Act, and Medicare Parts A and B; another state's Title XIX, Title XXI or state-funded Medical Assistance Program; and personal estates.

Valid Claim: An invoice, in the form of a CMS 1500 claim form, submitted for payment of covered health services rendered to an eligible client that is submitted within the required 120 days from the date of service or discharge and that can be processed without obtaining additional information from the provider of the service or from a third party. A valid claim is synonymous with the federal definition of a clean claim as defined in 42 CFR 447.45(b).



**EXHIBIT D  
INSURANCE (OHP)**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

**1. Workers Compensation.** Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126. Contractors shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

**2. Professional Liability.**     **Required by County**     **Not required by County**

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages because of personal injury, bodily injury, death, or damage to property caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

If this box is checked Professional Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.

**3. General Liability.**                                     **Required by County**     **Not required by County**

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage for the protection of the **County, Health Share of Oregon, and the State of Oregon, and its officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Contract.

If this box is checked General Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

**4. Automobile Liability.**     **Required by County**     **Not required by County**

**Commercial Automobile Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury, Death, and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**Commercial Automobile Liability** insurance limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

**Personal Automobile Liability** insurance limits shall be not less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000/property damage.

5. **Physical Abuse and Molestation Liability.**  **Required by County**  **Not required by County**

Physical Abuse and Molestation Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. Coverage shall be provided through either general liability or professional liability coverage. Proof of Sex Abuse/Molestation insurance coverage must be provided.

6. **Privacy and Network Security.**  **Required by County**  **Not required by County**

Privacy and Network Security coverages shall be obtained and maintained to provide protection against liability for (a) system attack; (b) denial or loss of service attacks; (c) spread of malicious software code; (d) unauthorized access and use of computer systems; and (e) liability from the loss or disclosure of confidential data with limit of \$1,000,000 per claim/annual aggregate.

If this box is checked Privacy and Network Security limit shall be at least \$4,000,000.

7. **Additional Insured Provision.** The insurance, other than Professional Liability (except to the extent it only applies to Commercial General Liability exposures), Workers' Compensation, Personal Automobile Liability and Pollution Liability Insurance, shall include **Clackamas County, Health Share of Oregon, and the State of Oregon, and their officers, elected officials, agents, and employees** as an additional insured.

8. **Primary Coverage Clause.** Contractor's insurance shall apply as primary and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above. This must be noted on the insurance certificate.

9. **Cross-Liability Clause.** A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, pollution and errors and omissions policies required by this Contract.

10. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Contract, for a minimum of twenty-four (24) months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under the Provider Contract; or (ii) the expiration of all warranty periods provided under the Contract. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period

described above, then the Contractor may request and County may grant approval of the maximum “tail” coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonably available in the marketplace.

11. **Self-insurance.** Contractor may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Contractor’s self-insurance program complies with all applicable laws, provides coverage equivalent in both type and level to that required in this Exhibit, and is reasonably acceptable to County. Contractor shall furnish an acceptable insurance certificate to County for any insurance coverage required by this Contract that is fulfilled through self-insurance. Stop-loss insurance and reinsurance coverage against catastrophic and unexpected expenses may not be self-insured.
12. **Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. Contractor will maintain the insurance in full force throughout the duration of this Contract. No Contract shall be in effect until the required certificates have been received, approved, and accepted by County. A renewal certificate will be sent to County ten (10) days prior to coverage expiration. The insurance for general liability and commercial automobile liability must include an endorsement naming **Clackamas County, Health Share of Oregon, and the State of Oregon, and their officers, elected officials, agents, and employees** as additional insureds with respect to the Work under this Contract. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County, 2051 Kaen Road, Suite 154, Oregon City, Oregon 97045

Certificates of Insurance should be submitted electronically or by mail to:

BHcontracts@clackamas.us

Clackamas County  
Contracts Administration  
2051 Kaen Road, Suite 154  
Oregon City, OR 97045

13. **Insurance Carrier Rating.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
14. **Waiver of Subrogation.** Contractor agrees to waive their rights of subrogation arising from the Work performed under this Contract.

**15. Notice of cancellation or change.** There shall be no cancellation, material change, exhaustion of aggregate limits, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Behavioral Health Division, 2051 Kaen Road, Suite 154, Oregon City, OR 97045 or [BHcontracts@clackamas.us](mailto:BHcontracts@clackamas.us).

**17. Insurance Compliance.** The County will be entitled to enforce Contractor compliance with the insurance requirements, and will take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Contract as permitted by the Contract, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Contractor to work under this Contract when the County is aware that the Contractor is not in compliance with the insurance requirements.

## **EXHIBIT G**

### **OHP REQUIRED FEDERAL TERMS AND CONDITIONS**

Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Contractor shall comply and, as indicated, cause all Subcontractors to comply with the following federal requirements to the extent that they are applicable. For purposes of this Contract, all references to federal and State laws are references to federal and State laws as they may be amended from time to time.

#### **1. Miscellaneous Federal Provisions**

Contractor shall comply and require all Subcontractors to comply with all federal laws, regulations and executive orders applicable to this Contract or to the delivery of Work. Without limiting the generality of the foregoing, Contractor expressly agrees to comply and require all Subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to this Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) 45 CFR Part 84 which implements, Title V, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Section 1557 of the Patient Protection and Affordable Care Act (ACA), (e) Executive Order 11246, as amended, (f) the Health Insurance Portability and Accountability Act of 1996, as amended, (g) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (h) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (i) the Mental Health Parity and Addiction Equity Act of 2008, as amended; (j) CMS regulations (including 42 CFR Part 438, subpart K) and guidance regarding mental health parity, including 42 CFR 438.900 et. seq.; (k) all regulations and administrative rules established pursuant to the foregoing laws, (l) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (m) all federal laws requiring reporting of Member abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to this Contract and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.

#### **2. Equal Employment Opportunity**

If this Contract, including amendments, is for more than \$10,000, then Contractor shall comply and require all Subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

#### **3. Clean Air, Clean Water, EPA Regulations**

If this Contract, including amendments, exceeds \$100,000 then Contractor shall comply and require all Subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR

Part 1532), which prohibit the use under non-exempt federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include and require all Subcontractors to include in all contracts with Subcontractors receiving more than \$100,000, language requiring the Subcontractor to comply with the federal laws identified in this section.

#### **4. Energy Efficiency**

Contractor shall comply and require all Subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. 6201 et seq. (Pub. L. 94-163).

#### **5. Truth in Lobbying**

By signing this Contract, the Contractor certifies, to the best of the Contractor's knowledge and belief that:

**a.** No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

**b.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

**c.** The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and Subcontractors shall certify and disclose accordingly.

**d.** This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by Section 1352, Title 31, of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

e. No part of any federal funds paid to Contractor under this Contract shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

f. No part of any federal funds paid to Contractor under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

h. No part of any federal funds paid to Contractor under this Contract may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under Section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

## **6. HIPAA Compliance**

The parties acknowledge and agree that each of County and the Contractor is a “covered entity” for purposes of privacy and security provisions of the Health Insurance Portability and Accountability Act and its implementing federal regulations (collectively referred to as HIPAA). County and Contractor shall comply with HIPAA to the extent that any Work or obligations of County arising under this Contract are covered by HIPAA. Contractor shall develop and implement such policies and procedures for maintaining the privacy and security of records and authorizing the use and disclosure of records required to comply with this Contract and with HIPAA. Contractor shall comply and cause all Subcontractors to comply with HIPAA and the following:

- a. **Privacy and Security of Individually Identifiable Health Information.** Individually Identifiable Health Information about specific individuals is protected from unauthorized use or disclosure consistent with the requirements of HIPAA. Individually Identifiable Health Information relating to specific individuals may be exchanged between Contractor and County for purposes directly related to the provision of services to clients which are funded in whole or in part under this Contract. However, Contractor shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate HIPAA Privacy Rules in 45 CFR Parts 160 and 164, OHA Privacy Rules, OAR Chapter 407 Division 014, or OHA Notice of Privacy Practices, if done by OHA. A copy of the most recent OHA Notice of Privacy Practices is posted on the OHA web site at: <https://apps.state.or.us/cfl/FORMS/>, Form number ME2090 Notice of Privacy Practices, or may be obtained from OHA.
- b. **HIPAA Information Security.** Contractor shall adopt and employ reasonable administrative and physical safeguards consistent with the Security Rules in 45 CFR Part 164 to ensure that client information shall be used by or disclosed only to the extent necessary for the permitted use or disclosure and consistent with applicable State and federal laws and the terms and conditions of this Contract. Security incidents involving client information must be immediately reported to DHS' Privacy Officer.
- c. **Data Transactions Systems.** Contractor shall comply with the HIPAA standards for electronic transactions published in 45 CFR Part 162 and the DHS EDT Rules, OAR 410-001-0000 through 410-001-0200. In order for Contractor to exchange electronic data transactions with OHA in connection with claims or encounter data, eligibility or Enrollment information, authorizations or other electronic transaction, Contractor shall execute an EDT Trading Partner Agreement with OHA and shall comply with the OHA EDT Rules.
- d. **Consultation and Testing.** If Contractor reasonably believes that the Contractor's, County's or OHA's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Contractor shall promptly consult the County or OHA HIPAA officer. Contractor, County, or OHA may initiate a request for testing of HIPAA transaction requirements, subject to available resources and OHA testing schedule.

## **7. Resource Conservation and Recovery**

Contractor shall comply and require all Subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials



identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

## **8. Audits**

- a.** Contractor shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.
- b.** If Contractor expends \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, Contractor shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Contractor shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to OHA within 30 days of completion. If Contractor expends less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, Contractor is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, Part 8, Section 2.

## **9. Debarment and Suspension**

Contractor shall, in accordance with 42 CFR 438.808(b), not permit any person or entity to be a Subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No.12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

Contractor shall ensure that no amounts are paid to a Provider that could be excluded from participation in Medicare or Medicaid for any of the following reasons:

- a.** The Provider is controlled by a sanctioned individual
- b.** The Provider has a contractual relationship that provides for the administration, management or provision of medical services, or the establishment of policies, or the provision of operational support for the administration, management or provision of medical services, either directly or indirectly, with an individual convicted of certain crimes as described in section 1128(b)(8)(B) of the Social Security Act

- c. The Provider employs or contracts, directly or indirectly, for the furnishing of health care, utilization review, medical social work, or administrative services, with one of the following:
  - (i) Any individual or entity excluded from participation in Federal health care programs.
  - (ii) Any entity that would provide those services through an excluded individual or entity.

The Contract prohibits the Contractor from knowingly having a person with ownership of 5% or more of the Contractor's equity if such person is (or is affiliated with a person or entity that is) debarred, suspended, or excluded from participation in federal healthcare programs.

If OHA learns that Contractor has a prohibited relationship with a person or entity that is debarred, suspended, or excluded from participation in federal healthcare programs, OHA:

- a. Must notify DHHS of Contractor's noncompliance;
- b. May continue an existing agreement with the Contractor unless DHHS directs otherwise; and
- c. May not renew or extend the existing contract with the Contractor unless DHHS provides to the State a written statement describing compelling reasons that exist for renewing or extending the Contract, consistent with 42 CFR 438.610.

## **10. Drug-Free Workplace**

Contractor shall comply and cause all Subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing services to Members. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Contract a copy of the statement mentioned in Paragraph (i) above; (iv) Notify each employee in the statement required by Paragraph (i) above, that, as a condition of employment to provide services under this Contract, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction; (v)

Notify OHA within 10 days after receiving notice under Paragraph (iv) above, from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of Paragraphs (i) through (vi) above; (viii) Require any Subcontractor to comply with Paragraphs (i) through (vii) above; (ix) Neither Contractor, or any of Contractor's employees, officers, agents or Subcontractors may provide any service required under this Contract while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent or Subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or Subcontractor's performance of essential job function or creates a direct threat to Clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Contract.

#### **11. Pro-Children Act**

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

#### **12. Non-Discrimination**

Contractor shall comply, and require its Subcontractors to comply, with all federal and State laws and regulations including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities) the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, and all amendments to those acts and all regulations promulgated thereunder. Contractor shall also comply with all applicable requirements of State civil rights and rehabilitation statutes and rules.

#### **13. OASIS**

To the extent applicable, Contractor shall comply with, and shall require Subcontractors to comply with, the Outcome and Assessment Information Set (OASIS) reporting requirements and patient notice requirements for skilled services provided by Home Health Agencies, pursuant to CMS requirements published in 42 CFR 484.20, and such subsequent regulations as CMS may issue in relation to the OASIS program.

#### **14. Patient Rights Condition of Participation**

To the extent applicable, Contractor shall comply with, and shall require Subcontractors to comply with, the Patient Rights Condition of Participation (COP) that Hospitals must meet to continue participation in the Medicaid program, pursuant to 42 CFR Part 482. For

purposes of this Contract, Hospitals include short-term, psychiatric, rehabilitation, long-term, and children's hospitals.

## **15. Federal Grant Requirements**

The federal Medicaid rules establish that OHA and the County are recipients of federal financial assistance, and therefore are subject to federal grant requirements pursuant to 42 CFR 430.2(b). To the extent applicable to Contractor or to the extent OHA and/or the County requires Contractor to supply information or comply with procedures to permit OHA and/or the County to satisfy its obligations federal grant obligations or both, Contractor must comply with the following parts of 45 CFR:

- a.** Part 74, including Appendix A (uniform federal grant administration requirements);
- b.** Part 92 (uniform administrative requirements for grants to state, local and tribal governments);
- c.** Part 80 (nondiscrimination under Title VI of the Civil Rights Act);
- d.** Part 84 (nondiscrimination on the basis of handicap);
- e.** Part 91 (nondiscrimination on the basis of age);
- f.** Part 95 (Medicaid and CHIP federal grant administration requirements); and
- g.** Contractor shall not expend, and Contractor shall include a provision in any Subcontract that its Subcontractor shall not expend, any of the funds paid under this Contract for roads, bridges, stadiums, or any other item or service not covered under the OHP.

## **16. Mental Health Parity**

Contractor shall adhere to CMS guidelines regarding Mental Health Parity detailed below:

- a.** If Contractor does not include an aggregate lifetime or annual dollar limit on any medical/surgical benefits or includes an aggregate lifetime or annual dollar limit that applies to less than one-third of all medical/surgical benefits provided to enrollees, it may not impose an aggregate lifetime or annual dollar limit, respectively, on mental health or substance use disorder benefits;
- b.** If Contractor includes an aggregate lifetime or annual dollar limit on at least two-thirds of all medical/surgical benefits provided to enrollees, it must either apply the aggregate lifetime or annual dollar limit both to the medical/surgical benefits to which the limit would otherwise apply and to mental health or substance use disorder benefits in a manner that does not distinguish between the medical/surgical benefits and mental health or substance use disorder benefits; or not include an aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits that

is more restrictive than the aggregate lifetime or annual dollar limit, respectively, on medical/surgical benefits;

- c.** If Contractor includes an aggregate lifetime limit or annual dollar amount that applies to one-third or more but less than two-thirds of all medical/surgical benefits provided to enrollees, it must either impose no aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits; or impose an aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits that is no more restrictive than an average limit calculated for medical/surgical benefits in accordance with 42 CFR 438.905(e)(ii);
- d.** Contractor must not apply any financial requirement or treatment limitation to mental health or substance use disorder benefits in any classification that is more restrictive than the predominant financial requirement or treatment limitation of that type applied to substantially all medical/surgical benefits in the same classification furnished to enrollees (whether or not the benefits are furnished by Contractor).
- e.** If a member is provided mental health or substance use disorder benefits in any classification of benefits (inpatient, outpatient, emergency care, or prescription drugs), mental health or substance use disorder benefits must be provided to the member in every classification in which medical/surgical benefits are provided;
- f.** Contractor may not apply any cumulative financial requirements for mental health or substance use disorder benefits in a classification (inpatient, outpatient, emergency care, prescription drugs) that accumulates separately from any established for medical/surgical benefits in the same classification;
- g.** Contractor may not impose NQTLs for mental health or substance use disorder benefits in any classification unless, under the policies and procedures of Contractor as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to mental health or substance use disorder benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation for medical/surgical benefits in the classification;
- h.** Contractor shall provide all necessary documentation and reporting required by OHA to establish and demonstrate compliance with 42 CFR part 438, subpart K regarding parity in mental health and substance use disorder benefits.
- i.** Contractor shall use processes, strategies, evidentiary standards or other factors in determining access to out of network providers for mental health or substance use disorder benefits that are comparable to and applied no more stringently than, the processes, strategies, evidentiary standards or other factors in determining access to out of network providers for medical/surgical benefits in the same classification.

**EXHIBIT L**  
**PERFORMANCE STANDARDS**

**A. General Performance Standards**

1. Contractor ensures that all staff employed or contracted by Contractor who provide services or are otherwise engaged in activities under this Contract are fully aware of and in compliance with the terms and conditions of this Contract.
2. Contractor assures that all of Contractor's employees and independent contractors providing services under this Contract will work within the scope of their credentials and any applicable licensure or registration. Contractor shall not allow services to be provided by an employee or independent contractor who does not have a valid license or certification required by state or federal law.

**B. Staff Standards**

Contractor will provide the following for all staff who are in direct contact with County clients:

- Completion of a successful criminal history records check through the Background Check Unit, a Shared Service of the Department of Human Services and the Oregon Health Authority and compliant with ORS 181A.200 and OAR 943-007-0001 to 943-007-0501;
  - Appropriate education and academic degrees;
  - Licenses or certificates, as required; and
  - Relevant work history or qualifications.

**C. Monitoring**

County shall monitor services provided by Contractor and has the right to require Contractor's compliance with established standards and performance requirements relative to the services provided, administrative and fiscal management, and with all obligations and conditions stated in this Contract.

County may conduct compliance monitoring related to this Contract. Contractor shall cooperate with County in such monitoring. County shall provide Contractor twenty (20) business days written notice of any Contract compliance monitoring activity that requires any action or cooperation by Contractor. Notice of monitoring shall include the date monitoring shall occur, names of individuals conducting the monitoring, and instructions and requests for information.

**D. Abuse Reporting**

Contractor shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if Contractor were a mandatory abuse reporter. If Contractor is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. Contractor shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

**E. Confidentiality**

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.

**EXHIBIT M**  
**CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR**  
(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result;  
**AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- \_\_\_\_\_ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- \_\_\_\_\_ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- \_\_\_\_\_ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- \_\_\_\_\_ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- \_\_\_\_\_ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature \_\_\_\_\_

Date \_\_\_\_\_

Contractor Printed Name: \_\_\_\_\_



**EXHIBIT O**  
**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement is entered into as of \_\_\_\_\_ (“Effective Date”) by and between **Clackamas County Health, Housing and Human Services, Behavioral Health Division** (“Covered Entity”) and **NAMI Clackamas** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996, and its regulations (“HIPAA”).

**RECITALS**

**Whereas**, the Covered Entity has engaged the services of the Business Associate, as defined under 45 CFR §160.103, for or on behalf of the Covered Entity;

**Whereas**, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Agreement”);

**Whereas**, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

**Whereas**, the Parties agree to establish safeguards for the protection of such information;

**Whereas**, the Covered Entity and Business Associate desire to enter into this Business Associate Agreement to address certain requirements under the HIPAA Rules;

**Now, Therefore**, the parties hereby agree as follows:

**SECTION I – DEFINITIONS**

- 1.1 “Breach” is defined as any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
  - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within an Workforce member’s course and scope of employment or placement;
  - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Work force members; and
  - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Effective Date” shall be the Effective Date of this Business Associate Agreement.
- 1.5 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic

media on behalf of the Covered Entity under the terms and conditions of this Business Associate Agreement.

- 1.6 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.7 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.8 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.9 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.10 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
- 1.11 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
- 1.12 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.13 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.14 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.15 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.16 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

## **SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE**

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Business Associate Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Business Associate Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Business Associate Agreement;

- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Business Associate Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section 2.6 is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section 2.7 is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Business Associate Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.11 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such Electronic PHI agrees to implement reasonable and appropriate security measures to protect the information. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
- 2.12 To retain records related to the PHI hereunder for a period of six (6) years unless the Business Associate Agreement is terminated prior thereto. In the event of termination of this Business Associate Agreement, the provisions of Section V of this Business Associate Agreement shall govern record retention, return or destruction;
- 2.13 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach in accordance with 45 CFR §164.410. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have

been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and

- 2.14 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

### **SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:**

- 3.1 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.2 Except as otherwise limited in this Business Associate Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by the Covered Entity; and,
- 3.3 Except as otherwise limited in this Business Associate Agreement, the Business Associate may:
- a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and,
  - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

### **SECTION IV – NOTICE OF PRIVACY PRACTICES**

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Standards if done by the Covered Entity, except as set forth in Section 3.2 above.

## SECTION V – BREACH NOTIFICATION REQUIREMENTS

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
- a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
  - b. In plain language including and to the extent possible:
    - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
    - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
    - 4) A brief description of what the Covered Entity and/or Business Associate is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
    - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
  - c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
  - d. Provided to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

## SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Business Associate Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Business Associate Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Business Associate Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Business Associate Agreement if cure is not reasonably possible.
- If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such

action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.

Upon the Business Associate's knowledge of a material breach of this Business Associate Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Business Associate Agreement and the Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Business Associate Agreement if the Covered Entity has breached a material term of this Business Associate Agreement if cure is not reasonably possible.

### 6.3 **Effect of Termination.**

- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Business Associate Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Business Associate Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

## **SECTION VII – GENENERAL PROVISIONS**

- 7.1 **Regulatory references.** A reference in this Business Associate Agreement to the HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Business Associate Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Covered Entity.** . Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution Covered Entity agrees to indemnify, defend and hold harmless the Business Associate and its employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Covered Entity’s breach of Section 4.1 of this Business Associate Agreement. Accordingly, on demand, Covered

Entity shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Covered Entity's breach hereunder. Covered Entity's obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.

- 7.5 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as "Indemnified Party," against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate's breach of Sections II and III of this Business Associate Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate's breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.6 **Survival.** The respective rights and obligations of Business Associate under Section II of this Business Associate Agreement shall survive the termination of the Services Agreement and this Business Associate Agreement.
- 7.7 **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.

*[Signature Page for BAA Follows]*

**SIGNATURE PAGE FOR BUSINESS ASSOCIATE AGREEMENT**

The Parties hereto have duly executed this Agreement as of the Effective Date as defined here above.

**Business Associate**

**Covered Entity**

**NAMI Clackamas**

**CLACKAMAS COUNTY**

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clackamas County Board of Commissioners

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

\_\_\_\_\_  
Date

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



Board of Commissioners  
Clackamas County

Members of the Board:

Approval of Professional Services Contract with Stay Clean, Inc. for Peer Support Services

<b>Purpose/Outcomes</b>	Provides peer support services to individuals within the Clackamas County Jail.
<b>Dollar Amount and Fiscal Impact</b>	Maximum contract value is \$426,000
<b>Funding Source</b>	No County General Funds involved State of Oregon, Community Mental Health Program (CMHP) funds
<b>Duration</b>	Effective January 1, 2019 through June 30, 2020, with an option to extend to June 30, 2022.
<b>Previous Board Action</b>	No previous Board action
<b>Strategic Plan Alignment</b>	1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals. 2. Ensure safe, healthy and secure communities.
<b>Contact Person</b>	Mary Rumbaugh, Director – Behavioral Health Division (503) 742-5305
<b>Contract No.</b>	#8145

**BACKGROUND:**

The Behavioral Health Division of the Health, Housing & Human Services Department (H3S) requests the approval of Professional Services Contract #8145 with Stay Clean, Inc. On September 12, 2018, a Request for Proposals (RFP) was issued for eight peer-delivered services programs. The RFP closed October 24, 2018, and Stay Clean, Inc. was selected by the review committee to be awarded a contract to provide peer support services to individuals within the Clackamas County Jail.

This contract, effective January 1, 2019 through June 30, 2020, with an option to extend to June 30, 2022, has a maximum value of \$426,000.

County Council reviewed and approved this contract.

**RECOMMENDATION:**

Staff recommends Board approval of this contract and authorization for Richard Swift to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director  
Health, Housing & Human Services Department

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



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal Services Contract (this "Contract") is entered into between Stay Clean Inc. ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of its Health Housing and Human Services Department ("H3S").

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective on January 1, 2019. Unless earlier terminated or extended, this Contract shall expire on June 30, 2020. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured. This Contract may be renewed for an additional two (2) year term upon the written agreement of both parties to this Contract.

2. Scope of Work. This Contract covers the Scope of Work described as Project 2: Adult Peer Delivered Services - Jail Support as set forth in the RFP #2018-45 Behavioral Health Peer Delivered Services including all addenda thereto ("RFP"), attached and hereby incorporated by reference as Attachment "A." This contract is funded in whole or in part by state or federal funds. As such, this Contract is subject to the additional terms and conditions described in Exhibits A, C, E, F, K, L, M, and N.

3. Consideration. The County agrees to pay Contractor for accomplishing the Work required by this Contract, from available and authorized funds, a sum not to exceed one hundred eighty-two thousand dollars (\$182,000.00) for the initial term of this Contract, which expires on June 30, 2020, and the total Contract value including the two year renewal term shall not exceed four hundred twenty-six thousand dollars (\$426,000.00). If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [ ] Yes [X] No

If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: http://www.clackamas.us/bids/terms.html. Travel expense reimbursement is not in excess of the not to exceed consideration.

6. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract including Exhibits A, C, E, F, K, L, M, N, Attachment "A", and the Contractor's Proposal attached and hereby incorporated by reference as Attachment "B". Work shall be performed in accordance with a schedule approved by the County.

5. Contractor Data.

Address: 2601 SE 160th Avenue, Portland, OR 97236

Contractor Contract Administrator: Johnnie A. Gage

Phone No.: 503-432-8690

Email: johnnie.gage@aol.com

MWESB Certification: [ ] DBE # [ ] MBE # [ ] WBE # [ ] ESB #

Payment information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to backup withholding.

## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.

Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable State or Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.

5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this

Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

- 7. HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- 8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
- 9. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Attachment C)
- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit C**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County

Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us), or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of County. County and Contractor intend that such Work Product be deemed “work made for hire” of which County shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire,” Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County’s consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty in this Contract that Contractor has

complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any Work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

**20. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

**21. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is

determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.
- (C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- (D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and

attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

- 28. CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor



has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

**29. CRIMINAL BACKGROUND CHECK REQUIREMENTS.** Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

**30. Further Assurances.** Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

**31. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.



**ATTACHMENT A  
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

**SCOPE OF WORK**

Contractor shall provide Behavioral Health Peer Delivered Services (“Work”). Work is described in the Request for Proposals #2018-45 Behavioral Health Peer Delivered Services issued September 12, 2018 (“RFP”) including all addenda thereto, included in this Attachment “A.” Insofar as the RFP includes Project Specific Scope and Expectations as stated therein, this Contract covers Project 2: Adult Peer Delivered Services – Jail Support. Work is further described in Vendor’s Response to RFP, hereby attached and incorporated by reference as Attachment “B.”

The County Contract administrator for this Contract is: Ally Linfoot

**INVOICES AND PAYMENTS**

- a. Consideration Rates – Fixed Fee basis of \$10,111.10 per month for this Contract’s eighteen (“18”) month initial term. Should a renewal option be exercised, the consideration rate shall be \$10,166.65 per month for the resulting twenty-four (“24”) month term.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462. Payment for all Work performed under this Contract, including all optional renewals, shall not exceed the total maximum sum of **\$426,000.00**. Invoices shall be submitted to: Ally Linfoot, either by mail at 150 Beaver Creek RD, Oregon City OR, 97045 or email at [ALinfoot@co.clackamas.or.us](mailto:ALinfoot@co.clackamas.or.us).
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.



**REQUEST FOR PROPOSALS #2018-45**

**FOR**

**BEHAVIORAL HEALTH PEER DELIVERED SERVICES**

**BOARD OF COUNTY COMMISSIONERS**

JIM BERNARD, Chair  
SONYA FISCHER, Commissioner  
KEN HUMBERSTON, Commissioner  
PAUL SAVAS, Commissioner  
MARTHA SCHRADER, Commissioner

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Donald Krupp  
County Administrator

George Marlton  
Procurement Division Director

Peter Madaus  
Analyst

**PROPOSAL CLOSING DATE, TIME AND LOCATION**

DATE: September 12, 2018

TIME: 2:00 PM, Pacific Time

PLACE: Clackamas County Procurement Division  
Clackamas County Public Services Building  
2051 Kaen Road, Oregon City, OR 97045

**SCHEDULE**

Request for Proposals Issued.....	September 12, 2018
Protest of Specifications Deadline.....	September 19, 2018, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	October 3, 2018, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	October 24, 2018, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated Contract Start Date.....	January 1, 2019

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**SECTION 1  
NOTICE OF REQUEST FOR PROPOSALS (RFP)**

Notice is hereby given that Clackamas County (“County”) through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, October 24, 2018** (“Closing”), to provide **Behavioral Health Peer Delivered Services**. No Proposals will be received or considered after that time.

As a result of this RFP, the County intends to enter into contracts for the eight (8) Behavioral Health Peer Delivered Services projects (“Project”) listed below in “Table 1.0” and further specified in “Section 3” of this RFP:

<b>Table 1.0</b>	
<i><b>Project</b></i>	<i><b>Not to Exceed 3.5 Year Budget</b></i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	\$142,000.00
Project 2: Adult Peer Delivered Services – Jail Support	\$426,000.00
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	\$532,500.00
Project 4: Adult Peer Delivered Services – Community Education	\$213,000.00
Project 5: Adult Peer Delivered Services – Villebois Community	\$710,000.00
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	\$439,500.00
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	\$342,500.00
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	\$287,500.00
*The “Not to Exceed 3.5 Year Budgets” amounts shall be included in proposal responses and shall not be construed to guarantee or represent the total contract value for any contracts that might result from this RFP.	

Each proposer entity shall only submit one proposal package in response to this RFP. This RFP is structured to allow proposer entities to include multiple Projects in one proposal package should they choose to do so. The resulting contract(s) from this RFP shall include a one and a half (1.5) year initial term with one (1) mutual renewal option for two (2) additional years.

Proposal packets are available from 7:00 AM to 6:00 PM Monday through Thursday at Clackamas County Procurement Division, Clackamas County Public Services Building, 2051 Kaen Road, Oregon City, OR 97045, telephone (503) 742-5444 or may be obtained at <http://www.clackamas.us/bids/>. Sealed Proposals are to be sent to Clackamas County Procurement Services – Attention George Marlton, Director at the above Kaen Road address. Sealed Proposals may be emailed to [procurement@clackamas.us](mailto:procurement@clackamas.us) or sent to Clackamas County at the above Kaen Road address.

Contact Information

All communications with the County regarding this RFP shall only be directed to **Peter Madaus**, [pmadaus@co.clackamas.or.us](mailto:pmadaus@co.clackamas.or.us), (503) 742-5451.

The Board of County Commissioners reserves the right to reject any and all Proposals not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, the Board of County Commissioners will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of Clackamas County and will reserve the right to award the contract to the contractor whose Proposal shall be best for the public good.

Clackamas County encourages bids from Minority, Women, and Emerging Small Businesses.

## SECTION 2 INSTRUCTIONS TO PROPOSERS

Clackamas County (“County”) reserves the right to reject any and all Proposals received as a result of this RFP. County Local Contract Review Board Rules (“LCRB”) govern the procurement process for the County.

**2.1 Modification or Withdrawal of Proposal:** Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided that a written request is received by the County Procurement Division Director, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

**2.2 Requests for Clarification and Requests for Change:** Proposers may submit questions regarding the specifications of the RFP. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, at the Procurement Division address as listed in Section 1 of this RFP. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit County to correct, prior to the opening of Proposals, RFP terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. County will consider all requested changes and, if appropriate, amend the RFP. County will provide reasonable notice of its decision to all Proposers that have provided an address to the Procurement Division for this procurement. No oral or written instructions or information concerning this RFP from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFP.

**2.3 Protests of the RFP/Specifications:** Protests must be in accordance with LCRB C-047-0730. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, or within three (3) business days of issuance of any addendum, at the Procurement Division address listed in Section 1 of this RFP. Protests may not be faxed. Protests of the RFP specifications must include the reason for the protest and any proposed changes to the requirements.

**2.4 Addenda:** If any part of this RFP is changed, an addendum will be provided to Proposers that have provided an address to the Procurement Division for this procurement. It shall be Proposers responsibility to regularly check the Bids and Contract Information page at <http://www.clackamas.us/bids/> for any published Addenda or response to clarifying questions.

**2.5 Submission of Proposals:** All Proposals must be submitted in a sealed envelope bearing on the outside, the name and address of the Proposer, the Project title, and Closing date/time. Proposals must be submitted in accordance with Section 5.

All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFP. Proposals that include orders or qualifications may be rejected as irregular. All Proposals must include a signature that affirms the Proposer’s intent to be bound by the Proposal (may be on cover letter, on the Proposal, or the Proposal Certification Form) shall be signed. If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor. The Proposals will be considered by the County to be submitted in confidence and are not subject to public disclosure until the notice of intent to award has been issued.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by telephone or fax.



**2.6 Post-Selection Review and Protest of Award:** County will name the apparent successful Proposer(s) in “Notice of Intent to Award” letter(s). Identification of the apparent successful Proposer(s) is procedural only and creates no right of the named Proposer(s) to award of the contract. Competing Proposer(s) will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given seven (7) calendar days from the date on the “Notice of Intent to Award” letter to review the file at the Procurement Division office and file a written protest of award, pursuant to LCRB C-047-0740. Any award protest must be in writing and must be delivered by hand-delivery or mail to the address for the Procurement Division as listed in Section 1 of this RFP.

Only actual Proposers may protest if they believe they have been adversely affected because the Proposer would be eligible to be awarded the contract in the event the protest is successful. The basis of the written protest must be in accordance with ORS 279B.410 and shall specify the grounds upon which the protest is based. Written protests shall specify the Project(s) listed under Section 3 of this RFP to which the protest applies. In order to be an adversely affected Proposer with a right to submit a written protest, a Proposer must be next in line for award, i.e. the protester must claim that all higher rated Proposers are ineligible for award because they are non-responsive or non-responsible.

County will consider any protests received and:

- a. reject all protests and proceed with final evaluation of, and any allowed contract language negotiation with, the apparent successful Proposer(s) and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer(s); OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer(s) as nonresponsive, if such Proposer(s) is unable to demonstrate that its Proposal(s) complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name new apparent successful Proposer(s); OR
- c. reject all Proposals and cancel the procurement in whole, or with respect to any single Project or group of Projects named under Section 3 of this RFP.

**2.7 Acceptance of Contractual Requirements:** Failure of the selected Proposer(s) to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of County.

**2.8 Public Records:** Proposals are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFP and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.501(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

**“This information constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”**

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” ORS 192.500(1). Therefore, non-disclosure of documents, or any portion of a document submitted as part of a Proposal, may depend upon official or judicial determinations made pursuant to the Public Records Law.

**2.9 Investigation of References:** County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any

other factor relevant to this RFP. County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer(s) in order to complete its investigation.

**2.10 RFP Proposal Preparation Costs and Other Costs:** Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by County), or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by County.

**2.11 Clarification and Clarity:** County reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

**2.12 Right to Reject Proposals:** County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by County.

**2.13 Cancellation:** County reserves the right to cancel or postpone this RFP at any time or to award no contract.

**2.14 Proposal Terms:** All Proposals, including any price quotations, will be valid and firm through a period of one hundred and eighty (180) calendar days following the Closing date. County may require an extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.

**2.15 Oral Presentations:** At County's sole option, Proposers may be required to give an oral presentation of their Proposals to County, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Procurement Division will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by County. **Note:** Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, **written Proposals should be complete.**

**2.16 Usage:** It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

**2.17 Review for Responsiveness:** Upon receipt of all Proposals, the Procurement Division or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

**2.18 RFP Incorporated into Contract:** This RFP will become part of the Contract between County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFP, their Proposal(s), and the terms of the Sample Contract.

**2.19 Communication Blackout Period:** Except as called for in this RFP, Proposers may not communicate with members of the Evaluation Committee or other County employees or representatives about the RFP during the procurement process until the apparent successful Proposer(s) are selected, and all protests, if any, have been resolved. Communication in violation of this restriction may result in rejection of a Proposer.

**2.20 Prohibition on Commissions and Subcontractors:** County will contract directly with persons/entities capable of performing the requirements of this RFP. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process. Contractor shall not use subcontractors to perform the Work unless specifically pre-authorized in writing to do so by the County. Contractor represents that any employees assigned to perform the Work, and any authorized subcontractors performing the Work, are fully qualified to perform the tasks assigned to them, and shall perform the Work in a competent and professional manner. Contractor shall not be permitted to add on any fee or charge for subcontractor Work. Contractor shall provide, if requested, any documents relating to subcontractor's qualifications to perform required Work.

**2.21 Ownership of Proposals:** All Proposals in response to this RFP are the sole property of County, and subject to the provisions of ORS 192.410-192.505 (Public Records Act).

**2.22 Clerical Errors in Awards:** County reserves the right to correct inaccurate awards resulting from its clerical errors.

**2.23 Rejection of Qualified Proposals:** Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFP or the Sample Contract.

**2.24 Collusion:** By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFP, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

**2.25 Evaluation Committee:** Proposals will be evaluated by a committee consisting of representatives from County and potentially external representatives. County reserves the right to modify the Evaluation Committee make-up in its sole discretion.

**2.26 Commencement of Work:** The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by County.

**2.27 Best and Final Offer:** County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

**2.28 Nondiscrimination:** The successful Proposer agrees that, in performing the work called for by this RFP and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.

**2.29 Intergovernmental Cooperative Procurement Statement:** Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the contractor and the participating public agency and shall not impact the contractor's obligation to County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their

Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

**SECTION 3  
SCOPE OF WORK**

**3.1. INTRODUCTION**

Clackamas County’s Behavioral Health Division (“Behavioral Health”) is seeking qualified programs and organizations to provide peer delivered support services in the areas of mental health and substance use. Services are to be provided within Clackamas County (“County”) and serving adults, children, youth, and families residing in the County or individuals moving to the County upon release from a correctional facility, juvenile detention facility, psychiatric or substance use treatment in-patient facility, or hospital. The County intends to enter into multiple contracts as a result of this solicitation.

In submitting a response to this RFP, the proposer certifies that paid staff providing services under any contract issued will be paid a living wage and receive appropriate benefits.

**Please direct all Technical/Specifications or Procurement Process Questions to the indicated representative referenced in the Notice of Request for Proposals and note the communication restriction outlined in Section 2.19.**

**3.2 BACKGROUND**

Since 2010, Behavioral Health has consistently worked to create a comprehensive Peer Delivered Services System of Care. We support a system of care that promotes a family’s and individual’s resiliency and recovery from mental health and substance use. Behavioral Health believes peer support is a critical element of recovery. Peer Services supports this system by ensuring individuals and families with children are empowered and drive the process of reaching and sustaining recovery, wellness, and resilience while building an inclusive community.

The outcome of this RFP process will be the availability of an array of peer delivered support services reaching a broad population of adults, youth and young adults in transition, family members and caregivers. These services will be provided to individuals and families who may also require support within other systems such as corrections, addictions, juvenile justice, child welfare, and others.

Please read this RFP carefully as Clackamas County seeks to fulfill several lines of peer support services. The Scopes of Work for each peer support service covered under this RFP are individually outlined in this Section. The peer support services are:

Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups
Project 2: Adult Peer Delivered Services – Jail Support
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic
Project 4: Adult Peer Delivered Services – Community Education
Project 5: Adult Peer Delivered Services – Villebois Community
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth
Project 7: Children and Families – Family Navigator / Emergency Room Diversion
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors

Proposers may submit a proposal for one or more of the above Projects. If Proposer submits a proposal for more than one Project, the proposal must be very clear and complete for each Project and follow instructions in Section 5.

### **3.3. SCOPE AND EXPECTATIONS FOR ALL PROJECTS**

#### **3.3.1. STAFF STANDARDS**

Contractor shall complete the following for all staff:

- A successful criminal history records check through the State of Oregon Background Check Unit (“BCU”) compliant with ORS Chapter 181 and OAR 407-007-0000 to OAR 407-007-0370.
- Positive clearance through the General Services Administration System for Award Management (“SAM”) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General’s (“OIG”) List of Excluded Individuals/Entities at time of hire and monthly thereafter.
- Review appropriate education and academic degrees;
- Review licenses or certificates, as required;
- Review relevant work history or qualifications;
- Document and certify that the staff’s education, experience, competence, and supervision are adequate to permit the staff to perform the assigned duties.

In addition, Contractor shall ensure all staff with direct one-on-one contact with the County residents:

- Complete Oregon Health Authority approved training program for Peer Delivered Services and adherence to all requirements in the Traditional Health Worker administrative rules including, OAR 410-180-0300 to OAR 410-180-0380.

County will provide technical assistance to Contractor on exclusion process through SAM and OIG, upon which time, the County will delegate to the Contractor the responsibility of exclusion checks. County may review Contractor’s adherence to exclusion checks during routine contract compliance monitoring.

Contractor shall not permit any person to provide services under this Contract if that person is listed on the non-procurement portion of the General Service Administration’s SAM in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension” (2 CFR Part 180).

In addition, Contractor shall not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 “Program Integrity – Medicare and State Health Care Programs Subpart B”.

If Contractor is unable to adhere with requirements listed, Contractor shall communicate directly with Clackamas County’s Peer Services Coordinator a plan for meeting contract requirements.

#### **3.3.1. REPORTING REQUIREMENTS**

Behavioral Health’s Peer Delivered Services has developed the following general outcome measures that must be reported to the County on a quarterly basis.

Individuals Served:

- Number of individuals served during the reporting period.
- Number of new individuals served during the reporting period.
- Number of individuals who concluded support services during the reporting period.

Experience of Services:

- Does the individual feel they would have returned to a higher level of care or to a corrections setting if not for Peer Delivered Services?
- Does the individual feel their quality of life has improved overall?
- Has there been an increase in natural supports?

Training, Workshops, Support Groups:

- Number of continuing education/training programs or classes attended by Peer Support Specialists during the quarter.
- Number of workshops, support groups, or presentations provided for individuals receiving peer support services.
- Number of outreach activities conducted to inform and engage community partners and potential referral sources about the role of Peer Support Specialists and the Support Services available.

These reporting requirements will be included in any contract awarded. There may be additional reporting requirements dependent on the type of funding available for the contract and the specific type of peer support being provided through the contract. Please review the sample contract and exhibits associated with the program(s) for which you would like to propose to find additional reporting and related requirements.

### **3.4. PROJECT SPECIFIC SCOPE AND EXPECTATIONS**

#### **3.4.1. PROJECT 1: ADULT PEER DELIVERED SERVICES – DUAL DIAGNOSIS SUPPORT GROUPS**

**Budget:**

\$142,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults with mental health and addictions seeking recovery support in a group setting.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Comprehensive and current referral network with community agencies and system partners through an outreach specialist to promote recovery support groups
- Monthly fellowship meetings for group leaders.
- Maintenance of eight (8) or more chapters/groups that serve a minimum of 750 contacts throughout the duration of the contract.
- Supports/services including a focus on special populations, such as veterans.
- Ongoing outreach that includes dissemination of informational literature about meeting times, locations, and upcoming events.
- Workshops/trainings/support groups that will be available as well as opportunities for leadership development provided through the organization for those individuals being served.

### **3.4.2. PROJECT 2: ADULT PEER DELIVERED SERVICES – JAIL SUPPORT**

**Budget:**

\$426,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults residing in Clackamas County Jail seeking recovery support for substance use and may also have co-occurring mental health issues.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Weekly support groups, workshops and/or recovery curriculum within Clackamas County Jail.
- Collaborative work processes with the County services to begin engagement and access services and resources when appropriate.
- Workshops/trainings/support groups that will be available, as well as opportunities for leadership development provided through the organization for those individuals being served once they have been released from jail
- Peer support services within the jail.

**Staffing:**

- 1.0 FTE for a Lead Peer Recovery Mentor.
- 1.5 FTE Peer Support Specialists (PSS). At least one PSS must be male.

### **3.4.3. PROJECT 3: ADULT PEER DELIVERED SERVICES – CLACKAMAS COUNTY CRISIS CLINIC**

**Budget:**

\$532,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults with mental health or co-occurring mental health and addiction who are seeking services through the County’s crisis mental health walk-in clinic located in Clackamas County, OR.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Cooperative work processes with the County to promote a recovery oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
- Supports for individuals experiencing:
  - Recurring hospitalizations
  - Frequent police contact
  - New diagnoses
  - Difficulty engaging with natural community supports
- Both 1:1 support and group support.

**Staffing:**

The peer support team will work in collaboration with service teams located at the County’s crisis walk-in clinic. Work will be performed both on site at the crisis clinic and in the community.

- 2 – 0.8 FTE Peer Support Specialists
- 1 – 0.4 FTE Peer Supervisor



#### **3.4.4. PROJECT 4: ADULT PEER DELIVERED SERVICES – COMMUNITY EDUCATION**

**Budget:**

\$213,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Family members, caregivers, and individuals seeking mental health education and group support for themselves and/or their loved ones. Priority for participation and enrollment in programs shall be granted to County residents.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Family member and caregiver support groups.
- Peer support groups.
- Public education and outreach through curriculum and educational programming.
- Information regarding community resources.
- A variety of peer activities.

#### **3.4.5. PROJECT 5: ADULT PEER DELIVERED SERVICES – VILLEBOIS COMMUNITY**

**Budget:**

\$710,000.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults living in supportive housing in the Villebois Community at Renaissance Court Apartments, Rain Garden Apartments, and The Charleston Apartments located in Wilsonville, OR.

**Service Components:**

Please provide a plan for providing the following services/supports:

- 1:1 peer support for residents requesting support.
- Assistance in crisis and eviction prevention.
- Referrals to community resources.
- Coordination and facilitation of various group activities based on input from residents.

**Staffing:**

- 2 FTE Peer Wellness Specialist

#### **3.4.6. PROJECT 6: TRANSITION AGE YOUTH PEER DELIVERED SERVICES – AFTER SCHOOL DROP IN FOR LGBTQ+ YOUTH**

**Budget:**

\$439,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Provide support services to youth/young adults between the ages of 14-20 years who identify as lesbian, gay, bisexual, transgender, queer, intersex (“LGBTQI”).

**Service Components:**

Please provide a plan for providing the following services/supports:

- Collaborative work processes with the County to promote a support system that focuses on hope, choice, personal responsibility, and self-determination.
- Support and coordination to high schools and middle schools within the County for the development of Gay Straight Alliances (“GSA”).
- Coordination of an annual GSA summit.
- A minimum of (1) one day per week drop-in programming for LGBTQI youth/young adults.

**Additional Questions:**

Please describe:

- The process used to develop GSA’s within schools.
- Drop-in programming that will be offered.
- Any activities available to youth/young adults including workshops, trainings, leadership development, and social activities that will be available and provided by the organization.

**3.4.7. PROJECT 7: CHILDREN AND FAMILIES – FAMILY NAVIGATOR / EMERGENCY ROOM DIVERSION**

**Budget:**

\$342,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Provide support to families entering the Emergency Department (“ED”) within the County for a child experiencing a mental health crisis.

**Service Components:**

Please provide a plan for providing the following services/supports:

- Assistance, attendance and/or participation in supportive services for parents/caregivers navigating ED services.
- System navigation services and supports.
- Ongoing local resource information for families to access independently.
- Support of the development of and connection of families to natural supports within their community.
- Family Navigator will be required to collaborate closely with hospital systems and other system partners.

**Staffing:**

- 1.0 FTE Family Navigator

**3.4.8. PROJECT 8: ADULT PEER DELIVERED SERVICES – PEER SUPPORT FOR OPIOID OVERDOSE SURVIVORS**

**Budget:**

\$287,500.00 maximum for three and a half (3.5) years. Use funding level when determining the scope of services.

**Target Populations:**

Adults having recently survived an opioid overdose that require a response by emergency medical services in the County.

**Service Components:**

Please provide a plan for providing the following services/supports:

- 1:1 peer support for recent survivors of an opioid overdose who may or may not currently be in recovery
- Referrals to community resources
- “Bridging services” to those wanting to access treatment and other recovery supports
- SUD system navigation supports
- Assistance to individuals in identifying wellness and recovery goals
- Document supports provided to each individual
- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

**Staffing:**

This position collaborate and works closely with the HOPE Team

(<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center

(<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

**3.5. TERM OF CONTRACT:**

The term of the contract shall be from the effective date through **June 30, 2020** with the option for one (1) additional two (2) year renewal thereafter subject to the mutual agreement of the parties.

Throughout the term of the resulting contracts, the funding sources for the Project may increase or decrease. As applicable to each Project, the County reserves the right to issue amendments to the resulting contracts and either increase or decrease the budget and thereby adjust the service level accordingly. Any such decrease or increase shall also take into account the need for services, performance under the contract, and other factors related to the County’s best interest.

The fees proposed shall be fixed for the initial term of the contract (through June 30, 2020). For the renewal discussions, the County may consider a budgetary increase limited to the percentage reflected by the latest measurement of the Consumer Price Index, West Region (<https://www.bls.gov/regions/west/home.htm>). The County’s budgetary increase considerations may include factors such as availability of funding, the County’s best interest, and other factors as determined by the County.

**3.6. SAMPLE CONTRACT:** Submission of a Proposal in response to this RFP indicates Proposer's willingness to enter into a contract containing substantially the same terms (including insurance requirements) of the sample contract identified below. No action or response to the sample contract is required under this RFP. Any objections to the sample contract terms should be raised in accordance with Paragraphs 2.2 or 2.3 of this RFP, pertaining to requests for clarification or change or protest of the RFP/specifications, and as otherwise provided for in this RFP. This RFP and all supplemental information in response to this RFP will be a binding part of the final contract.

The applicable Sample Professional Services Contract for this RFP can be found at <http://www.clackamas.us/bids/terms.html>.

Professional Services Contract (unless checked, item does not apply)

The following paragraphs of the Professional Services Contract will be applicable:

- Article I, Paragraph 4 – Travel and Other Expense is Authorized
- Article II, Paragraph 29 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Exhibit A – On-Call Provision

Any contracts resulting from this RFP shall include insurance requirements which shall meet or exceed any and all applicable requirements as set forth in the below exhibits:

- Exhibit A Definitions (CMHP)
- Exhibit B Definitions (OHP)
- Exhibit C Insurance (CMHP)
- Exhibit D Insurance (OHP)
- Exhibit E CMHP Required Provider Contract Provisions
- Exhibit F CHMP Required Federal Terms & Conditions
- Exhibit G OHP Required Federal Terms & Conditions
- Exhibit H CMHP Service Element – MHS 20
- Exhibit I CMHP Service Element – MHS 37 EDD
- Exhibit J CMHP Service Element – MHS 25
- Exhibit K CMHP Service Element – MHS 66
- Exhibit L Performance Standards
- Exhibit M Certification Statement for Independent Contractor
- Exhibit N Qualified Service Organization Business Associate Agreement
- Exhibit O Business Associate Agreement
- Exhibit P CMHP Service Element MHS 37 Jail Diversion

<b>CONTRACT EXHIBITS FOR EACH PROJECT</b>	
<b>Project</b>	<b>Required Exhibits</b>
<b>1. Adult Peer Delivered Services – Dual Diagnosis Support Groups</b>	A, C, E, F, K, L, M, N, P, Q
<b>2. Adult Peer Delivered Services – Jail Support</b>	A, C, E, F, K, L, M, N, P, Q
<b>3. Adult Peer Delivered Services – Clackamas County Crisis Clinic</b>	A, C, E, F, J, L, M, N, P, Q, R
<b>4. Adult Peer Delivered Services – Community Education</b>	B, D, G, L, M, O, P, Q
<b>5. Adult Peer Delivered Services – Villebois Community</b>	A, C, E, F, H, L, M, N, P, Q
<b>6. Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth</b>	B, D, G, L, M, N, P, Q
<b>7. Children and Families – Family Navigator / Emergency Room Diversion</b>	A, C, E, F, I, L, M, N, P, Q
<b>8. Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors</b>	B, D, G, L, M, N, P, Q

All Exhibits are subject to change and/or amendment (e.g., as required by County’s funding sources).

**SECTION 4  
EVALUATION PROCEDURE**

**4.1** An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals independently by Project in accordance with the below criteria. The evaluation committee may recommend awards on a Project-by-Project basis based solely on the written responses or may request Proposal interviews/presentations. Interviews/presentations, if deemed beneficial by the evaluation committee, will consist of the highest scoring Proposers for each Project. The invited Proposers will be notified of the time, place, and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.

Written Proposals must be complete and no additions, deletions, or substitutions will be permitted during the interview/presentation (if any). The evaluation committee will recommend award of contracts to the final County decision maker based on the highest scoring Proposal. The County decision maker reserves the right to accept the recommendation, award to different Proposers, or reject all Proposals and cancel the RFP.

Proposers are not permitted to directly communicate with any member of the evaluation committee during the evaluation process. All communication will be facilitated through the Procurement representative.

**4.2 Evaluation Criteria**

<u>Category</u>	<u>Points Available:</u>
General Information (Section 5.4.)	0-30
Program Design (Section 5.5. A.)	0-40
Workshops/Support Groups/Training (Section 5.5. B.)	0-40
Staffing Plan and Development (Section 5.5. C.)	0-35
Quality Assurance (Section 5.5. D.)	0-30
Budget (Section 5.5. E.)	0-25
<b>Available points</b>	<b>0-200</b>

**4.3** Once selections have been made, the County will enter into contract negotiations. During negotiations, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contracts. The negotiations will identify a level of work and associated fee that best represent the efforts required. If the County is unable to come to terms with the highest scoring Proposer for each Project, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple Projects and the County deems it is in its interest to not authorize any particular Project, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer for each Project.

**SECTION 5  
PROPOSAL CONTENTS**

**5.1. Vendors must observe submission instructions and be advised as follows:**

**5.1.1.** Complete Proposals may be mailed to the below address or emailed to [Procurement@clackamas.us](mailto:Procurement@clackamas.us). The subject line of the email must identify the RFP title. Proposers are encouraged to contact Procurement to confirm receipt of the Proposal. If the Proposal is mailed, an original copy and an electronic copy (on compact disk or jump drive) must be included. The Proposal (hardcopy or email) must be received by the Closing Date and time indicated in Section 1 of the RFP.

**5.1.2.** Mailing address including Hand Delivery, US Mail, UPS and FEDEX:

Clackamas County Procurement Division – Attention George Marlton, Director  
Clackamas County Public Services Building  
2051 Kaen Road  
Oregon City, OR 97045

**5.1.3.** County reserves the right to solicit additional information or Proposal clarification from the vendors, or any one vendor, should the County deem such information necessary.

**5.2. PROPOSALS**

**Provide in order the information as specified in sections 5.3., 5.4., 5.5., 5.6., 5.7., and 5.8. below:**

**5.3. PROPOSED PROJECT(S) COVER PAGE**

Using the following table format, indicate which Project or Projects are included in your proposal:

<i><b>Project</b></i>	<i><b>Included in Proposal*</b></i>
Project 1: Adult Peer Delivered Services – Dual Diagnosis Support Groups	
Project 2: Adult Peer Delivered Services – Jail Support	
Project 3: Adult Peer Delivered Services – Clackamas County Crisis Clinic	
Project 4: Adult Peer Delivered Services – Community Education	
Project 5: Adult Peer Delivered Services – Villebois Community	
Project 6: Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	
Project 7: Children and Families – Family Navigator / Emergency Room Diversion	
Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	
<i>*Any mark in this column, such as a checkmark or an “X”, indicates that the Project listed in the corresponding row shall be included in the Proposal. Blank rows in this column shall indicate that the Project listed in the corresponding row shall not be included in the proposal. The County shall, at its sole discretion, determine which Project or Projects are included with each proposal.</i>	

**5.4. General Information (0-30 Points, Page Limit 3 pages plus Organizational Chart)**

Proposals must include the following general organizational information. **Proposals that include more than one Project shall only include one (1) “General Information” response.** Please describe or provide

- Organization’s mission statement and organizational goals.
- Organization’s history, relevant experience and capacity to provide peer support services of similar scope and type to those listed in the projects included in your proposal.

- Current relationships with system partners your organization may have such as, police, hospitals, and other community support organizations as relevant to the Projects included in your proposal.
- Ability, if any, to document services electronically.
- Organizational Chart and a clear description of the management and governance of the organization.  
(include as attachment)

#### 5.5. Service Information:

Proposals must include the following information related to the provision of peer delivered support services. **Proposals that include more than one Project must include a separate response to section “5.5 A.”, “5.5 B.” and “5.5 E.” for each Project that the proposal includes.** For example, a proposal that includes two (2) Projects, must include two (2) separate responses (one for each Project) including the information as specified in section “5.5 A.”, “5.5 B.”, and “5.5 E.”.

#### A. Program design, strategy, and capacity (0-40 Points, Page limit 4)

Please describe the following:

- Where services would be provided in Clackamas County.
- The peer support philosophy including the rationale and research used to support the model.
- The plan and/or planning process used to ensure the scope of individual peer services and supports are defined and driven by the individual receiving the support.
- Any training provided and/or certification(s) of peer support staff, paid or unpaid.
- How you identify the target population to be served (i.e. children, youth/young adults in transition, adults, families, older adults), experience serving this population and capacity to serve the population, including the number of individuals and/or families to be served.
- Your organization's ability to provide culturally-responsive services including services to persons whose primary language may not be English.

#### B. Workshops, Support Groups, and Training (0-40 Points, Page limit 3)

Please describe the following:

- Any workshops the organization is able to provide for people receiving support services or for the broader community. These workshops may include, but are not limited to, classes providing education on specific mental health diagnosis; informational classes on community resources; supportive employment or housing; alternative pathways to recovery, etc.
- Support groups the organization is able to provide for people receiving support services or to the broader community. These groups may include, but are not limited to Hearing Voices groups; AA, NA, DDA, or other anonymous groups supporting sobriety; group support for depression, anxiety, and other mental health conditions, etc.
- Trainings offered by the organization that benefits the peer support specialist workforce. These trainings may include, but are not limited to, training to become a peer support specialist; trauma informed approaches to peer support; leadership skill building; system navigation, etc.

#### C. Staffing Plan and Development (0-35 Points, Page limit 3)

Please describe the following:

- Supervision procedures and support for staff, both paid and unpaid.
- How your organization identifies and assures that peer providers have lived experience relevant to the role of peer providers.
- Opportunities for peer providers to network and receive support from other peer providers.



- How your organization promotes self-care and provides specific accommodations when necessary.
- Job descriptions of those providing direct services as well as their direct supervisors.
- Plan for training and staff development.

**D. Quality Assurance (0-30 Points, Page limit 3)**

Please describe the following:

- Organizational outcome measures, if established, and how are they measured and monitored
- Organization’s process for protecting client confidentiality. Do you have a written policy addressing this topic?
- Organization’s process for handling internal and external grievances. Do you have a written policy addressing this topic?
- Organization’s process for ensuring continuous quality improvement.
- Plan for organizational sustainability.

**E. Budget Proposal (0-25 Points, Page limit 2)**

Please complete and submit **one provided “Budget Form” for each proposed Project** (e.g., if your proposal includes two (2) Projects, complete two separate budget forms - one for each Project). An electronic version of the “Budget Form” can be found at the following website:

<https://www.clackamas.us/bids>

**Each budget form shall only include the proposer’s budget to deliver one Project.** Budget forms shall not reflect the costs that assume multiple Projects have been awarded. If multiple Projects are awarded to a single proposer, any resulting budgetary adjustments shall be made in the course of contract negotiations. Please review the sample contract and exhibits applicable to the Project(s) included in your proposal to guide the formation of your budget. For example, if exhibits applicable to your proposed Projects include allowable cost requirements, you might review them to ensure that your budget reflects a spending plan that is compliant with allowable cost requirements.

**5.6. Fees**

Please complete and submit the provided Budget Form. List the not-to-exceed amount you propose for each category indicated in the form. Monthly fees under contracts resulting from this RFP shall be calculated by dividing the budget for the initial contract term by the number of months it encompasses. Fees for renewed contracts resulting from this RFP will be calculated according to renewal negotiations and/or the conditions outlined in “Section 1” of this RFP.

**5.7. References**

Provide up to three (3) references from clients your firm has served similar to the County, preferably in the past three (3) years, for whom Proposer has provided services that are similar in nature to those included in your organization’s proposal. Provide the name, address, email, and phone number of the references.

**5.8. Completed Proposal Certification (see the below form)**

REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 1  
September 27, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #1. Except as expressly amended below, all other terms and conditions of the original RFP shall remain unchanged.

**The following changes are made to Section 3.4.8**

**1. Service Components: Remove in its entirety the following bullet point on page twelve (12) of the RFP:**

- Collaborating with diverse stakeholders such as members of the HOPE Team, The Clackamas County Transition Center, and others within Health, Housing, and Human Services Department.

**And replace with the following:**

- Collaborating with diverse stakeholders in the community and others within the Health, Housing, and Human Services Department.

**2. Staffing: Remove and replace in its entirety the following on page twelve (12) of the RFP:**

This position collaborate and works closely with the HOPE Team (<https://www.clackamas.us/da/hope.html>) and The Clackamas County Transition Center (<https://www.clackamas.us/sheriff/transitioncenter.html>). The Honest Opportunity Probation Enforcement (HOPE) Team consist of paramedics that specifically respond to opioid overdoses in the community and provide follow up services. The Clackamas County Transition Center provides crucial services to people leaving jail or prison and to those at risk of returning with the goal of breaking patterns and changing lives

1 FTE Peer Support Specialist in recovery from on opioid addiction and preferably with mental health lived experience.

**And replace with the following:**

- 1.0 FTE Peer Support Specialist in recovery from an opioid addiction and preferably with mental health lived experience.
- This position is partnered with a community paramedic team and will be working with American Medical Response, Inc. and Clackamas Fire.

End of Addendum #1

REQUEST FOR PROPOSALS #2018-45  
 Behavioral Health Peer Delivered Services  
 ADDENDUM NUMBER 2  
 October 2, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #2. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The “CONTRACT EXHIBITS FOR EACH PROJECT” tables found in Section 3.6 on page 14 and Section 6.0.1 on page 21 of the RFP are hereby removed and replaced by the following:

<b>CONTRACT EXHIBITS FOR EACH PROJECT</b>	
<b>Project</b>	<b>Required Exhibits</b>
<b>9.</b> Adult Peer Delivered Services – Dual Diagnosis Support Groups	A, C, E, F, K, L, M, N
<b>10.</b> Adult Peer Delivered Services – Jail Support	A, C, E, F, K, L, M, N
<b>11.</b> Adult Peer Delivered Services – Clackamas County Crisis Clinic	A, C, E, F, J, L, M, N, P
<b>12.</b> Adult Peer Delivered Services – Community Education	B, D, G, L, M, O
<b>13.</b> Adult Peer Delivered Services – Villebois Community	A, C, E, F, H, L, M, N
<b>14.</b> Transition Age Youth Peer Delivered Services – After School Drop In for LGBTQ+ Youth	B, D, G, L, M, N
<b>15.</b> Children and Families – Family Navigator / Emergency Room Diversion	A, C, E, F, I, L, M, N
<b>16.</b> Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors	B, D, G, L, M, N

End of Addendum #2

REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 3  
October 24, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 Behavioral Health Peer Delivered Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #3. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP Closing Date and Time is hereby changed from October 24, 2018 at 2:00 PM, Pacific Time to October 29, 2018 at 2:00 PM, Pacific Time. This change hereby amends all applicable references to the Closing Date and Time found in RFP #2018-45.

End of Addendum #3

REQUEST FOR PROPOSALS #2018-45  
Behavioral Health Peer Delivered Services  
ADDENDUM NUMBER 4  
November 7, 2018

On September 12, 2018 Clackamas County (“County”) published Request for Proposals #2018-45 (“RFP”), on September 27, 2018 published Addendum #1, on October 3, 2018 published Addendum #2, and on October 24, 2018 published Addendum #3. The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #4. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. The RFP is hereby amended to remove all references to Project 7: Children and Families – Family Navigator / Emergency Room Diversion and Project 8: Adult Peer Delivered Services – Peer Support for Opioid Overdose Survivors.

It is the County’s intent to promptly re-issue an RFP for Projects 7 and 8.

End of Addendum #4

**ATTACHMENT B  
VENDOR'S RESPONSE TO RFP**

## **EXHIBIT A DEFINITIONS (CMHP)**

Whenever used in this Contract, the following terms shall have the meanings set forth below:

“Allowable Costs” means the costs described in 2 CFR Part 200 or 45 CFR Part 75, as applicable, except to the extent such costs are limited or excluded by other provisions of this Contract.

“AMH” means the former Addictions & Mental Health Division of the State of Oregon, now known as the Department of Human Services of the State of Oregon (DHS).

“Client” or “Individual” means with respect to a particular service provided by Contract any individual receiving that service, in whole or in part, with funds provided under this Contract.

“Community Mental Health Program” or “CMHP” means a centrally organized and coordinated program of services for persons with mental and emotional disorders, developmental disabilities, and addiction dependencies operated by, or contractually affiliated with a LMHA and operated in a specific geographic area of the State of Oregon.

“Community Outcome Management and Performance Accountability Support System (COMPASS)” means the DHS (formally AMH) project to implement a new contracts system, roll out an optional free electronic health records systems (OWITS), and enhance the collection of data through MOTS.

“Contractor” means the entity contracted by the County.

“Coordinated Care Organizations” or “CCO” means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414-625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

“County” means Clackamas County, a political subdivision of the State of Oregon.

“DHS” means the Department of Human Services of the State of Oregon, formerly known as the Addictions & Mental Health Division (AMH).

“Intergovernmental Agreement” means the 2017-2019 Intergovernmental Agreement for the Financing of Community Addictions and Mental Health Services between the State of Oregon, acting by and through its Oregon Health Authority and Clackamas County, as amended from time to time.

“LMHA” means Local Mental Health Authority.

“Measures and Outcomes Tracking System” or “MOTS” means the DHS (formally AMH) data system that stores client data submitted by Contractor and/or County.

“Mental Health Services” means treatment Services for Individuals diagnosed with serious mental health illness, or other mental or emotional disturbance, posing a danger to the health and safety of themselves or others.

“OAR” means the Oregon Administrative Rules as promulgated by the Oregon Health Authority and as amended from time to time.

“Oregon Health Authority” or “OHA” means the agency within the State of Oregon that is responsible for substance use disorders services, problem gambling prevention and treatment services, children and adult

mental health services, and maintaining custody of persons committed to the state, by courts, for care and treatment of mental illness.

“OWITS” means Oregon Web Infrastructure for Treatment Services, an optional free electronic health records systems.

“Provider” means a person or entity providing the particular Services, or portion thereof, in this Agreement.

“Provider Contract” or “Provider Agreement” means this Contract or a subcontract to purchase the particular Services, or a portion thereof, in this Contract.

“Trauma Informed Services” means Services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and substance use disorders Services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.



**EXHIBIT C  
INSURANCE (CMHP)**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

**1. Workers Compensation.** Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126. Contractors shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

**2. Professional Liability.**      **Required by County**      **Not required by County**

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages because of personal injury, bodily injury, death, or damage to property caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

If this box is checked Professional Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.

**3. General Liability.**      **Required by County**      **Not required by County**

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage for the protection of the **County and the State of Oregon, and its officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Contract.

If this box is checked General Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

**4. Automobile Liability.**      **Required by County**      **Not required by County**

**Commercial Automobile Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury, Death, and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**Commercial Automobile Liability** insurance limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

**Personal Automobile Liability** insurance limits shall be not less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000/property damage.

**5. Physical Abuse and Molestation Liability.**  **Required by County**      **Not required by County**

Physical Abuse and Molestation Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. Coverage shall be provided through either general liability or professional liability coverage. Proof of Sex Abuse/Molestation insurance coverage must be provided.

6. **Privacy and Network Security.**     **Required by County**     **Not required by County**

Privacy and Network Security coverages shall be obtained and maintained to provide protection against liability for (a) system attack; (b) denial or loss of service attacks; (c) spread of malicious software code; (d) unauthorized access and use of computer systems; and (e) liability from the loss or disclosure of confidential data with limit of \$1,000,000 per claim/annual aggregate.

If this box is checked Privacy and Network Security limit shall be at least \$4,000,000.

7. **Additional Insured Provision.** The insurance, other than Professional Liability (except to the extent it only applies to Commercial General Liability exposures), Workers' Compensation, Personal Automobile Liability and Pollution Liability Insurance, shall include **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as an additional insured.

8. **Primary Coverage Clause.** Contractor's insurance shall apply as primary and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above. This must be noted on the insurance certificate.

9. **Cross-Liability Clause.** A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, pollution and errors and omissions policies required by this Contract.

10. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Contract, for a minimum of twenty-four (24) months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under the Provider Contract; or (ii) the expiration of all warranty periods provided under the Contract. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor may request and County may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

11. **Self-insurance.** Contractor may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Contractor's self-insurance program complies with all applicable laws, provides coverage equivalent in both type and level to that required in this Exhibit, and is reasonably acceptable to County. Contractor shall furnish an acceptable insurance certificate to County for any insurance coverage required by this Contract that is fulfilled through self-insurance. Stop-loss insurance and reinsurance coverage against catastrophic and unexpected expenses may not be self-insured.

12. **Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. Contractor will maintain the insurance in full force throughout the duration of this Contract. No Contract shall be in effect until the required certificates have been received, approved, and accepted by County. A renewal certificate will be sent to County ten (10) days prior to coverage

expiration. The insurance for general liability and commercial automobile liability must include an endorsement naming **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as additional insureds with respect to the Work under this Contract. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County, 2051 Kaen Road, Suite 154, Oregon City, Oregon 97045

Certificates of Insurance should be submitted electronically or by mail to:

BHcontracts@clackamas.us

Clackamas County  
Contracts Administration  
2051 Kaen Road, Suite 154  
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 14. Waiver of Subrogation.** Contractor agrees to waive their rights of subrogation arising from the Work performed under this Contract.
- 15. Notice of cancellation or change.** There shall be no cancellation, material change, exhaustion of aggregate limits, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Behavioral Health Division, 2051 Kaen Road, Suite 154, Oregon City, OR 97045 or [BHcontracts@clackamas.us](mailto:BHcontracts@clackamas.us).
- 16. Insurance Compliance.** The County will be entitled to enforce Contractor compliance with the insurance requirements, and will take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Contract as permitted by the Contract, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Contractor to work under this Contract when the County is aware that the Contractor is not in compliance with the insurance requirements.

**EXHIBIT E**  
**CMHP REQUIRED PROVIDER CONTRACT PROVISIONS**

1. **Expenditure of Funds.** Contractor may expend the funds paid to Contractor under this Contract solely on the delivery of contracted services subject to the following limitations (in addition to any other restrictions or limitations imposed by this Contract):
  - a) Contractor may not expend on the delivery of Services any funds paid to Contractor under this Contract in excess of the amount reasonable and necessary to provide quality delivery of these Services.
  - b) If this Contract requires Contractor to deliver more than one service, Contractor may not expend funds paid to Contractor under this Contract for a particular service on the delivery of any other service.
  - c) If this Contract requires Contractor to deliver Substance Use Disorders and Problem Gambling Services, Contractor may not use the funds paid to Contractor under this Contract for such services to:
    - 1) Provide inpatient hospital services;
    - 2) Make cash payments to intended recipients of health services;
    - 3) Purchase or improve land, to purchase, construct or permanently improve (other than minor remodeling) any building or other facility or to purchase major medical equipment;
    - 4) Satisfy any requirement for expenditure of non-federal funds as a condition for receipt of federal funds (whether the federal funds are received under this Contract or otherwise); or
    - 5) Carry out any program prohibited by section 245(b) of the Health Omnibus Programs Extension Act of 1988 (codified at 42 U.S.C. 300ee-5), which generally prohibits funds provided under this Contract from being used to provide Individuals with hypodermic needles or syringes so that such Individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse.
  - d) Contractor may expend funds paid to Contractor under this Contract only in accordance with OMB Circulars or 45 CFR Part 75, as applicable on Allowable Costs. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. If Contractor expends less than \$750,000 in a fiscal year beginning on or after that date, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials. Contractor, if subject to this requirement, shall at Contractor's own expense submit to OHA a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to OHA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Contractor responsible for the financial management of funds received under this Contract. Copies of all audits must be submitted to OHA within thirty (30) calendar days of completion. Audit costs for audits not required in accordance with the Single Audit Act are unallowable. Contractor may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.
2. **Records Maintenance, Access and Confidentiality.**
  - a) **Access to Records and Facilities.** County, the Oregon Health Authority, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of

Contractor that are directly related to this Contract, the funds paid to Contractor hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, Contractor shall permit authorized representatives of County and the Oregon Health Authority to perform site reviews of all services delivered by Contractor hereunder.

- b) **Retention of Records.** Contractor shall retain and keep accessible all books, documents, papers, and records, that are directly related to this Contract, the funds paid to Contractor hereunder or to any services delivered hereunder, for a minimum of 6 years, or such longer period as may be required by other provisions of this Contract or applicable law, following the termination or expiration of this Contract. If there are unresolved audit or other questions at the end of the six-year period, Contractor shall retain the records until the questions are resolved.
- c) **Expenditure Records.** Contractor shall document the expenditure of all funds paid to Contractor under this Contract. Unless applicable federal law requires Contractor to utilize a different accounting system, Contractor shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit County and the Oregon Health Authority to verify how the funds paid to Contractor under this Contract were expended.
- d) **Client Records.** Unless otherwise specified in this Contract, Contractor shall create and maintain a client record for each client who receives services under this Contract. The client record must contain:
  - 1) Client identification;
  - 2) Problem assessment;
  - 3) Treatment, training and/or care plan;
  - 4) Medical information when appropriate; and
  - 5) Progress notes including service termination summary and current assessment or evaluation instrument as designated by the Oregon Health Authority in administrative rules.

Contractor shall retain client records in accordance with OAR 166-150-0005 through 166-150-0215 (State Archivist). Unless OAR 166-150-0005 through 166-150-0215 requires a longer retention period, client records must be retained for a minimum of six years from termination or expiration of this Contract.

- e) **Safeguarding of Client Information.** Contractor shall maintain the confidentiality of client records as required by applicable state and federal law, including without limitation, ORS 179.495 to 179.507, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by the Oregon Health Authority, implementing the foregoing laws, and any written policies made available to Contractor by County or by the Oregon Health Authority. Contractor shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to County and the Oregon Health Authority for review and inspection as reasonably requested by County or the Oregon Health Authority.
- f) **Data Reporting.** All Individuals receiving Services with funds provided under this Contract must be enrolled and that Individual's record maintained in the Measures and Outcome Tracking System (MOTS) as specified in OHA's MOTS Reference Manual, located at: <http://www.oregon.gov/oha/amh/mots/Pages/resource.aspx>, and the "Who Reports in MOTS Policy," as stated below:

### **Which Behavioral Health Providers are Required to Report in MOTS?**

The data collection system for the Health Systems Division (HSD) is the Measures and Outcomes Tracking System or MOTS. In general, behavioral health providers who are either licensed or have a letter of approval from the HSD (or the former Addictions & Mental Health Division [AMH]), and receive public funds to provide treatment services are required to report to MOTS. In addition to the general rule above, there are four basic ways to classify who is required to submit data to MOTS:

- 1) Providers with HSD Agreements that deliver treatment services (this includes Community Mental Health Programs [CMHP], Local Mental Health Authorities [LMHA] and other types of community behavioral health providers); These programs should all have a license or letter of approval from the HSD or AMH;
- 2) Providers that are subcontractors (can be a subcontractor of a CMHP or other entity that holds a contract with HSD or OHA, such as a Mental Health Organization [MHO], or a Coordinated Care Organization [CCO]);
- 3) Providers that HSD does not contract with but are required to submit data to MOTS by State/Federal statute or rule; These include DUII providers and methadone maintenance providers; and
- 4) Providers that contract with other governmental agencies (e.g., Oregon Youth Authority [OYA] or the Department of Corrections [DOC] to deliver mental health and/or substance abuse services).

Note: Primary care physicians that provide a single service on behalf of the CMHP are not required to report the MOTS status or service level data.

If you have questions, contact MOTS Support at [MOTS.Support@state.or.us](mailto:MOTS.Support@state.or.us).

### **3. Alternative Formats of Written Materials.** In connection with the delivery of Services, Contractor shall:

- a) Make available to a Client, without charge to the Client, upon the Client's, the County's or the Oregon Health Authority's request, any and all written materials in alternate, if appropriate, formats as required by the Oregon Health Authority's administrative rules or by the Oregon Health Authority's written policies made available to Contractor.
- b) Make available to a Client, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, any and all written materials in the prevalent non-English languages in the area served by Contractor.
- c) Make available to a Client, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, oral interpretation services in all non-English languages in the area served by Contractor.
- d) Make available to a Client with hearing impairments, without charge to the Client, upon the Client's, County's or the Oregon Health Authority's request, sign language interpretation services and telephone communications access services.

For purposes of the foregoing, "written materials" includes, without limitation, all written materials created or delivered in connection with the services and all Contractor contracts related to this Contract. The County may develop its own forms and materials and with such forms and materials the County shall be responsible for making them available to a Client, without charge to the Client or OHA, in the prevalent non-English language. OHA shall be responsible for making its forms and materials available, without charge to the Client or CMHP, in the prevalent non- English language.

4. **Reporting Requirements.** Contractor shall prepare and furnish the following information to County and the Oregon Health Authority when a service is delivered under this Contract:
  - a) Client, service and financial information as specified in the applicable Service Description attached hereto and incorporated herein by this reference.
  - b) All additional information and reports that County or the Oregon Health Authority reasonably requests.
  
5. **Compliance with Law.** Contractor shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Contract or to the delivery of services hereunder. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract:
  - a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations;
  - b) all state laws governing operation of community mental health programs, including without limitation, all administrative rules adopted by the Oregon Health Authority related to community mental health programs or related to client rights, OAR 943-005-0000 through 943-005-0070, prohibiting discrimination against Individuals with disabilities;
  - c) all state laws requiring reporting of client abuse; and
  - d) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of services under this Contract.

These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. All employers, including Contractor, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. In addition, Contractor shall comply, as if it were County thereunder, with the federal requirements set forth in **Exhibit F** to the certain 2017-2019 Intergovernmental Contract for the Financing of Community Mental Health, Substance Use Disorders, and Problem Gambling Services between County and the Oregon Health Authority dated as of July 1, 2017, which Exhibit is incorporated herein by this reference. For purposes of this Contract, all references in this Contract to federal and state laws are references to federal and state laws as they may be amended from time to time.

6. Unless Contractor is a State of Oregon governmental agency, Contractor agrees that it is an independent contractor and not an agent of the State of Oregon, the Oregon Health Authority or County.
  
7. To the extent permitted by applicable law, Contractor shall defend (in the case of the state of Oregon and the Oregon Health Authority, subject to ORS Chapter 180), save and hold harmless the State of Oregon and Clackamas County, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the operations of the Contractor, including but not limited to the activities of Contractor or its officers, employees, subcontractors or agents under this Contract.

8. Contractor understands that Contractor may be prosecuted under applicable federal and state criminal and civil laws for submitting false claims, concealing material facts, misrepresentation, falsifying data system input, other acts of misrepresentation, or conspiracy to engage therein.
9. Contractor shall only conduct transactions that are authorized by the County for transactions with the Oregon Health Authority that involve County funds directly related to this Contract.
10. Contractor(s) that are not units of local government as defined in ORS 190.003 shall obtain, at Contractor's expense, and maintain in effect with respect to all occurrences taking place during the term of the Contract, insurance requirements as defined in this Contract and incorporated herein by this reference.
11. Contractor(s) that are not units of local government as defined in ORS 190.003, shall indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (Indemnitee) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of the officers, agents, employees or subcontractors of the contractor (Claims). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Contractor from and against any and all Claims.
12. Contractor shall include sections 1 through 11, in substantially the form set forth above, in all permitted Contractor contracts under this Contract.
13. Ownership of Intellectual Property.
  - a) Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA and the County will not own the right, title and interest in any intellectual property created or delivered by the Contractor in connection with the Services. With respect to that portion of the intellectual property that the Contractor owns, Contractor grants to OHA and the County a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 13.a.(1) on OHA and the County's behalf; and (3) sublicense to third parties the rights set forth in Section 13.a.(1).
  - b) If state or federal law requires that OHA or County grant to the United States a license to any intellectual property, or if state or federal law requires that OHA or the United States own the intellectual property, then Contractor shall execute such further documents and instruments as OHA may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or OHA. To the extent that OHA becomes the owner of any intellectual property created or delivered by Contractor in connection with the Services, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to Contractor to use, copy, distribute, display, build upon and improve the intellectual property.



**EXHIBIT F**  
**CMHP REQUIRED FEDERAL TERMS AND CONDITIONS**

Contractor shall comply with the following federal requirements. For purposes of this Contract, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** Contractors shall comply with all federal laws, regulations, and executive orders applicable to the Contract or to the delivery of Services. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. No federal funds may be used to provide Services in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Contract, including amendments, exceeds \$150,000 Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C.1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractors shall include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.
- 4. Energy Efficiency.** Contractors shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et.seq. (Pub. L. 94-163).
- 5. Truth in Lobbying.** By signing this Contract, Contractor certifies, to the best of the Contractor's knowledge and belief that:

  - a.** No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal

contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative Contract.

- b.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c.** Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
- d.** This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- e.** No part of any federal funds paid to Contractor under this Contract shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
- f.** No part of any federal funds paid to Contractor under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g.** The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h.** No part of any federal funds paid to Contractor under this Contract may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

- 6. Resource Conservation and Recovery.** Contractor shall comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act

(codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

7. **Audits.** Subrecipients, as defined in 45 CFR 75.2, shall comply with applicable Code of Federal Regulations (CFR) governing expenditure of federal funds. If a sub-recipient expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. Copies of all audits must be submitted to County within thirty (30) calendar days of completion. If a sub recipient expends less than \$750,000 in a fiscal year beginning on or after December 26, 2014, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials.
8. **Debarment and Suspension.** Contractor shall not permit any person or entity to be a provider if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Providers with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
9. **Drug-Free Workplace.** Contractor shall comply with the following provisions to maintain a drug-free workplace: (i) Contractor certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Contractor's workplace or while providing Services to OHA clients. Contractor's notice shall specify the actions that will be taken by Contractor against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Contractor's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of Services under this Contract a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Contract, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction; (v) Notify OHA within ten (10) calendar days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any provider to comply with subparagraphs through (vii) above; (ix) Neither Contractor, or any of Contractor's employees, officers, agents may provide any Service required under this Contract while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Contractor or Contractor's employee, officer, agent has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or Contractor's performance of

essential job function or creates a direct threat to OHA clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Contract.

10. **Pro-Children Act.** Contractor shall comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
11. **Medicaid Services.** To the extent Contractor provides any Service in which costs are paid in whole or in part by Medicaid, Contractor shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
  - a. Keep such records as are necessary to fully disclose the extent of the services provided to Individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
  - b. Comply with all disclosure requirements of 42 CFR Part 1002.4(a) and 42 CFR 455 Subpart (B).
  - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396 (a) (57) and (w), 42 CFR Part 431.107 (b) (4), and 42 CFR Part 489 subpart I.
  - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Contractor shall acknowledge Contractor's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
  - e. Entities receiving \$5 million or more annually (under this Contract and any other Medicaid agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, providers, and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a (a) (68).
12. **ADA.** Contractor shall comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 U.S.C. 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of Services.
13. **Agency-Based Voter Registration.** If applicable, Contractor shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an Individual may apply for or receive an application for public assistance.
14. **Disclosure.**
  - a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an Individual, the

date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (Individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- c. County or OHA reserves the right to take such action required by law, or where County or OHA has discretion, it deems appropriate, based on the information received (or the failure to receive) from the provider, fiscal agent or managed care entity.

**15. Special Federal Requirements Applicable to Substance Use Disorders Services for Agencies receiving Substance Abuse Prevention and Treatment (SAPT) Block Grant funds (CFDA 93.959).**

- a. **Order for Admissions:**
  - (1) Pregnant women who inject drugs;
  - (2) Pregnant substance abusers;
  - (3) Other Individuals who inject drugs; and
  - (4) All others.
- b. **Women's or Parent's Services.** If Contractor provides A&D 61 and A&D 62 Services, Contractor must:
  - (1) Treat the family as a unit and admit both women or parent and their children if appropriate.
  - (2) Provide or arrange for the following services to pregnant women and women with dependent children:
    - (a) Primary medical care, including referral for prenatal care;
    - (b) Pediatric care, including immunizations, for their children;
    - (c) Gender-specific treatment and other therapeutic interventions, e.g. sexual and physical abuse counseling, parenting training, and child care;
    - (d) Therapeutic interventions for children in custody of women or parent in treatment, which address, but are not limited to, the children's developmental needs and issues of abuse and neglect; and
    - (e) Appropriate case management services and transportation to ensure that women or parents and their children have access to the

services in (a) through (d) above.

- c. **Pregnant Women.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must:
- (1) Within the priority categories, if any, set forth in a particular Service Description, give preference in admission to pregnant women in need of treatment, who seek or are referred for and would benefit from such Services, within 48 hours;
  - (2) If Contractor has insufficient capacity to provide treatment Services to a pregnant woman, Contractor must refer the women to another Provider with capacity or if no available treatment capacity can be located, the outpatient Provider that the Individual is enrolled with will ensure that Interim Services are being offered. Counseling on the effects of alcohol and drug use on the fetus must be given within 48 hours, including a referral for prenatal care; and
  - (3) Perform outreach to inform pregnant women of the availability of treatment Services targeted to them and the fact that pregnant women receive preference in admission to these programs.
- d. **Intravenous Drug Abusers.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must:
- (1) Within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women described above, give preference in admission to intravenous drug abusers;
  - (2) Programs that receive funding under the grant and that treat Individuals for intravenous substance abuse, upon reaching 90 percent of its capacity to admit Individuals to the program, must provide notification of that fact to the State within 7 calendar days;
  - (3) If Contractor receives a request for admission to treatment from an intravenous drug abuser, Contractor must, unless it succeeds in referring the Individual to another Provider with treatment capacity, admit the Individual to treatment not later than:
    - (a) 14 calendar days after the request for admission to Contractor is made;
    - (b) 120 calendar days after the date of such request if no Provider has the capacity to admit the Individual on the date of such request and, if Interim Services are made available not less than 48 hours after such request; or
    - (c) If Contractor has insufficient capacity to provide treatment Services to an intravenous drug abuser, refer the intravenous drug abuser to another Provider with capacity or if no available treatment capacity can be located, the outpatient provider that the Individual is enrolled with will ensure that interim services are being offered. If the Individual is not enrolled in outpatient treatment and is on a waitlist for residential treatment, the provider from the Contractor of the Individual's residence that is referring the Individual to residential services will make available counseling and education about human immunodeficiency virus(HIV) and tuberculosis (TB), risk of sharing needles, risks of transmission to sexual partners and infant, steps to ensure HIV and TB transmission does not occur, referral for HIV or TB treatment services, if necessary, within 48 hours.
- e. **Infectious Diseases.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services Contractor must:
- (1) Complete a risk assessment for infectious disease including Human

- Immunodeficiency Virus (HIV) and tuberculosis, as well as sexually transmitted diseases, based on protocols established by OHA, for every Individual seeking Services from Contractor; and
- (2) Routinely make tuberculosis services available to each Individual receiving Services for alcohol/drug abuse either directly or through other arrangements with public or non-profit entities and, if Contractor denies an Individual admission on the basis of lack of capacity, refer the Individual to another provider of tuberculosis Services.
  - (3) For purposes of (2) above, “tuberculosis services” means:
    - (a) Counseling the Individual with respect to tuberculosis;
    - (b) Testing to determine whether the Individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the Individual; and
    - (c) Appropriate treatment services.
- f. **OHA Referrals.** If Contractor provides any Substance Use Disorders Services other than A&D 60 Problem Gambling Client Finding Outreach Services, Contractor must, within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women and intravenous drug users described above, give preference in Substance Use Disorders and Problem Gambling Service delivery to persons referred by OHA.
- g. **Barriers to Treatment.** Where there is a barrier to delivery of any Substance Use Disorder and Problem Gambling Service due to culture, gender, language, illiteracy, or disability, Contractor shall develop support services available to address or overcome the barrier, including:
  - (1) Providing, if needed, hearing impaired or foreign language interpreters.
  - (2) Providing translation of written materials to appropriate language or method of communication.
  - (3) Providing devices that assist in minimizing the impact of the barrier.
  - (4) Not charging clients for the costs of measures, such as interpreters, that are required to provide nondiscriminatory treatment.
- h. **Misrepresentation.** Contractor shall not knowingly or willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or Services for which payments may be made by County or OHA.
- i. **Oregon Residency.** Substance Use Disorders Services funded through this Contract, except for A&D 60 Problem Gambling Client Finding Outreach Services, A&D 80, A&D 81, A&D 82 and A&D 83, may only be provided to residents of Oregon. Residents of Oregon are Individuals who live in Oregon. There is no minimum amount of time an Individual must live in Oregon to qualify as a resident so long as the Individual intends to remain in Oregon. A child’s residence is not dependent on the residence of his or her parents. A child living in Oregon may meet the residency requirement if the caretaker relative with whom the child is living is an Oregon resident.
- j. **Tobacco Use.** If Contractor has Substance Use Disorders Services treatment capacity that has been designated for children, adolescents, pregnant women, and women with dependent children, Contractor must implement a policy to eliminate smoking and other use of tobacco at the facilities where the Services are delivered and on the grounds of such facilities.
- k. **Client Authorization.** Contractor must comply with 42 CFR Part 2 when delivering a Substance Use Disorder Service that includes disclosure of Client information for purposes of eligibility determination. Contractor must obtain Client authorization for disclosure of billing information, to the extent and in the manner required by 42 CFR Part 2, before a Disbursement Claim is submitted with respect to delivery of a Substance Use Disorder Service to that Individual.

16. **Community Mental Health Block Grant (CFDA 93.958).** All funds, if any, awarded under this Contract for Mental Health Services are subject to the federal use restrictions and requirements set forth in Catalog of Federal Domestic Assistance Number 93.958 and to the federal statutory and regulatory restrictions imposed by or pursuant to the Community Mental Health Block Grant portion of the Public Health Services Act, 42 U.S.C. 300x-1 *et. seq.*, and Contractor shall comply with those restrictions.
17. **Substance Abuse Prevention and Treatment (CFDA 93.959).** To the extent Contractor provides any Service in which costs are paid in whole or in part by the Substance Abuse, Prevention, and Treatment Block Grant, Contractor shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 U.S.C. 300x through 300x-66) and 45 CFR 96.130 regarding the sale of tobacco products. Regardless of funding source, to the extent Contractor provides any substance abuse prevention or treatment services, Contractor shall comply with the confidentiality requirements of 42 CFR Part 2. CMHP may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.
18. **Information Required by 2 CFR Subtitle B with guidance at 2 CFR Part 200.** All required data elements in accordance with 45 CFR 75.352 are available at: <http://www.oregon.gov/oha/amh/Pages/federal-reporting.aspx>.



**EXHIBIT K**  
**A&D 66 COMMUNITY BEHAVIORAL AND SUBSTANCE USE DISORDER SERVICES**

**1. Service Description**

- a.** Community Behavioral and Substance Use Disorder Services (A&D 66 Services) are Services delivered to youth and adults with Substance Use Disorders or to youth and adults with co-occurring substance use and mental health disorders. These Services shall be provided to Individuals who are not eligible for the Oregon Health Plan (OHP) or who otherwise do not have a benefit that covers the A&D 66 Services described in this Service Description.

The purpose of A&D 66 Services is to build upon resilience, assist Individuals to make healthier lifestyle choices, and to promote recovery from Substance Use Disorders. A&D 66 Services consist of outreach (case finding), early identification and screening, assessment and diagnosis, initiation and engagement, therapeutic interventions, continuity of care, recovery management, and Interim Services.

- b.** It is required that pregnant women receive Interim Services within 48 hours after being placed on a waitlist. At a minimum, 45 CFR §96.121 requires that Interim Services include the following:
- i.** Counseling and education about HIV and tuberculosis (TB);
  - ii.** Risks of sharing needles;
  - iii.** Risks of transmission to sexual partners and infants;
  - iv.** Steps to ensure that HIV and TB transmission does not occur;
  - v.** Referral for HIV or TB treatment services, if necessary;
  - vi.** Counseling on the effects of alcohol and drug use on the fetus; and
  - vii.** Referral for prenatal care.
- c.** A&D 66 Services must be evidence-based or promising practices. Services may be reduced commensurate with reductions in funding by OHA. Contractor shall provide the following Services, subject to availability of funds:
- i.** Outreach (case finding), early identification and screening, assessment and diagnosis, and education:
    - 1.** Outreach: Partner with healthcare Providers and other social service partners who provide screening for the presence of behavioral health conditions to facilitate access to appropriate Services.
    - 2.** Early Identification and Screening: Conduct periodic and systematic screening that identify Individuals with behavioral health conditions and potential physical health consequences of behavioral health conditions which consider epidemiological and community factors, as identified in the Local Plan or Regional Health Improvement Plan (RHIP) as applicable.
    - 3.** Assessment and Diagnosis: Perform multidimensional, biopsychosocial assessments as appropriate based on OAR 309-018-0140 to guide person-centered services and supports planning for behavioral health and co-existing physical health conditions. Identify Individuals who need intensive care coordination. Use the following standardized protocols and tools to identify the level of Service need and intensity of care and coordination, addressing salient characteristics such as age, culture, and language:

- a. American Society of Addiction Medicine (ASAM) for Individuals receiving Substance Use Disorder Services.
  - b. Level of Care Utilization System (LOCUS) for adults transitioning between the state hospitals, licensed mental health residential services, and Intensive Community Services. **“Intensive Community Services”** are defined as assertive community treatment, intensive case management, and supported or supportive housing.
  - c. Level of Service Intensity Determination for children including use of Child and Adolescent Service Intensity Instrument (CASII) and Early Childhood Service Intensity Instrument (ECSII) for children receiving services with “Intensive Outpatient Services and Supports” or “Intensive Treatment Services,” as defined in OAR 309-022-0105(43) and 309-022-0105(44), respectively.
4. Education: Partner with other community groups and organizations, including but not limited to schools, community corrections, and other related organizations, to perform education and outreach to potentially at-risk populations for alcohol and drug abuse in order to educate those groups around substance abuse treatment and recovery topics tailored to the individual groups’ needs, in order to educate the broader community on these issues as well as begin the process of promoting potential initiation and engagement in treatment Services within these populations.
- ii. Initiation and Engagement: Promote initiation and engagement of Individuals receiving Services and supports, which may include but are not limited to:
- 1. Brief motivational counseling;
  - 2. Supportive Services to facilitate participation in ongoing treatment; and
  - 3. Withdrawal management for Substance Use Disorders and supportive pharmacotherapy to manage symptoms and adverse consequences of withdrawal following assessment.
- iii. Therapeutic Interventions:
- General community-based Services, which may include:
- 1. Condition management and a whole person approach to single or multiple chronic conditions based on goals and needs identified by the Individual;
  - 2. General outpatient Services;
  - 3. Medication management for:
    - a. Mental health disorders (when providing Services for Individuals with co-occurring mental and Substance Use Disorders).
    - b. Substance Use Disorders:
      - i. Includes pharmacotherapy for adults diagnosed with opioid dependence, alcohol dependence, or nicotine dependence and without medical contraindications. Publicly funded programs will not discriminate in providing access to Services for Individuals using medications to treat and manage addictions.
      - ii. Pharmacotherapy, if prescribed, should be provided in addition to and directly linked with psychosocial treatment and support.
  - 4. Detoxification for Individuals with Substance Use Disorders under OAR 415-050-0000 through 415-050-0095. Supportive pharmacotherapy may be provided to

manage the symptoms and adverse consequences of withdrawal, based on a systematic assessment of symptoms and risk of serious adverse consequences related to the withdrawal process; and

5. Meaningful Individual and family involvement.

iv. Continuity of Care and Recovery Management:

1. Continuity of care Services includes:

- a. Coordinate and facilitate access to appropriate housing Services and community supports in the Individual's community of choice;
- b. Facilitate access to appropriate levels of care and coordinate management of Services and supports based on an Individual's needs in their community of choice;
- c. Facilitate access to Services and supports provided in the community and Individual's home designed to assist children and adults with Substance Use Disorders whose ability to function in the community is limited and for whom there is significant risk of higher level of care needed; and
- d. Coordinate with other agencies to provide intensive care coordination sufficient to help Individuals prevent placement in a more restrictive level of care and to be successfully served in their community of choice.

2. Recovery Management Services includes:

- a. Continuous case management;
- b. Monitoring of conditions and ongoing recovery and stabilization;
- c. Individual and family engagement, including provision of child care for parents actively involved in any of these treatment, education, outreach, or recovery support Services; and
- d. Transition planning that addresses the Individual's needs and goals.

2. Performance Requirements

- a. Contractor delivering A&D 66 Services with funds provided through this Contract may not use funds to deliver covered Services to any Individual enrolled in the Oregon Health Plan.
- b. The quality of A&D 66 Services supported with funds provided through this Contract will be measured in accordance with the criteria set forth below. These criteria are applied on a countywide basis each calendar quarter (or portion thereof) during the period for which the funds are awarded through this Contract. Contractor shall develop and implement quality assurance and quality improvement processes to improve progressively, as measured by the criteria set forth below, the quality of Services supported with funds provided through this Contract. OHA or County may assign performance payments to some or all of these standards and measures and may recommend additional actions to improve quality.
  - i. **Access:** Access is measured by OHA as the percentage of residents estimated by OHA surveys to need treatment who are enrolled in A&D 66 Services.
  - ii. **Treatment Service Initiation:** Treatment service initiation is measured as the percentage of Individuals served within 14 calendar days of their original assessment, also known as the index date. The index date is a start date with no Services in the prior 60 days.
  - iii. **Utilization:** OHA may measure utilization for Individuals receiving continuum of care services (non-detox).

- iv. **Engagement:** Engagement is measured by OHA as the percentage of Individuals receiving A&D 66 Services under this Contract who enter treatment following positive assessment.
- v. **Treatment Service Retention:** Treatment Service retention is measured by OHA as the percentage of Individuals receiving A&D 66 Services under this Contract who are actively engaged in treatment for 90 consecutive days or more.
- vi. **Reduced Use:** Reduced use is measured by OHA as the percentage of Individuals engaged in and receiving A&D 66 Services under this Contract who reduce their use of alcohol or other drugs during treatment, as reported in the MOTS data system, upon planned interruption in Services or 90 day retention, whichever comes first.
- vii. **Completion:** Completion is measured as the percentage of Individuals engaged in and receiving A&D 66 Services under this Contract who complete two thirds of their treatment plan and are engaged in recovery support or services at the time treatment Services are terminated. Providers of A&D 66 Services funded through this Contract must participate in client outcome studies conducted by OHA.
- viii. **Facility-Based Care Follow-Up:** Facility-based care follow-up is measured by the percentage of Individuals with a follow-up visit completed within 7 calendar days after: (A) hospitalization for mental illness; or (B) any facility-based Service defined as residential.
- ix. **Hospital and Facility-Based Readmission rates:** Hospital and facility-based readmission rates are measured by the number of Individuals returning to the same or higher levels of care within 30 and 180 calendar days against the total number of discharges.
- x. **Parent-Child Reunification:** Parent-child reunification is measured by the number of parents reunited with their child (or multiple children) against the number of parents served who have children in an out-of-home placement or foster care due to the Department of Human Service, Child Welfare Program's involvement.
- xi. **Functional Outcomes - Housing Status; Employment Status; School Performance; Criminal Justice Involvement:** The 4 functional outcome measures that will be monitored by OHA:
  1. Housing Status: If improved housing status is a goal of treatment or an Individual is homeless or in a licensed care facility, this measure will be monitored. This measure is defined as the number of Individuals who improve housing status as indicated by a change from homelessness or licensed facility-based care to private housing against the total number of Individuals with a goal to improve housing.
  2. Employment Status: If employment is a goal of treatment, this measure will be monitored. This measure is defined as the number of Individuals who become employed, as indicated by a change in employment status, against the number of Individuals with a goal of becoming employed.
  3. School Performance: If school attendance is a goal of treatment, this measure will be monitored. The measure is defined as the number of Individuals who improve attendance in school while in active treatment against the total number of Individuals with a goal of improved attendance in school.
  4. Criminal Justice Involvement: This measure will be monitored by OHA for Individuals referred for Services by the justice system. The measure is defined as the number of Individuals who were not arrested after 1 day or more of active

treatment or 2 consecutive quarters (whichever comes first) against the total number of Individuals referred for Services by the justice system.

**3. Reporting Requirements**

All Individuals receiving A&D 66 Services with funds provided through this Contract must be enrolled and that Individual's record maintained in the Measures and Outcomes Tracking System (MOTS) as specified in OHA's MOTS Reference Manual, located at:

<http://www.oregon.gov/OHA/amh/mots/Pages/resource.aspx>.

Contractor shall provide timely and relevant information to County as needed to enable County to submit reports to the State of Oregon on the delivery of all Services supported with funds provided through this Contract.

**EXHIBIT L**  
**PERFORMANCE STANDARDS**

**A. General Performance Standards**

1. Contractor ensures that all staff employed or contracted by Contractor who provide services or are otherwise engaged in activities under this Contract are fully aware of and in compliance with the terms and conditions of this Contract.
2. Contractor assures that all of Contractor's employees and independent contractors providing services under this Contract will work within the scope of their credentials and any applicable licensure or registration. Contractor shall not allow services to be provided by an employee or independent contractor who does not have a valid license or certification required by state or federal law.

**B. Staff Standards**

Contractor will provide the following for all staff who are in direct contact with County clients:

- Completion of a successful criminal history records check through the Background Check Unit, a Shared Service of the Department of Human Services and the Oregon Health Authority and compliant with ORS 181A.200 and OAR 943-007-0001 to 943-007-0501;
  - Appropriate education and academic degrees;
  - Licenses or certificates, as required; and
  - Relevant work history or qualifications.

**C. Monitoring**

County shall monitor services provided by Contractor and has the right to require Contractor's compliance with established standards and performance requirements relative to the services provided, administrative and fiscal management, and with all obligations and conditions stated in this Contract.

County may conduct compliance monitoring related to this Contract. Contractor shall cooperate with County in such monitoring. County shall provide Contractor twenty (20) business days written notice of any Contract compliance monitoring activity that requires any action or cooperation by Contractor. Notice of monitoring shall include the date monitoring shall occur, names of individuals conducting the monitoring, and instructions and requests for information.

**D. Abuse Reporting**

Contractor shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if Contractor were a mandatory abuse reporter. If Contractor is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. Contractor shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

**E. Confidentiality**

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.

**EXHIBIT M**  
**CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR**  
(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result;  
**AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- \_\_\_\_\_ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- \_\_\_\_\_ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- \_\_\_\_\_ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- \_\_\_\_\_ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- \_\_\_\_\_ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature \_\_\_\_\_

Date \_\_\_\_\_

Contractor Printed Name: \_\_\_\_\_



**EXHIBIT N**  
**QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT**

This Qualified Service Organization Business Associate Agreement (“Agreement”) is entered into as of \_\_\_\_\_ (“Effective Date”) by and between **Clackamas County Health, Housing and Human Services, Behavioral Health Division** (“Covered Entity”), Health Centers Division Alcohol and Drug Treatment Program (“Program”) and **Stay Clean Inc.** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations (“HIPAA”), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 (“Confidentiality Rule”).

**RECITALS**

**Whereas**, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;

**Whereas**, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Services Agreement”);

**Whereas**, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

**Whereas**, the Parties agree to establish safeguards for the protection of such information;

**Whereas**, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules **and** the Confidentiality Rule;

**Now, therefore**, the parties hereby agree as follows:

**SECTION I – DEFINITIONS**

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
  - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
  - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
  - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.

- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.10 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.11 “Program” shall have the meaning given to such term under the Confidentiality Rule, 42 CFR §2.11.
- 1.12 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
- 1.13 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
- 1.14 “Qualified Service Organization” shall have the meaning defined under the Confidentiality Rule, 42 CFR §2.11.
- 1.15 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.16 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.17 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.18 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.19 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

## **SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE**

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;

- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
- 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
- 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it

- provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
- 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
  - 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
  - 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

### **SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:**

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly, information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.
- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
  - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,
  - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further

disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

#### **SECTION IV – NOTICE OF PRIVACY PRACTICES**

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. The Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.

#### **SECTION V – BREACH NOTIFICATION REQUIREMENTS**

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
- a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
  - b. By notice in plain language including and to the extent possible:
    - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
    - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
    - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
    - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
  - c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
  - d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

## SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity’s knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible.
- If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.
- Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.
- 6.3 **Effect of Termination.**
- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

## SECTION VII – GENENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Agreement to the Confidentiality Rule, HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Covered Entity.** Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution Covered Entity agrees to indemnify, defend and hold harmless the Business Associate and its employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Covered Entity’s breach of Section 4.1 of this Agreement. Accordingly, on demand, Covered Entity shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Covered Entity’s breach hereunder. Covered Entity’s obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Section II and III of this Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.6 **Survival.** The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.
- 7.7 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.

(Signature Page for QSOBAA Follows)





January 31, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Contract with RoJoy Services, LLC for the  
Operations of the Mt Hood Express Bus Service in the Mt Hood area**

<b>Purpose/Outcomes</b>	Agreement with Rojoy Services, LLC, to operate the Mt Hood Express bus service to continue transit to Government Camp and other locations in the Mt. Hood area.
<b>Dollar Amount and Fiscal Impact</b>	The maximum contract value is \$737,975
<b>Funding Source</b>	FTA 5311 Rural Transportation and Federal Lands Access Program grant funds
<b>Safety Impact</b>	Reduction of congestion on Highway 26
<b>Duration</b>	The contract will begin on February 1, 2019 and terminate on June 30, 2020
<b>Strategic Plan Alignment</b>	1. This funding aligns with the strategic priority to increase self-sufficiency for low income households.  2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by providing public transit services in rural communities
<b>Contact Person</b>	Brenda Durbin, Director, Social Services Division 503-655-8641
<b>Contract No.</b>	8903

**BACKGROUND**

This agreement is for Rojoy Services, LLC, to operate the Mountain Express bus service in the Mt. Hood area. The service provided included driving, dispatch, preventative maintenance, safety training and oversight and other services that keep the day-to-day operations of the bus running smoothly. The service provides access to work, school, and recreational opportunities for both residents and visitors of Clackamas County.

Since 2006, Clackamas County Social Services through a contracted operator has provided public transit service between the City of Sandy and locations on Mt Hood, including Welches, Government Camp and Timberline Lodge. The service includes rural, point deviated fixed route bus service operating on the Highway 26 corridor from the City of Sandy to Rhododendron three times daily seven days per week year round (Villages Shuttle) and express bus service between the City of Sandy, Government Camp and Timberline Lodge which runs six times daily year round with one additional run in the evenings Dec 1 to March 31 and three additional runs on weekends and holidays December to February (Express).

**PROCUREMENT PROCESS:**

The City of Sandy conducted a cooperative Request for Proposals with the scope of work for the Mt Hood Express included. This project advertised in accordance with ORS and LCRB Rules on April 24, 2018, Proposals were opened on May 15, 2018. One proposal was received and notice of intent to award after a full evaluation of the received Proposal was publicly posted on May 21, 2018.

County Counsel has reviewed and approved this contract.

**RECOMMENDATION:**

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

Respectfully submitted,

Richard Swift, Director  
Health, Housing and Human Services Department

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



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this "Contract") is entered into between RoJoy Services LLC ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of the Department of Health, Housing and Human Services/Social Services Division.

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective February 1, 2019 upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on June 30, 2020. The parties may, by mutual written consent, renew this Contract for up to three (3), one (1) year renewals thereafter. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

2. Scope of Work. This Contract covers the Scope of Work as described in City of Sandy RFP Sandy Area Metro (SAM) Operations, issued April 13, 2018, attached and hereby incorporated by reference as Exhibit "D." This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit "D", the Contractor's Proposal to City of Sandy RFP Sandy Area Metro (SAM) Operations attached and hereby incorporated by reference as Exhibit "E", the Additional Terms and Conditions attached and hereby incorporated by reference as Exhibit "F", the Required Federal Clauses (FTA) for Third Party Procurements attached and hereby incorporated by reference as Exhibit "G", the Rail and Public Transit Division Oregon Department of Transportation Agreement No. 31910, Operation 5311 attached and hereby incorporated by reference as Exhibit "H", and the FTA Fiscal Year 2018 Certifications and Assurances attached and hereby incorporated by reference as Exhibit "I". Work shall be performed in accordance with a schedule approved by the County.

3. Consideration. The County agrees to pay Contractor, from available and authorized funds, a total maximum sum not to exceed \$214,412.00 (two hundred fourteen thousand four hundred twelve dollars) in Fiscal Year 1 (February 1, 2019 to June 30, 2019) and \$523,833.00 (five hundred twenty three thousand eight hundred thirty three dollars) in Fiscal Year 2, for a total maximum sum of \$737,975.00 (seven hundred thirty seven thousand nine hundred seventy five dollars) over the entire term of the Contract, not including the optional three (3), one (1) year renewals, for accomplishing the Work required by this Contract. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Travel and Other Expense. Authorized: [ ] Yes [x] No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at:
http://www.clackamas.us/bids/terms.html. Travel expense reimbursement is not in excess of the not to exceed consideration.

5. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibits A, B, C, D, E, F, G, H, and I.

6. Contractor Data.

Name: RoJoy Services LLC
Address: 20450 E. Alder Creek Road, Sandy, Oregon 97055
Contractor Contract Administrator: Joyce LeDoux
Phone No.: 503-935-1448
Email: Joyceledoux1@gmail.com
MWESB Certification: [x] DBE #8736 [ ] MBE # [ ] WBE # [ ] ESB #

Payment information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to backup withholding.

## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
7. **HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
8. **INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials,

agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.

- 9. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Oregon Public Employees Retirement System); and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Exhibit C)

At present, the Contractor certifies that he or she, if an individual is not a program, County or Federal employee. The Contractor, if an individual, certifies that he or she is not a member of the Oregon Public Employees Retirement System.

- 10. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit B**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
- 11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us), or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.
- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed

and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any Work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

- 20. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by

this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice; or (E) if County, in its sole administrative discretion, determines the Work should either be discontinued or performed by a different entity, service, or other program that is able to provide comparable public transit services including, but not limited to, assumption of the Work by a Transportation Management Association.

- 21. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 22. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract. Provided, however, that Contractor shall indemnify and defend the State of Oregon pursuant to the terms and conditions of Exhibit F.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract: (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract;

(iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.

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

(C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

(D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

**28. CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11)), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the



nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines, and corrective actions (including credit monitoring and identity restoration services) arising from disclosure of such Confidential Information caused by a data breach or a breach of Contractor's confidentiality obligations hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

**29. CRIMINAL BACKGROUND CHECK REQUIREMENTS.** Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

**30. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

[SIGNATURE PAGE FOLLOWS]

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

RoJoy Services LLC  
20450 E Alder Creek Road  
Sandy, Oregon 97055

Clackamas County:

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

\_\_\_\_\_  
Chair

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone/Fax Number

\_\_\_\_\_  
Approved as to Form:

\_\_\_\_\_  
Oregon Business Registry #

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

\_\_\_\_\_  
Entity Type / State of Formation

\_\_\_\_\_  
Date

**EXHIBIT A**  
**PERSONAL/PROFESSIONAL SERVICES CONTRACT**

**SCOPE OF WORK**

Contractor shall provide public transit services along Highway 26 corridor east of Sandy, Oregon as further described in Exhibits D, E, and F hereby attached and incorporated by reference.

The County Contract administrator for this Contract is: Teresa Christopherson.

**CONSIDERATION**

- a. Consideration Rates – Time and Material as further described in Exhibit F, here by attached and incorporated by reference.
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed a total maximum sum not to exceed \$214,412 (two hundred fourteen thousand four hundred twelve dollars) in Fiscal Year 1 (February 1, 2019 to June 30, 2019) and \$523,833 (five hundred twenty three thousand eight hundred thirty three dollars) in Fiscal Year 2 , for a total maximum sum of \$737,975 (seven hundred thirty seven thousand nine hundred seventy five dollars)over the entire term of the Contract, not including the optional three (3), one (1) year renewals. Invoices shall be submitted to: Teresa Christopherson, 2051 Kaen Road, Oregon City, Oregon, 97045, or via email at [TeresaChr@clackamas.us](mailto:TeresaChr@clackamas.us).
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.

**EXHIBIT B  
INSURANCE**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

**1. Required by County of Contractor with one or more workers, as defined by ORS 656.027.**

**Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.**

**2.  Required by County  Not required by County**

**Professional Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

**3.  Required by County  Not required by County**

**General Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract.

**4.  Required by County  Not required by County**

**Automobile Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**5.  Required by County  Not required by County**

**Workers Compensation** insurance with a combined single limit, or the equivalent, not less than \$500,000 per occurrence.

**6. Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. The insurance for general liability and automobile liability must include an endorsement naming the County, its officers, elected officials, agents, and employees as additional insureds with respect to the Work under this Contract. Insuring companies or entities are subject to County acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

**7. Notice of cancellation or change.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).

**8.** The Contractor will notify the County Project Manager immediately of any damages, accidents or injuries that occur during or in possession of leased vehicles.

**EXHIBIT C**  
**CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR**

(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result; **AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- \_\_\_\_\_ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- \_\_\_\_\_ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- \_\_\_\_\_ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- \_\_\_\_\_ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- \_\_\_\_\_ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature \_\_\_\_\_ Date \_\_\_\_\_

**EXHIBIT D**  
**City of Sandy RFP Sandy Area Metro (SAM) Operations**

# REQUEST FOR PROPOSALS (RFP)



**CITY OF SANDY, OREGON**

**Sandy Area Metro (SAM)  
16610 Champion Way  
Sandy, Oregon**

**503-489-0925, Fax 503-826-0618**

**RFP No: SAM2018**  
Issuance Date: April 13, 2018

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**Project: Sandy Area Metro (SAM) Operations**

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**PROPOSALS DUE: May 2, 2018 NOT LATER THAN 1:00 PM  
LATE PROPOSALS WILL NOT BE ACCEPTED**





**City of Sandy  
Request for Proposals for Transit Operations**

**SECTION I**

**REQUEST FOR PROPOSALS**

Notice is hereby given that The City of Sandy Transit Department will receive sealed proposals until 1:00 pm **May 2, 2018**, at the City Operation Center, Transit Department, 16610 Champion Way, Sandy, Oregon 97055 for providing:

**TRANSIT OPERATION SERVICES FOR THE CITY OF SANDY**

City of Sandy is requesting proposals by 1:00pm on May 2, 2018 for the daily operation of the City's bus service. No proposals will be received or considered after that time. Sealed proposals are to be sent to Andi Howell, Transit Director, City of Sandy, 16610 Champion Way, Sandy, Oregon 97055. Phone 503-489-0925.

Each proposal must contain a statement as to whether the vendor is a resident vendor, as defined in ORS 279A.120. This is not a public works contract subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 3141 et seq.).

The City of Sandy reserves the right to reject any and all proposals not in compliance with all prescribed public bidding procedures and requirements,

and may reject for good cause any and all proposals upon the finding that it is in the public interest to do so, to waive any and all informalities.

DATED this 13th day of April 2018

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Andi Howell, Transit Director

## **SECTION II**

### **INSTRUCTIONS AND CONDITIONS**

#### **2.1 GENERAL:**

Bidders must study carefully and conform to these "Instructions and Conditions" so that their proposals will be regular, complete and acceptable.

#### **2.2 PROPOSALS:**

All proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this solicitation.

Proposals carrying orders or qualifications may be rejected as irregular.

All proposals must be signed in ink in the blank spaces provided herein (Section III). If the proposal is made by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the proposal is made by a corporation, it must be signed in the name of such corporation by an official who is authorized to bind the Service provider (Contractor).

#### **2.3 DELIVERY OF PROPOSALS:**

All proposals must be submitted in a sealed envelope, bearing on the outside the name and address of the Service provider, the name of the

project for which the proposal is submitted and the time and date of the scheduled opening. If the proposal is forwarded by mail, the sealed envelope containing the proposal and marked as directed above, must be enclosed in another envelope addressed to the Transit Director, City of Sandy, 16610 Champion Way, Sandy, Oregon 97055.

#### **2.4 RECEIPT AND OPENING OF PROPOSALS:**

Proposals shall be submitted prior to the time fixed in the advertisement for proposals. Proposals received after the time so designated will be considered late proposals and will be returned unopened.

No responsibility will be attached to any official of the City for the premature opening of, or the failure to open, a proposal not properly addressed and identified.

At the time fixed for the opening, the proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and shall be open for public inspection after contract award. Once the closing time and date arrive, the names of the offerors submitting proposals are read publicly. No other information will be disclosed.

#### **2.5 WITHDRAWAL OF PROPOSALS:**

Proposals may be withdrawn by written or telegraphic request received from the Service providers prior to the time fixed for opening. Negligence on the part of the vendor in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened. The proposal will be irrevocable until such time as the City of Sandy:

1. Specifically rejects the proposal, or;
2. Awards a contract and said contract is properly executed.

Service providers' proposals must be valid for at least 120 days.

#### **2.6 MODIFICATION:**

Any Service provider may modify his/her proposal by registered communication at any time prior to the scheduled closing time for receipt of proposals, provided such communication is received prior to the closing time.

The communication should not reveal the proposal price but should provide that the final price or terms will not be known until the sealed proposal is opened.

## **2.7 ACCEPTANCE OR REJECTION OF PROPOSALS:**

In the award of the contract, the City of Sandy will consider the element of time, will accept the proposal or proposals which in their estimation will best serve the interests of the City, and will reserve the right to award the contract to the Service provider whose proposal shall be best for the public good. The City of Sandy reserves the right to accept or reject any or all proposals. Without limiting the generality of the foregoing, any proposal which is incomplete, obscure or irregular may be rejected. Only one proposal will be accepted from any one firm or association. Any evidence of collusion between proposers may constitute a cause for rejection of any proposals so affected.

The City shall, pursuant to ORS 279A.120, for the purposes of awarding the contract, add a percent increase on the proposal of a nonresident proposer equal to the percent, if any, of the preference given to that proposer in the state in which the proposer resides. "Resident proposer" means a proposer that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the proposal, has a business address in this state and has stated in the proposal whether the proposer is a "resident proposer".

The City may accept any items or groups of items of any offer, unless the proposer qualifies his/her offer by specific limitations.

## **2.8 ADDENDA AND INTERPRETATIONS:**

No oral interpretations shall be made to any proposer as to the meaning of any of the contract documents or be effective to modify any of the provisions of the contract documents. Every request for an interpretation shall be made in writing and addressed to the Transit Director and, to be given consideration, must be received at least fourteen (14) calendar days prior to the date set for the opening of proposals. Any and all such interpretations will be posted on the City website, [www.cityofsandy.com/transit](http://www.cityofsandy.com/transit), for all prospective proposers not later than five days prior to the date fixed for the opening of proposals. Failure of any

proposer to access any such addendum or interpretation shall not relieve such proposer from any obligation under this proposal as submitted. All addenda so issued shall become as much a part of the contract documents as if bound herein.

## **2.9 NONDISCRIMINATION:**

The successful Service provider agrees that, in performing the work called for by this proposal and in securing and supplying materials, Service provider will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical or mental handicap, national origin or ancestry unless the reasonable demands of employment are such that they cannot be met by a person with a particular physical or mental handicap.

## **2.10 FAILURE TO SUBMIT OFFER:**

If no offer is to be submitted, do not return the RFP. Failure of the recipient to offer, or to notify the issuing office that future solicitations are desired, will not result in removal of the name of such recipient from the mailing list for the type of supplies or services covered by the solicitation.

## **2.11 PREPARATION OF OFFERS:**

Proposers are expected to examine the specifications, schedules and all instructions.

Each proposer shall furnish the information required by the solicitation. Proposers shall sign the solicitation and print or type their name on other submitted exhibits and each continuation sheet thereof on which an entry is made. Erasures or other changes must be initialed by the person signing the offer. Proposals signed by an agent are to be accompanied by evidence of his/her authority unless such evidence has been previously furnished.

## **2.12 SPECIFICATIONS LIMITING COMPETITION:**

Proposers may comment on any specification or requirement contained within this RFP, which they feel limits competition in the selection of a proposer to perform the services herein defined.

Such comments shall be formal in writing, and are to be addressed to:

City of Sandy  
Specification Protest, **Transit Service Operations**  
16610 Champion Way  
Sandy, OR 97055

Such comments shall be submitted to City of Sandy no later than TEN (10) days prior to the Opening Date. No comments will be accepted after that time.

**2.13 EMPLOYEES NOT TO BENEFIT:**

No employee or elected official of City of Sandy shall be admitted to any share or part of this contract or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

**2.14 DEFAULT:**

The City may, subject to the provisions of paragraph (4) below, by written notice of default to the Service provider, terminate the whole or any part of this contract in any one of the following circumstances.

- 1.** If the Service provider fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or
- 2.** If the Service provider fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failures within a period of ten (10) days (or such longer period as the City may authorize in writing) after receipt of notice from the City specifying such failure.
- 3.** In the event the City terminates this contract in whole, or in part, as provided in paragraph (2) above of this clause, the City may procure, upon such terms and in such manner as the City may deem appropriate, supplies or services similar to those terminated, and the Service provider shall be liable to the City for any excess costs for such similar supplies or services; provided, that the Service provider shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

**4.** The Service provider shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Service provider. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the City in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather; but, in every case, the failure to perform must be beyond the control of the Service provider and without the Service provider's fault or negligence. The Service provider shall not be liable for excess costs for failure to perform, unless the supplies or services to be furnished were obtainable from other sources in sufficient time to permit the Service provider to meet the required performance schedule.

**5.** The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

### **2.15 PAYMENTS:**

The Service provider shall be paid, upon the submission of proper instruments as outlined below, the prices stipulated in the proposal for services rendered and accepted, less deductions, if any, as provided.

**1.** No claims will be considered for payment until the accurate record for the purposes of computing compensable time and services are rendered, and said records are submitted by the end of each month for payment by the City.

**2.** Payments will be made monthly, or as agreed, for any claims supported by an invoice.

**3.** For a period of one year after payment of any claim, City reserves the right, under this contract, to recover any damages due the City as specified in the Clause of this contract entitled "Default".

### **2.16 TAXES:**

Taxes, whether state or federal, shall not be included in proposal prices.



The City is generally exempted from federal taxes, specifically, but not limited to excise and transportation taxes.

**2.17 LITIGATION:**

In the event litigation is necessary the Service provider agrees that such will be conducted in the courts of Clackamas County and/or the State of Oregon.

**2.18 NOTICE OF INTENT TO AWARD:**

The notice of intent to award of the contract by City of Sandy shall constitute a final decision of the City’s intent to award the contract if no written protest of the award is filed with the City Transit Director within seven (7) calendar days of the notice of intent to award. If a protest is timely filed, the award is a final decision of the City’s intent to award only upon issuance of a written decision denying the protest and affirming the award. The award and any written decision denying protest shall be sent to every proposer who provided an address.

Right to Protest: Any actual proposer who is adversely affected or aggrieved by the City’s award of the contract to another proposer on the same solicitation shall have seven (7) calendar days after notice of intent to award has been issued to submit to the City Transit Director a written protest of the award. The written protest shall specify the grounds upon which the protest is based. In order to be an adversely affected or aggrieved proposer with a right to submit a written protest, a proposer must be next in line for award, i.e. the protester must claim that all higher rated proposers are ineligible for award because they are non-responsive or non-responsible. The City will not entertain protests submitted after the time period established in this rule.

**SECTION III**

**PROPOSAL RESPONSE**

Submitted by: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_ Phone number: \_\_\_\_\_

The undersigned, through the formal submittal of this proposal response, declares that he/she has examined all related proposal documents and read the instruction and conditions, and hereby proposes to provide **Transit Operations Service for the City of Sandy** as specified, in accordance with the proposal documents herein for the price set forth in the proposal submittal attached hereto and forming a part of this proposal.

The Proposer, by his signature below, hereby represents as follows:

(a) That no official or employee of City of Sandy is personally interested directly or indirectly in this contract or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the City, its officials or employees had induced him/her to enter into this contract and the papers made a part hereof by its terms;

(b) That this proposal is made without connection with any person, firm or corporation making a bid for the same material, and is in all respects, fair and without collusion or fraud.

(c) The proposer agrees to accept as full payment for the services specified herein, the amount as shown in his/her proposal.

(d) The Vendor certifies that the Vendor has not discriminated and will not discriminate against any minority, women or emerging small business enterprise in obtaining any subcontract.

Resident Bidder, as defined in ORS 279A.120.

Non-Resident Bidder, Resident State: \_\_\_\_\_

The names of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

(If Sole Proprietor or Partnership)

In witness hereto, the undersigned has set his (its) hand this \_\_\_\_\_  
day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Signature of Bidder

**3.1 GENERAL:**

Service provider must observe submittal instructions and be advised as follows:

- 1.** Proposals must be submitted in a sealed envelope, bearing on the outside the name and address of the Service provider, the name of the project for which the proposal is submitted and the time and date of the scheduled opening.
- 2.** If the proposal is forwarded by mail, the sealed envelope containing the proposal and marked as directed above, must be enclosed in another envelope addressed to the Transit Director, City of Sandy, 16610 Champion Way, Sandy, Oregon 97055.
- 3.** No proposal will be accepted after 1:00 P.M. on May 2, 2018.
- 4.** Four copies of the proposal are to be submitted.

### **3.2 PROPOSAL CONTENTS AND FORMAT:**

***To simplify and expedite the review process, candidates are requested to prepare their proposals in the format specified below.***

#### **1. Transmittal Letter**

The transmittal letter should be no more than two pages long and include as a minimum;

- a) A brief understanding of the services to be performed.
- b) A positive commitment to perform the services within the time period specified and under the terms of the RFP.
- c) The names of the persons authorized to represent the respondent, their title, address and telephone number (if different from the individual who signs the transmittal letter).

#### **2. Experience: Briefly describe your experience with the following areas:**

- a) Delivering rural transportation services
- b) Scheduling and dispatching transportation services
- c) Knowledge of federal and state requirements, including but not limited to ADA, drug & alcohol use restrictions and data reporting

#### **3. Cost Proposal (Appendix A)**

#### **4. References**

At least two references with name of contact person, organization, telephone number, description and dates of service indicating proposer's experience providing similar services.

#### **5. Approach**

A brief description (**no more than five pages excluding attachments**) of experience and ability to provide similar service. Please include a discussion of your experience providing fixed-route and/or paratransit demand-response service. This should include:

- a) Experience and approach to scheduling and dispatching demand-response service;
- b) Description of driver hiring and training program, supervision and performance monitoring; ability to hire and retain additional drivers as needed;
- c) Description of what measures will be taken to serve riders with disabilities including physical, developmental, visual and hearing disabilities;
- d) Description of knowledge of federal and state requirements including but not limited to ADA, drug & alcohol use restrictions, driver testing and data reporting;
- e) Methods used to ensure service is responsive to needs of customers;
- f) Methods used for handling emergencies, safety and security;
- g) Methods used to monitor and ensure excellent customer service, including driver attitude and behavior, attitude of dispatchers and "extra touches" in the vehicle for convenience of passengers;
- h) Methods used to monitor and ensure service quality and safety, such as on-time service, customer service and response to requests for rides;
- i) How vehicle breakdowns will be handled when vehicles are in service;
- j) Capability and management approach;
- k) Labor relations program;
- l) Financial viability;
- m) Ability to start providing service in July 2018.

Submittals may include supporting documentation such as samples of pre-run vehicle inspection forms, driver evaluation forms, or other forms or policies and procedures that are relevant to this program.

**Submittals must be received no later than Wednesday, May 2, 2018 at 1:00 PM.** The City will not accept faxed proposals. Submittals should include 4 copies. Submittals should be mailed or hand delivered to Sandy City Operations Center at:

City of Sandy  
Transit Department

16610 Champion Way  
Sandy, OR 97055

## **SECTION IV**

### **STANDARD SPECIFICATIONS AND SCOPE OF WORK**

#### **4.1 PURPOSE OF THIS REQUEST FOR PROPOSALS:**

The City of Sandy and Clackamas County are seeking proposals from qualified firms for the daily operation of the Sandy Transit System and Mt. Hood Express. A coordinated bid proposal, showing how efficiencies could be gained through coordination with the Mount Hood Express (managed by Clackamas County Social Services Division), is encouraged. Qualified firms will have a minimum of three years' experience providing similar services. The selected firm will use vehicles owned by the City of Sandy and/or Clackamas County. Service providers for City of Sandy will operate from the City Operations Center in the City of Sandy, Oregon. Requested services include fixed-route, commuter route, deviated fixed route, general public demand-response service (Sandy only), demand-response services that meet ADA requirements and a non-emergency medical rides program (Sandy only).

#### **4.2 BACKGROUND:**

The City of Sandy assumed transit operations for the City from TriMet in January 2000. This service includes fixed-route service in Sandy and commuter service between Sandy and Gresham Central Transit Center; deviated fixed-route commuter service between Sandy and Estacada; general public demand-response service; ADA complementary paratransit service; and non-emergency medical rides for services not available in city limits. Clackamas County Social Services through a contracted operator provides public transit service seven days per week for both the commuter routes and the point deviated fixed routes. The service shall consist of a rural, point deviated fixed route system operating on the Highway 26 corridor from the City of Sandy to Rhododendron three times daily seven days per week year round and express runs six times daily year round with one additional run in the evenings Dec 1 to March 31 and three additional runs on weekends and holiday December to February.

The City currently contracts service. A copy of the contract is available to proposers upon request. This RFP includes amendments to the previous contract. This RFP defines the tasks for which the Contractor (Service provider) and the City will be responsible.

Questions are encouraged and can be answered at the optional pre-proposal conference on **Wednesday April 18, 2018 at 2:00 pm at the City Operations Center, 16610 Champion Way in Sandy, Oregon.** The City will accept additional questions in writing up to Monday, April 23, 2018 at 1:00 PM local time.

Andi Howell  
Transit Director  
16610 Champion Way  
Sandy, OR 97055  
503-489-0925  
Fax 503-826-0618  
ahowell@ci.sandy.or.us

#### **4.3 SERVICE DESCRIPTION: (City of Sandy and Clackamas County Scope of Work provided respectively)**

**The City of Sandy reserves the right to change the number of hours and routes proposed for the fixed-route and the demand-response services. If changes result in more than 15% of the contract hours, contract costs will be negotiated to neutralize impact. (Current plans include increased service hours on nearly all routes).**

**Contractor will provide** half-hourly fixed-route transit service between the City of Sandy and the Gresham Central Transit Center between 5:30 am and 9:00 pm weekdays, hourly service between 5:30 am and 10:30 pm Saturdays and 8 runs Sunday (8 hours). **(SAM-Gresham I & II; approximately 8840 hours annually)**

**Contractor will provide** approximately 4 hours of deviated fixed-route commuter service weekdays and Saturdays between Sandy and Estacada. **(SAM-Estacada; approximately 1248 hours annually)**

**Contractor will provide** approximately 3 hours of deviated fixed-route commuter service weekdays in Sandy city limits, between 12:00 pm and 3:00 pm. **(SAM Shopper; (approximately 780 hours)**

**Contractor will provide** general public intra-city curb-to-curb service in the form of general public and ADA compliant demand-response service from 5:30 am-9:00 pm weekdays and 10:15 am to 4:30 pm Saturdays. **(STAR; approximately 4447 hours annually)**

**Contractor will provide** additional ADA compliant service as required during any hours of SAM service (early Saturday and all day Sunday currently provided by dispatcher).

There will be no service on the following holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas.

**Contractor will provide special events** service as requested. Usually this is extended hour service during Sandy Mountain Festival.

**Contractor will provide** door-to-door service for qualifying trips for frail elderly and people with disabilities Monday-Friday 5:30 am-5:00 pm. This service will be coordinated with qualifying trips for Sandy Senior Center clients. The Contractor will use shared rides to maximize efficiencies. While rides will have at least one trip end in the Sandy area, the other end can be anywhere within the Portland metropolitan area. Other ADA eligible trips will be provided with feeder service, **STAR** to **SAM**, or curb-to-curb service and transferred to TriMet as needed at the Gresham Central Transit Center. This service required approximately **1956** revenue hours, split between Sandy Transit and Sandy Senior Center clients.

People using this service may use a wheelchair or other mobility device, may have a physical or developmental disability, and are permitted to travel with a personal care attendant and/or a service assistance animal.

#### Scheduling and Dispatch and Staffing

**The Contractor will provide** trip reservation scheduling and dispatch services at a minimum between 8:00 am and 5:00 pm weekdays and 9:30 am and 5:00 pm Saturdays. This will be in accordance with all ADA



requirements. Trip reservation scheduling and phone skills using excellent customer service is preferred **during all hours of operations**. Mobilitat Easy Rides, a computerized scheduling and dispatch system, is provided by the City; the Contractor must have the ability to provide this function effectively and efficiently. The Contractor will use ride bundling for service efficiency. Proposers should provide a detailed explanation of scheduling and dispatching methodologies, describe experience and identify any special hardware and/or software used for this purpose. An automated answering system must be used during non-business hours to provide general information and accept reservations in compliance with ADA requirements.

**The Contractor will** specify software experience if not with Easy Rides 3.0.

**The City will** provide computer hardware and software for two stations, access to the internet, printer, copier and fax machine.

**The City will** provide office space for day-to-day operations including one supervisory office, a dispatch office, four telephone lines, personnel break room, lockers, kitchen area, and bathrooms.

Service Transition (if necessary)

**The Contractor will** facilitate an efficient transition of service, which will entail working cooperatively with the City and the outgoing contractor at the beginning of the contract period and, similarly, with City and the incoming contractor at the end of the contract period. A transition schedule will be established detailing a list of critical tasks, deadline for their completion and person(s) responsible for each.

Contractor will ensure that at all times during the term of this contract: Vehicle operators and other personnel needed are employed and fully trained (including full understanding of the services to be provided).

### Vehicles

**The City of Sandy will provide** contractor with 9-12 ADA accessible vehicles. The vehicles will include equipment to maintain communication with all vehicle operators at all times. (radio or cell phone push-to-talk). At least one vehicle will be used as a back-up for times when a vehicle is undergoing

maintenance or for an emergency breakdown. See list of the current fleet Appendix B.

### Vehicle Maintenance

**The City will provide for** vehicle maintenance and repairs.

**Contractor will provide** maintenance management, scheduling and supervision of maintenance services including transportation of vehicles for maintenance services with vendors.

**The Contractor will** remain proactive in providing for scheduled vehicle maintenance and vigilant in watching for vehicle problems. Scheduling for and delivery to appropriate vendors for all preventive maintenance and non-planned repairs must be completed in a timely manner.

**The City will** process all warranty claims at City expense. The Contractor will complete warranty information as needed for claim(s).

**The Contractor will provide** a project/operations manager on-call during all hours of operations.

**The Contractor will provide** a monthly vehicle maintenance log for all services on each vehicle.

**The Contractor will** be responsible for daily cleaning of the inside and regular cleaning of the outside of vehicles to ensure the vehicles are maintained in good condition. City leaders expect the vehicles to be a source of local pride.

**The Contractor will** conduct daily pre-trip and post-trip vehicle inspections, completing a form approved by the City. The Contractor will promptly report any problems to the City and will not put any vehicle on the road unless it meets agreed safety standards.

**The City will supply all vehicles** with emergency equipment in consultation with the Contractor. This includes, at a minimum, fire extinguisher, emergency triangle, first aid kit, blood borne pathogens kit,

fluids kit and flashlight. All fire extinguishers will be serviced by the City on a routine basis as required.

### Vehicle Storage and Operating Facilities

**The City will provide** vehicle storage and operating facilities in Sandy. The City will provide utilities, i.e., lights, heat, air-conditioning, water, sewer, internet, phones, fax, copier. The City will maintain the operations facilities.

### Fuel

**The City will provide for** fuel for all vehicles.

**The Contractor will** fuel all vehicles at Pacific Pride card-lock in Sandy.

### Driver Hiring, Training and Evaluation

**The Contractor will be responsible for hiring dispatchers, drivers and staff, orientation and on-going training, supervision and evaluation.** The contractor shall conduct both a criminal and a driver history background check before hiring drivers.

**The Contractor will** ensure compliance with Federal Transit Administration (FTA) regulations as described in 49 CFR Part 655 (as amended), Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations and 49 CFR Part 40, Conducting workplace drug and alcohol testing.

**The Contractor will ensure** that all drivers operating in service for the City of Sandy will possess a current Oregon class B-Commercial Driver's License with both airbrake and passenger endorsements.

**The Contractor will provide** written policies for safe operating procedures in all conditions including inclement weather, accidents and emergencies. The City will provide policies for customer service, ADA service, non-discrimination, media notification during inclement weather, age restrictions for unaccompanied minors, carry-on items, no-shows, suspension of services, and other policies as developed.

**The Contractor will provide** dispatch and driver training in at least the following areas:

- Defensive driving including emergency situations
- Passenger Safety/Blood Borne Pathogens
- Passenger sensitivity and customer service
- Disability issues
- Mobility Assistance, including proper use and handling of vehicle passenger lifts or ramps and other equipment
- FTA Drug/Alcohol rules & regulations
- ADA Act
- Accident procedures
- Passenger Fluids & Clean-up
- Safety Equipment
- Cellular phones
- Confidential radio communication, i.e., 10-codes
- Passenger behavior problems and security training
- Customer service

**The Contractor will** provide an outline of its training curriculums with the amount of time committed to each of the training topics with its proposal. The City reserves the right to request additional training in any area it deems necessary.

**The Contractor shall conduct,** at a minimum, yearly evaluations that will include updated criminal and driver history checks. The contractor will consult with the City in developing evaluations regarding any input the City may have received from customers.

**The Contractor will** ensure that all drivers meet the following minimum criteria to participate in this program:

1. No more than two (2) moving violations in any one-year period. No more than three (3) moving violations in any three (3) year period during the service contract or in the five (5) years prior to application of this program (personal and commercial records inclusive).
2. If license has ever been suspended, applicant must have five (5) full subsequent years with no violations.

3. If license has ever been revoked, must have ten (10) subsequent years with no violations.
4. Under no condition, will an applicant be accepted as a driver for this program if (1) he/she has been convicted of a felony, (2) and/or has been convicted of a drug or alcohol offense including DUII diversion.
5. **Contractor will require drivers to inform his/her supervisor of every conviction for a moving traffic violation immediately after such conviction. Failure to provide proper disclosure may be grounds for suspension or dismissal.**

**The Contractor will** provide uniforms for all field personnel, as approved by the City. These may include both summer and winter uniforms.

**The City** reserves the right to require the removal of any driver, dispatcher or supervisor it deems is not an asset to the City.

Employee Wages, Salaries and Benefits

**The Contractor will**, as is reasonable, retain current employees now operating with the current Contractor, giving the present workers first opportunities for employment.

**The Contractor, at a minimum, shall make available** to employees providing service to the City the following level of employee wages, salaries and benefits:

1. Wages and Salaries: The Contractor shall provide wages and salaries commensurate with the responsibilities of the positions offered and in concert with current market labor rates in order to ensure a qualified available work force. At a minimum, wages should include:

Driver and Dispatch Salary Range

Fixed/Commuter route; demand–response; ADA or medical transit operators can start at different step levels or wage levels within the step. Wages can be within corresponding step range for seniority.

Shift differentials are encouraged for non-traditional hours including evenings and weekends.

Training wages can be reduced by up to \$1.00 per hour during a probation period not to exceed six (6) months.

Operations/Project Manager Salary Range:

<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>	<i>Step 4</i>	
	<i>Step 5</i>			
First Yr	Second Yr	Third Yr	Fourth Yr	Fifth Yr
\$20.75	\$22.50	\$23.25	\$24.50	25.50

Driver Salary Range:

<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>	<i>Step 4</i>	
<i>Step 5</i>				
First Yr	Second Yr	Third Yr	Fourth Yr	Fifth Yr
\$15.75	\$17.50	\$18.25	\$19.50	\$20.50

Dispatch/Schedulers and other Control room staff:

5

<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>	<i>Step 4</i>	<i>Step 5</i>
First Yr	Second Yr	Third Yr	Fourth Yr	Fifth Yr
\$15.75	\$17.50	\$18.25	\$19.50	\$21.50

Employees who receive a satisfactory performance evaluation are eligible to move to the next step annually until they reach the top step of the pay range. Should an evaluation result in denial of an employee a step increase, he/she may appeal through Contractor’s grievance procedure.

For staff with more than five years service, the rate of pay increase will range from a longevity amount of not less than \$ .10 per hour up to the “year ending” change in the National CPI-W as reported by the US Labor and Statistics for the corresponding prior year.

For employees with greater than 12 years of service, as of July 1, 2018, a one-time pay increase of \$.25 per hour at the beginning of this contract.

**2. Benefits:** Benefits are based upon a 35/40-hour workweek. Benefits may be prorated for part-time employees (less than 35/40 hours per week) based upon the employee's regular work schedule or a combination of actual hours worked and his/her regular work schedule for work performed under the terms of this contract.

- a) Sick leave accrued at 6.67 hours per month.
- b) Personal leave accrued:
  - i. After one year: 5 days
  - ii. After three years: 10 days
  - iii. After seven years: 15 days
- c) Holiday leave of six paid holidays per year;
- d) No less than a Fair Market Health Benefit provided or cash stipend (in lieu of health benefits) for each full-time employee in service.

**3.** The Contractor shall not establish work schedules to avoid paying full-time benefits and shall maintain at least 2/3 of staffing as full-time positions.

**The Contractor will** obtain permission from the City for the use of any sub-contractor used in conjunction with this Contract.

### Insurance

**The Contractor will** procure and maintain, at Contractor's sole expense, at all times during the duration of this Contract, the following kinds and forms of insurance, which will include, but are not limited to General Liability and Worker's Compensation Insurance, and will include as an Additional Insured the City of Sandy, its Elected Officials, Officers, Employees, Agents and Volunteers, from any and all claims for Bodily Injury, Death and/or Property Damage, which may arise from Contractor's operations under this Contract.

Other additionally insured Certificates will be required, i.e., Oregon Department of Transportation, Federal Transit Administration, TriMet, etc.

Limits: General Liability Insurance with a minimum per occurrence limit of \$1,000,000.00 and an aggregate limit of \$2,000,000.00. The insurance coverage will include, but not be limited to, Premises and Operations, Products and Completed Operations, Personal and Advertising Injury Liability and Contractual Liability, which will apply to the indemnity provisions

contained in the Contract. Insurance Policy and Insurance Company subject to approval by City.

**The Contractor will** provide Worker's Compensation Insurance.

**The City will** provide vehicle insurance.

**The Contractor will** pay vehicle repair costs and/or the insurance deductible for any preventable accident or incident while operated by their employee.

**The Contractor will** notify the City Transit Director immediately if any vehicle collision results in potential media involvement, requires a vehicle to be towed from the scene, requires anyone to be transported from the scene via ambulance, or if the accident results in a fatality.

The Contractor will notify proper law enforcement officers and the City Transit Director of any vehicle accident, missing, vandalized or stolen vehicles or equipment incidents involving the vehicle and any operations that might result in a claim within twenty-four (24) hours of discovery. Incident reports will include date, time and employee narrative along with the name, address, and phone contact of all parties involved. The Contractor will also work with law enforcement officers in any unlawful activity that occurs within the vehicle or as noted in other areas of operation.

#### Data Collection and Record Retention

**The Contractor will collect** information on numbers of riders including elderly and disabled ridership and other data as requested by the City of Sandy. Contractor will maintain and provide daily ridership data for all services including demand-response logs showing name of rider, origin and destination location and times, distance traveled as well as scheduling and dispatch logs showing number of riders per trip.

**The Contractor will** provide a minimum of 95% of Dial-A-Ride (Paratransit) trips "on-time". A trip will be considered "on-time" if it falls within a window of + or - fifteen (15) minutes deviation from the scheduled pick-up and drop-off times. Fixed route or commuter service will be considered "on-time" if within a window of + or - minus five (5) minutes. Contractor will monitor



fixed route and commuter service for “on-time” performance and assure buses do not leave posted stop points before the time posted on the published schedules.

**The Contractor will maintain** all records in compliance with regulatory agencies.

#### Fare Collections

**The Contractor shall** work in coordination with the City to set fare policy, collect ticket sales and fares, provide a weekly accounting of revenue received, and transfer funds to City for deposit. Contractor will establish a secure procedure for receiving fares and report on this process to the City. City shall be solely responsible for establishing new fare rates. Contractor and its employees are prohibited from soliciting or accepting tips or gifts of any kind.

#### Determining ADA eligibility

**The City will determine ADA eligibility** and will provide contractor with list of eligible riders.

#### Planning, Administration, Grant Writing and Marketing

**The City will conduct overall program** administration, transit tax collections, grant application and preparation of grant compliance reports, planning, including route scheduling, design and marketing, developing travel guides and schedules for the public, and service quality monitoring.

**The City and Contractor will** collect complaints, compliments and other comments about the service; respond promptly to all complaints (preferably within 24 hours) and establish policies that complement and comply with the City’s processes and procedures. The City and Contractor, in the spirit of cooperation, will share this information on a regular basis.

**The City and Contractor will** work in collaboration to greet and assist the public at the Sandy Operations Center. Contractor staff, such as the office personnel, will on occasion interact with the public. Those staff will present

in a professional manner in accordance to City of Sandy policies in both professionalism and attire.

Clackamas County Social Services reserves the right to change or alter the services proposed; redesign schedules; and change days and hours of operations as it sees fit. If changes result in an increase in service of more than 15%, contract costs will be negotiated to compensate.

## **SCOPE OF WORK FOR CLACKAMAS COUNTY**

### **Scope:**

### **Contractor Responsibilities:**

#### **Definition of Service and Service Boundaries**

The Mt Hood Express operates primarily on Highway 26 from the City of Sandy through the communities of the Hoodland area, including Welches and Rhododendron, with express service provided to Government Camp and Timberline Lodge.

The point deviated fixed route service ("Village Shuttle") provides service between Sandy and Rhododendron three times daily, with morning, mid-day and evening times. The estimated number of daily revenue hours is 4 hours for an approximate annual total of 1,440 revenue hours per year. Riders requiring curbside pickup for the deviated fixed route service shall be scheduled through contractor's dispatching services, which must operate out of a locally provided dispatch center.

The commuter service ("Express") provides six runs daily from Sandy to Government Camp and Timberline Lodge with limited stops. In addition, a seventh run is offered Dec. 1 to March 31 in the evenings. Finally, additional service is provided on weekends and holidays from December to February for an additional three runs per day. The average time for a run is generally 2.75 revenue hours with an approximate annual total of 6,520 revenue hours per year.

#### **Service Hours**

Contractor shall operate for the Villages Shuttle, based the current level of service, one bus three runs daily between Rhododendron and points in the

City of Sandy seven days per week between the hours of 5:45am and 5:40pm. Holidays are as follows: New Year's Day, Memorial Day, Labor Day, Independence Day, Thanksgiving Day and Christmas Day. Express commuter bus service, based on the current level of service, shall be offered six times daily between the hours of 5:45am and 8:55pm, with one additional run ending at 11:28pm from Dec. 1 to March 31, and three additional runs on weekends and holidays during the regular operating hours from December to February. Holidays for the Express shall be Thanksgiving Day and Christmas Day. Additional service may be considered in the future and proposals should address contractor capacity to provide this service.

### **Hourly Service Rate**

Compensation for operations will be on a revenue hour basis. Contractor will be compensated on a monthly basis following submission of invoice with accompanying documentation, including information required for federal and state reporting.

### **Bus Equipment, Fuel and Maintenance**

County shall provide at least two ADA-compliant vehicles for the Villages shuttle and at least three ADA compliant buses for the Express and pay for all related fuel, maintenance and repair expenses. County vehicles will be self-insured by the county. Contractor shall assess mechanical condition of vehicle, schedule maintenance services and transport vehicles to the appropriate service and/or repair locations. Contractor shall maintain a vehicle repair and maintenance schedule that provides for excellent safety and maintenance and in compliance with all state and federal law and with vehicle manufacturer's recommendations for service. Contractor will be reimbursed by County for repair and maintenance expenses based on actual expenses incurred and the submission of a billing statement and copies of original invoices. Repairs in excess of \$1,500 in value require written permission from the County Project Manager. All physical damage should be reported to County within 1 day of occurrence whenever feasible. Barring normal wear and tear, vehicles shall be returned to the County in the same condition they were received by contractor.

Contractor will pay vehicle repair costs and/or the insurance deductible for any preventable accident or incident while operated by their employees.

Fuel cards shall be provided by County and used at Pacific Pride fueling station only for fuel used for the defined Mt Hood Express service.

The contractor will be responsible for keeping vehicles clean both inside and out. All service records will be kept on all vehicles and will be made available to the County at the end of each month. Contractor shall assist County with all warranty claims and Safety Bulletin Certificates of Compliance.

### **Bus Storage and Operating Facilities**

Under the current contract, contracted services are provided by the same contractor for the City of Sandy's transit service. Operating facilities, including office space, are shared under a rental agreement between the County and City. Rents are paid directly by the County. Should a separate contractor be selected, contractor will provide bus storage and operating facilities in Sandy with the cost associated with the facility negotiated as part of the new contract.

#### **Back-up Vehicle**

The County will be responsible for providing a comparable back-up vehicle if the County-provided vehicles are out of service.

### **Safety**

Contractor shall ensure the safety of riders by any and all means necessary, including, but not limited to: ability to communicate with vehicle at all times, driver training, retraining and monitoring; alcohol and drug training; mobility assistance training; vehicle maintenance; maintaining order in and around vehicles; providing safety and emergency procedures and training; etc.

Contractor shall equip all vehicles with emergency equipment to be defined in consultation with the County. This shall include at a minimum: fire extinguisher, first aid kit, blood borne pathogen kit, fluids kit and flashlight. All fire extinguishers will be serviced by Contractor as recommended by manufacturer.

### **Fares**

Contractor shall work in coordination with the County to set fare policy, collect ticket sales and fares, and provide a monthly accounting of revenue received. Contractor will establish a secure procedure for receiving fares and report on this process to the County. Fares received shall be deducted from monthly billings for service. County, acting on advice of contractor and the Board of County Commissioners, shall be solely responsible for establishing

new fare rates. Contractor and its employees are prohibited from soliciting or accepting tips or gifts of any kind.

### **Scheduling and Dispatch and Staffing**

The Contractor will provide trip reservation scheduling and dispatch services at a minimum between 8:00 am and 5:00 pm weekdays and during service hours on weekends for the point deviated fixed route service. Emergency or on-call dispatch support shall be maintained during all hours of operation. Point deviated fixed route dispatch will be in accordance with all ADA requirements. Trip reservation scheduling and phone skills using excellent customer service is preferred during all hours of operations. The Contractor must have the ability to provide this function effectively and efficiently. Proposers should provide a detailed explanation of scheduling and dispatching methodologies, describe experience and identify any special hardware and/or software used for this purpose. An automated answering system must be used during non-business hours to provide general information and accept reservations in compliance with ADA requirements. The County will not provide software for dispatch.

If service will not be provided in coordination with the City of Sandy, identify what location and other provisions will be made for dispatch, operations and bus storage in Sandy.

### **Service Transition**

The Contractor will facilitate an efficient transition of service, which will entail working cooperatively with the City and the outgoing contractor at the beginning of the contract period and, similarly, with City and the incoming contractor at the end of the contract period. A transition schedule will be established detailing a list of critical tasks, deadline for their completion and person(s) responsible for each.

Contractor will ensure that, at all times during the term of this contract, vehicle operators and other personnel needed are employed and fully trained (including full understanding of the services to be provided).

### **Personnel**

Contractor shall be sole responsible for the provision and satisfactory work performance of all employees as needed. Contractor shall be solely responsible for payment of all employee wages and benefits. Without

additional expense to the County, contractor shall comply with the requirements of employee liability, workers compensations, employment insurance, Social Security and all other applicable laws. County shall have the right to demand removal from the project, for reasonable cause, any personnel furnished by contractor, provided the County makes such request in writing. Contractor shall obtain County's written consent prior to entering into any subcontract affecting or providing for transportation service.

The contractor will be responsible for hiring dispatchers, drivers and staff, orientation and on-going training, supervision and evaluation. The contractor shall conduct both a criminal and a driver history background check before hiring drivers.

The contractor will conduct alcohol and drug testing and ensure compliance with Federal Transit Administration (FTA) regulations as described in 49 CFR Part 65, Part 655 and Part 40 (as amended), Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

The contractor will ensure that all drivers operating in service for the County will possess a current Oregon Class B Driver's License with both airbrake and passenger endorsements.

The contractor will provide written policies for safe operating procedures in all conditions including inclement weather, accidents and emergencies.

**The contractor will provide dispatch and driver training in at least the following areas:**

- **Defensive driving including emergency situations**
- **Passenger Safety/Blood Borne Pathogens**
- **Passenger sensitivity and customer service**
- **Disability issues • Mobility Assistance, including proper use and handling of vehicle passenger lifts or ramps and other equipment**
- **FTA Drug/Alcohol rules & regulations**
- **ADA Act • Accident procedures**
- **Safety Equipment**
- **Cellular phones**
- **Confidential radio communication, i.e., 10-codes**
- **Passenger behavior problems and security training**

**● Customer service**

The contractor will provide an outline of training curriculum with the amount of time committed to each of the training topics included in the proposal. The County may request additional training in any area it deems necessary.

The contractor shall conduct, at a minimum, yearly evaluations that will include updated criminal and driver history checks. The contractor will consult with the County in developing evaluations regarding any input the County may have received from customers.

The Contractor will ensure that all drivers meet the following minimum criteria to participate in this program:

1. No more than two (2) moving violations in any one year period. No more than three (3) moving violations in any three (3) year period during the service contract or in the five (5) years prior to application of this program (personal and commercial records inclusive).
2. If license has ever been suspended, applicant must have five (5) full subsequent years with no violations.
3. If license has ever been revoked, must have ten (10) subsequent years with no violations.
4. Under no condition, will an applicant be accepted as a driver for this program if (1) he/she has been convicted of a felony, (2) and/or has been convicted of a drug or alcohol offense including DUII diversion.
5. Contractor will require drivers to inform his/her supervisor of every conviction for a moving traffic violation immediately after such conviction. Failure to provide proper disclosure may be grounds for suspension or dismissal.

The Contractor will provide uniforms for all field personnel, as approved by the County. These may include both summer and winter uniforms.

Contractor will ensure that all employees will maintain the highest levels of professional behavior in the workplace, especially during their interactions with the public.

The County reserves the right to require the removal of any driver, dispatcher or supervisor it deems is not an asset to the County.

**Employee Wages, Salaries and Benefits**

The Contractor will, as is reasonable, retain current employees now operating with the current Contractor giving the present workers first opportunities for employment.

The Contractor, at a minimum, shall make available to employees providing service to the County the following level of employee wages, salaries and benefits:

1. Wages and Salaries: The Contractor shall provide wages and salaries commensurate with the responsibilities of the positions offered and in concert with current market labor rates in order to ensure a qualified available work force. At a minimum, wages should include:

**Driver and Dispatch Salary Range**

Fixed/Commuter route; demand–response; ADA or medical transit operators can start at different step levels or wage levels within the step. Wages can be within corresponding step range for seniority. Shift differentials are encouraged for non-traditional hours including evenings and weekends.

Training wages can be reduced by up to \$1.00 per hour during a probation period not to exceed six (6) months.

**Operations/Project Manager Salary Range:**

<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
<b>First Yr</b>	<b>Second Yr</b>	<b>Third Yr</b>	<b>Fourth Yr</b>	<b>Fifth Yr</b>
<b>\$20.75</b>	<b>\$22.50</b>	<b>\$23.25</b>	<b>\$24.50</b>	<b>\$25.50</b>

**Driver Salary Range:**

<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
<b>First Yr</b>	<b>Second Yr</b>	<b>Third Yr</b>	<b>Fourth Yr</b>	<b>Fifth Yr</b>
<b>\$15.75</b>	<b>\$17.50</b>	<b>\$18.25</b>	<b>\$19.50</b>	<b>\$20.50</b>

**Dispatch/Schedulers and other Control room staff:**

<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>
<b>First Yr</b>	<b>Second Yr</b>	<b>Third Yr</b>	<b>Fourth Yr</b>	<b>Fifth Yr</b>
<b>\$15.75</b>	<b>\$17.50</b>	<b>\$18.25</b>	<b>\$19.50</b>	<b>\$21.50</b>



Employees who receive a satisfactory performance evaluation are eligible to move to the next step annually until they reach the top step of the pay range. Should an evaluation result in denial of an employee a step increase, he/she may appeal through Contractor's grievance procedure.

For staff with more than five years service, the rate of pay increase will range from a longevity amount of not less than \$ .10 per hour up to the "year ending" change in the National CPI-W as reported by the US Labor and Statistics for the corresponding prior year.

2. Benefits: Benefits are based upon a 35/40-hour workweek. Benefits may be prorated for part-time employees (less than 35/40 hours per week) based upon the employee's regular work schedule or a combination of actual hours worked and his/her regular work schedule for work performed under the terms of this contract.

- a) Sick leave accrued at 6.67 hours per month.
- b) Personal leave accrued:
  - i. After one year: 5 days
  - ii. After three years: 10 days
  - iii. After seven years: 15 days
- c) Holiday leave of six paid holidays per year;
- d) No less than a Fair Market Health Benefit provided or cash stipend (in lieu of health benefits) for each full time employee in service.

**3.** The Contractor shall not establish work schedules to avoid paying full-time benefits and shall maintain at least 2/3 of staffing as full-time positions.

The Contractor will obtain permission from the County for the use of any sub-contractor that will be used in conjunction with this Contract.

Contractor shall be responsible for adequate staffing to provide continuous driver service and dispatch service during the normal hours of operation.

### **Safety Inspections**

Contractor employees shall conduct daily safety inspections of vehicles prior to beginning each day's service. Vehicles failing the daily safety inspection shall not be used in service until the reason for the failure is corrected.

County reserves the right to ensure that vehicles are being maintained properly and are in safe operating condition. County may inspect vehicles at any reasonable time and may bar a vehicle from service until problem(s) are corrected.

### **Radios and other communication devices**

Contractor shall be responsible for providing all communication devices to ensure adequate dispatch service.

### **Insurance**

County shall provide vehicle insurance through its self-insurance program that meets federal and state requirements. Contractor shall provide proof in the form of a letter from their insurance company of the ability to meet the following insurance requirements:

- Commercial liability insurance in the amount of \$1,000,000 per occurrence/\$2,000,000 general aggregate, with the County named as an additional insured
- Worker's compensation insurance
- All other mandated insurance as outlined in Section VI "Agency Service Contract", Section 6.B.
- Other additionally insured certificates may be required i.e. the Oregon Department of Transportation, Federal Transit Administration, TriMet, etc.

The Contractor will notify the County Project Manager immediately if any vehicle collision results in potential media involvement, requires a vehicle to be towed from the scene, requires anyone to be transported from the scene via ambulance, or if the accident results in a fatality.

### **Data collection and Record Retention**

Service provide will collect information on number of riders, including elderly and disabled ridership and other data as requested by the County and as required by federal and state guidelines. At a minimum, this data shall include record of deviations, distance traveled, and number of riders per trip. Contractor shall maintain all records in compliance with regulatory agencies and in compliance with County policies.

### **Grant Writing and Reporting**

The County shall provide all grant writing and reporting functions for state and federal grants to support this project. The service agency shall supply on

request any necessary information to complete grant requests and reporting requirements.

**Vehicle Usage** The use of vehicles provided by the County for any purpose other than the Mt Hood Express Service is prohibited without written permission from the County Project Manager.

### **Rider Confidentiality**

Any and all information regarding any individual served by the County is strictly confidential. All contractor staff are expected to comply with the most current local, state and federal law regarding confidentiality. Information in any form, including in aggregate, shall not be released to any party without the authorization of the individual and/or County.

### **Contractor's Waiver of Competition**

Claims Contractor understands that the award of contract and subsequent rendition of the service called for by these documents shall in no manner be construed so as to place contractor in a position to be entitled to the benefits afforded to private transit operations under Section 3(e) of the Federal Transit Administration Act of 1964 (49 U.S.C., Section 1602(e) or any other comparable provision of federal or state law (or under any regulations promulgated thereunder), as they now exist or hereinafter may be amended. Contractor hereby waives any right it otherwise might have to assert any claim or claims under said provisions of law or that may be based upon principles of unfair competition.

### **Permits to Operate**

At its sole cost and expense, contractor shall obtain any and all permits, licenses, certificates, or entitlement to operate as are now or hereafter required by any agency, specifically including the Oregon Department of Transportation, and local building, planning and business license departments, to enable Contractor to perform this Contract, and shall provide copies of all such entitlement to County when received by Contractor. Contractor is liable for any and all taxes due as a result of this Contract.

### **FTA Funding**

This procurement will be funded, in whole or in part, by grant funds provided by the Federal Transit Administration (FTA). This procurement and contract

shall be governed by applicable federal laws and regulations relating to third-party contracts.

**Term of Contract:**

The term of the contract shall be from the effective date through June 30, 2020, the option for up to three (3) one-year renewals on written approval of both parties.

**Sample Contract:**

**Submission of a Proposal in response to this RFP indicates**

**Proposer's** willingness to enter into a contract containing substantially the same terms (including insurance requirements) of the sample contract identified below. No action or response to the sample contract is required under this RFP. Any objections to the sample contract terms should be raised by April 23, 2018, at 1:00 pm, regarding clarification or change or protest of the RFP/specifications, and as otherwise provided for in this RFP. This RFP and all supplemental information in response to this RFP will be a binding part of the final contract.

The applicable Sample Professional Services Contract for this RFP can be found at <http://www.clackamas.us/bids/terms.html>.

Professional Services Contract (unless checked, item does not apply)

The following paragraphs of the Professional Services Contract will be applicable:

Article I, Paragraph 4 – Travel and Other Expense is Authorized Article II, Paragraph 29 – Confidentiality

Article II, Paragraph 29 – Criminal Background Check Requirements

Article II, Paragraph 30 – Key Persons

Exhibit A – On-Call Provision

The following insurance requirements will be applicable:

Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.

Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.

**Automobile Liability: combined single limit, or the equivalent, of not less than \$500,000 per occurrence for Bodily Injury and Property Damage.**

4.4 Length of Contract

The Contract period shall be for a two-year period beginning July 1, 2018 through June 30, 2020 with a three-year extension by mutual agreement from July 1, 2020 through June 30, 2023. Both parties shall give prior written notice to the other of intent to extend the contract for an additional three-year period no later than 180 days prior to the end of the contract. If notice is not given by said date by both parties, it will be presumed that one or other of the parties does not wish to extend the contract. In that event, the contract will terminate as of June 30<sup>th</sup> of that contract year. If both parties desire to extend the contract, negotiations regarding compensation for cost of service shall be completed prior to January 31<sup>st</sup> of the contract year.

4.5 Contract Disputes

In the event of a conflict in the language between the City's request for proposal, the Contractor's proposal or the final contract entered into between the parties, the Contract language will prevail over the language of the RFP.

4.6 FTA Funding

This procurement will be funded, in whole or in part, by grant funds provided by the Federal Transit Administration (FTA). This procurement and contract shall be governed by applicable federal laws and regulations relating to third-party contracts. Applicable federal regulations are outlined in Appendix C.

4.7 Criteria for Evaluating Proposals

Submittals will be evaluated on the basis of the following criteria:

- Ability to provide service and meet the needs of the City of Sandy: as described in section **4.3. 30 points**
- Experience/Approach: as described in section **3.2, paragraph 5, (a)-(m) 20 points**
- Cost: The cost of service will be evaluated on the cost of a year of service, using the hourly and per trip costs provided in the cost proposal (Appendix A) applied to the number of hours and trips defined

in the scope of work. This will include 8840 hours of fixed/commuter route service, 1248 hours of deviated commuter service, 4447 hours of intra-city service and non-feeder ADA complementary service and 1800 trips to out-of-district destinations. Approximately 17,525 annual service hours. **Seniority of staff should be considered in bid proposal (staff seniority list available upon request). 15 points**

- Ability to gain efficiencies through coordination with the Mountain Express service: **20 points**
- Interview: **10 points**
- DBE: **5 points**

#### 4.8 Schedule

RFP issued:	Friday April 13, 2018
Optional Pre-proposal conference:	Wednesday, 2:00 pm April 18, 2018
Additional question period deadline	Monday 1:00 pm April 23, 2018
Proposals Due:	Wednesday 1:00 pm May 2, 2018
Interviews:	Wednesday, May 9, 2018
Notice of Intent to Award:	Wednesday 4:00 pm May 16, 2018
Protest period ends:	Thursday 4:00 pm May 24, 2018
Recommendation to Sandy City Council:	Monday 7:00 pm June 4, 2018
Service Contract begins:	Sunday July 1, 2018

DRAFT

Appendix A  
Request for Proposal  
City of Sandy Transit Service

COST PROPOSAL

Service Description	Approx. Service Hours per year	Total contract cost, per service hour: The hourly cost should reflect all fixed and variable costs involved in providing service.		Total Annual Cost per Service (cost/hour x hours of service)	
		Year 1	Year 2	Year 1	Year 2
<b>Fixed/Commuter Route SAM-Gresham</b>	8840				
<b>Deviated Commuter Route SAM-Estacada</b>	1248				
<b>Deviated Fixed Route SAM Shopper</b>	780				
<b>Demand-Response STAR</b>	4447				
<b>ED</b> Show cost calculations on separate sheet	Approx 1957 hours				
<b>Total Operation Contract Cost/Year</b>					

## Appendix B

**CITY OF SANDY  
TRANSIT INVENTORY  
Feb-18**

<b><u>Vehicle</u></b>	<b><u>YEAR</u></b>	<b><u>MAKE</u></b>	<b><u>MODEL</u></b>	<b><u>CONDITION</u></b>	<b><u>CAPACITY</u></b>	<b><u>ROUTE/S</u></b>
1	2016	Hometown	Trolley	Excellent	18 psgr	Shopper
14	2008	Gillig	Low Floor/35'	Adequate	32 psgr	SAM S-G
15	2006	Ford	Escape SUV Hybrid	Good	5 psgr	Field svc/ED
17	2010	El Dorado	EZRider II	Adequate	36 psgr	SAM
20	2011	Gillig	Low-Floor Bus	Good	31psgr	SAM S-G
21	2018	Freightliner	Defender 2	Good	26 psgr	SAM S-E
22	2014	Arboc	SOM	Poor	14 psgr	STAR
23	2020	MV1	Mobility Ventures	Good	5 psgr	ED
24	2016	Arboc	SOM	Poor	16 psgr	STAR
25	2016	MV1	Mobility Ventures	Excellent	5 psgr	ED
26	2016	Gillig	Low Floor/35'	Excellent	35 psgr	SAM-G

Appendix C**Federal Transit Administration Requirements**



## 1. ENERGY CONSERVATION REQUIREMENTS

### 42 U.S.C. 6321 et seq. 49 CFR Part 622

**Applicability to Contracts:** The Energy Conservation requirements are applicable to all contracts.

**Flow down Requirements:** The Energy Conservation requirements extend to all third party contractors and their contracts at every tier and, sub-recipients and their sub-agreements at every tier.

**Energy Conservation** - The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act. The contractor agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA funds required under FTA regulations, "Requirements for Energy Assessments," 49 CFR part 622, subpart C.

## 2. LOBBYING

### 31 U.S.C. 1352 49 CFR Part 19 49 CFR Part 20

**Applicability to Contracts:** The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

Flow Down Requirements The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

**Byrd Anti-Lobbying Amendment**, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of a Federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier certifies to the tier above that it will not and has not taken any action involving the Project or the Underlying Agreement for the Project, including any award, extension, or modification. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying

contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to North County Transit District (NCTD).

### **3. ACCESS TO RECORDS AND REPORTS**

**49 U.S.C. 5325**  
**18 CFR 18.36(i)**  
**49 CFR 633.17**

**Applicability to Contracts:** Reference Chart "Requirements for Access to Records and Reports by Type of Contracts", Item 6 of this Section. Flow down Requirements FTA does not require the inclusion of these requirements in subcontracts.

**Access to Records** - The following access to records requirements apply to this Contract:

(1) The Contractor agrees to provide NCTD, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

(2) Where NCTD or a sub-grantee of NCTD in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a) 1) through other than competitive bidding, the Contractor shall make available records related to the contract to NCTD, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

(3) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(4) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until NCTD, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

(5) FTA does not require the inclusion of these requirements in subcontracts.

(6) Requirements for Access to Records and Reports by Types of Contract Sources of Authority: 1 18 CFR 18.36 (i)

### **4. FEDERAL CHANGES**

## 49 CFR Part 18

**Applicability to Contracts:** The Federal Changes requirement applies to all contracts.

**Flow down Requirements:** The Federal Changes requirement flows down appropriately to each applicable changed requirement.

**Federal Changes** - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between NCTD and FTA , as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

## 5. RECYCLED PRODUCTS

**Applicability to Contracts:** The Recycled Products requirements apply to all contracts for items designated by the EPA, when the Contractor procures \$10,000 or more of one (1) of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds.

**Flow down Requirements:** These requirements flow down to all contractor and sub-contractor tiers.

**Recovered Materials** - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. The contractor agrees to comply with the U.S. Environmental Protection Agency (US EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247.

## 6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

**29 CFR Part 5**  
**40 U.S.C. 3701 et seq.**  
**40 U.S.C. 3702**

**Applicability to Contracts:** The Contract Work Hours and Safety Standards Act is codified at 40 USC 3701, et seq. The Act applies to grantee contracts and subcontracts "financed at least in part by loans or grants from ... the [Federal] Government." 40 USC 3701(b) (1) (B) (iii) and (b) (2), 29 CFR 5.2(h), 49 CFR 18.36(i) (6).

The Act applies to construction contracts and, in very limited circumstances, non-construction projects that employ "laborers or mechanics on a public work" with a value greater than \$100,000. These non-construction applications do not generally apply to transit procurements because transit procurements (to include rail cars and buses) are deemed "commercial items." 40 USC 3707, 41 USC 403 (12)

Flow down Requirements: Applies to third party contractors and sub-contractors.

**(1) Overtime requirements** - No contractor or sub-contractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1.5) times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any sub-contractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and sub-contractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - NCTD shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or sub-contractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime

## 7. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

**Applicability to Contracts:** Applicable to all contracts.

**Flow down Requirements:** This concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

### **No Obligation by the Federal Government.**

(1) NCTD and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to NCTD, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the sub-contractor who will be subject to its provisions.

## **8. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

**31 U.S.C. 3801 et seq.**  
**49 CFR Part 31**  
**18 U.S.C. 1001**  
**49 U.S.C. 5307**

**Applicability to Contracts:** These requirements are applicable to all contracts.

**Flow down Requirements:** These requirements flow down to contractors and sub-contractors who make, present, or submit covered claims and statements. Program Fraud and False or Fraudulent Statements or Related Acts

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project.

Upon execution of the underlying contract, the Contractor certifies the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two (2) clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the sub-contractor who will be subject to the provisions.

## **9. TERMINATION**

**49 CFR Part 18 FTA Circular 4220.1F**  
**See Section 16 of the Purchase Order Terms & Conditions**

## **10. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT)**

**49 CFR 18  
2 CFR 1200  
2 CFR 180**

**Executive Orders 12549 and 12689  
31 U.S.C. 6101**

**Background and Applicability:** In addition to the contracts covered under 2 CFR 180.220(b) of the OMB guidance, this part applies to any contract, regardless of tier, that is awarded by a contractor, sub-contractor, supplier, Contractor, or its agent or representative in any transaction, if the contract is to be funded or provided by the Department of Transportation under a covered non-procurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the Department of Transportation non-procurement suspension and debarment requirements to all lower tiers of subcontracts under covered non-procurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c) (see optional lower-tier coverage in the figure in the appendix to 2 CFR part 180). This government-wide regulation implements Executive Order 12549, *Debarment and Suspension*, Executive Order 12689, *Debarment and Suspension*, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327). These provisions apply to all NCTD contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for federally required auditing services. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and sub-contractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System (EPLS), (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract.

Grantees, contractors, and sub-contractors who enter into covered transactions also must require the entities they contract with to comply 2 CFR 180 and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

**Flow down Requirements:** These requirements flow down to contractors and sub-contractors at all levels.

**Suspension and Debarment:** This contract is a covered transaction for purposes of 49 CFR Part 18. As such, the contractor is required to verify that none of the contractor, its principals, are excluded or disqualified as defined under Executive Orders Nos. 12549 and 12689.

The contractor is required to comply with 2 CFR 1200, and must include the requirement to comply with 2 CFR 1200, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder certifies as follows:

The certification in this clause is a material representation of fact relied upon by NCTD. If it is later determined that the bidder knowingly rendered an erroneous certification, in

addition to remedies available to NCTD, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder agrees to comply with the requirements 2 CFR 180 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## **11. PRIVACY ACT**

### **5 U.S.C. 552**

**Applicability to Contracts:** When NCTD maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

**Flow down Requirements:** The Federal Privacy Act requirements flow down to each third party contractor and their contracts at every tier.

**Contracts Involving Federal Privacy Act Requirements:** The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

## **12. CIVIL RIGHTS REQUIREMENTS**

**29 U.S.C. § 623, 42 U.S.C. § 2000  
42 U.S.C. § 6102, 42 U.S.C. § 12112  
42 U.S.C. § 12132, 49 U.S.C. § 5332  
29 CFR Part 1630, 41 CFR Parts 60 et seq.**

(1) The Contractor will be required to comply with these applicable civil rights, nondiscrimination, and equal employment opportunity laws and regulations:

**i.** 49 CFR Part 21, 49 CFR Part 25, 49 CFR Part 26, 49 CFR Part 27, 49 CFR Part 37, 49 CFR Part 38, 49 CFR Part 39, 20 U.S.C. §§ 1681 – 1683 and 1685 – 1687, 21 U.S.C. § 1101, 29 U.S.C. § 794, et seq., 42 U.S.C. § 290dd – 290dd-2, 42 U.S.C. § 2000d, 42 U.S.C. § 3601, 42 U.S.C. § 4541, 42 U.S.C. § 6101 – 6107, 42 U.S.C. § 12101, et seq., 42 U.S.C § 12132, 49 U.S.C § 5307 (c)(1)(D)(ii), 49 U.S.C § 5332, California Civil Code § 51, California Government Code § 11135

- ii.** 29 CFR Part 1630, 41 CFR Part 60, 29 U.S.C. § 623, 42 U.S.C. § 2000e, 42 U.S.C. § 12112, California Government Code § 12900 - 12996
- iii.** 49 U.S.C. § 5325 (k).
- iv.** Fixing America's Surface Transportation (FAST) Act, Public Law No: 114-94, as may be amended.

(2) The Civil Rights requirements flow down to all third party sub-contractors and their subcontracts at every tier.

(3) The following requirements apply to a contract awarded as a result of this solicitation:

**i.** Nondiscrimination - In accordance with U.S. Department of Transportation (DOT), Federal, and State of California regulations 49 CFR Part 21, 49 CFR Part 25, 49 CFR Part 27, 49 CFR Part 37, 49 CFR Part 38, 49 CFR Part 39, the Rehabilitation Act of 1973, as amended, 20 U.S.C. §§ 1681 – 1683 and 1685 – 1687, 21 U.S.C. § 1101, 29 U.S.C. § 794, Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 290dd – 290dd-2, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 3601, 42 U.S.C. § 4541, 42 U.S.C. § 6102, 42 U.S.C. § 6101 – 6107, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, 42 U.S.C. § 12132, Federal transit law 49 U.S.C § 5307 (c)(1)(D)(ii), Federal transit law 49 U.S.C. § 5332, the Unruh Civil Rights Act, California Civil Code § 51, and California Government Code § 11135, the Contractor agrees that it will comply with the identified Federal and State of California laws and regulations, pertaining to NCTD programs and activities, to ensure that no person will be denied the benefits of, or otherwise be subjected to, discrimination (particularly in the level and quality of transportation services and transportation-related benefits) on the bases of race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, gender expression, age, marital status, genetic information, medical condition, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations, other implementing requirements the FTA may issue, and any other applicable Federal and State of California statutes and/or regulations that may be signed into law or promulgated.

**ii.** Equal Employment Opportunity - The following equal employment opportunity requirements apply to a contract awarded as a result of this solicitation:

**a.** Race, Color, Ancestry, Marital Status, Medical Condition, Genetic Information, Religion, National Origin, Sex, Sexual Orientation, Gender Identity, Gender Expression - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), Fair Employment and Housing Act, California Government Code Sections 12900 - 12996 and with any applicable



Federal statutes, executive orders, regulations, and Federal policies that may in the future affect Bidder agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, ancestry, religion, marital status, medical condition, genetic information, national origin, sex, sexual orientation, gender identity, gender expression, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue, and any other applicable Federal statutes that may be signed into law or Federal regulations that may be promulgated.

**b. Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**c. Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue. (4) The Contractor agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

### **13. ADA ACCESS REQUIREMENTS**

#### **49 U.S.C. § 5301, 29 U.S.C. § 794, 42 U.S.C. § 12101**

**Applicability to Contracts:** The Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

### **14. PATENT AND RIGHTS IN DATA**

#### **37 CFR Part 401 49 CFR Parts 18 and 19**

**Applicability to Contracts:** Patent and rights in data requirements for federally assisted projects ONLY apply to research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.

**Flow down Requirements:** The Patent and Rights in Data requirements apply to all contractors and their contracts at every tier.

### **CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.**

**A. Rights in Data** - The following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, NCTD or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may NCTD or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by NCTD or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, NCTD and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for NCTD or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, NCTD and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by NCTD or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither NCTD nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by NCTD or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that NCTD or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), NCTD and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Contractors under Government Grants, Contract and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

**B. Patent Rights** - The following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, NCTD and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), NCTD and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Contractors Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

## **15. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

### **49 CFR Part 26 Section 1101(b) of MAP-21 (23 U.S.C. § 101 note)**

(1) NCTD encourages DBE participation in this solicitation. In order to qualify as a DBE, a Contractor, or a Contractor's sub-contractor, must be certified as a DBE under 49 CFR Part 26. As a recipient of Federal funds, NCTD must comply, and insure that its Contractor(s) comply with 49 CFR Part 26, Section 1101(b) of MAP-21 (23 U.S.C. § 101 note).

(2) DBE Requirements/DBE Obligation:

**i.** The Contract to be awarded may be funded in part by the U.S. Department of Transportation (DOT) FTA. As a condition of financial assistance agreements between NCTD and the U.S. DOT, NCTD has established a DBE Program and overall triennial DBE goal in accordance with Title 49 CFR, Part 26.

**ii.** The Contract to be awarded may be funded in part by the U.S. DOT FTA. As a condition of financial assistance agreements between NCTD and the U.S. DOT, NCTD has established a DBE Program and overall triennial DBE goal in accordance with Title 49 CFR, Part 26.

**iii.** Pursuant to Race-Neutral DBE policy directive issued by the U.S. DOT in response to the Ninth Circuit U.S. Court of Appeals decision in *Western States Paving v. Washington State Department of Transportation and the FTA's Guidance* (Docket No. FTA-2006-24063; dated March 23, 2006), NCTD will strictly utilize race-neutral measures to meet its overall DBE goals and objectives. Contractors are encouraged to afford small businesses, including DBEs, an equitable opportunity to compete for and perform on a contract resulting from this solicitation.

**iv.** The Contractor, and any of its sub-contractors, are to ensure that DBE as defined in 49 CFR Part 26 have equal opportunities to participate in the performance of NCTD contracts. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the equal opportunities to compete for and are awarded contracts. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this U.S. DOT-assisted contract. Each subcontract the Contractor signs with a sub-contractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

**v.** MAP-21 §1101(b), 23 U.S.C. Section 101 note, extends the Federal statutory requirement that FTA make available at least 10 percent (10%) of its funding under that Act for contracts with small business concerns owned and controlled by socially and economically disadvantaged people. NCTD and sub-recipients (Contractor and its sub-contractors) of FTA-funding assists FTA in meeting this national goal. To receive FTA assistance, NCTD and sub-recipients (Contractor and its sub-contractors) of FTA-funding must comply with applicable requirements of DOT regulations 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". As NCTD is required to have a DBE program, the third-party contracts that NCTD has included in its DBE program determine whether the NCTD meets the DBE threshold for goal setting, and the goal if the threshold is met.

(3) DBE Financial Institutions

- i.** The Contractor is to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage sub-contractors to make use of these institutions also.
- ii.** A list of Minority Owned Banks is on the Federal Reserve website at <http://federalreserve.gov/releases/mob/current/default.htm>. The Federal Reserve website is updated periodically.
- iii.** The Contractor is encouraged to use the services offered by banks in the community which are owned and controlled by minorities or women when feasible and beneficial.

(4) DBE Reporting and Certification

- i.** Monthly reporting requires the submittal of a "Monthly Sub-Contractor Payment Report", which is used by NCTD to verify payments to DBE and non-DBE sub-contractors. When completing this form, the Contractor must designate DBE sub-contractors by placing an asterisk in front of their name. As Federal law requires that NCTD have proof of payment to a DBE sub-contractor, the sub-contractor must initial the form and verify payment received. Failure to submit a properly executed form will result in delayed payment. Failure to submit these reports in a timely manner may result in a penalty of \$10 per day, per report.
- ii.** In order for the Contractor to submit a properly executed "Monthly Sub-Contractor Payment Report," the Contractor must verify that Sub-contractors DBE certification is current at time of payment.
- iii.** Certified Contractors can be found at the State of California web site: [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)

(5) DBE Contract Assurance (49 CFR 26.13)

- i.** NCTD does not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. NCTD takes all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of U.S. DOT assisted contracts. NCTD's DBE Program as required by 49 CFR Part 26 and as approved by U.S. DOT will be incorporated by reference into the contract resulting from this solicitation.
- ii.** The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
  - a. Withholding monthly progress payments;
  - b. Assessing sanctions;
  - c. Liquidated damages; and/or

- d. Disqualifying the Contractor from future bidding as non-responsible.
- (6) DBE Prompt Payment (49 CFR 26.29)
- i. Not later than ten (10) days after receipt of each progress payment from NCTD, the successful Bidder shall pay to any sub-Contractor performing any work, the respective amounts allowed to the successful Bidder for work performed by the sub-Contractor, to the extent of each sub-Contractor's interest therein, unless otherwise agreed to in writing. In addition, for projects that invoice only at the completion of the project, within seven (7) days of the successful Bidder receipt of released retention from NCTD upon completion of the project as defined in California Public Contract Code section 7107 the successful Bidder shall pay each of its sub-Contractors from whom retention has been withheld, each sub-Contractors share of the retention received, in accordance with the provisions of California Public Contract Code section 7107. For projects that issue progress payment invoices, upon incremental acceptance of any portion of the work by NCTD, the successful Bidder shall pay each of its sub-Contractors from whom retention has been withheld, each sub- Contractors share of the retention received, in accordance with the provisions of California Public Contract Code section 7107. This clause applies to both DBE and non-DBE sub-Contractors.
  - ii. Failure to comply with these provisions or delay in payment without prior written approval from NCTD will constitute noncompliance, which will result in appropriate administrative sanctions, including, but not limited to a penalty of 2% of the amount due per month for every month that payment is not made.
- (7) DBE Breach of Contract
- i. Failure to carry out the requirements of these provisions constitutes a breach of contract and may result in termination of the contract by NCTD or imposition of other appropriate sanctions pursuant to 49 CFR Part 26.13 (b).
- (8) Civil Rights Policy Statements
- i. NCTD's DBE Policy Statement for its FTA approved DBE program is located at the following website: <http://www.gonctd.com/wp-content/uploads/2013/05/Policy-25.pdf>
  - ii. NCTD's Discrimination Complaint Procedures Policy Statement for its Title VI/Unruh program is located at the following website: <http://www.gonctd.com/wp-content/uploads/2013/05/Policy-26.pdf>
  - iii. NCTD's EEO Policy Statement for its EEO program is located at the following website: <http://www.gonctd.com/wp-content/uploads/2013/05/Policy-27.pdf>

## **16. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

### **FTA Circular 4220.1F**

**Applicability to Contracts:** The incorporation of FTA terms applies to all contracts and subcontracts at every tier.

**Flow Down Requirements** The incorporation of FTA terms has unlimited flow down.

**Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the most current FTA Circular 4220, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NCTD requests which would cause NCTD to be in violation of the FTA terms and conditions.

SECTION 5 Attachments

*Attachments A - F must be completed and submitted as part of the proposal.*

*Attachments G -I are informational only.*



**Attachment A  
Sandy Area Metro SAM  
COST PROPOSAL**

Based upon the estimated figures provided in Section 1.3 and Attachment H, indicate the proposed costs for SAM Operations for the first year of service during said Contract.

A. Fixed Route and Commuter Service \$ \_\_\_\_\_

B. Paratransit – Special Need Services \$ \_\_\_\_\_

Cost per revenue hour \$ \_\_\_\_\_ based on 15,675 annual revenue hours.

Total cost per year \$ \_\_\_\_\_

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name, Title of Authorized Official  
(print or type)

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

**Attachment B**

**DBE CERTIFICATION**

Has your firm been certified by the State of Oregon as a Disadvantaged Business Enterprises?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, attach copy of current certification letter.

I hereby certify that the information provided on this form is true and accurate to the best of my knowledge.

Signature: \_\_\_\_\_

Name & Title: \_\_\_\_\_  
(Typed or Printed)

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

**Attachment C  
CERTIFICATION REGARDING DEBARMENT, SUSPENSION & OTHER  
INELIGIBILITY & VOLUNTARY EXCLUSION**

The undersigned, duly authorized representative of \_\_\_\_\_,  
hereby certifies or affirms that:

- 1) Neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency; and
- 2) That the contents of any statements submitted on or with this certification are true and accurate, and understands that the provisions of 31 U.S.C. §§ 3801 et. seq. are applicable thereto.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Attorney's Signature)

\_\_\_\_\_  
(Typed or Printed Title of  
Authorized Official)

\_\_\_\_\_  
(Date)

OR

The undersigned, duly authorized representative of \_\_\_\_\_  
hereby certifies or affirms that:

- 1) It is unable to certify that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency, and has attached an explanation of this inability to this certification; and
- 2) That the contents of any statements submitted on or with this certification are true and accurate, and understands that the provisions of 31 U.S.C. §§ 3801 et. seq. are applicable thereto.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Attorney's Signature)

\_\_\_\_\_  
(Typed or Printed Title of  
Authorized Representative)

\_\_\_\_\_  
(Date)

Attachment(s) [If required]

**Attachment D**

**NON-COLLUSION AFFIDAVIT**

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, being first duly sworn, on their oath  
(Type or Print Name and Title)  
says that the proposal submitted is genuine and not a sham or a collusive proposal or  
made in the interest of or on behalf of any person not herein named; and they further state  
that the said proposer has not directly or indirectly induced or solicited any other proposer  
for the above work or supplies to put in a sham proposal, or any other person or  
corporation to refrain from proposing; and that said proposer has not in any manner sought  
by collusion to secure to self advantage over any other proposer or proposers.

**NON-COLLUSION AFFIDAVIT**

**SIGN HERE**

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the

State of \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**Attachment E**

**CERTIFICATION REGARDING LOBBYING**

The undersigned contractor certifies, to the best of his or her knowledge and belief, that they are in compliance with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official (print or type)

Date \_\_\_\_\_

**Attachment F**

**DRUG & ALCOHOL TEST POLICY CERTIFICATION**

(PROVIDE COPY OF CERTIFICATION)

**Attachment G**

**SAMPLE CONTRACT**

This Contract between \_\_\_\_\_, Contractor, and the City of Sandy (hereafter referred to as City), dated this \_\_\_\_ day of June 2018.

WITNESSETH THAT:

WHEREAS, City is authorized by the Oregon Revised Statutes to furnish and operate public transportation services and to enter into a contract with an operator to provide such services and City has determined such public transportation services were in the best interest of the residents of City and has exercised its authority within its boundaries to furnish such services; and

WHEREAS, City issued its Request for Proposal dated March \_\_\_\_, 2018 to provide such services, and Contractor submitted its Proposal dated \_\_\_\_\_, 2018 in response thereto and is made a part of this Contract. Following an evaluation by the City and its selection committee, Contractor was chosen to be the most efficient and reliable among the field of qualified competitors to be awarded the City's Transit Contract; and

WHEREAS, the Parties entered into this Transit Contract Agreement for an initial contract term of TWO (2) YEARS beginning July 1, 2018 and ending June 30, 2020 with an additional three (3) one (1) year optional extensions

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

This Transit Contract relies heavily on the published RFP by the City and the Proposal as submitted by the Contractor and is made a part hereto: Unless specifically noted, Contractor and City will follow all Terms and Conditions as outlined in the Contractor's Proposal dated \_\_\_\_\_ 2018.

**WAIVER OF CONDITIONS:** The waiver of any provision, term or condition of these Contract Documents by City on any particular occasion shall not constitute a general waiver of said provision, term or condition, nor a release from Contractor's obligation to otherwise perform or observe such condition or any other term of the Contract.

**SEVERABILITY:** In the event any provision of this Contract is declared or determined to be unlawful, invalid or unconstitutional such declaration shall not affect, in any manner, the legality of the remaining provisions of the Contract and each provision of the Contract will be and is deemed to be separate and severable from each provision.

**GOVERNING LAW:** Contractor warrants and covenants that it shall fully and completely comply with all applicable Federal, State and local laws and ordinances, and all lawful orders, rules and regulations issued by any authority with jurisdiction in all aspects of its performance of this Contract.

NOTICES: Either the City or Contractor may change its address of record for receipt of official notice by giving the other written notice of such change and any necessary mailing instructions.

AMENDMENTS or changes to this Contract shall be submitted in writing and will become a part of this Contract when agreed upon by both parties and adopted by the Sandy City Council.

Any and all notices, writings, correspondence, etc as required by this Contract shall be directed to City and Contractor, respectively, as follows:

CITY OF Sandy

CONTRACTOR

16610 Champion Way  
Sandy, Oregon 97055  
503.489.0925

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, City and Contractor have executed this Transit Contract dated \_\_\_ June, 2018.

CITY:

CONTRACTOR:

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Name, Title of Authorized Official  
(print or type)

\_\_\_\_\_  
Name, Title of Authorized Official  
(print or type)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**RFP ADDENDUM #1**  
Date of Addendum: April 17, 2018

**NOTICE TO ALL POTENTIAL RESPONDENTS**

The Request for Proposals (RFP) is modified as set forth in this Addendum. The original RFP Documents and any previously issued addenda remain in full force and effect, except as modified by this Addendum, which is hereby made part of the RFP. Respondent shall take this Addendum into consideration when preparing and submitting its Proposal.

**RFP SCOPE OF WORK**

Item	Section	Description of Change															
1.	SAM Salary Range	<p><u>Dispatch/Schedulers and other Control room staff:</u></p> <table border="0"> <tr> <td><i>Step 1</i></td> <td><i>Step 2</i></td> <td><i>Step 3</i></td> <td><i>Step 4</i></td> <td><i>Step 5</i></td> </tr> <tr> <td>First Yr</td> <td>Second Yr</td> <td>Third Yr</td> <td>Fourth Yr</td> <td>Fifth Yr</td> </tr> <tr> <td>\$15.75</td> <td>\$17.50</td> <td>\$18.25</td> <td>\$19.50</td> <td><b>\$20.50*</b></td> </tr> </table> <p>*Indicates a change in the wage range.</p>	<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>	<i>Step 4</i>	<i>Step 5</i>	First Yr	Second Yr	Third Yr	Fourth Yr	Fifth Yr	\$15.75	\$17.50	\$18.25	\$19.50	<b>\$20.50*</b>
<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>	<i>Step 4</i>	<i>Step 5</i>													
First Yr	Second Yr	Third Yr	Fourth Yr	Fifth Yr													
\$15.75	\$17.50	\$18.25	\$19.50	<b>\$20.50*</b>													
2	MHX Salary Range	<p><u>Dispatch/Schedulers and other Control room staff:</u></p> <table border="0"> <tr> <td><i>Step 1</i></td> <td><i>Step 2</i></td> <td><i>Step 3</i></td> <td><i>Step 4</i></td> <td><i>Step 5</i></td> </tr> <tr> <td>First Yr</td> <td>Second Yr</td> <td>Third Yr</td> <td>Fourth Yr</td> <td>Fifth Yr</td> </tr> <tr> <td>\$15.75</td> <td>\$17.50</td> <td>\$18.25</td> <td>\$19.50</td> <td><b>\$20.50*</b></td> </tr> </table> <p>*Indicates a change in the wage range.</p>	<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>	<i>Step 4</i>	<i>Step 5</i>	First Yr	Second Yr	Third Yr	Fourth Yr	Fifth Yr	\$15.75	\$17.50	\$18.25	\$19.50	<b>\$20.50*</b>
<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>	<i>Step 4</i>	<i>Step 5</i>													
First Yr	Second Yr	Third Yr	Fourth Yr	Fifth Yr													
\$15.75	\$17.50	\$18.25	\$19.50	<b>\$20.50*</b>													
3.	MHX Wage Addition	For employees with greater than 12 years of service, as of July 1, 2018, a one-time pay increase of \$.25 per hour at the beginning of this contract.															

**END OF ADDENDUM**

**RFP ADDENDUM #2**  
Date of Addendum: April 18, 2018

**NOTICE TO ALL POTENTIAL RESPONDENTS**

The Request for Proposals (RFP) is modified as set forth in this Addendum. The original RFP Documents and any previously issued addenda remain in full force and effect, except as modified by this Addendum, which is hereby made part of the RFP. Respondent shall take this Addendum into consideration when preparing and submitting its Proposal.

**RFP SCOPE OF WORK**

Item	Section	Description of Change
1.	MHX Professional Services that apply.	<p>The applicable Sample Professional Services Contract for this RFP can be found at <a href="http://www.clackamas.us/bids/terms.html">http://www.clackamas.us/bids/terms.html</a>. Professional Services Contract (unless checked, item does not apply) The following paragraphs of the Professional Services Contract will be applicable:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Article I, Paragraph 4 – Travel and Other Expense is Authorized</li> <li><input type="checkbox"/> Article II, Paragraph 29 – Confidentiality</li> <li><input checked="" type="checkbox"/> Article II, Paragraph 29 – Criminal Background Check Requirements</li> <li><input type="checkbox"/> Article II, Paragraph 30 – Key Persons</li> <li><input type="checkbox"/> Exhibit A – On-Call Provision</li> </ul> <p>The original RFP did not specify the necessary applications.</p>
2.	MHX Insurance Requirements	<p>The following insurance requirements will be applicable:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.</li> <li><input checked="" type="checkbox"/> Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual</li> </ul>

		<p>aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.  <input checked="" type="checkbox"/> Automobile Liability: combined single limit, or the equivalent, of not less than \$500,000 per occurrence for Bodily Injury and Property Damage.                      The original RFP did not specify insurance requirements.</p>
<p>3.</p>	<p>SAM Salary Range</p>	<p>Operations/Project Manager Salary Range:                      Step 1                      Step 5                      First Yr                      Fifth Yr                      \$20.75                      \$25.50</p> <p>Driver Salary Range:                      Step 1                      Step 5                      First Yr                      Fifth Yr                      \$15.75                      \$20.50</p> <p>Dispatch/Schedulers and other Control room staff:                       Step 1                      Step 5                      First Yr                      Fifth Yr                      \$15.75                      \$20.50</p> <p>Salary increments during years 2-4 are at the discretion of the Contractor but years 2-4 must reflect an incremental increase from Step 1 up to Step 5 for all positions.</p>
<p>4.</p>	<p>MHX Salary Range</p>	<p>Operations/Project Manager Salary Range:                      Step 1                      Step 5                      First Yr                      Fifth Yr                      \$20.75                      \$25.50</p> <p>Driver Salary Range:                      Step 1                      Step 5                      First Yr                      Fifth Yr                      \$15.75                      \$20.50</p> <p>Dispatch/Schedulers and other Control room staff:                       Step 1                      Step 5                      First Yr                      Fifth Yr</p>

		\$15.75	\$20.50
Salary increments during years 2-4 are at the discretion of the Contractor but years 2-4 must reflect an incremental increase from Step 1 up to Step 5 for all positions.			

**END OF ADDENDUM**

**EXHIBIT E**  
**Contractor Response to**  
**City of Sandy RFP Sandy Area Metro (SAM) Operations**

# **City of Sandy**

## **Clackamas County SS**

### **Mt Hood Express Service**

Request for Proposals  
For Transit Operations

Response from



RoJoy Services  
20450 E Alder Creek Rd  
Sandy, Oregon 97055

503-935-1448  
[Joyceledoux1@gmail.com](mailto:Joyceledoux1@gmail.com)

## Foreword and Warranty

Except to the extent provided by the Federal Freedom of Information Act or any other similar state or local law, the data and information contained in this proposal shall not be disclosed, in whole or in part, outside City of Sandy for any purpose, other than to evaluate the proposal; provided that , if the contract is awarded to RoJoy Services , as a result of or in conjunction, with the submission of such data and information, the City of Sandy shall have the right to duplicate, use, or disclose the data to the extent provided for in the contract.

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## Introduction to RoJoy Services

RoJoy Services was founded to continue the great service that Sandy Transit has provided to the Sandy community since 2000. RoJoy is steadfast in adopting values that lead to transportation services that promote a humanized, personalized and supportive approach to serve those it intends to serve. In response to these values RoJoy has adopted the following mission statement:

*"To deliver accessible transportation services with dignity, compassion, and integrity"*

We are a wholly Oregon-based company, which means that 100% of funds that are so generously provided by Oregon taxpayer for their transportation needs stay right here in Oregon. Our concern is the people and communities that we help and serve. Our focus is in providing a great customer-service program, a commitment to safety and strict driver training standards, and to ensure a good standard of living to our employees.

We are committed to go the extra mile to provide excellent service because; to us our riders aren't commodities. By utilizing drivers and staff who are local to the community, it means our riders are our neighbors, our friends, and our families. Our reputation is important to us because we are a part of the community.

By working with the communities we serve and always looking for ways to improve, we are confident that good things are on the horizon.

**SECTION III**  
**PROPOSAL RESPONSE**

Submitted by: RoJoy Services LLC

Address: 20450 E Alder Creek Rd, Sandy, Oregon 97055

Date: May 1, 2018 Phone number: 503-935-1448

The undersigned, through the formal submittal of this proposal response, declares that he/she has examined all related proposal documents and read the instruction and conditions, and hereby proposes to provide **Transit Operations Service for the City of Sandy** as specified, in accordance with the proposal documents herein for the price set forth in the proposal submittal attached hereto and forming a part of this proposal.

The Proposer, by his signature below, hereby represents as follows:

- (a) That no official or employee of City of Sandy is personally interested directly or indirectly in this contract or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the City, its officials or employees had induced him/her to enter into this contract and the papers made a part hereof by its terms;
- (b) That this proposal is made without connection with any person, firm or corporation making a bid for the same material, and is in all respects, fair and without collusion or fraud.
- (c) The proposer agrees to accept as full payment for the services specified herein, the amount as shown in his/her proposal.
- (d) The Vendor certifies that the Vendor has not discriminated and will not discriminate against any minority, women or emerging small business enterprise in obtaining any subcontract.

Resident Bidder, as defined in ORS 279A.120.

Non-Resident Bidder, Resident State:

The names of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

(If Sole Proprietor or Partnership)

In witness hereto, the undersigned has set his (its) hand this   2   day

of   May  , 2018.

RoJoy Services LLC

\_\_\_\_\_  
Name of Firm

  Joyce LeDant    
Signature of Bidder

## 3.2 Proposal Contents and Format

### 1. Transmittal Letter



20450 E Alder Creek Rd  
Sandy, OR 97055  
503-935-1448

Andi Howell, Transit Manager  
City of Sandy  
16610 Champion Way  
Sandy, Oregon 97055

April 25, 2018

Dear Andi,

Thank you for allowing RoJoy Services the opportunity to offer the enclosed response to your Request for Proposal. It has been a pleasure to put together a proposal with the high hopes that we may be selected by your district to offer transportation services to the citizens of Sandy.

As your transportation provider, we are uniquely qualified to understand the services to be performed. While under a different title, we have been providing this service since January 1, 2004. In 2013, RoJoy Services LLC was successful in becoming the contractor operating your transit service. We have done an excellent job of operating your service. I understand the priorities of Sandy transit and assure you that they are our concerns and priorities as well.

We would be proud to serve the citizens of Sandy and to perform the services requested within the time period specified and under the terms of the RFP. We would like to help you look for further ways to meet your needs, and to work together to find ways to save money, to increase efficiencies and ridership, and to explore new options and methods together to make the SAM Transit the best possible.

Because transportation is such a vital need, this is an opportunity for RoJoy and its employees to give back to the community in which they live. They take great pride in satisfying the needs of those individuals in our communities whose quality of life would be diminished without this service.

Our goal is to not only meet needs but exceed any expectations. We enjoy looking for new ways to solve problems, reduce cost, and improve reliability. People in our/your community need to get to work, to school, and to any number of places in between and they deserve reliable, safe, and effective transportation and that is just what we offer.

With great anticipation, we look forward to further discussing how we may continue serving the City of Sandy.

Even though the company is new, I have been providing the operational services to the SAM Transit for almost ten years.

We are excited about being part of the continuation of this great service and the association with the Sandy community. We look forward to remaining a part of the community for years to come.

Respectfully,

Joyce LeDoux,  
Owner Director

RoJoy Services  
20450 E Alder Creek Rd  
Sandy, OR 97055  
503-935-1448  
[Joyceledoux1@gmail.com](mailto:Joyceledoux1@gmail.com)

## 2. Experience

### 2.a Delivering Rural Transportation Services

RoJoy Service LLC has five years experience in operating the Sandy Transit and Clackamas County Mt Hood Express Service. It came into being expressly to be able to continue the great service delivery that existed under the OHAS contract from January 1, 2004 to June 30, 2013 where I served as the operations supervisor.

As the operations supervisor for the SAM and Mt Hood Express contract while working for OHAS, I participated in the planning and delivery of the transportation services for the SAM and the then Mountain Express.

- These programs include:
- Fixed Route
- Deviated Fixed Route
- Commuter Service
- Flex Route Services
- General Public Dial-a-Ride
- ADA Complementary Paratransit Service

Our experience in a diverse range of transportation services is an added value because as the population grows, ages, or ridership needs change, RoJoy can meet any new requirements by offering additional transportation services in addition to offering innovative planning, needs analysis, and management while maintaining the quality of service the residents desire.

RoJoy brings an experienced and knowledgeable team with a proven record of success. The scheduling and dispatch staff is dedicated and proficient. We have been using the Mobilitat E-Z Rides scheduling software for the past 5 years and beyond.

The supervisory staff is all trained and knowledgeable in the federal and state requirements for ADA service, and the FTA Drug and Alcohol programs.

While with OHAS we were involved with providing transportation services for the following programs.

- Wheels
- CARTS
- CAT
- SAM
- Mountain Express

### Summary

RoJoy Services LLC (July 1, 2013-present) has been operating rural transportation systems for Sandy Area Metro and Mt Hood Express.

January 1, 2004 – June 30, 2013 While employed by OHAS as Operations Supervisor, I managed the SAM services and the then Mountain Express.

### Sandy Area Metro

Located: City of Sandy, Sandy (population approx. 8300)

Vehicles: 11 total (6 in-service vehicles and 5 spares)

Scope: General public fixed route, commuter route, ADA paratransit, and Dial-a-Ride. Monday – Friday 5:30am – 9:00 pm; Saturday – 5:30am-10:30pm (except holidays)

### Mt Hood Express

Service Area:

Hwy 26 corridor – connecting Brightwood, Rhododendron, Welches, Wemme, Zigzag, Government Camp, Timberline Lodge – to Sandy.

Currently 5 vehicles (3 in-service and 2 spare)

Scope:

Villages Shuttle providing general-public deviated-fixed route transportation. Operating 3 times daily-7 days per week

The Express Shuttle providing express service from Sandy to Timberline Lodge 6 times daily – 7 days per week. Additional service in the winter season; one late night run daily Dec. – March, winter break, holidays, weekends Dec-Feb.

## Summary

In 2004, several unincorporated communities along Highway 26 between Sandy and Rhododendron sought to establish a public transportation service for residents living in rural eastern Clackamas County. Recognizing this unmet transit need, working for OHAS, I responded by assisting local residents in the development of a plan that would provide a new service called Mountain Express. I worked with these communities to develop an operations plan. The first month MTX provided 60 rides. By the end of 2012, it was transporting around 2000 rides per month.

The MTX service changed in 2013 to Mt Hood Express with service to Timberline Lodge with ridership around 4000 plus per month.

## 2.b Scheduling and dispatching transportation services

My experience with providing exceptional scheduling and dispatching began 20 years ago where scheduling was done with pencil and paper. We beta tested one of the first computer scheduling route planning software programs. It had a number of problems and did not work too well on dial-a-ride type service. I developed a simple software program in Access to schedule the dial-a-ride type service. Currently, I and my staff is well trained in Mobiltat's E-Z Rides scheduling software.

In Sandy, the dispatchers and staff have successfully used E-Z Rides semi-automated dispatching software to record trip tickets and maintain ridership records for SAM and MTX transportation programs. This software will assist in scheduling and dispatching 18,000 trips for Sandy's STAR and E & D transit programs.

We have been operating a variety of rural demand-response transportation services with varying complexity in Sandy for 22 years.

The process for a client to book a ride begins by determining where they need to go and when they need to be delivered. The actual pick-up times are determined by the local customer service policies or may be driven by available funding. If all time slots are filled, dispatchers will negotiate a different pick-up time. An emphasis is placed on shared rides and developing mini bus route loops. For riders who aren't certain when they need a return ride, they will be accommodated by using a call-return ride with a 1-hour pick-up window. The use of subscription trips for regular repeat rides can provide a route skeleton and increases the ability to schedule shared rides, which improves productivity.



Easy Rides also automates the record keeping processes by storing client data, ridership statistics, vehicle hours and mileage. It is capable of generating various reports such as on-time performance.

### **2.c Knowledge of federal and state requirements, including but not limited to ADA, drug & alcohol use restrictions and data reporting.**

RoJoy fully appreciates and understands the need for the transportation provider to have full knowledge and understanding of federal and state regulations, since failure to comply with these standards on the part of an uneducated transportation contractor can place the County at great financial and legal risk.

Over the years, I have implemented the ADA law under a variety of circumstances in the rural setting; specifically, with Sandy's two transportation services STAR and E & D.

RoJoy requires supervisors to attend ADA training workshops sponsored by the FTA, OTA, and ODOT. RoJoy supervisory personnel receive training on the ADA and how to implement the Act's service standards. Supervisory staff also meets periodically to discuss legal interpretations and recent court decisions and the impacts on operations.

RoJoy must meet all the federal "certifications and assurances" required of a public transit provider, which includes FTA Drug/Alcohol testing compliance.

I have been overseeing these programs for the past 14½ years while in service to the Sandy and MHX contracts. RoJoy will comply with reports detailing program expenses, miles operated, and rides provided for various passenger categories.

## **3. Cost Proposal**

### **(Appendix A from RFP)**

The partnership between Clackamas County Social Services and the City of Sandy Transit benefits both transit programs. Currently MHX enjoys considerable cost savings by not having to provide the infrastructure to support operations. This includes facilities, phone, communication equipment, uniforms, office expenses, and training. The partnership reduces the cost of Sandy services by approximately 16%. As MHX expands, the fixed costs associated with the Sandy contract could be reduced even more. For the CCSS MHX to continue the partnership with Sandy Transit it will be about 34% or more savings over operating solo.

Dispatch service is provided during all hours of operations. Scheduling service is provided daily 5:00 am to 8:30 pm. As an added service - Maintenance service is provided 12 hours daily on a 5 day week. This includes bus washing and cleaning, light maintenance, annual inspections, and trouble shooting.

RoJoy Services is pleased to submit the following proposed rates that reflect the requirements of the RFP's Scope of Work. However, the revenue hours differ between the scope of work (15315) and Attachment A(15675). Revenue hours used are those in the scope of work (15315).

### SAM Cost Estimate

Service Descriptions	Approx Service Hours	Total Contract Cost, per service hour: The hourly rate reflects all fixed and variable costs involved in providing service		Total Annual Cost per Service (cost/hour x hours of service)	
		Year 1	Year 2	Year 1	Year 2
Fixed Route SAM -GRESHAM	8840	\$45.47	\$46.54	\$401,955	\$411,414
Deviated Commuter Route SAM- Estacada	1248	\$45.47	\$46.54	\$56,747	\$58,082
SAM Shopper	780	\$45.47	\$46.54	\$35,466	\$36,301
TAR DAR	4447	\$45.47	\$46.54	\$202,205	\$206,963
Non-Feeder Paratransit Service calculations on separate sheet	1957	\$29.20	\$29.95	\$57,115	\$58,582
<b>Total Operation Contract Cost/Year</b>				<b>\$753,488</b>	<b>\$771,342</b>

Non-Feeder Paratransit Service aka Elderly & Disabled Program calculations

E & D program is charged on a gate – gate revenue hour basis.

Cost basis is the driver's total wage which includes benefits converted to an hourly amount.

#### Year 1

Average Hourly Wage	Payroll tax Employment tax, Workers Comp	Retirement	Personal Leave	Sick Leave	Holiday Pay	Health Insurance	Per Hour Cost
\$19.14	0.25	0.045	0.0565	0.04	0.027	\$2.25	\$29.41

Year 2

\$19.58	0.25	0.045	0.0565	0.04	0.027	\$2.25	\$29.95
---------	------	-------	--------	------	-------	--------	---------

Clackamas County Mt Hood Express Cost Estimate

Service Descriptions	Approx Service Hours	Total Contract Cost, per service hour: The hourly rate reflects all fixed and variable costs involved in providing service		Total Annual Cost per Service (cost/hour x hours of service)	
		Year 1	Year 2	Year 1	Year 2
Express Service	5989	\$47.60	\$49.83	\$285,076	\$298,432
Added Winter Service	531	\$47.60	\$49.83	\$25,276	\$26,460
Villages Shuttle	1440	\$47.60	\$49.83	\$68,544	\$71,755
<b>Total Operation Contract Cost/Year</b>				\$378,896	\$396,647

## 4. References

Client: Clackamas County Social Services – Mount Hood Express  
 Contact: Teresa Christopherson, Administrative Services Manager  
 Phone: 503-655-8646  
 Years of Service: 14 years  
 Type of Service: General public fixed express route/ deviated fixed route rural transportation.

Client: Oregon Housing & Associated Services  
 Contact: Chrislyn Prantl, Executive Director  
 Phone: 503-585-6193  
 Years of Service: 9 ½ years  
 Type of Service: General public fixed route, rural transportation, deviated fixed-route, ADA para-transit, and Dial-a-Ride.

Client: Tillamook County Transportation District  
 Contact: Doug Pilant, General Manager

Phone: 503-815-8283  
Years of Service: 6 years  
Type of Service: General public fixed route, rural transportation, deviated fixed-route, ADA para-transit, and Dial-a-Ride.

## **5. Approach to the work**

### **5.a Experience and approach to scheduling and dispatching demand-response service**

For 13 years while in student transportation, I designed many bus routes including Special Needs transportation for public school system in and around the Sandy area. The last fourteen years I have supervised the demand –response scheduling for Sandy Transit.

The process for a client to book a ride begins by determining where the client needs to go and when they need to arrive. The pick-up time is determined by the local customer service policies. This pick-up time is determined by travel time plus an arrival window time and a pick-up window time. This time is then subtracted from the arrival time. If all time slots are filled, dispatchers will negotiate a different pick-up time. During the scheduling process, a return time is established. For riders who aren't certain when they need to be picked up to return home, these individuals will be accommodated by using a 1-hour pick-up window. We also use subscription rides for those who have repeat trips. This increases the ability for shared rides which improves productivity and efficiency. We are familiar with the Mobilitat Easy Rides scheduling software.

### **5.b Description of driver hiring and training program, supervision and performance monitoring: ability to hire and retain additional drivers as needed.**

Hiring strategy that utilizes advertising, as needed, through the employment department, Craigslist and local papers. Applicants also come through personal referrals and we encourage our employees to refer qualified people. It is our policy to conduct a criminal background check hiring them. The applicant must have a good driver history record. All qualified applications are kept for a minimum of six months to recruit additional drivers as needed.

Our hiring process consists of three interviews. During the first interview, all qualified applicants are informed of the duties, hours, and requirements of the available positions. The second interview is conducted by two interviewers who assess the applicant's qualifications and the applicant's empathy for the clients we serve looking for candidates with exceptional customer service skills. At the third interview, applicants are tested on communication skills and on their physical and aptitude levels for the position for which they are applying. Those selected are then required to complete the required pre-employment drug screening through our third-party consortium, Bio-Med, as well as passing DMV

written test for a CDL Class B permit with necessary endorsements and air brake restriction lifted, if needed.

Once selected, the Driver Trainer & Safety Manager leads new-hire applicants through a 70-hour classroom training program, which consists of the Transportation Safety Institute's (TSI) Bus and Paratransit Operators certificate program. This curriculum presents SMITH System Defensive Driving, the Community Transportation Association of America's (CTAA) PASS training for customer service and to teach the ADA law. The TSL Vehicle Operations Module is used to teach emergency management.

For a more complete description of our driver training, see Attachment G .

We strive to retain our employees by: using annual and or semi-annual performance evaluations that let us work with an employee that may be having problems, recognizing good performance by the Employee of the Month Award and a Safe Driving Award, having an open door policy with all supervisors to report issues, and regular team meetings.

### **5.c Description of what measures you will take to serve riders with disabilities including physical, developmental, visual and hearing disabilities.**

RoJoy uses the CTAA PASS program to teach drivers and dispatchers empathy and sensitivity towards riders with disabilities. This training teaches them to identify various disabilities, how to anticipate what assistance is needed (reasonable accommodation) and how to interact, such as the correct way to offer assistance to someone with a disability always keeping the person in mind and not the disability.

### **5.d Description of knowledge of federal and state requirements including but not limited to ADA, drug & alcohol use restrictions, driver testing and data reporting.**

All RoJoy supervisors attend ADA training workshops sponsored by the FTA, OTA, and ODOT. Supervisory personnel receive training on ADA and how to implement the Act's service standards. Supervisory staff also meets periodically to discuss legal interpretations and recent court decisions and the impacts on operations.

FTA requires that RoJoy meet all the federal "certifications and assurances" required as a public transit provider, which includes FTA Drug/Alcohol testing compliance including all required reporting. Please see Attachment F.

### **5.e Methods used to ensure service is responsive to needs of customers.**

When we receive public input about service needs, we attempt to respond in a timely manner. As the provider, we strive for excellence, which begins with our commitment to high training standards. This includes all supervisors being qualified trainers in various aspects because this ensures that staff is all on the same page which enables RoJoy supervisors to evaluate employee performance in a consistent

manner. RoJoy is committed to on-going training for drivers and dispatchers and will retrain when an employee's performance falls short of what is expected.

In addition, we have created a variety of programs and approaches designed to achieve service excellence. For example, policies have been created on how to transport service animals, the safe transportation of small children, usage of seat belts, safe storage of carry-on items, as well as utilizing the PA system to call stops for those passengers who may be sight impaired. Our policies are built around the idea of keeping our customers safe and comfortable by being responsive to their needs. Please refer to our procedures manual, Attachment H, for further information on our policies.

#### **5.f Methods used for handling emergencies, safety, and security.**

The TSI Bus Operator Training Curriculum devotes a significant amount of time teaching drivers and dispatchers the "7 Steps to Emergency Management," which provides the basis for drivers and dispatchers to respond to emergencies in a consistent manner. When an emergency does occur, drivers and other support personnel are provided with the resources necessary to properly and safely respond to these instances when they arise. Drivers are also taught "conflict resolution" techniques through the National Transit Institutes "Skills and Techniques for Maintaining a Safe Environment on Your Bus" to deal with the occasional unruly passenger. Attachment H

#### **5.g Methods used to monitor and ensure excellent customer service, including driver attitude and behavior, attitude of dispatchers and any other services that enhance customer service.**

We strive to achieve a "customer first" culture, with the understanding that our customers are by no means limited to just the passengers we transport. Doing so requires management to create and promote an atmosphere that embodies the importance of the "customer first" principles.

We work diligently to assure this priority is understood by all employees. Driver attitude and behavior is monitored in various ways. They include: on-board "customer comment" cards; periodic ride-checks – both on-board and unobserved conducted by both training staff and the Supervisor; and use of onboard cameras to monitor driver performance. Performance by control-room personnel (dispatchers, schedulers, and/or reservationists) and drivers is monitored through the use of "Customer Comment" cards and random callbacks.

#### **5.h Methods used to monitor and ensure service quality, such as "on-time" service and response to requests for rides.**

For monitoring fixed-route services, drivers are instructed to radio the control room when departing from end-of-the-line points on the route. The control room staff is aware at all times as to whether or not the route or system is operating on time. Drivers are also instructed to advise the dispatcher when events occur along the route that will negatively impact time-schedule adherence. The Demand

response driver radios in to dispatch every time a passenger is picked up and delivered. Doing so allows the dispatcher to assess whether or not a driver is on time, late, or able to accommodate additional client if necessary. The times of the embarking and debarking are radioed and recorded into the Easy Rides program. Many reports can be generated including "on-time" performance by driver and/or route to provide performance measures.

### **5. i How vehicle breakdowns will be handled when vehicles are in service.**

RoJoy understands and is committed to operate mechanically sound vehicles whose performance and appearance inspire confidence among the general public, our customer, and our employees. Our preventative maintenance program – which requires all employees be accountable for their respective roles in this process – is designed to keep all vehicles in a safe, reliable, and functional condition at all time. (See Attachment I)

Even with the best maintenance program breakdowns can still happen. In this eventuality the priorities are maintaining timeliness of service and getting the affected customers to their destinations as quickly as possible. Dependent upon circumstances, a bus will be immediately dispatched to replace the disabled vehicle. A second vehicle may be necessary to deliver the clients on the affected bus.

### **5.j Capability and management approach**

As owner operator of RoJoy Services I will be directly responsible for the day-to-day operations. This includes fulfilling customer service expectations, training, hiring, and if necessary firing of employees. A large emphasis is placed on training and coaching employees. I have an operations/human resources manager, Janice Johnson, with 5 ½ years experience. Ben Smith is my maintenance manager and training assistant. He has 5 years experience in this field plus many more in other businesses.

### **5.k Labor relations program**

In addition to offering a competitive wage and benefit package, RoJoy strives to establish a workplace environment that recognizes and respects the value and importance of every employee. In this type of environment, employees look forward to coming to work and feel appreciated. Employee committees are created to assist in organizing events, as well as for providing valuable comments or suggestions for workplace improvements or service changes.

Outstanding performance is recognized by "Employee of the Month" and "Safe Driving" award programs.

Over the past 5 years of this contract - the average longevity is 4.76 years of service. The health and benefit package exceeds the RFP requirements; please see the attached employee wage scale (Attachment J). We would be happy to provide a copy of our employee handbook upon request.

### **5.1 Financial viability**

RoJoy Services LLC has five years of financial history. All bills are paid on time and no longer need nor use a line of credit. RoJoy Services LLC has cash reserves of \$100,000.00 and an excellent credit rating.

### **5.m Ability to start providing service in July 2018.**

With the award of a contract, RoJoy is immediately prepared to continue with seamless service operations. All programs and certifications are currently in place. All personnel will be retained in their present positions and schedules. We are currently completely staffed. Should another contractor be selected to operate your service, we will work in the spirit of cooperation to make the transition seamless and to facilitate the retention of the current staff.

## **Attachments**



## Attachment A

### Sandy Area Metro SAM Cost Proposal

Based upon the estimated figures provided in Section 1.3 and Attachment H, indicate the proposed costs for SAM Operations for the first year of service during said Contract.

A. Fixed Route and Commuter Service	\$ <u>494,168</u>
B. Paratransit – Special Needs Services	\$ <u>259,320</u>

Cost per revenue hour \$ 45.47 based on 15,675 annual revenue hours

Total cost per year \$ 753,488

RoJoy Services LLC

\_\_\_\_\_  
Company Name

Joyce LeDoux  
Signature of Authorized Official

20450 SE Alder Creek RD

\_\_\_\_\_  
Address

Joyce LeDoux  
Name, Title of Authorized Official

Sandy, Oregon 97055

\_\_\_\_\_  
City, State, Zip

April 30, 2018  
Date

503-935-1448

---

 Phone

**Clackamas County Social Services  
Mt Hood Express Service  
Cost Proposal**

Based upon the estimated figures provided in Section 1.3 and Attachment H, indicate the proposed costs for MHX Operations for the first year of service during said Contract.

C. Express Commuter Service	\$ <u>310,352</u>
D. Village Shuttle Services	\$ <u>68,544</u>

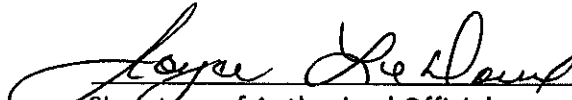
Cost per revenue hour \$ 47.60 based on 7960 annual revenue hours

Total cost per year \$ 378,896

RoJoy Services LLC

---

 Company Name

  
Signature of Authorized Official

20450 SE Alder Creek RD

---

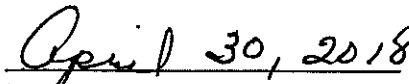
 Address

  
Name Title of Authorized Official

Sandy, Oregon 97055

---

 City, State, Zip

  
Date

503-935-1448

---

Phone

**Attachment B**



## Certification Application: View Application

Main Documents Signature Submit Q & A Utilities Cert List

### ROJOY SERVICES LLC

Application Type: **Annual Renewal Application**

Application Number: **1760123**

Application status: **Processing Complete**

Application started: **5/18/2017**

Submitted: **5/21/2017**

Print to Printer

Print to PDF File

## Certification Application Information

Application Type	Annual Renewal Application
Certifying Agency	State of Oregon
Business Name	ROJOY SERVICES LLC
Current Status	Processing Complete
Application Number	1760123
Contact Person	JOYCE LEDOUX

## Section 1: General Information

### Business is applying for

Disadvantaged Business Enterprise (DBE)

#### 1.A. Legal Name of Firm

ROJOY SERVICES LLC

#### 1.B. DBA Name

#### 1.C. Street/Physical Address of Firm

20450 SE ALDER CREEK RD  
SANDY, OR 97055

#### 1.D. Mailing Address of Firm

20450 SE ALDER CREEK RD  
SANDY, OR 97055

#### 1.E. Phone Number

503-935-1448

#### 1.F. Fax Number

503-826-0618

#### 1.G. Email Address

joyceledoux1@gmail.com

#### 1.H. Owner's Full Name and Title

JOYCE LEDOUX, OWNER

## Section 2: Ownership and Control Information

**2.A. Have there been any changes in the business address in the last 12 months?**

No

**2.B. Have there been any changes in the business contact information in the last 12 months?**

No

**2.C. Have there been any changes in the ownership of the company in the last 12 months?**

No

**2.D. Have there been any changes in the control of the company in the last 12 months?**

No

**2.E. Have there been any changes in the management of the company in the last 12 months?**

No

**2.F. Have there been any changes in the legal structure of the firm in the last 12 months?**

No

**2.G. Have there been any changes in the work areas of the firm in the last 12 months?**

No

**2.H. Have there been any changes in the work specialties of the firm in the last 12 months?**

No

## Mandatory Documents

Document	Status
<b>Business federal tax returns for the last year, including all schedules</b> <u>2016 LEDOUX JM Form 1040 Individual Tax Return Records.pdf</u> (PDF, 613.00 KB) 2016 personal income tax	<b>Attached</b> by JOYCE LEDOUX on 5/21/2017

## Required Documents

Document	Status
<b>Annual No Change Statement (MBE/WBE/SDV/ESB)</b>	<b>Not Applicable</b> , noted by JOYCE LEDOUX on 5/18/2017
<b>No Change Affidavit (DBE)</b>	<b>Not Applicable</b> , noted by JOYCE LEDOUX on 5/18/2017
<b>DBE Applicants: Personal federal tax returns for the last year, including all schedules</b>	<b>Not Applicable</b> , noted by JOYCE LEDOUX on 5/18/2017
<b>Documentation showing changes to Business Structure within the last year</b>	<b>Not Applicable</b> , noted by JOYCE LEDOUX on 5/18/2017
<b>Documentation showing changes to Leases within the last year</b>	<b>Not Applicable</b> , noted by JOYCE LEDOUX on 5/18/2017
<b>Documentation showing changes to Ownership (Including New Owners) within the last year</b>	<b>Not Applicable</b> , noted by JOYCE LEDOUX on 5/18/2017
<b>Documentation showing changes to Sales Agreements within the last year</b>	<b>Not Applicable</b> , noted by JOYCE LEDOUX on 5/18/2017

**Documentation showing changes to the firm's Address/Location within the last year**

**Not Applicable**, noted by JOYCE LEDOUX on 5/18/2017

**Additional supporting documentation not listed above**

**Not Applicable**, noted by JOYCE LEDOUX on 5/18/2017

## **Electronic Signature**

<b>Signature</b>	<b>Joyce Marie LeDoux</b>
<b>Title</b>	<b>owner manager</b>
<b>Organization</b>	<b>ROJOY SERVICES LLC</b>
<b>Date</b>	<b>5/21/2017</b>

**Customer Support**

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**Attachment C**





**Attachment D**

**Attachment D**

**NON-COLLUSION AFFIDAVIT**

STATE OF Oregon )  
COUNTY OF Clackamas ) ss

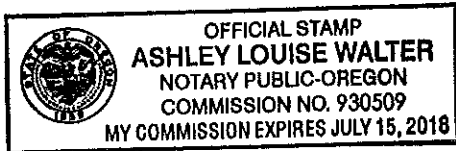
Joyce LeDoux owner, being first duly sworn, on their oath  
(Type or Print Name and Title)

says that the proposal submitted is genuine and not a sham or a collusive proposal or made in the interest of or on behalf of any person not herein named; and they further state that the said proposer has not directly or indirectly induced or solicited any other proposer for the above work or supplies to put in a sham proposal, or any other person or corporation to refrain from proposing; and that said proposer has not in any manner sought by collusion to secure to self advantage over any other proposer or proposers.

**NON-COLLUSION AFFIDAVIT**

SIGN HERE Joyce LeDoux

Subscribed and sworn to before me this 30<sup>th</sup> day of April, 2018.



Ashley Louise Walter  
Notary Public in and for the

State of Oregon

My Commission Expires:

July 15<sup>th</sup>, 2018

**Attachment E**

**Attachment E**

**CERTIFICATION REGARDING LOBBYING**

The undersigned contractor certifies, to the best of his or her knowledge and belief, that they are in compliance with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65.

The Contractor, ReJoy Services LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.



\_\_\_\_\_  
Signature of Contractor's Authorized Official

Joyce LeDoux, Owner

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official (print or type)

Date

April 28, 2018

**Attachment F**



**RIO-MED**  
TESTING SERVICE INC

# Certificate of Completion

*This is to certify that on 11/28/2008*

**Joyce LeDoux**

*has successfully completed the course*

**Alert Drug Free Training  
Supervisor Training**

---

Supervisor's Signature

**DOT 14 & 49 CFR : This training was designed to fulfill the requirements of the Department of Transportation's 60/60 drug and alcohol reasonable suspicion training requirement.**

# Certificate of Completion

This Certifies That  
**Janice Johnson**  
has completed the

## REASONABLE SUSPICION DETERMINATION TRAINING

in accordance with 49 CFR Part 655.14(b)(2)

Given by **Oregon Department of Transportation**

This Third Day of October Two Thousand Seventeen

Instructor:



**Robbie L. Sarles, President**  
**RLS & Associates, Inc.**



# Certificate of Completion

This Certifies That

**Ben Smith**

has completed the

## REASONABLE SUSPICION DETERMINATION TRAINING

in accordance with 49 CFR Part 655.14(b)(2)

Given by **Oregon Department of Transportation**

This Third Day of October Two Thousand Seventeen

Instructor:

  
Robbie L. Sarles, President  
RLS & Associates, Inc.

**Attachment G**

<b>PROGRAM JOB DESCRIPTIONS</b>	<b>Section 102</b>
<b>RoJoy Services</b>	effective July 1, 2013 <b>Page 1 of 1</b>

### **Driver Qualifications**

1. Minimum age is 21 years. Must possess a valid Oregon Driver License. Must have five years US driving experience.
2. Must have a minimum CDL B with passenger endorsement and air brake restriction lifted or be able to get one.
3. Must have minimum two years experience operating commercial vehicle or completion of an approved driver-training program.
4. No major\* violations and must have a current DMV driving record report.

\*Major violations are defined as, but not limited to, DUI, License Suspension, Felonies, Hit and Run Accidents, Possession of a Controlled Substance, Eluding Police and Reckless Operation.

5. Have no more than two (2) moving violations of any type within a three (3) year period;
6. No more than one (1) at-fault accident in a three (3) year period
7. All drivers must be in good physical condition; be able to obtain and hold a current DOT medical exam certificate.

RoJoy Services  
Driver Training Program

**Professional Transit Driver Training**

	Hours	Type	Initial	
Welcome and Hiring Packet--Human Resources	0.50	CRT		
History, Vision and Mission	0.50	CRT		
Walk-Through Introduction to Staff and Facilities	0.50	CRT		
Professional Driver's Job Duties-Purpose and Scope	0.50	CRT		
Read and Understand Job Duties (Q&A) and sign JD	0.50	CRT		
Employee Handbook/ Drug & Alcohol	4.00	CRT		
Vehicle familiarization, pre-trip, operations, preventative maintenance	2.00	CRT		
Vehicle familiarization, pre-trip, operations, preventative maintenance	4.00	BTW		
Policies, procedures, routes, count sheets, manifests	2.00	CRT		
Americans with Disabilities Act of 1990	1.00	CRT		
Wheelchair securement	0.50	CRT		
Policies, procedures, routes, count sheets, manifests	2.00	BTW		
Americans with Disabilities Act of 1990	1.00	BTW		
Wheelchair securement	1.00	BTW		
Customer Service	8.00	CRT		
Customer Service	4.00	BTW		
Emergency Procedures, Blood Borne Pathogens	2.00	CTR		
Emergency Procedures	2.00	BTW		
Fueling	0.50	CTR		
Fueling	0.50	BTW		
Substance Abuse Training	1.00	CTR		
Distracted driving	1.00	CTR		
Defensive driving	4.00	CTR		
Defensive driving	4.00	BTW		
Driving instruction/route training	20.00	BTW		
Final Road Test	3.00	BTW		
	70.00			

Driver \_\_\_\_\_ Date \_\_\_\_\_

Supervisor \_\_\_\_\_ Date \_\_\_\_\_

**ON-BOARD EVALUATION**  
**(25 points)**

DATE: \_\_\_\_\_ ROUTE/BUS # \_\_\_\_\_

DRIVER \_\_\_\_\_ TIME OF DAY OBSERVED \_\_\_\_\_

**(+) MEETS STANDARDS (-) NEEDS IMPROVEMENT (2-point deduction) (NO) NOT OBSERVED**

**DEFENSIVE DRIVING AND SKILL**

- |                            |                                  |
|----------------------------|----------------------------------|
| ____ SPEED FOR CONDITIONS  | ____ ACCELERATION (SMOOTH)       |
| ____ TRAFFIC AWARENESS     | ____ BRAKING (SMOOTH)            |
| ____ MIRROR USAGE          | ____ PROPER SPEED                |
| ____ YIELD (RIGHT OF WAY)  | ____ PROPER LANE USAGE           |
| ____ FOLLOWING DISTANCE    | ____ INTERSECTIONS (APPROACHING) |
| ____ TIMELINESS            | ____ RAILROAD CROSSINGS          |
| ____ RIGHT/LEFT TURNS      | ____ PROPER SIGNALING            |
| ____ OBEY TRAFFIC LAWS     | ____ CURB STOPS                  |
| ____ BUS POSITIONING       | ____ LIFT USE                    |
| ____ WHEELCHAIR SECUREMENT | ____ ANNOUNCE STOPS              |
| ____ OTHER _____           |                                  |

**CUSTOMER SERVICE**

- |                            |  |
|----------------------------|--|
| ____ REPNOSIVE AND HELPFUL | ____ MAINTAIN COMFORTABLE TEMP           |
| ____ PERSONAL APPREARANCE  | ____ COURTEOUS TO MOTORISTS, PEDS, BIKES |

**ADDITIONAL NOTES COMMENTS, CONCERNS, AND OBSERVATIONS:**

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**FINAL EVALUATION: SCORE \_\_\_\_\_ MEETS STANDARDS NEEDS IMPROVEMENT**

**EVALUATOR: \_\_\_\_\_**

**Attachment H**

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### **EMERGENCY NOTIFICATION:**

An emergency can happen at any time. Emergency situations can be very stressful, but with regular review of policy guidelines, training, and experience, the professional driver will be prepared for all types of emergencies. Your professionalism and ability to stay calm and take control of the situation will build confidence in you by your customers.

### **EMERGENCY NOTIFICATION:**

- Report to dispatch immediately when confronted with:
- People in need of assistance (whether on or off the bus)
- Safety hazards
- Threatening and/or criminal behavior (whether on or off the bus)
- Accidents

If you have a threatening situation and need to discreetly call for help, radio dispatch using code 10-26 (request police assistance) or 10-25 (Emergency – need supervisor).

Emergency procedures may vary slightly, depending on the type and location. Below is a quick guide to key action steps in most emergencies:

### **BASIC EMERGENCY GUIDELINES:**

1. Remain Calm
2. Assess the situation:
  - a. What is the problem?
  - b. Do you need Police, Fire, or Medical Assistance?
  - c. Exact location
  - d. Who is involved?
3. Protect yourself and your passengers. Determine whether or not to evacuate the vehicle
4. Radio dispatch. After dispatch hours, use the Emergency Call list.
5. Secure the bus:
  - a. Pull to the side of the road in a safe location, if possible

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- b. Activate the four-way flashers
  - c. Set the parking brake and turn the engine off.
  - d. If necessary, set out the three triangle reflectors to warn other traffic
6. Inform passengers of the situation, reassure and assist them, assess injuries, and provide any needed First Aid for which you are qualified
7. Gather information:
- a. As soon as possible, start taking notes using the accident report that's in your accident kit. (Note the time and specific location, etc.)
  - b. Identify any person(s) involved. (Name, description, license number, insurance information, phone number, etc.)
  - c. Give out comment cards to passengers or witnesses who are willing and able to comment on what happened during the incident.
  - d. Record any other details that might be needed for a later investigation or court case.
  - e. Do not make any statements to bystanders or the press.
  - f. Do not admit fault or place fault.

**ROLE AND RESPONSIBILITY OF BUS OPERATORS:**

- ✓ Deal with all customers in a polite and professional manner.
- ✓ Defuse minor arguments by applying customer relations skills.
- ✓ Diplomatically inform passengers about company regulations or policy, when appropriate.
- ✓ Observe and report to dispatch any activity that threatens the safety of your or your passengers.
- ✓ Assume control of the scene of any incident or accident until the arrival of Supervisor or emergency personnel.
- ✓ Submit appropriate reports following incident or accident.

**CONTACT PHONE NUMBERS:**                      Dispatch office                      503-668-3466

Operations Supervisors:

Joyce LeDoux	503-935-1448	Ben Smith	503-826-9368
Janice Johnson	503-954-0281	Harriet Reagan	503-422-9192



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## SECURITY

The following provides guidelines for responding to and handling a variety of possible public safety incidents.

### **THREATENING OR CRIMINAL BEHAVIOR**

With escalating misbehavior or criminal conduct, your first priority is safety. It may be sufficient to pull to a safe place and open the doors to allow an unwanted person to leave the vehicle. At other times you may need police intervention to resolve a problem or deal with criminal activity.

If passenger behavior suggests that a situation could develop into an incident, call dispatch and request assistance. When you alert dispatch that a serious situation may be developing do not feel as if you are bothering dispatch or "crying wolf" – trust your judgment and your intuition. Be sure to report to dispatch immediately whenever you refuse service to a customer, take your bus out-of-service because of a problem customer, or need supervisory or police assistance.

RoJoy/RoJoy employees should not become physically involved in threatening or violent behavior. ORS 161.205 gives a person the right to use physical force for self-defense, but only that which is reasonable needed to defend oneself or another person. An employee involved in any security incident, whether or not it involves physical force, must submit a report to his/her supervisor.

### **BOMB INCIDENT OFF THE BUS**

If your bus is within one block of a suspected or known bomb incident the best action is to drive away from the suspected site of the bomb. Buses passing the site should avoid any radio or cell phone transmission, voice or text.

### **BOMB THREAT ON THE BUS**

If you are told that a bomb is on your bus:

1. **Do not** use the radio or cell phone. Turn off all electronics (radio, cell phones, etc.)
2. Secure the bus: Safely pull to the side of the road, if possible. Turn the engine and lights off.
3. Calmly inform passengers and evacuate the bus.
4. Find a public telephone, notify dispatch, and follow their instructions.

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## **EMERGENCIES**

### **DOWNED WIRE**

1. Assess the situation and avoid contact with downed wires.
2. Assume that any downed wire could be "hot".
3. Calmly inform passengers and explain the danger.
4. Keep doors closed and direct passengers to remain on board and in their seats.
5. Notify dispatch.

### **FIRE ABOARD THE BUS OR HOT BRAKES**

At the first indication of fire or smoke aboard a bus, take these steps:

1. Pull to the curb, stop, and secure the bus (engine off).
2. Notify passengers of the situation in a manner that will not cause alarm.
3. Evacuate passengers from the bus to a safe place. (see customer evacuation procedures below)
4. Notify dispatch.
5. Use fire extinguisher if possible; do not raise hood, spray from underneath
6. Stay away from smoking wheel well or tires.

### **FIRE EXTINGUISHER**

Here are some rules to follow in putting out a fire:

1. Know how the fire extinguisher works. Study the instructions BEFORE you need it and be sure it is in good working order at all times.
2. When using the extinguisher, stay as far away from the fire as possible.
3. Aim at the source or base of the fire, not at the flames.
4. Position yourself upwind. Let the wind carry the extinguisher to the fire, rather than carrying the flames to you.
5. Continue until whatever is burning has been cooled. Absence of smoke or flame does not mean the fire is completely out or cannot restart.
6. Only try to extinguish a fire if you know what you are doing and it is safe to do so.

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## **CUSTOMER EVACUATION**

When the vehicle is involved in an accident or breakdown, it is usually safer and the operator maintains more control over what happens if the passengers remain in the bus. However, passenger must be evacuated under any of these circumstances:

1. A fire, leaking fuel, vehicle submersion, rollover, or other condition making the bus unsafe. If there is fuel leaking tell people not to smoke and do not use flares.
2. The location or position of the bus is unsafe.
3. The operator is instructed to do so by dispatch, police, or fire fighters.

To be successful, the evacuation process requires that you know what to do, how to do it, and when to do it – plus, you must fully understand the equipment on the vehicles you operate. Some evacuation techniques can be performed safely with no assistance. However, moving some disabled passengers with wheelchairs or mobility devices may require assistance from an able bodied passenger or passerby. Narrow confines of most vehicles makes it difficult for two people to work together, so with clear and concise instructions, the helper is better able to synchronize his/her actions with yours.

Time and conditions permitting, inform the passengers in a calm manner that there is an emergency. Advise them that help is on the way, but for their safety it is best to get off, or be assisted from the vehicle.

- If passengers are able to walk, direct them to the "best" usable exit, since the "nearest" exit may be blocked or jammed.
- Release any seatbelts or passenger restraints by unbuckling or cutting. If a person is in a wheelchair, do not waste time releasing the wheel chair securement – instead, first remove the person, then if time permits recover the wheelchair.
- Move passengers to a safe location, at least 100' away from the vehicle.
- Assist customer back into their wheelchair if conditions permit and the wheelchair can be safely recovered.

## **HAZARDOUS SPILL**

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All drivers must know something about hazardous materials. You must be able to recognize hazardous cargo and whether or not you can transport it without a HAZMAT endorsement to your CDL. Most hazardous materials cannot be carried on a bus. Riders sometimes board a bus with an unlabeled hazardous material and may not know it is unsafe. Do not allow rider to carry on flammable, caustic, or poisonous materials. (car batteries, gasoline, etc) A spill of unknown or suspicious origin could be hazardous to public health and should be handled and investigated by trained and qualified persons only. In the event of a hazardous spill, follow these steps:

- Notify dispatch.
- Warn passengers of the hazard. Unless ordered to evacuate, keep passengers on the bus. Move the bus to a safer location if necessary.

## **TIRE FAILURE**

The loud bang of a blowout is usually an easily recognized sign. Because it takes a few seconds for the vehicle to react, you might think it was another vehicle, but any time you hear a tire low, it is safest to assume it was yours.

If the vehicle thumps, or vibrates heavily, it may be a sign that one of the tires has gone flat. That may be the only sign, but when a rear tire fails it will cause the vehicle to slide back and forth or "fishtail"

If the steering feels "heavy" it is probably a sign that one of the front tires has failed.

When you realize a tire has failed:

1. Hold the steering wheel firmly.
2. Stay off the brake unless you're about to run into something.
3. Immediately release the accelerator pedal and allow the vehicle to slow down.
4. After vehicle has slowed, pump brakes gently and pull off the road and stop.
5. Activate four-way flashers
6. After stopping check all tires.

## **ACCELERATOR PEDAL STICKING**

In the event the accelerator pedal sticks:

1. Pump the accelerator with several quick jabs.
2. Place transmission in neutral.

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3. Apply the brakes.
4. Pull safely off the roadway.
5. Activate four-way flashers.
6. Shut off the engine and contact dispatch.

### **SKID CONTROL AND RECOVERY**

A skid happens whenever the tires lose their grip on the road. This is caused in one of four ways:

1. OVER-BRAKING – Braking too hard and locking up the wheels.
2. OVER-STEERING – Turning the wheel more sharply than the vehicle can turn.
3. OVER-ACCELERATION – Supplying too much power to the driver wheels, causing them to spin.
4. DRIVING TOO FAST – Most serious skids result from driving too fast for road conditions.

Skids caused by acceleration usually happen on snow or ice. This can easily be stopped by taking your foot off the accelerator. With a manual transmission, push in the clutch. Otherwise the engine can keep the wheels from rolling freely and regaining traction.

Rear wheel braking skids occur when the rear drive wheels lock. Because locked wheels has less traction than rolling wheels, the rear wheels usually slide sideways in an attempt to "catch up" with the front wheels. Do the following to correct a drive-wheel braking skid:

1. Take your foot off the accelerator.
2. Stop braking, this will let the rear wheels roll again, and keep the rear wheels from sliding any further. If on ice, push in the clutch to let the wheels turn freely.
3. Turn quickly...when a vehicle begins to slide sideways, quickly steer in the direction that the rear end is skidding. You must turn the wheel quickly. Don't over steer.
4. Counter steer...as the vehicle turns back on course; it has a tendency to keep right on turning. Compensate by turning the steering wheel quickly the other way, or you may find yourself skidding in the opposite directions. Don't over steer.

### **VEHICLE BREAKDOWN**

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No matter how carefully you or fleet maintenance checks your vehicle there is always the possibility of a breakdown when you are on the road. Procedure for a vehicle breakdown is similar to the Basic Emergency Procedure outlined earlier in this chapter.

1. Pull the vehicle safely off the roadway.
2. Activate the four-way flashers.
3. Contact dispatch. Dispatch will tell you if another vehicle will be sent to transport your passengers.
4. Inform passengers of the reasons for the delay and what is being done to correct the problem.
5. Keep passengers on board unless they are to be transferred to another vehicle another vehicle or will be in danger if they remain on board.

### **ACCIDENT PROCEDURES**

When you are involved in an accident and not seriously hurt, you need to prevent further damage or injury, as well as deal with current problems. The basic steps are:

1. Get your vehicle safely to the side of the road and contact dispatch
2. Activate four-way flashers, set parking brake and turn off engine
3. Let your passengers know you will be right with them then set out three reflective triangles to warn other traffic.
4. Pull the accident kit which has instructions to help you remember what to do.
5. Assess injuries, reassure and assist passengers.
6. Gather information

An accident is one of the worst things that can happen to any driver, but particularly to a transit operator who is responsible for the well being of customers. In addition to caring for the passengers and preventing further damage to the vehicle, operators must avoid saying or doing anything that might result in increased liability to the transit system. The procedures below describe how to handle a major accident. However, the same principles apply to minor accident as well. It is considered an accident **anytime** there is contact with the bus, even though the damage appears minor and whether or not there are injuries.

### **DURING DISPATCH HOURS**

1. Find the first safe location and get your vehicle off the road, if possible

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2. Assess the situation:

- Do you need the Police, Fire or Medical Assistance
- Exact location of the vehicle
- Number of passengers on board
- Extent of injuries
- Number of vehicles involved and an approximation of the extent of damage
- Any other information

3. Radio Dispatch:

- Announce a “**Code Red**”. (This alerts all other drivers to stay off the radio until dispatch clears the channel when the Code Red is over.)
- Stay on the radio (or cell phone) while dispatch call 9-1-1, if necessary and gets supervisory personnel en-route to the scene.

4. Secure the bus:

- Activate the four-way flashers.
- Set the parking brake and turn off the engine.
- Anytime you stop on a road or the shoulder of any road, you must put out the emergency warning devices **within 10 minutes**. Place the triangles at the corners of the vehicle on the side nearest the approaching traffic.

- ✓ On multi-lane or undivided highway with traffic in both directions (non obstructed view):

One- 100' from front corner of vehicle

One - 10' from rear corner of disabled vehicle

One – 100' behind the disabled vehicle

- ✓ On a hill, curve, or any obstruction that prevents other drivers from seeing vehicle within 500':

One- 100' from front corner of disabled vehicle

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One - 10' from rear corner of disabled vehicle

One – 100'- 500' behind the disabled vehicle

✓ On one-way or divided highway:

One – 10', 100', and 200' from rear corner of disabled vehicle.

- If you must park on a hill, remember to turn the wheels for maximum safety
  - ✓ Uphill with curbing - front wheels left against curb, chock block placed behind rear tire.
  - ✓ Uphill without curbing – front wheels right. Chock block placed behind rear tire
  - ✓ Downhill with or without curbing – front wheels to the right, chock block in front of rear tire.

#### 5. Protect yourself and your passengers.

- Once parked the operator needs to decide whether or not to evacuate the passengers. Ordinarily, the passengers are safer if they remain on the vehicle. However, customers must be evacuated if:
  - A fire, leaking fuel, vehicle submersion, rollover, or other condition making the bus unsafe. If there is fuel leaking tell people not to smoke and do not use flares.
  - The location or position of the vehicle is unsafe.
  - The operator is instructed to do so by dispatch, police, or fire fighters.
- If you need to evacuate passengers, move them to a safe location at least 100' from the vehicle.

#### 6. Reassure and assist passengers. Anytime you are involved in an accident, no matter how minor, access injuries:

- Ask, "Is everyone okay?" Be sure that everyone hears you and has an opportunity to respond.
- Walk through the bus to see if there are any unconscious or injured passengers...look for bleeding, broken limbs, vomiting, or labored breathing.



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- Look for other signs such as disorientation, confusion, or inability to respond. These may be signs of shock or serious head injury.
- Administer any First Aid for which you are qualified.

7. Gather information. Once you have responded to the accident following the procedures outlined above, you will need to document what happened.

- Note the time and specific location of the accident.
- Get the license plate numbers of all vehicles involved in the accident.
- Obtain names and license numbers of the other drivers. Get their insurance company name, phone number, and their policy number.
- Take pictures of any property or vehicle damage.
- Give out comment cards to passengers or witnesses who are willing and able to comment on what happened during the accident.
- Get the name of the investigating officer and his/her agency (city, county, state).
- Answer questions asked by officials but don't volunteer any other information.
- Avoid discussing the details with anyone except transit system officials, the police, or your insurance representative.
- Do not blame other or take blame for the accident.
- Do not make any statements to the press or to bystanders.
- Do not be photographed with your vehicle in an accident situation.
- If contacted by an attorney or any other official about the accident, refer him/her back to the proper transit official.

8. Wait for a supervisor to arrive at the scene to transport you for post-accident drug testing, if applicable.

As soon as possible, start taking notes. Describe what happened and document all the information listed above. Add anything that might remotely be related to the accident. Did you notice anything unusual about the scene or the vehicles involved? Are there any signs of drugs or alcohol in the other vehicles? Are any of the people involved behaving strangely?

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### **OUTSIDE OF DISPATCH HOURS**

If the accident or injury happens on-the-job outside of dispatch hours, pull the accident kit and follow the directions provided. In this case, you must take the place of the dispatcher making the decisions of whether to call 911 if fire, ambulance, or police are needed. **CONTACT YOUR SUPERVISOR** to report the accident and get them en-route to the scene giving your:

- Exact location.
- Passengers on board
- Follow all the steps listed above.

### **ACCIDENT PACKET**

All vehicles have an accident packet. It is located in different locations depending on the vehicle near the driver area. Make sure you know where the packet is before you need to use it. The packet consists of an envelope that contains: instructions, an accident report, vehicle registration, and insurance information. The First Aid Kit and Bio Hazard Kit are also located near the driver area.

### **INCIDENT AND ACCIDENT REPORTING GUIDELINES**

1. Any and all incidents, vehicular accidents, or claims of bodily injury must be reported to the dispatcher or supervisor immediately, no matter how slight!
2. The dispatcher or supervisor will advise the Operator as to what incident or accident forms need to be filled out.
3. Generally, the operator will be required to full out a State Accident Report (if damage is over \$1500) and a RoJoy accident report. All accident reports must be completed as soon as possible, but no later than 12 hours of the accident.
4. All accident reports will be reviewed for clarity and accuracy by the supervisor and a permanent accident file will be established, whether or not a claim actually arises from the incident/accident.

### **ACCIDENT REPORT FORMS**

1. Incident Report Form
2. Accident Report Form

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3. State Accident Report Form
4. Vehicle Condition
5. Public Contact
6. Customer Comment Cards

### **POST ACCIDENT DRUG TESTING**

For the purpose of Threshold Determination and the requirement by RoJoy Services, LLC and the Federal Transit Administration, under the Authority of Title 49 CFR 655 to conduct Post-Accident Drug & Alcohol testing, at the discretion of RoJoy Services, LLC Designated Employer Representative, RoJoy Services LLC will conduct FTA post-accident testing on any RoJoy Services, LLC Safety-sensitive employee as soon as practical following an accident whenever one of the following circumstances exist:

1. Did this accident cause:
  - A Fatality
  - Disabling Damage to the transit vehicle which requires towing from the scene
  - Bodily injury to an individual, requiring immediate medical attention away from the scene of an accident?
2. Reasonable Suspicion
  - Observations include employee's appearance, behavior, speech, or odors
  - The observations must be made just prior to, during, or immediately after the employee's performance of a safety-sensitive function.
  - RoJoy Services, LLC shall not permit the employee to perform safety-sensitive functions of his/her job until the employee tests negative

The policy further requires that any other safety-sensitive employee who may have contributed to the accident, at the discretion of the Designated Employer Representative, using the best information available at the time, submit to drug & alcohol testing as well.

An alcohol test must be performed within two (2) hours of the accident with no test being administered after eight (8) hours following the accident. A post-accident drug test shall be conducted within thirty two (32) hours following the accident. If no alcohol and/or drug testing is administered under these defined limits, RoJoy Services, LLC shall stop attempting to administer such testing.

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If no test is conducted, RoJoy must record the incident, stating why test in was not administered, and maintain this information in an authorized file.

An employee shall remain readily available after an accident for post-accident testing until formally released by a supervisor. If the employee is unavailable for the necessary testing, the employee shall be treated as though he/she refused to test. This requirement is not intended to prevent or inhibit the rendering of necessary medical attention for any injured person or the employee's departure from the scene to obtain necessary emergency medical attention. In every instance timely medical attention of the injured shall be the first priority.

When FTA Post-Accident Threshold criteria has not been met, RoJoy reserves the right to conduct a non-DOT Post-Accident drug and alcohol test in all cases, when the serious nature of the employee's negligent acts or performance could have contributed to the accident.

## ACCIDENT REVIEW GUIDELINES

### Definitions:

A Preventable accident is an accident in which the driver failed to do everything he/she reasonably could have done to avoid it.

A Non-Preventable accident is an accident in which the driver did everything he/she reasonably could have done to foresee the things that caused the accident and guard against them.

All accidents, no matter how minor, are reviewed by the Operations Supervisor, Safety Committee, and possibly the insurance company to determine the preventability. It is often difficult to assess preventability and difficult to make a driver understand wherein he/she was at fault. Preventability and defensive driving go hand in hand. Neither icy roads, curves, hills, narrow roads, nor the absence of signs or signals, nor carelessness or ignorance on the part of other drivers relieves the driver of his responsibility for driving without accidents. Drivers must anticipate the hazards they may encounter and defend themselves against them.

The following list of National Safety Council Guidelines may be useful:

### Intersection Accidents

1. Did the driver approach the intersection at a speed safe for the conditions?
2. Was the driver prepared to stop before entering the intersection?
3. At a blind corner, did the driver pull out slowly; ready to shift right foot to the brake pedal?

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4. Did the driver make sure that the other driver would stop for a traffic light or stop sign?
5. Did the driver obey all traffic signs?
6. Did the driver signal well in advance of any change in direction?
7. Did the driver turn from the proper lane?
8. Was the driver alert to the turns of other vehicles?
9. Did the driver avoid overtaking and passing in the intersection?
10. Did the driver refrain from jumping the starting signal or driving through the caution light?
11. Was the driver alert to road conditions that may have required attention?
12. Did the driver make sure there was no chance of "hooking" or "inching" another vehicle or pedestrians throughout the whole turn?
13. Did the driver insure clearances for the outside corner of the turning bus, as well as the inside?

IF THE ANSWER TO ANY QUESTION IS "NO", THE OPERATOR WAS NOT DRIVING DEFENSIVELY AND THE ACCIDENT IS CONSIDERED PREVENTABLE.

Hit Other Vehicle from the Rear

1. Was the driver maintaining a safe following distance with regard to weather, traffic flow, and time of day?
2. Was the driver keeping eyes and mind ahead of the car ahead?
3. Did the driver approach the green light cautiously, expecting the driver ahead to stop suddenly on signal change?
4. Did the driver keep from skidding?
5. Did the driver refrain from trying to "catch up" when behind schedule?
6. When starting from a stop, did the driver make sure the car in front was not turning or making a second stop?

IF THE ANSWER TO ANY QUESTION IS "NO", THE OPERATOR WAS NOT DRIVING DEFENSIVELY AND THE ACCIDENT IS CONSIDERED PREVENTABLE.

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### Backing Accidents

1. Was it necessary to backup?
  - a. Did the driver have to park so close to the car ahead as to require backing up to exit the parking space?
  - b. Was it necessary to driver into the narrow street, dead end, or driveway from which driver backed?
2. If the driver could not see where he/she was backing:
  - a. Did the driver get someone to guide?
  - b. Did the driver look all around the vehicle before getting in?
  - c. Did the driver back immediately after looking?
  - d. Did the driver use the horn while backing?
  - e. Did the driver look to the rear without depending on the rear-view mirror?
  - f. If the distance was long, did the driver stop, get out, and look around occasionally?
  - g. Did the driver back slowly?
  - h. Did the driver judge backing clearance accurately?

IF THE ANSWER TO ANY QUESTION IS "NO", THE OPERATOR WAS NOT DRIVING DEFENSIVELY AND THE ACCIDENT IS CONSIDERED PREVENTABLE.

### Parked

1. Was the driver on the right side of the road?
2. Was it necessary to park near the intersection?
3. Did the driver have to park on the traveled part of a highway, on a curve, or on a hill?
4. Where required, did the driver warn traffic by flag or flare?
5. Did the driver park parallel to the curb?
6. Was it necessary to park so close to an alley or directly across from a driveway?
7. Was the driver in the proper parking zone?

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8. If the driver left the bus, did he/she set the parking brake, take the bus out of gear, turn off the engine?
9. When the bus was parked, were the wheels crimped into the curb?

IF THE ANSWER TO ANY QUESTION IS "NO", THE OPERATOR WAS NOT DRIVING DEFENSIVELY AND THE ACCIDENT IS CONSIDERED PREVENTABLE.

#### Skidding

1. Was the driver driving at a speed safe for the road and weather conditions?
2. Did the driver leave a safe distance between bus and other vehicles?
3. Were all actions gradual?
4. Was the driver expecting ice on bridges, in gutters, ruts and near the curb?
5. Was the driver expecting slippery streets after the "first rain"?
6. Was the driver alert for melting snow, freezing in the shade, loose gravel, sand, ruts, wet leaves, etc?

IF THE ANSWER TO ANY QUESTION IS "NO", THE OPERATOR WAS NOT DRIVING DEFENSIVELY AND THE ACCIDENT IS CONSIDERED PREVENTABLE.

#### Pedestrians

1. Did the driver drive through congested sections expecting that pedestrians might dart into traffic?
2. Did the driver scan all parked vehicles to make sure no one would open a door into a passing bus?
3. Did the driver keep as much space as safety permitted between his/her vehicle and parked cars?
4. Did the driver refrain from waving pedestrians across the street in front of the bus into oncoming lanes?
5. Did the driver refrain from jumping the green light or diving through the caution light?
6. Was the driver aware of groups of children and prepared to stop if one ran into the street?
7. Did the driver give pedestrians the right of way?

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8. Did the driver obey laws in regard to loading and unloading passengers?
9. Did the driver take into account that a pedestrian may suddenly decide to catch the bus?
10. Was the driver always on the lookout for potential riders?
11. When turning, did the driver take care not to "sweep" pedestrians under the rear wheels?
12. Was the operator prepared to stop?

IF THE ANSWER TO ANY QUESTION IS "NO", THE OPERATOR WAS NOT DRIVING DEFENSIVELY AND THE ACCIDENT IS CONSIDERED PREVENTABLE.

Pulling from the Curb

1. Were the doors completely closed before the bus moved?
2. Did the driver refrain from making second stops after beginning to move?
3. Did the driver look "to and from" and check for approaching and overtaking traffic immediately before starting to pull out?
4. Did the driver look back rather than depend on the rear-view mirror?
5. Did the operator signal before pulling away from the curb?
6. Did the driver start out only when this action would not require traffic to stop?
7. Did the driver continue to glance back while pulling out?
8. Did the driver refrain from using size advantage to force the bus into traffic?

IF THE ANSWER TO ANY QUESTION IS "NO", THE OPERATOR WAS NOT DRIVING DEFENSIVELY AND THE ACCIDENT IS CONSIDERED PREVENTABLE.

Passenger Falls

1. Did the driver watch the door fully open and close?
2. Did the driver get as close to the curb as possible to load or unload passengers?
3. Where it was impossible to get to the curb, did the driver keep far enough away from the curb to discourage jumping?
4. Did the driver refrain from making "second stops"?



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5. Did the driver use just the right foot for accelerator and brake?
6. Was the driver alert to the positioning of bus stops and, where unfamiliar with them, adjust speed to compensate?
7. Did the driver refrain from trying to "catch up" at the expense of the passengers' smooth and safe ride?
8. Did the driver make smooth and even starts and stops?
9. Did the driver wait for passengers to be seated before pulling out from the curb?
10. Did the driver make liberal use of verbal warnings such as "watch your step", etc.?
11. Where the road was rough, did the driver compensate?
12. Did the driver watch far enough ahead to avoid fast stops?

IF THE ANSWER TO ANY QUESTION IS "NO", THE OPERATOR WAS NOT DRIVING DEFENSIVELY AND THE ACCIDENT IS CONSIDERED PREVENTABLE.

All Others

1. Did the driver refrain from unnecessary passenger conversation/distraction?
2. Was his/her speed safe for conditions?
3. Did the driver obey all traffic signals?
4. Was the vehicle under control?
5. Did the driver remain alert to passengers moving about in the bus?
6. Did the driver call for help when in doubt?
7. Did the driver do everything possible to avoid the accident?

IF THE ANSWER TO ANY QUESTION IS "NO", THE OPERATOR WAS NOT DRIVING DEFENSIVELY AND THE ACCIDENT IS CONSIDERED PREVENTABLE.

Vehicle operators who have a preventable accident may be retained, depending on the severity of the accident. Serious, preventable accidents can and will result in termination of the Operator's services. Operators having 2 or more preventable accidents in a 12 month period may be subject to termination of employment.

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Operators are responsible for payment and penalties associated with traffic citations they may receive as a result of an accident or vehicle operation.

## **RESPONDING TO AN ACCIDENT**

Accidents, no matter how minor, must be managed in a consistent manner by applying the following seven emergency management steps. If an accident occurs, the following priorities apply:

1. Check passengers for injuries and notify control room staff. Request an ambulance, if necessary. Administer first aid to the best of your ability until assistance arrives. If there isn't any radio contact, request a passing motorist to call an ambulance and notify the control room.
2. If passengers are in danger of further harm due to traffic or fire, take steps to eliminate the danger by removing the vehicle or passenger from the situation.
3. Never move seriously injured individuals, particularly a suspected back or neck injury, unless their life is in immediate danger.
4. Place warning triangles as required by law to protect others from being involved in further accidents with your disabled vehicle.
5. Direct traffic around scene.
6. Do not allow unnecessary people to enter the accident scene.
7. If fire danger exists, shut off all electrical circuits to prevent ignition of spilled fuel.
8. Drivers must remain at the scene and cooperate with police and medical personnel until released by a supervisor or police officer. Never leave an accident scene without police permission.
9. Distribute and collect Courtesy Cards to collect information from potential witnesses.
10. Complete and submit a signed accident report prior to the end of your shift.

## **PUBLIC RELATIONS**

Only speak about the accident to a police officer or supervisor. Remain calm and maintain a professional attitude. Refer all inquiries from the press or anyone else to the Operations Manager. After a police officer gives permission to leave, report to a Supervisor for further instruction.

## **VEHICLE EMERGENCIES**

### **FIRE**

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At the first sign of fire;

1. Pull to the side of the road.
2. Evacuate passengers in a calm manner, explain what's happening.
3. Move passengers 100 ft away from vehicle, especially tires.
4. Use fire extinguisher if possible, don't raise hood, spray from the underneath.
5. Stay away from smoke wheel wells or tires.

### GET YOUR PASSENGERS TO SAFETY

Exit ambulatory passengers using all exits as quickly as possible. Aid disabled passengers. Wheelchairs should be unloaded last so as not to restrict the exit, if there is no time to unload the wheelchair drag the passenger to safety. A VEHICLE CAN COMPLETELY BURN IN 2 TO 5 MINUTES! ACT QUICKLY!

### RADIO FOR HELP

Contact control room staff to request assistance and state your location.

### USE YOUR FIRE EXTINGUISHER

Use your fire extinguisher only to the extent needed to safely evacuate the bus. If you elect to use the extinguisher – use it all don't try to "save it" for later. Do not attempt heroics! Fill out a report after the fire is extinguished.

### VEHICLE BREAKDOWN PROCEDURE

Mechanical breakdowns may occur from time to time on the road. These are referred to as "Road Calls".

When a vehicle breaks down due to a mechanical problem or will not start after a layover, drivers shall notify the Dispatcher immediately of the problem and provide as much information as possible about the vehicle's symptoms, the condition of passengers and any complicating factors such as the vehicle blocking traffic. Follow any instructions issued by the dispatcher or supervisor. This will enable you to get back underway as soon as possible and reduce any further delay to your schedule.

Once your bus is running again, radio the dispatcher and request instructions on how to get back on schedule. Follow the instructions to the best of your ability and attempt to make up as much time as possible without speeding or driving in an unsafe manner.

### PREVENTABLE ACCIDENTS AND RETRAINING

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All accidents, no matter how minor, are reviewed by the insurance company, supervisor and manager to determine preventability. Drivers who have preventable accidents will be retrained depending on the severity of the accident. Serious, preventable accidents can and will result in termination of the driver. Drivers having more than two (2) preventable accidents in a 12-month period may be subject to termination of employment. Drivers are responsible for all payment and penalties associated with traffic citations that they may receive as a result of an accident.

### **FOUR-WAY FLASHERS**

Four-way flashers should be used in the following circumstances:

1. Emergency and breakdown situations.
2. When there is an accident ahead.
3. Loading or unloading passengers, particularly when stopped in a moving lane of traffic.
4. When needing to travel more than 15 mph under the posted speed limit.
5. At all railroad crossings.
6. When backing the vehicle.
7. When moving through areas that are crowded with pedestrians such as parking lots, etc.

### **BLOODBORNE PATHOGENS EXPOSURE CONTROL PLAN**

#### Universal Precautions

The universal precautions are that employers and employees must assume all human blood and other potentially infectious materials specified (OPIM), such as human bodily fluids are infectious for HIV, HBV, and HBC. Performing proper cleanup, decontamination, and disposal of all contaminated material is necessary to prevent employee exposure.

#### Personal Protective Equipment (PPE)

A PPE is anything that is used to protect a person from exposure to bloodborne pathogens. These may include items such as latex or nitrile gloves, goggles, and aprons.

In an effort to protect all RoJoy employees, all buses are equipped with a biohazard cleanup kit called a "Spill Kit". When conducting your pre and post trip vehicle inspections you must ensure there is a "Spill Kit" on your bus. The kit must be sealed and if the seal is broken or the kit is missing, you must notify the Dispatch to replace it.

The content of the "Spill Kit" includes:

- Latex gloves

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- Face shield and plastic apron
- Biohazard bag and plastic bag
- Fluid Control Solidifier
- CPR mouth-to-mouth barrier
- Germicidal disposable towelettes
- Dust pan and scraper

In addition to these spill kit items, RoJoy provides paper towels, hand sanitizer, and antiseptic spray. It is each transportation program driver's responsibility to verify that these items are onboard. Always check a vehicle's PPE for defects or tears. If they appear defective or worn it is the driver's responsibility to exchange them. If PPE is used remove the PPE before leaving a contaminated area. Do not reuse disposable equipment.

### Gloves

Latex or vinyl gloves are the most widely used form of PPE. They act as a primary barrier between your hands and bloodborne pathogens.

### Glove Removal

You must follow a safe procedure for glove removal being careful that no substances from the soiled gloves contact your hands.

1. With both hands gloved, peel one glove off from top to bottom and hold it in the gloved hand.
2. With the exposed hand, peel the second glove from inside, tucking the first glove inside the second.
3. Dispose of the entire bundle promptly.
4. Remove gloves when they become contaminated, damaged, or before leaving the work area.
5. Wash hands thoroughly.

### Exposure Control

The RoJoy Exposure Control Plan requires that all incidents involving blood or OPIM be reported before the end of the work shift during which the incident occurred on an authorized incident, accident, or personal injury report form. Reports must include:

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- Names of all individuals involved
- A description of the circumstances; including time and date

All incidents must be recorded and made available to all employees and OR-OSHA upon request.

RoJoy also provides, upon request, a post-exposure evaluation. This evaluation will be confidential, document the source of exposure, test source individuals blood with their consent, and provide the evaluation results to the exposed employee. Employees, who are involved in any involving the presence of blood or OPIM, regardless whether a specific exposure incident occurs, will be offered the full hepatitis B vaccination series but, no later than 24-hours following the incident.

#### Decontamination

In the event there is an incident on a bus each driver must:

1. Notify dispatch.
2. Assume all bodily fluids are infectious.
3. Apply the "Emergency Management Steps".
4. Use tools in the "Spill Kit" to clean up and place in Biohazard bag for disposal.
5. Bring Biohazard bag to office for prompt disposal.
6. Wash hands in warm water with soap.
7. Clean inside of the vehicle with 1/10 bleach solution.

#### Cleaning Surfaces

1. Wear PPE equipment.
2. Spread Fluid Solidifier.
3. Scoop and dispose in biohazard marked bag.

#### Hand Washing

1. Wash hands immediately after removing PPE.
2. Use a soft antibacterial soap.

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3. If not able to immediately wash hand after removing PPE, then wash hand as soon as possible with soap and water.

#### Disposal

Transport biohazard material to a RoJoy Supervisor.

#### HBV Vaccination

You may be exposed to HBV on the job. All RoJoy employees may be vaccinated to protect themselves from the HBV at no cost to the employee. The vaccines are safe and effective and the medical community strongly endorses this vaccination.

**Attachment I**



PREVENTATIVE MAINTENANCE PROGRAM		Number: 115
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## STATEMENT OF PURPOSE

*RoJoy* is committed to operate mechanically sound vehicles whose performance and appearance inspire confidence among the general public, our customers, and fellow employees.

Properly maintained vehicles are essential to SAFE, RELIABLE, and EFFICIENT transportation service. *RoJoy* believes that vehicles are best maintained through the use of a comprehensive maintenance program that defines employee roles, guides their behavior and then measures success through the use of pre-established objective criteria.

The *RoJoy* "Preventive Maintenance Program" is designed to keep all vehicles in a SAFE, RELIABLE, and FUNCTIONAL condition at all times. It requires management and staff, trainers, drivers, fuelers and mechanics to be trained and accountable for their respective roles in this process.

## *RoJoy* PREVENTIVE MAINTENANCE PROGRAM

### EMPLOYEE ROLES:

**Management** must insure that all personnel are properly trained in the Preventive Maintenance Program. The *RoJoy* Transportation Program Manager must know all facets of the preventive maintenance program; supervise its implementation; assure ongoing compliance; and, continually evaluate its effectiveness. Emphasis must be placed on PMI schedule adherence, thorough Driver Pre/Post Trip Inspections, and quality mechanical repairs, as they become necessary. Pre/Post Trip Inspection forms must be reviewed daily. *RoJoy* "Mechanical Defect/Body Damage Reports" must be responded to in a timely fashion, prioritizing defects/conditions of a safety nature.

**Driver Trainers** must insure that all *RoJoy* drivers understand their role and its importance in the overall program. Pre/Post Trip Inspections can identify and prevent costly service interruptions and avoid the development of more serious mechanical failures later. Listening and reporting unusual noises can save engines, transmissions, brake systems, and other major vehicle components. The ability of the Driver Trainer to impart his/her knowledge to *RoJoy* trainees regarding proper starting, shifting, and braking techniques can extend the useful life of the equipment. The *RoJoy* Driver Trainer must insure that all drivers understand and perform their roles in the preventive maintenance process.

**Drivers** play a primary part in the *RoJoy* preventive maintenance program. Their role is vital to its success. Only the driver sees, hears, and feels the vehicle during the course of the operational day. Besides being vigilant and reporting anything out-of-the-ordinary concerning the vehicle's performance, the driver must at a minimum, perform the following specific duties:

1. **Pre-Trip Inspection:** Using the *RoJoy* Daily Vehicle Inspection (DVI) form the driver shall thoroughly check each assigned vehicle while completing the DVI form (each item checked off individually) prior to operating the vehicle. Lift must be checked, cycled, and cycle reading recorded as part of the pre-trip. Each time a different vehicle is used, a pre-trip inspection and DVI form for that

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vehicle shall be completed. Special attention should be given to the condition of safety equipment, tires, and brakes. Weather conditions and/or time of day will not alleviate the driver's responsibility for completion of this function.

2. **Mini Pre-Trip Inspection:** Each succeeding time a driver operates the same vehicle in which a previous Pre-Trip Inspection has already been completed, a Mini Pre-Trip Inspection for that vehicle shall be completed by the driver. The Mini Pre-Trip Inspection shall consist of a safety check and walk-around inspection. See DVI form.
3. **Post-Trip Inspection:** All *RoJoy* drivers shall complete an internal walk-through and external walk-around inspection of their vehicles following the completion of their work shifts and/or assignment to another vehicle during their shift. Drivers shall insure that all switches are turned off, windows closed, trash removed and floors swept, if applicable. In addition, drivers shall inspect all seats for damage and/or graffiti, noting its existence, so that the appropriate action can be initiated immediately. When responsible for fueling of the vehicle, *RoJoy* drivers shall make sure that all vehicle fluid levels (oil – antifreeze – transmission fluid – power steering fluid – windshield washer fluid – battery fluid) are checked each time the vehicle is fueled. Drivers shall also utilize this time to complete a visual under-the-hood check paying particular attention to belt condition and tension.
4. **Mechanical Defect/Body Damage Report:** During the course of completing the various inspections previously detailed, Drivers when noting any unusual mechanical conditions, problems, or defects shall complete a “Mechanical Defect/Body Damage Form”. The form will be immediately turned into the maintenance department. A determination shall be made as to whether or not the condition will prevent operation of the vehicle until repairs can be scheduled. Under no circumstances, will a vehicle be operated, if the condition and/or defect in the opinion of the Maintenance Supervisor, compromises the safe operation of the vehicle and the safety of our passengers. When the condition(s) and/or defect(s) noted on the form have been addressed, the date of the repair(s) shall be duly noted on the form; the mechanic completing the repair(s) shall initial the form, attesting to the fact the deficiency(ies) have been addressed; and a copy of the form will be returned to the driver initiating the repair request.

**Fuelers**, when utilized, are expected to do far more than merely fuel the vehicles. They must insure all fluid levels (oil – antifreeze – transmission fluid – power steering fluid – windshield washer fluid – battery fluid) are adequate and topped off, when necessary, during the fueling process. Fuelers must also be trained by maintenance staff to perform light bulb replacement, and minor repairs when authorized. They shall complete an under-the-hood safety inspection of the engine compartment, checking for loose brackets, broken or cracked bolts, etc... Belt condition and tension shall be checked. If necessary, replacement and/or adjustment shall occur. They should be alert to any unusual noises; tire damage, pressure and tread depth; brake condition and operation; as well as, the general overall vehicle condition. If fluid levels are low, fuelers shall check for leaks and report their findings to the maintenance department. Additionally, shall be knowledgeable in OSHA hazardous communication requirements, and properly trained to respond to any fuel spills, should they occur.

**Mechanics** are the most accountable members in the *RoJoy* preventive maintenance process. Newly employed mechanics shall complete at least three (3) Preventive Maintenance Inspections (PMI's) with an experienced *RoJoy* mechanic prior to becoming individually responsible for completion of any PMI's on their own. The Maintenance Manager will be responsible for insuring complete familiarity and compliance with the *RoJoy* “Preventive Maintenance Program” among all shop personnel. Because of the variety of vehicles, mechanics must be specifically trained for each type of vehicle operated throughout the *RoJoy* fleet. Upon completion of the PMI, the mechanic performing the PMI signs the vehicle's PM card attesting

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to the work having been completed. Initialing work not done will be cause for disciplinary action, up to and including termination. Vehicle abuse by any *RoJoy* employee shall be reported immediately to the *RoJoy* Transportation Program Manager.

### ***RoJoy* PREVENTIVE MAINTENANCE PROGRAM**

The foundation for the RoJoy vehicle maintenance program is its "Preventive Maintenance Program". RoJoy strongly subscribes to the adage that, *an ounce of prevention is worth a pound of cure*. It's been clearly demonstrated that a well administered preventive maintenance program extends asset life, reduces vehicle down-time and service interruptions, generates trust in the safety of equipment by the riding public, as well as, promoting a positive image of the service throughout the community.

*RoJoy* will tailor its maintenance program to meet any/all specific manufacturer's requirements. The RoJoy Maintenance Manager will be responsible for insuring that all additional vehicle maintenance requirements are always adhered to. With this approach, manufacturer's warranties are never at risk of being compromised because routine maintenance requirements were not completed.

**DAILY:** All vehicles- lifts/ramps - will be inspected daily. Daily Vehicle Inspection form (DVI) will be completed by each driver every time the vehicle is placed into service. Additionally, fueler responsibilities will include a routine inspection of the vehicle at the time of fueling, as detailed previously in the fueler's responsibilities.

Lift inspection shall include:

- Listen for abnormal noises
- Verify that control pendant is undamaged and cord connected, switch and buttons illuminated
- Verify that system properly detects objects in baseplate area and actuates the audible and visual alarms
- Verify that sensors inhibits downward movements of platform when a weight is present on lowered bridgeplate
- Verify that both lights are on when lift is powered.

While daily inspections occur routinely, they must not be considered routine. Maintenance staff will process the DVI reports daily, completing repairs as necessary. Once completed, dispatch staff and the driver reporting the defects will be informed of the repairs.

**Lifts:** All lifts will be serviced and inspected by authorized lift technician at least annually. All repairs will be carried out by an authorized lift technician. All lifts will be serviced according to manufacturer recommended schedule. See the addendum for each type.

**Ramps:** All ramps are inspected at the same maintenance schedule as the vehicle in which it is installed.

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**Vehicles are divided into four general categories:**

- Vans (cars)
- Small gasoline engine buses
- Small diesel engine buses
- Large diesel engine buses

Vans and Small gasoline engine buses will be serviced-lubed, oil and oil filter changed, and will undergo a PMI inspection every 5000 miles.

Each of the scheduled maintenance procedures will build on the previous ones, with certain critical inspections performed each time the vehicle is inspected. Others are added to whether the inspection is at 10000, 20000, or 50000 mile inspection.

Small diesel engine buses will be serviced-lubed, oil and oil filter changed, and will undergo a PMI inspection every 6000 miles.

Each of the scheduled maintenance procedures will build on the previous ones, with certain critical inspections performed each time the vehicle is inspected. Others are added to whether the inspection is at 12000, 24000, or 48000 mile inspection.

Large diesel engine buses will be serviced-lubed, oil and oil filter changed, and fuel and coolant filters changed- and will undergo a PMI inspection every 7500 miles.

Each of the scheduled maintenance procedures will build on the previous ones, with certain critical inspections performed each time the vehicle is inspected. Others are added to whether the inspection is at 15000, 30000, or 60000 mile inspection.

See the addendum for each type.

# Attachment J

**Manager**

	7/1/2018	7/1/2019	7/1/2020	7/1/2021	7/1/2022
Year 1	\$20.75	\$20.75	\$20.75	\$20.75	\$20.75
Year 2	\$22.50	\$22.50	\$22.50	\$22.50	\$22.50
Year 3	\$23.50	\$23.50	\$23.50	\$23.50	\$23.50
Year 4	\$24.50	\$24.50	\$24.50	\$24.50	\$24.50
Year 5	\$25.50	\$25.50	\$25.50	\$25.50	\$25.50

Drivers & Dispatchers, Maintenance	7/1/2018	7/1/2019	7/1/2020	7/1/2021	7/1/2022
Initial Training (6 wks)approx	\$14.75	\$14.75	\$15.00	\$15.00	\$15.00
Probation Period (6 mo)	\$15.25	\$15.50	\$15.50	\$15.50	\$15.50
End of Probation	\$15.75	\$16.00	\$16.00	\$16.00	\$16.00
After One Year from Date-of-Hire	\$16.50	\$16.50	\$16.50	\$16.50	\$16.50
After Two Years	\$17.50	\$17.50	\$17.50	\$17.50	\$17.50
After Three Years	\$18.50	\$18.50	\$18.50	\$18.50	\$18.50
After Four Years	\$19.50	\$19.50	\$19.50	\$19.50	\$19.50
After Five Years	\$20.50	\$20.50	\$20.50	\$20.50	\$20.50

Bus washer	7/1/2018	7/1/2019	7/1/2020	7/1/2021	7/1/2022
Year 1	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00
Year 2	\$16.00	\$16.00	\$16.00	\$16.00	\$16.00
Year 3	\$17.00	\$17.00	\$17.00	\$17.00	\$17.00
Year 4	\$18.00	\$18.00	\$18.00	\$18.00	\$18.00
Year 5	\$19.00	\$19.00	\$19.00	\$19.00	\$19.00

Longevity increase over 5 years	\$0.10
Longevity increase over 12 years	\$0.25

Sick leave	6.67 hrs per month up to 12 days per year
Personal leave	
after 1 year	5 days
after 3 years	10 days
after 7 years	15 days
after 10 years	20 days
Holidays	6
Health benefit cash stipend	
prorated after 24 hours up to	\$300 month

**EXHIBIT F**  
**Additional Terms and Conditions**

**Contractor Responsibilities:**

**Definition of Service and Service Boundaries**

The Mt Hood Express operates primarily on Highway 26 from the City of Sandy through the communities of the Hoodland area, including Welches and Rhododendron, with express service provided to Government Camp and Timberline Lodge.

The point deviated fixed route service (“Village Shuttle”) provides service between Sandy and Rhododendron three times daily, with morning, mid-day and evening times. The estimated number of daily revenue hours is 4 hours for an approximate annual total of 1,440 revenue hours per year. Riders requiring curbside pickup for the deviated fixed route service shall be scheduled through Contractor’s dispatching services, which must operate out of a locally provided dispatch center.

The commuter service (“Express”) provides six runs daily from Sandy to Government Camp and Timberline Lodge with limited stops. In addition, a seventh run is offered Dec. 1 to March 31 in the evenings. Finally, additional service is provided on weekends and holidays from December to February for an additional three runs per day. The average time for a run is generally 2.75 revenue hours with an approximate annual total of 6,520 revenue hours per year.

**Service Hours**

Contractor will operate the Villages Shuttle, one bus, three runs daily between Rhododendron and points in the City of Sandy seven days per week between the hours of 5:45am and 5:40pm. Holidays are as follows: New Year’s Day, Memorial Day, Labor Day, Independence Day, Thanksgiving Day and Christmas Day. Express commuter bus service, shall be offered six times daily between the hours of 5:45am and 8:55pm, with one additional run ending at 11:28pm from Dec. 1 to March 31, and three additional runs on weekends and holidays during the regular operating hours from December to February. Holidays for the Express shall be Thanksgiving Day and Christmas Day. Additional service may be considered in the future and proposals should address Contractor capacity to provide this service.

**Hourly Service Rate**

Compensation for operations will be on a revenue per hour basis. Contractor will be compensated on a monthly basis following submission of invoice with accompanying documentation, including information required for federal and state reporting. Hourly compensation rate per year are defined in the Cost Estimate below for Fiscal Years 1 and 2. If County extends the contract for Fiscal Years 3, 4 and 5, County will negotiate for modification of compensation. In the event there is an increase or decrease of more than fifteen percent (15%) in service needs an amendment may be issued by the County to renegotiate the contracted hourly rate contingent on funding.

**Bus Equipment, Fuel and Maintenance**

County shall provide at least two ADA-compliant vehicles for the Villages Shuttle and at least three ADA compliant buses for the Express and pay for all related fuel, maintenance and repair expenses. Contractor shall assess mechanical condition of vehicle, schedule maintenance services and transport vehicles to the appropriate service and/or repair locations. Contractor shall maintain a vehicle repair and maintenance schedule that provides for excellent safety and maintenance in compliance with all state and federal law and with vehicle manufacturer’s recommendations for service. Contractor will be reimbursed by County for repair and maintenance expenses based on actual expenses incurred and the submission of a billing statement and copies of original invoices. Repairs in excess of \$1,500 in value require written permission from the County Project Manager. All physical damage should be reported to County within 1 day of occurrence whenever feasible. Barring normal wear and tear, vehicles shall be returned to the County in the same condition they were received by Contractor.

Contractor will pay vehicle repair costs and/or the insurance deductible for any preventable accident or incident while operated by their employees.

Fuel cards shall be provided by County and used at Pacific Pride fueling station only for fuel used for the defined Mt Hood Express service.

The Contractor will be responsible for keeping vehicles clean both inside and out. All service records will be kept on all vehicles and will be made available to the County at the end of each month. Contractor shall assist County with all warranty claims and Safety Bulletin Certificates of Compliance.

Invoices for reimbursement for repairs or maintenance on all vehicles shall have 0% markup for services rendered by third party.

### **Back-up Vehicle**

The County will be responsible for providing a comparable back-up vehicle if the County-provided vehicles are out of service.

### **Bus Storage and Operating Facilities**

Operating facilities, including office space, are shared under a rental agreement between the County and the City of Sandy. Rents are paid directly by the County.

### **Vehicle Usage**

The use of vehicles provided by the County for any purpose other than the Mt Hood Express Service is prohibited without written permission from the County Project Manager.

### **Safety**

Contractor shall ensure the safety of riders by any and all means necessary, including, but not limited to: ability to communicate with vehicle at all times, driver training, retraining and monitoring; alcohol and drug training; mobility assistance training; vehicle maintenance; maintaining order in and around vehicles; providing safety and emergency procedures and training; etc. Contractor shall equip all vehicles with emergency equipment to be defined in consultation with the County. This shall include at a minimum: fire extinguisher, first aid kit, blood borne pathogen kit, fluids kit and flashlight. All fire extinguishers will be serviced by Contractor as recommended by manufacturer.

### **Fares**

Contractor shall work in coordination with the County to set fare policy, collect ticket sales and fares, and provide a monthly accounting of revenue received. Contractor will establish a secure procedure for receiving fares and report on this process to the County. Fares received shall be deducted from monthly billings for service. County, acting on advice of Contractor and the Board of County Commissioners, shall be solely responsible for establishing new fare rates. Contractor and its employees are prohibited from soliciting or accepting tips or gifts of any kind.

### **Scheduling and Dispatch and Staffing**

The Contractor will provide trip reservation scheduling and dispatch services at a minimum between 8:00 am and 5:00 pm weekdays and during service hours on weekends for the point deviated fixed route service. Emergency or on-call dispatch support shall be maintained during all hours of operation. Point deviated fixed route dispatch will be in accordance with all ADA requirements. Trip reservation scheduling and phone skills using excellent customer service is preferred during all hours of operations. The Contractor must have the ability to provide this function effectively and efficiently. An automated answering system must be used during non-business hours to provide general information and accept reservations in compliance with ADA requirements. The County will not provide software for dispatch.

### **Personnel**

Contractor shall be solely responsible for the provision and satisfactory work performance of all employees as needed. Contractor shall be solely responsible for payment of all employee wages and benefits. Without additional expense to the County, Contractor shall comply with the requirements of employee liability, workers compensations, employment insurance, Social Security and all other applicable laws. County shall have the right to demand removal from the project, for reasonable cause, any personnel furnished by Contractor, provided the County makes such request in writing. Contractor shall obtain County's written consent prior to entering into any subcontract affecting or providing for transportation service.

The Contractor will be responsible for hiring dispatchers, drivers and staff, orientation and on-going training, supervision and evaluation. Contractor shall conduct both a criminal and a driver history background check before hiring drivers.



Contractor will conduct alcohol and drug testing and ensure compliance with Federal Transit Administration (FTA) regulations as described in 49 CFR Part 65, Part 655 and Part 40 (as amended), Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

Contractor will ensure that all drivers operating in service for the County will possess a current Oregon Class B Driver's License with both airbrake and passenger endorsements.

Contractor will provide written policies for safe operating procedures in all conditions including inclement weather, accidents and emergencies.

**The Contractor will provide dispatch and driver training in at least the following areas:**

- **Defensive driving including emergency situations**
- **Passenger Safety/Blood Borne Pathogens**
- **Passenger sensitivity and customer service**
- **Disability issues**
- **Mobility Assistance, including proper use and handling of vehicle passenger lifts or ramps and other equipment**
- **FTA Drug/Alcohol rules & regulations**
- **ADA Act**
- **Accident procedures**
- **Safety Equipment**
- **Cellular phones**
- **Confidential radio communication, i.e., 10-codes**
- **Passenger behavior problems and security training**
- **Customer service**

Contractor will follow their submitted outline of training curriculum with the amount of time committed to each of the training topics included. The County may request additional training in any area it deems necessary.

Contractor shall conduct, at a minimum, yearly evaluations that will include updated criminal and driver history checks. The Contractor will consult with the County in developing evaluations regarding any input the County may have received from customers.

The Contractor will ensure that all drivers meet the following minimum criteria to participate in this program:

1. No more than two (2) moving violations in any one year period. No more than three (3) moving violations in any three (3) year period during the service contract or in the five (5) years prior to application of this program (personal and commercial records inclusive).
2. If license has ever been suspended, applicant must have five (5) full subsequent years with no violations.
3. If license has ever been revoked, must have ten (10) subsequent years with no violations.
4. Under no condition, will an applicant be accepted as a driver for this program if (1) he/she has been convicted of a felony, (2) and/or has been convicted of a drug or alcohol offense including DUII diversion.
5. Contractor will require drivers to inform his/her supervisor of every conviction for a moving traffic violation immediately after such conviction. Failure to provide proper disclosure may be grounds for suspension or dismissal.

The Contractor will provide uniforms for all field personnel, as approved by the County. These may include both summer and winter uniforms.

Contractor will ensure that all employees will maintain the highest levels of professional behavior in the workplace, especially during their interactions with the public.

The County reserves the right to require the removal of any driver, dispatcher or supervisor it deems is not an asset to the County.

**Employee Wages, Salaries and Benefits**

The Contractor, at a minimum, shall make available to employees providing service to the County the following level of employee wages, salaries and benefits:

1. Wages and Salaries: The Contractor shall provide wages and salaries commensurate with the responsibilities of the positions offered and in concert with current market labor rates in order to ensure a qualified available work force. At a minimum, wages should include:

**Driver and Dispatch Salary Range**

Fixed/Commuter route; demand–response; ADA or medical transit operators can start at different step levels or wage levels within the step. Wages can be within corresponding step range for seniority. Shift differentials are encouraged for non-traditional hours including evenings and weekends.

Training wages can be reduced by up to \$1.00 per hour during a probation period not to exceed six (6) months.

**Manager**

	<b>7/1/2018</b>	<b>7/1/2019</b>	<b>7/1/2020</b>	<b>7/1/2021</b>	<b>7/1/2022</b>
<b>Year 1</b>	<b>\$20.75</b>	<b>\$20.75</b>	<b>\$20.75</b>	<b>\$20.75</b>	<b>\$20.75</b>
<b>Year 2</b>	<b>\$22.50</b>	<b>\$22.50</b>	<b>\$22.50</b>	<b>\$22.50</b>	<b>\$22.50</b>
<b>Year 3</b>	<b>\$23.50</b>	<b>\$23.50</b>	<b>\$23.50</b>	<b>\$23.50</b>	<b>\$23.50</b>
<b>Year 4</b>	<b>\$24.50</b>	<b>\$24.50</b>	<b>\$24.50</b>	<b>\$24.50</b>	<b>\$24.50</b>
<b>Year 5</b>	<b>\$25.50</b>	<b>\$25.50</b>	<b>\$25.50</b>	<b>\$25.50</b>	<b>\$25.50</b>

**Drivers & Dispatchers, Maintenance**

	<b>7/1/2018</b>	<b>7/1/2019</b>	<b>7/1/2020</b>	<b>7/1/2021</b>	<b>7/1/2022</b>
<b>Initial Training (6 wks)approx</b>	<b>\$14.75</b>	<b>\$14.75</b>	<b>\$15.00</b>	<b>\$15.00</b>	<b>\$15.00</b>
<b>Probation Period (6 mo)</b>	<b>\$15.25</b>	<b>\$15.50</b>	<b>\$15.50</b>	<b>\$15.50</b>	<b>\$15.50</b>
<b>End of Probation</b>	<b>\$15.75</b>	<b>\$16.00</b>	<b>\$16.00</b>	<b>\$16.00</b>	<b>\$16.00</b>
<b>After One Year from Date-of-Hire</b>	<b>\$16.50</b>	<b>\$16.50</b>	<b>\$16.50</b>	<b>\$16.50</b>	<b>\$16.50</b>
<b>After Two Years</b>	<b>\$17.50</b>	<b>\$17.50</b>	<b>\$17.50</b>	<b>\$17.50</b>	<b>\$17.50</b>
<b>After Three Years</b>	<b>\$18.50</b>	<b>\$18.50</b>	<b>\$18.50</b>	<b>\$18.50</b>	<b>\$18.50</b>
<b>After Four Years</b>	<b>\$19.50</b>	<b>\$19.50</b>	<b>\$19.50</b>	<b>\$19.50</b>	<b>\$19.50</b>
<b>After Five Years</b>	<b>\$20.50</b>	<b>\$20.50</b>	<b>\$20.50</b>	<b>\$20.50</b>	<b>\$20.50</b>

**Bus washer**

	<b>7/1/2018</b>	<b>7/1/2019</b>	<b>7/1/2020</b>	<b>7/1/2021</b>	<b>7/1/2022</b>
<b>Year 1</b>	<b>\$15.00</b>	<b>\$15.00</b>	<b>\$15.00</b>	<b>\$15.00</b>	<b>\$15.00</b>
<b>Year 2</b>	<b>\$15.75</b>	<b>\$15.75</b>	<b>\$15.75</b>	<b>\$15.75</b>	<b>\$15.75</b>
<b>Year 3</b>	<b>\$16.50</b>	<b>\$16.50</b>	<b>\$16.50</b>	<b>\$16.50</b>	<b>\$16.50</b>
<b>Year 4</b>	<b>\$17.25</b>	<b>\$17.25</b>	<b>\$17.25</b>	<b>\$17.25</b>	<b>\$17.25</b>
<b>Year 5</b>	<b>\$18.00</b>	<b>\$18.00</b>	<b>\$18.00</b>	<b>\$18.00</b>	<b>\$18.00</b>

<b>Longevity increase over 5 years</b>	<b>\$0.10</b>
<b>Longevity increase over 12 years</b>	<b>\$0.25</b>

Employees who receive a satisfactory performance evaluation are eligible to move to the next step annually until they reach the top step of the pay range. Should an evaluation result in denial of an employee a step increase, he/she may appeal through Contractor’s grievance procedure.

2. **Benefits:** Benefits are based upon a 35/40-hour workweek. Benefits may be prorated for part-time employees (less than 35/40 hours per week) based upon the employee's regular work schedule or a combination of actual hours worked and his/her regular work schedule for work performed under the terms of this contract.

- a) Sick leave accrued at 6.67 hours per month up to 12 days per year.
- b) Personal leave accrued:
  - i. After one year: 5 days
  - ii. After three years: 10 days
  - iii. After seven years: 15 days
  - iv. After ten years: 20 days
- c) Holiday leave of six paid holidays per year;
- d) Health benefit cash stipend prorated after 24 hours up to \$300 per month

The Contractor shall not establish work schedules to avoid paying full-time benefits and shall maintain at least 2/3 of staffing as full-time positions.

The Contractor will obtain permission from the County for the use of any sub-Contractor that will be used in conjunction with this Contract.

Contractor shall be responsible for adequate staffing to provide continuous driver service and dispatch service during the normal hours of operation.

### **Safety Inspections**

Contractor employees shall conduct daily safety inspections of vehicles prior to beginning each day's service. Vehicles failing the daily safety inspection shall not be used in service until the reason for the failure is corrected. County reserves the right to ensure that vehicles are being maintained properly and are in safe operating condition. County may inspect vehicles at any reasonable time and may bar a vehicle from service until problem(s) are corrected.

### **Radios and other communication devices**

Contractor shall be responsible for providing all communication devices to ensure adequate dispatch service.

### **Data collection and Record Retention**

Contractor will collect information on number of riders, including elderly and disabled ridership and other data as requested by the County and as required by federal and state guidelines. At a minimum, this data shall include record of deviations, distance traveled, and number of riders per trip. Contractor shall maintain all records in compliance with regulatory agencies and in compliance with County policies.

### **Grant Writing and Reporting**

The County shall provide all grant writing and reporting functions for state and federal grants to support this project. The service agency shall supply on request any necessary information to complete grant requests and reporting requirements.

### **Rider Confidentiality**

Any and all information regarding any individual served by the County is strictly confidential. All Contractor staff are expected to comply with the most current local, state and federal law regarding confidentiality. Information in any form, including in aggregate, shall not be released to any party without the authorization of the individual and/or County.

### **Contractor's Waiver of Competition**

Contractor understands that the award of contract and subsequent rendition of the service called for by these documents shall in no manner be construed so as to place Contractor in a position to be entitled to the benefits afforded to private transit operations under Section 3(e) of the Federal Transit Administration Act of 1964 (49 U.S.C., Section 1602(e) or any other comparable provision of federal or state law (or under any regulations promulgated thereunder), as they now exist or hereinafter may be amended. Contractor hereby waives any right it otherwise might have to assert any claim or claims under said provisions of law or that may be based upon principles of unfair competition.

**Permits to Operate**

At its sole cost and expense, Contractor shall obtain any and all permits, licenses, certificates, insurance, or entitlement to operate as are now or hereafter required by any agency, specifically including the Oregon Department of Transportation, and local building, planning and business license departments, to enable Contractor to perform this Contract, and shall provide copies of all such documents to County when received by Contractor. Contractor is liable for any and all taxes due as a result of this Contract. A failure to obtain any such permit, license, certificate, or insurance constitutes a breach of this Contract.

**Cost Proposal**

Clackamas County Mt Hood Express Cost Estimate

<u>Service Description</u>	<u>Estimated Service Hours</u>	<u>Revenue Hour Rate: The hourly rate reflects all fixed and variable costs involved in providing service.</u>	
		<u>Year 1 (2/1/19 to 6/30/19)</u>	<u>Year 2 (7/1/19 to 6/30/19)</u>
<u>Express Service</u>	<u>Year 1: 2,500</u> <u>Year 2: 5,989</u>	<u>\$48.60</u>	<u>\$50.67</u>
<u>Added Winter Service</u>	<u>Year 1: 100</u> <u>Year 2: 531</u>	<u>\$48.60</u>	<u>\$50.67</u>
<u>Villages Shuttle</u>	<u>Year 1: 600</u> <u>Year 2: 1440</u>	<u>\$48.60</u>	<u>\$50.67</u>
<u>Total Annual Cost of Service (revenue hour rate x estimated hours of service)</u>		<u>\$155,776.00</u>	<u>\$403,333.00</u>
<u>Maintenance Reimbursement</u>		<u>\$35,000.00</u>	<u>\$60,000.00</u>
<u>Future Expansion</u>		<u>\$23,366.00</u>	<u>\$60,500.00</u>
<u>Total Operations Contract Cost per Year</u>		<u>\$214,412.00</u>	<u>\$523,833.00</u>

Clackamas County reserves the right for future expansion or reduction of operational budget based on available Funding.

**Indemnification of the State of Oregon**

Contractor shall indemnify, defend, save and hold harmless State of Oregon (the "State") and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the parties that the State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by Contractor from and against any and all Claims.

Neither Contractor, nor its contractors or subcontractors (collectively "Subrecipients"), nor any attorney engaged by Subrecipients, shall defend any claim in the name of the State or any agency of the State, nor purport to act as legal representative of the State or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Subrecipients are prohibited from defending State or that Subrecipients are not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Subrecipients if State elects to assume its own defense.

**EXHIBIT G**  
**Required Federal Clauses (FTA) for Third Party Procurements**

**Required Federal Clauses (FTA) for Third Party Procurements**

**Applies to: Operations/Management Contracts With Estimated Value Over \$100,000**

### **1. FLY AMERICA REQUIREMENTS**

**49 U.S.C. §40118**

**41 CFR Part 301-10**

**Fly America Requirements** - The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

### **2. CHARTER BUS REQUIREMENTS**

**49 U.S.C. 5323(d)**

**49 CFR Part 604**

Charter Service Operations - The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

### **3. SCHOOL BUS REQUIREMENTS**

**49 U.S.C. 5323(F)**

**49 CFR Part 605**

School Bus Operations - Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

#### **4. ENERGY CONSERVATION REQUIREMENTS**

**42 U.S.C. 6321 et seq.**

**49 CFR Part 18**

**Energy Conservation** - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### **5. CLEAN WATER REQUIREMENTS**

**33 U.S.C. 1251**

**Clean Water** - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### **6. LOBBYING**

**31 U.S.C. 1352**

**49 CFR Part 19**

**49 CFR Part 20**

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has



not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

## **7. ACCESS TO RECORDS AND REPORTS**

**49 U.S.C. 5325**

**18 CFR 18.36 (i)**

**49 CFR 633.17**

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of

Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
7. FTA does not require the inclusion of these requirements in subcontracts.

#### **8. FEDERAL CHANGES**

##### **49 CFR Part 18**

**Federal Changes** - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### **9. CLEAN AIR**

##### **42 U.S.C. 7401 et seq**

##### **40 CFR 15.61**

##### **49 CFR Part 18**

**Clean Air** - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### **10. RECYCLED PRODUCTS**

##### **42 U.S.C. 6962**

##### **40 CFR Part 247**

##### **Executive Order 12873**

**Recovered Materials** - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited

to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

## **11. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

### **Davis-Bacon**

1. **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

- (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

2. **Withholding** - The [ *insert name of grantee* ] shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the [ *insert name of grantee* ] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
3. **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United

States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the [ **insert name of grantee** ] for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
6. **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
7. **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
8. **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
9. **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes



shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

## **12. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

### **Contract Work Hours and Safety Standards**

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include

these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

### **13. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

**31 U.S.C. 3801 et seq.**

**49 CFR Part 31 18 U.S.C. 1001**

**49 U.S.C. 5307**

#### **Program Fraud and False or Fraudulent Statements or Related Acts.**

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**15. TERMINATION**  
**49 U.S.C.Part 18**  
**FTA Circular 4220.1E**

**a. Termination for Convenience (General Provision)** The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

**b. Termination for Default (Construction).** If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the (Recipient) may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. the contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

**c. Termination for Convenience of Default (Cost-Type Contracts).** The (Recipient) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

The (Recipient) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

**16.. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)**

**49 CFR Part 29**

**Executive Order 12549**

**Suspension and Debarment**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by {insert agency name}. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to {insert agency name}, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**17. CIVIL RIGHTS REQUIREMENTS**

**29 U.S.C. § 623, 42 U.S.C. § 2000**

**42 U.S.C. § 6102, 42 U.S.C. § 12112**

**42 U.S.C. § 12132, 49 U.S.C. § 5332**

**29 CFR Part 1630, 41 CFR Parts 60 et seq.**

Civil Rights - The following requirements apply to the underlying contract:

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to

comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

## **18. BREACHES AND DISPUTE RESOLUTION**

### **49 CFR Part 18 FTA Circular 4220.1F**

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts

he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Indiana.

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

**19. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**  
**49 CFR Part 26**

**Disadvantaged Business Enterprises**

**NOTE: Oregon DOT has specific contract language that must be inserted in the agreement.**

**20. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**  
**FTA Circular 4220.1F**

**Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

**21. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS**  
**49 U.S.C. § 5310, § 5311, and § 5333**  
**29 CFR Part 215**

(1) The Contractor agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor

to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

**(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities**

If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

**(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas**

If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

**22. DRUG AND ALCOHOL TESTING**

**49 U.S.C. §5331**

**49 CFR Parts 653 and 654**

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State), or the (insert name of grantee), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The contractor agrees further to certify annually its compliance with Part 655 before (insert date) and to submit the



Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

**23. Americans with Disabilities Act**  
**49 CFR Parts 27, 37, and 38**

The contractor agrees that it will not discriminate in the provision of services against individuals with disabilities in the operation of transit services and will comply with all relevant elements of 49 CFR part 37 with respect to the provision of public transportation by public entities. The contractor will assure that it meets all requirements.

Wheelchair ramps, lifts, and all Americans with Disabilities Act (ADA) applicable items shall be operational at all times when buses are in revenue service. (Lifts and ramps shall be cycled daily before going into service.) The Contractor shall perform regular inspections of all wheelchair lifts and ramps per manufacturer recommendations and insure all buses are fully ADA compliant.

**CERTIFICATION REGARDING LOBBYING**  
**APPENDIX A, 49 CFR PART 20--**  
**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

*To be submitted with each bid or offer exceeding \$100,000*

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

**EXHIBIT H**  
**Rail and Public Transit Division Oregon Department of Transportation**  
**Agreement No. 31910, Operation 5311**

## RAIL AND PUBLIC TRANSIT DIVISION OREGON DEPARTMENT OF TRANSPORTATION

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

### AGREEMENT

1. **Effective Date.** This Agreement shall become effective on the later of **July 1, 2017** or the date when this Agreement is fully executed and approved as required by applicable law. Unless otherwise terminated or extended, Grant Funds under this Agreement shall be available for Project Costs incurred on or before **June 30, 2019** (Expiration Date). No Grant Funds are available for any expenditures after the Expiration Date. State's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 10 of this Agreement.
2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

**Exhibit A: Project Description and Budget**

**Exhibit B: Financial Information**

**Exhibit C: Subcontractor Insurance**

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

**Exhibit E: Information required by 2 CFR 200.331(a), may be accessed at <http://www.oregon.gov/odot/pt/>, Oregon Public Transit Information System (OPTIS), as the information becomes available**

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

3. **Project Cost; Grant Funds; Match.** The total project cost is estimated at **\$322,707.00**. In accordance with the terms and conditions of this Agreement, State shall provide Recipient an amount not to exceed **\$213,982.00** in Grant Funds for eligible costs described in Section 6.a. hereof. Recipient shall provide matching funds for all Project Costs as described in Exhibit A.
4. **Project.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by State by amendment pursuant to Section 11.c hereof.
5. **Progress Reports.** Recipient shall submit quarterly progress reports to State no later than 45 days after the close of each quarterly reporting period. Reporting periods are July through September, October through December, January through March, and April through June. Reports must be in a format acceptable to State and must be entered into the Oregon Public Transit Information System (OPTIS), which may be accessed at <http://www.oregon.gov/odot/pt/>. If Recipient is unable to access OPTIS, reports must be delivered to [ODOTPTDRreporting@odot.state.or.us](mailto:ODOTPTDRreporting@odot.state.or.us). Reports shall include a statement of revenues and expenditures for each quarter, including documentation of local match contributions and expenditures. State reserves the right to request such additional information as may be

necessary to comply with federal or state reporting requirements.

**6. Disbursement and Recovery of Grant Funds.**

- a. **Disbursement Generally.** State shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by State within 30 days of State's approval of a request for reimbursement from Recipient using a format that is acceptable to State. Requests for reimbursement must be entered into OPTIS or sent to ODOTPTDReporting@odot.state.or.us. Eligible costs are the reasonable and necessary costs incurred by Recipient, or under a subagreement described in Section 9.a. of this Agreement, in performance of the Project and that are not excluded from reimbursement by State, either by this Agreement or by exclusion as a result of financial review or audit.
- b. **Conditions Precedent to Disbursement.** State's obligation to disburse Grant Funds to Recipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
  - i. State has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to make the disbursement.
  - ii. Recipient is in compliance with the terms of this Agreement including, without limitation, Exhibit D and the requirements incorporated by reference in Exhibit D.
  - iii. Recipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
  - iv. Recipient has provided to State a request for reimbursement using a format that is acceptable to and approved by State. Recipient must submit its final request for reimbursement following completion of the Project and no later than 60 days after the Expiration Date. Failure to submit the final request for reimbursement within 60 days after the Expiration Date could result in non-payment.
- c. **Recovery of Grant Funds.** Any funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to State. Recipient shall return all Misexpended Funds to State promptly after State's written demand and no later than 15 days after State's written demand. Recipient shall return all Unexpended Funds to State within 14 days after the earlier of expiration or termination of this Agreement.

**7. Representations and Warranties of Recipient.** Recipient represents and warrants to State as follows:

- a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement.
- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. **No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor

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

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

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

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

- a. **Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Recipient shall require that each of its subrecipients and subcontractors complies with these requirements. State, the Secretary of State of the State of Oregon (Secretary), the United States Department of Transportation (USDOT), the Federal Transit Administration (FTA) and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, State, the Secretary, USDOT, FTA and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of State, the Secretary, USDOT and FTA to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.
- b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the Expiration Date. If there are unresolved audit questions at the end of the six-year period, Recipient shall retain the records until the questions are resolved.
- c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by State under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit State to verify how the Grant Funds were expended.
- d. **Audit Requirements.**
  - i. Recipients receiving federal funds in excess of \$750,000 are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at Recipient's own expense submit to State, Rail and Public Transit Division, 555 13th Street NE, Suite 3, Salem, Oregon, 97301-4179 or to [ODOTPTDReporting@odot.state.or.us](mailto:ODOTPTDReporting@odot.state.or.us), a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted, the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Agreement.
  - ii. Recipient shall save, protect and hold harmless State from the cost of any audits or special investigations performed by the Secretary with respect to the funds expended under this Agreement. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and State.

## 9. Recipient Subagreements and Procurements

- a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.
  - i. All subagreements must be in writing executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
  - ii. Recipient agrees to provide State with a copy of any signed subagreement upon request by State. Any substantial breach of a term or condition of a subagreement relating to funds covered by this Agreement must be reported by Recipient to State within ten (10) days of its being discovered.
- b. Recipient shall review the *Best Practices Procurement Manual*, a technical assistance manual prepared by the FTA, available on the FTA website: [www.fta.dot.gov/grants/13054\\_6037.html](http://www.fta.dot.gov/grants/13054_6037.html)
- c. **Subagreement indemnity; insurance**

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

Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subrecipients"), nor any attorney engaged by Recipient's Subrecipient(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's Subrecipient is prohibited from defending State or that Recipient's Subrecipient is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Recipient's Subrecipient if State elects to assume its own defense.

Recipient may require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement. Any insurance obtained by the other party to Recipient's subagreements, if any, shall not relieve Recipient of the requirements of Section 11 of this Agreement. The other party to any subagreement with Recipient, if the other party employs subject workers as defined in ORS 657.027, must obtain Workers Compensation Coverage as described in Exhibit C.

- d. **Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, as applicable, including all applicable provisions of the Oregon Public Contracting Code and rules, and in conformance to FTA Circular 4220.1F, Third Party Contracting Requirements including:
  - i. all applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;
  - ii. all procurement transactions are conducted in a manner providing full and open

competition;

iii. procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements);

iv. construction, architectural and engineering procurements are based on Brooks Act procedures unless the procurement is subject to ORS 279C.100 to 279C.125.

## 10. Termination

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

## 11. General Provisions

- a. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Recipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which State is jointly liable with Recipient (or would be if joined in the Third Party Claim ), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and



reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

With respect to a Third Party Claim for which Recipient is jointly liable with State (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

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

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

- g. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be

given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Recipient Contact or State Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 11.g. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to State Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.

- h. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between State (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.
- i. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, as applicable to Recipient, including without limitation as described in Exhibit D. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- j. **Insurance; Workers' Compensation.** All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- k. **Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of State. Recipient has no right or authority to incur or create any obligation for or legally bind State in any way. State cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of State, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- m. **Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- n. **Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire agreement between the Parties on the subject matter hereof. There are no

understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Recipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

Clackamas County/State of Oregon  
Agreement No. 31910

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

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

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

**SIGNATURE PAGE TO FOLLOW**

Clackamas County/State of Oregon  
Agreement No. 31910

**Clackamas County**, by and through its

By [Signature]  
(Legally designated representative)

Name Richard Swift, Director #35  
(printed)

Date 6/15/17

By \_\_\_\_\_

Name Jill Smith for Richard Swift  
(printed)

Date 6/15/17

**APPROVED AS TO LEGAL SUFFICIENCY**

(If required in local process)

By \_\_\_\_\_  
Recipient's Legal Counsel

Date \_\_\_\_\_

**Recipient Contact:**

Teresa Christopherson  
Social Services Department  
Oregon City, OR 97045  
1 (503) 650-5718  
teresachr@co.clackamas.or.us

**State Contact:**

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

**State of Oregon**, by and through its  
Department of Transportation

By [Signature]  
H. A. (Hal) Gard  
Rail and Public Transit Division Administrator

Date 29 June 2017

**APPROVAL RECOMMENDED**

By \_\_\_\_\_ Karyn Criswell

Date \_\_\_\_\_ 04/12/2017

**APPROVED AS TO LEGAL SUFFICIENCY**

(For funding over \$150,000)

By \_\_\_\_\_  
Assistant Attorney General

Name Marvin D. Fjordbeck by email  
(printed)

Date \_\_\_\_\_ 03/13/2017

REC'D JUN 20 2017

**EXHIBIT A**  
**Project Description and Budget**

**Project Description/Statement of Work**

<b>Project Title: 2017-19 R1 5311 Clackamas County 31910</b>				
<i>Project Administration and Operations</i>				
<b>Item #1: Project Admin.</b>				
	Total	Grant Amount	Local Match	Match Type(s)
	\$98,092.00	\$88,018.00	\$10,074.00	Local
<b>Item #1: Operating Sliding Scale</b>				
	Total	Grant Amount	Local Match	Match Type(s)
	\$224,615.00	\$125,964.00	\$98,651.00	State Funds
<b>Sub Total</b>	\$322,707.00	\$213,982.00	\$108,725.00	
<b>Grand Total</b>	<b>\$322,707.00</b>	<b>\$213,982.00</b>	<b>\$108,725.00</b>	

● **1. PROJECT DESCRIPTION**

*Provide administrative and operations funding for Recipient to provide general public service in the rural area of Clackamas County, Oregon; along the Highway 26 corridor between the City of Sandy, Oregon and Government Camp; and connecting to Timberline Lodge.*

**2. PROJECT DELIVERABLES, TASKS and SCHEDULE**

*Recipient shall perform administrative activities to support service sustainability with ongoing financial resource budgeting and allocation, service coordination, capital asset replacement planning, contract management, reporting, marketing and outreach, and planning.*

*The service, schedule, days, hours and service type will be designed to meet the needs of the target population as determined by Recipient in consultation with the operator of service, the affected community members and stakeholders identified by the Recipient.*

*To the extent possible, Recipient (and contractors, as applicable), will coordinate the delivery of transportation services with other public and private transportation providers to enhance regional services and to avoid duplication of services. Coordinated service may be made available to a variety of potential users, including the general public, on a space available basis.*

*Recipient may amend the service design at any time in accordance with local demand, funding issues or other situations that require service to be changed. Recipient will inform State if there is a change in the service funded by this Agreement.*

*Recipient will market the services.*

*Recipient shall engage in a good faith effort to generate program income to help defray program costs. If program income is generated from federally-funded projects, that income must be reported to State.*

*A projected ridership goal is established for this project:*

*2017-18: 64,368  
 2018-19: 67,586*

*Ridership is the actual or estimated one-way passenger trips provided to the target population. A passenger trip is a unit of service counted each time a passenger enters the vehicle, is transported and then exits the vehicle. Each different destination constitutes a passenger trip.*

### 3. PROJECT ACCOUNTING, MATCH and SPENDING PLAN

*Eligible project administrative expense may include, but are not limited to: administrative staff salaries; marketing expenses; insurance premiums or payments to a self-insurance reserve; office supplies; telecommunications; facilities and equipment rental. Administrative costs for promoting and coordinating ridesharing are eligible as project administration if the activity is part of a coordinated public transportation program.*

*Eligible operating expenses are those costs directly associated with system operations, including and not limited to: fuel; oil; dispatch and drivers' salaries and fringe; licenses; facility maintenance; uniforms; communications equipment associated with operations.*

*Generally accepted accounting principles and the Recipient's own accounting system determine those costs that are to be accounted for as gross operating expenses. Recipient may not count the same costs twice if they have multiple agreements for which these costs may be eligible. The contractor may use capital equipment funded from USDOT- or State-source grants when performing services rendered through a contract funded by this Agreement. Depreciation of capital equipment funded from USDOT- or State-source grants is not an eligible expense.*

*Program income that may be used as Recipient's matching funds for this Agreement includes Special Transportation Formula funds, other local funds, service contract revenue, advertisement and other earned income, cash donations and other verifiable in-kind contributions integral to the project budget. In-kind contributions claimed as matching funds must be properly documented and reported to State. Recipient may not use passenger fares as matching funds.*

*Recipient will subtract revenue from fares, tickets and passes, either pre-paid or post-paid, from the gross operating expense of service. Administrative expenses are reimbursable as operating expenses. The required local match share will be subtracted from the project expenses to determine the grant share of the project expense.*

*Funding sources that may be used as match for this Agreement include Special Transportation Formula funds, local funds, service contract revenue, advertisement and other earned income, cash donations and other verifiable in-kind contributions integral to the project budget. In-kind contributions claimed as match must be properly documented and reported to State.*

**EXHIBIT B**  
**FINANCIAL INFORMATION**

The information below will assist auditors to prepare a report in compliance with the requirements of 2 CFR part 200, subpart F.

This Agreement is financed by the funding source indicated below:

<b>Federal Program</b>	<b>Federal Funding Agency</b>	<b>CFDA Number</b>	<b>Total Federal Funding</b>
49 U.S.C. 5311	U.S. Department of Transportation Federal Transit Administration 915 Second Avenue, Suite 3142 Seattle, WA 98174	<b>20.509 (5311)</b>	<b>\$213,982.00</b>

<b>Administered By</b> Rail and Public Transit Division 555 13th St. NE Salem, OR 97301-4179
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## EXHIBIT C

### Insurance Requirements

#### GENERAL.

Recipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which the Recipient is a Party.

#### TYPES AND AMOUNTS.

i. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers liability insurance with coverage limits of not less than \$500,000 must be included.

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

Bodily Injury, Death and Property Damage:

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

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

Bodily Injury, Death and Property Damage:

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

**ADDITIONAL INSURED.** The Commercial General Liability Insurance and Automobile Liability insurance must include State, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

**"TAIL" COVERAGE.** If any of the required insurance policies is on a "claims made" basis, such as

professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and Recipient's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and State may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If State approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

**NOTICE OF CANCELLATION OR CHANGE.** The contractor or its insurer must provide 30 days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**CERTIFICATE(S) OF INSURANCE.** Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

**EXHIBIT D**

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

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

Recipient further agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from State by calling (503) 986-3300, or at [www.transit.dot.gov](http://www.transit.dot.gov). Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the funds described in Exhibit A:

1. Recipient shall comply with Title VI of the Civil Rights Act of 1964 (78 Stat 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Recipient will report to State on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Recipient shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Recipient's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
4. Recipient must include the following language in each subagreement Recipient signs with a subcontractor or subrecipient:

*The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor, subrecipient, or subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor, subrecipient, or subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Recipient deems appropriate.*

5. By executing the Agreement, Recipient and contractors receiving in excess of \$100,000 in federal funds, other than Indian tribes, certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other

federal award as well as the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, cooperative agreement, or other federal award. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. If non-federal funds have been used to support lobbying activities in connection with the Project, Recipient shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

**RACIAL AND ETHNIC IMPACT STATEMENT**

**This form is used for informational purposes only and must be included with the grant application.**

**IMPORTANT: All fillable form fields MUST be completed to submit this form.**

Chapter 600 of the 2013 Oregon Laws require applicants to include with each grant application a racial and ethnic impact statement. The statement provides information as to the disproportionate or unique impact the proposed policies or programs may have on minority persons<sup>1</sup> in the State of Oregon if the grant is awarded to a corporation or other legal entity other than natural persons.

- 1.  The proposed grant project policies or programs could have a disproportionate or unique positive impact on the following minority persons:

Indicate all that apply:

- |   |  |
|---|--|
| <input type="checkbox"/> Women                                | <input type="checkbox"/> Asians or Pacific Islanders |
| <input checked="" type="checkbox"/> Persons with Disabilities | <input type="checkbox"/> American Indians            |
| <input type="checkbox"/> African-Americans                    | <input type="checkbox"/> Alaskan Natives             |
| <input type="checkbox"/> Hispanics                            |  |

- 2.  The proposed grant project policies or programs could have a disproportionate or unique negative impact on the following minority persons:

Indicate all that apply:

- |  |  |
|--|--|
| <input type="checkbox"/> Women                     | <input type="checkbox"/> Asians or Pacific Islanders |
| <input type="checkbox"/> Persons with Disabilities | <input type="checkbox"/> American Indians            |
| <input type="checkbox"/> African-Americans         | <input type="checkbox"/> Alaskan Natives             |
| <input type="checkbox"/> Hispanics                 |  |

- 3.  The proposed grant project policies or programs will have no disproportionate or unique impact on minority persons.

If you checked numbers 1 or 2 above, please provide below the rationale for the existence of policies or programs having a disproportionate or unique impact on minority persons in this state. Further provide evidence of consultation with representative(s) of the affected minority persons.

The Mt Hood Express provides the only fully accessible transit option for residents in the Hoodland area and in the Boring area. This represents a unique positive impact on persons with disabilities in that they are able to remain in their homes and communities with access to transportation options.

By checking this box, I hereby certify the information contained on this form is true, complete, and accurate to the best of my knowledge.

**Dated:** 6/29/17

**Printed Name:** Teresa Christopherson **Title:** Administrative Services Manager

**Agency Name:** Clackamas County Social Services

**Grant Program:** §5311 Formula Grants for Rural Areas

**Submit Form**

*The Oregon Department of Transportation, Rail and Public Transit Division (RPTD), per Oregon Department of Administrative Services' guidance, is collecting racial and ethnic impact information just prior to agreement execution rather than at the time of grant application. It is RPTD's opinion that this does not violate the intent of the law.*

<sup>1</sup>"Minority persons" are defined in SB 463 (2013 Regular Session) as women, persons with disabilities (as defined in ORS 174.107), African-Americans, Hispanics, Asians or Pacific Islanders, American Indians and Alaskan Natives.

**EXHIBIT I**  
**FTA Fiscal Year 2018 Certifications and Assurances**

## FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

### PREFACE

*Before the Federal Transit Administration (FTA or We) may award federal assistance for public transportation in the form of a federal grant, cooperative agreement, loan, line of credit, loan guarantee, master credit agreement, or State Infrastructure Bank (SIB) cooperative agreement, certain pre-award Certifications and Assurances are required, except as FTA determines otherwise in writing. The Applicant must authorize a representative (Authorized Representative) to select and sign its Certifications and Assurances and bind the Applicant's compliance. You, as your Applicant's Authorized Representative, must select and sign all Certifications and Assurances that your Applicant must provide to support each application it submits to FTA for federal assistance during federal fiscal year (FY) 2018.*

*We request that you read each Certification and Assurance and select those that will apply to any application for which your Applicant might seek FTA assistance during FY 2018. As provided by federal laws, regulations, and requirements, FTA may award federal assistance only if the Applicant's Authorized Representative selects adequate Certifications and Assurances.*

*We have consolidated our Certifications and Assurances into twenty-one (21) Categories.*

*We encourage you to make a single selection that will encompass all twenty-one (21) Categories of Certifications and Assurances that apply to our various programs. FTA, the Applicant, and the Applicant's Authorized Representative, understand and agree that not every provision of these twenty-one (21) Categories of Certifications and Assurances will apply to every Applicant or every Award or Project included in an Award, even if you make a single selection encompassing all twenty-one (21) Categories. Nor will every provision of each Certification or Assurance within a single Category apply if that provision does not apply to your Applicant or the Award it seeks. The type of Applicant and its application will determine which Certifications and Assurances apply.*

*In the alternative:*

- All Applicants must select the Assurances in Category 01, "Required Certifications and Assurances for each Applicant.*
- If your Applicant requests or intends to request more than \$100,000 in federal assistance during FY2018, you must select the "Lobbying" Certification in Category 02, except if your Applicant is an Indian tribe, Indian organization, or an Indian tribal organization.*
- Depending on the nature of your Applicant and the Award it seeks, you may also need to select one or more Certifications and Assurances in Categories 03 through 21.*

*Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected that apply to its Award, itself, any Subrecipient, or any other Third*

## **FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES**

*Party Participant in its Award, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant as necessary to assure your Applicant's compliance with the applicable Certifications and Assurances selected on its behalf.*

*Except as FTA determines otherwise in writing, if your Applicant is a team, consortium, joint venture, or partnership, it understands and agrees that you must identify the activities that each member will perform and the extent to which each member will be responsible for compliance with the selected Certifications and Assurances. You also must identify each member's role in the Award, whether as a Recipient, Subrecipient, Third Party Contractor, or other Third Party Participant.*

*It is important that you and your Applicant also understand that these Certifications and Assurances are pre-award requirements, generally imposed by federal law or regulation, and do not include all federal requirements that may apply to it or its Award. We expect you to submit your Applicant's FY 2018 Certifications and Assurances and its applications for federal assistance in FTA's Transit Award Management System (TrAMS). You must be registered in TrAMS to submit your Applicant's FY 2018 Certifications and Assurances. TrAMS contains fields for selecting among the twenty-one (21) Categories of Certifications and Assurances and a designated field for selecting all twenty-one (21) Categories of Certifications and Assurances. If FTA agrees that you are unable to submit your Applicant's FY 2018 Certifications and Assurances electronically, you must submit the Signature Pages at the end of this document, as FTA directs, marked to show the Categories of Certifications and Assurances that you are submitting.*

*Be aware that these Certifications and Assurances have been prepared in light of:*

- *The Fixing America's Surface Transportation (FAST) Act, Public Law No. 114-94, December 4, 2015, and other authorizing legislation to be enacted,*
- *The Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), Public Law No. 112-141, July 6, 2012, as amended by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Public Law No. 114-41, July 31, 2015,*
- *Previous enabling legislation that remains in effect, and*
- *Appropriations Acts or Continuing Resolutions funding the U.S. Department of Transportation during Fiscal Year 2018.*



## **FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES**

### **CATEGORY 01. REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT.**

*Before FTA may provide federal assistance for your Applicant's Award, you must select the Certifications and Assurances in Category 01 in addition to any other applicable Certifications and Assurances, except as FTA determines otherwise in writing.*

*Any provision of the Certifications and Assurances in Category 01 that does not apply will not be enforced.*

#### **01.A. Certifications and Assurances of Authority of the Applicant and Its Authorized Representative.**

You certify and affirm that in signing these Certifications, Assurances, and Agreements, both you, as your Applicant's Authorized Representative, and your Applicant's attorney who is authorized to represent your Applicant in legal matters, may undertake the following activities on your Applicant's behalf, in compliance with applicable state, local, or Indian tribal laws, regulations, and requirements and your Applicant's by-laws or internal rules:

1. Execute and file its application for federal assistance,
2. Execute and file its Certifications, Assurances, Charter Service Agreement, and School Bus Agreement, as applicable, binding its compliance,
3. Execute its Grant Agreement, Cooperative Agreement, Loan, Loan Guarantee, Line of Credit, Master Credit Agreement, or State Infrastructure Bank (SIB) Cooperative Agreement for which the Applicant is seeking federal assistance from FTA,
4. Comply with applicable federal laws, regulations, and requirements, and
5. Follow applicable federal guidance.

#### **01.B. Standard Assurances.**

On behalf of your Applicant, you assure that it understands and agrees to the following:

1. It will comply with all applicable federal laws, regulations, and requirements in implementing its Award.
2. It is under a continuing obligation to comply with the terms and conditions of its Grant Agreement or Cooperative Agreement with FTA for each Award, including the FTA Master Agreement and other documents incorporated by reference and made part of its Grant Agreement or Cooperative Agreement, or latest amendment thereto.
3. It recognizes that federal laws, regulations, and requirements may be amended from time to time and those amendments may affect the implementation of its Award.
4. It understands that Presidential executive orders and federal guidance, including federal policies and program guidance, may be issued concerning matters affecting it or its Award.
5. It agrees that the most recent federal laws, regulations, requirements, and guidance will apply to its Award, except as FTA determines otherwise in writing.
6. Except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the federal assistance for those programs was appropriated or made available.

## FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

### 01.C. Intergovernmental Review Assurance.

*(This assurance in this Category 01.C does not apply to an Indian tribe, an Indian organization, or an Indian tribal organization that applies for federal assistance made available under 49 U.S.C. § 5311(c)(1), which authorizes FTA's Tribal Transit Programs.)*

As required by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, on behalf of your Applicant, you assure that it has submitted or will submit each application for federal assistance to the appropriate state and local agencies for intergovernmental review.

### 01.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws, regulations, and requirements so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA assisted program or activity (particularly in the level and quality of transportation services and transportation-related benefits) based on race, color, national origin, religion, sex, disability, or age including:
  - a. Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination based on race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity),
  - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d,
  - c. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (prohibiting discrimination based on race, color, religion, sex, (including gender identity and sexual orientation) or national origin,
  - d. Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
  - e. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*,
  - f. U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25,
  - g. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, *et seq.*,
  - h. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*,
  - i. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
  - j. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
  - k. Any other applicable federal statutes that may be signed into law, federal regulations that may be issued, or federal requirements that may be imposed.
2. It will comply with federal guidance implementing federal nondiscrimination laws, regulations, or requirements, except as FTA determines otherwise in writing.
3. As required by 49 CFR § 21.7:

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- a. It will comply with 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 in the manner that:
  - (1) It implements its Award,
  - (2) It undertakes property acquisitions, and
  - (3) It operates all parts of its facilities, as well as its facilities operated in connection with its Award.
- b. This assurance applies to its Award and to all parts of its facilities, as well as its facilities used to implement its Award.
- c. It will promptly take the necessary actions to carry out this assurance, including the following:
  - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA Headquarters Office of Civil Rights, and
  - (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request.
- d. If it transfers U.S. DOT or FTA assisted real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
  - (1) While the property is used for the purpose that the federal assistance is extended, or
  - (2) While the property is used for another purpose involving the provision of similar services or benefits.
- e. The United States has a right to seek judicial enforcement of any matter arising under:
  - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
  - (2) U.S. DOT regulations, 49 CFR part 21, or
  - (3) This assurance.
- f. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
  - (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
  - (2) U.S. DOT regulations, 49 CFR part 21, and
  - (3) Federal transit law, 49 U.S.C. § 5332.
- g. It will comply with applicable federal guidance issued to implement federal nondiscrimination requirements, except as FTA determines otherwise in writing.
- h. It will extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
  - (1) Subrecipient,
  - (2) Transferee,
  - (3) Third Party Contractor or Subcontractor at any tier,
  - (4) Successor in Interest,
  - (5) Lessee, or
  - (6) Other Participant in its Award, except FTA and the Applicant (and later, the Recipient).
- i. It will include adequate provisions to extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each third party agreement, including each:
  - (1) Subagreement at any tier,
  - (2) Property transfer agreement,

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- (3) Third party contract or subcontract at any tier,
- (4) Lease, or
- (5) Participation agreement.
- j. The assurances you have made on your Applicant's behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
  - (1) Federal assistance is provided for its Award,
  - (2) Its property acquired or improved with federal assistance is used for a purpose for which the federal assistance is extended, or for a purpose involving similar services or benefits,
  - (3) It retains ownership or possession of its property acquired or improved with federal assistance provided for its Award,
  - (4) It transfers property acquired or improved with federal assistance, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits, or
  - (5) FTA may otherwise determine in writing.
4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR § 27.9, and consistent with 49 U.S.C. § 5332, you assure that:
  - a. It will comply with the following prohibitions against discrimination based on disability listed below in subsection 4.b of this Category 01.D Assurance, of which compliance is a condition of approval or extension of any FTA assistance awarded to:
    - (1) Construct any facility,
    - (2) Obtain any rolling stock or other equipment,
    - (3) Undertake studies,
    - (4) Conduct research, or
    - (5) Participate in any benefit or obtain any benefit from any FTA administered program.
  - b. In any program or activity receiving or benefiting from federal assistance that U.S. DOT administers, no qualified individual with a disability will, because of his or her disability, be:
    - (1) Excluded from participation,
    - (2) Denied benefits, or
    - (3) Otherwise subjected to discrimination.

### **01.E Procurement Certification.**

The Applicant agrees to comply with:

- a. U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, particularly 2 CFR §200.317-26 "Procurement Standards;
- b. Federal laws, regulations, and requirements applicable to FTA procurements; and
- c. The latest edition of FTA Circular 4220.1 and other applicable federal guidance.

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### 01.F. Suspension and Debarment, Tax Liability, and Felony Convictions Certifications.

#### 01.F.1 Suspension and Debarment.

On behalf of your Applicant, you certify that:

- a. It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180.
- b. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
  - (1) Are eligible to participate in covered transactions of any federal department or agency and are not presently:
    - (a) Debarred,
    - (b) Suspended,
    - (c) Proposed for debarment,
    - (d) Declared ineligible,
    - (e) Voluntarily excluded, or
    - (f) Disqualified.
  - (2) Within a three-year period preceding its latest application or proposal, its management has not been convicted of or had a civil judgment rendered against any of them for:
    - (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction, or contract under a public transaction,
    - (b) Violation of any federal or state antitrust statute, or
    - (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property.
  - (3) It is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses listed in the preceding subsection b(2) of this Certification.
  - (4) It has not had one or more public transactions (federal, state, or local) terminated for cause or default within a three-year period preceding this Certification.
  - (5) If, at a later time, it receives any information that contradicts the preceding statements of subsections a or b of this Category 01.F Certification, it will promptly provide that information to FTA.
  - (6) It will treat each lower tier contract or subcontract under its Award as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
    - (a) Equals or exceeds \$25,000,
    - (b) Is for audit services, or
    - (c) Requires the consent of a federal official.
  - (7) It will require that each covered lower tier contractor and subcontractor:
    - (a) Comply and facilitate compliance with the federal requirements of 2 CFR parts 180 and 1200, and
    - (b) Assure that each lower tier participant in its Award is not presently declared by any federal department or agency to be:

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- 1 Debarred from participation in any federally assisted Award,
  - 2 Suspended from participation in any federally assisted Award,
  - 3 Proposed for debarment from participation in any federally assisted Award,
  - 4 Declared ineligible to participate in any federally assisted Award,
  - 5 Voluntarily excluded from participation in any federally assisted Award, or
  - 6 Disqualified from participation in any federally assisted Award.
- c. It will provide a written explanation if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Category 01.F.1 Certification.

### 01.F.2. Tax Liability.

If your Applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, on behalf of your Applicant, you certify that:

- a. Your Applicant and its prospective Subrecipients have no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- b. Your Applicant and its Subrecipients will follow applicable U.S. DOT guidance when issued.

### 01.F.3. Felony Convictions.

If your Applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, on behalf of your Applicant, you certify that:

- a. Your Applicant and its prospective Subrecipients have not been convicted of a felony criminal violation under any federal law within the preceding 24 months.
- b. Your Applicant and its Subrecipients will follow applicable U.S. DOT guidance when it is issued.

### 01.G. U.S. OMB Assurances in SF-424B and SF-424D.

*The assurances in this Category 01.G are consistent with the U.S. OMB assurances required in the U.S. OMB SF-424B and SF-424D, and updated as necessary to reflect changes in federal laws, regulations, and requirements.*

1. *Administrative Activities.* On behalf of your Applicant, you assure that:
  - a. For any application it submits for federal assistance, it has adequate resources to plan, manage, and properly complete the tasks to implement its Award, including:
    - (1) The legal authority to apply for federal assistance,
    - (2) The institutional capability,
    - (3) The managerial capability, and
    - (4) The financial capability (including funds sufficient to pay the non-federal share of the cost of incurred under its Award).
  - b. As required, it will give access and the right to examine materials related to its Award to the following entities or individuals, including, but not limited to:

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- (1) FTA,
- (2) The Comptroller General of the United States, and
- (3) The State, through an appropriate authorized representative.
- c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance.
- d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:
  - (1) A personal or organizational conflict of interest or personal gain, or
  - (2) An appearance of a personal or organizational conflict of interest or personal gain.
2. *Specifics of the Award.* On behalf of your Applicant, you assure that:
  - a. It will begin and complete work within the period of performance that applies following receipt of an FTA Award.
  - b. For FTA assisted construction Awards:
    - (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
    - (2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms to the approved plans and specifications,
    - (3) It will include a covenant to assure nondiscrimination during the useful life of the real property financed under its Award in its title to that real property, and it will include such covenant in any transfer of such property,
    - (4) To the extent FTA requires, it will record the federal interest in the title to FTA assisted real property or interests in real property, and
    - (5) It will not alter the site of the FTA assisted construction or facilities without permission or instructions from FTA by:
      - (a) Disposing of the underlying real property or other interest in the site and facilities,
      - (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
      - (c) Changing the terms of the underlying real property title or other interest in the site and facilities.
  - c. It will furnish progress reports and other information as FTA or the state may require.
3. *Statutory and Regulatory Requirements.* On behalf of your Applicant, you assure that:
  - a. Your Applicant will comply with all federal laws, regulations, and requirements relating to nondiscrimination that apply, including, but not limited to:
    - (1) The prohibitions against discrimination based on race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. § 2000d.
    - (2) The prohibitions against discrimination based on sex, as provided in:
      - (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 – 1683, and 1685 – 1687, and
      - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.

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- (3) The prohibitions against discrimination based on age in federally assisted programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 – 6107.
  - (4) The prohibitions against discrimination based on disability in federally assisted programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794.
  - (5) The prohibitions against discrimination based on disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101.
  - (6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. § 3601 *et seq.*
  - (7) The prohibitions against discrimination based on drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 *et seq.*
  - (8) The prohibitions against discrimination based on alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. § 4541 *et seq.*
  - (9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. § 290dd – 290dd-2.
  - (10) The prohibitions against discrimination in employment as provided in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*,
  - (11) The nondiscrimination provisions of any other statute(s) that may apply to its Award.
- b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. § 4601 *et seq.*, and 49 U.S.C. § 5323(b), regardless of whether federal assistance has been provided for any real property acquired or improved for purposes of its Award:
- (1) It will provide for fair and equitable treatment of any displaced persons or any persons whose property is acquired or improved as a result of federally assisted programs.
  - (2) It has the necessary legal authority under state and local laws, regulations, and requirements to comply with:
    - (a) The Uniform Relocation Act. 42 U.S.C. § 4601 *et seq.*, as specified by 42 U.S.C. §§ 4630 and 4655, and
    - (b) U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, specifically 49 CFR § 24.4.
  - (3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:
    - (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24.
    - (b) As provided by 42 U.S.C. §§ 4622, 4623, and 4624, and 49 CFR part 24, if its Award results in displacement, it will provide fair and reasonable relocation payments and assistance to:
      - 1 Displaced families or individuals, and
      - 2 Displaced corporations, associations, or partnerships.



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- (c) As provided by 42 U.S.C. § 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such:
    - 1 Displaced families and individuals, and
    - 2 Displaced corporations, associations, or partnerships.
  - (d) As provided by 42 U.S.C. § 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals.
  - (e) It will do the following:
    - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
    - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin.
  - (f) It will be guided by the real property acquisition policies of 42 U.S.C. §§ 4651 and 4652.
  - (g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. §§ 4653 and 4654, understanding that FTA will provide federal assistance for its eligible costs of providing payments for those expenses, as required by 42 U.S.C. § 4631.
  - (h) It will execute the necessary implementing amendments to FTA assisted third party contracts and subagreements.
  - (i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances.
  - (j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, related to its Award that involves relocation or land acquisition.
  - (k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions.
- c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. § 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures.
  - d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by federal assistance of:
    - (1) The National Research Act, as amended, 42 U.S.C. § 289 *et seq.*, and
    - (2) U.S. DOT regulations, “Protection of Human Subjects,” 49 CFR part 11.
  - e. It will, to the extent applicable, comply with the labor standards and protections for federally assisted Awards of:
    - (1) The Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147,
    - (2) Sections 1 and 2 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874, and 40 U.S.C. § 3145, respectively, and
    - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3701 *et seq.*
  - f. It will comply with any applicable environmental standards prescribed to implement federal laws and executive orders, including, but not limited to:

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- (1) Complying with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 – 4335 and following Executive Order No. 11514, as amended, 42 U.S.C. § 4321 note.
  - (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. § 7606 note.
  - (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. § 4321 note.
  - (4) Following the evaluation of flood hazards in the floodplains provisions of Executive Order No. 11988, May 24, 1977, as amended, 42 U.S.C. § 4321 note.
  - (5) Complying with the assurance of consistency with the approved state management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 – 1465.
  - (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1970, as amended, 42 U.S.C. §§ 7401 – 7671q.
  - (7) Complying with protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f – 300j-6.
  - (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 – 1544.
  - (9) Complying with the environmental protections for federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation Award, as required by 49 U.S.C. § 303 (also known as “Section 4f”).
  - (10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 – 1287.
  - (11) Complying with and facilitating compliance with:
    - (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 300108,
    - (b) The Archaeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 *et seq.*, and
    - (c) Executive Order No. 11593 (identification and protection of historic properties), 54 U.S.C. § 300101.
- g. To the extent applicable, it will comply with the following federal requirements for the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported with federal assistance:
- (1) The Animal Welfare Act, as amended, 7 U.S.C. § 2131 *et seq.*, and
  - (2) U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR subchapter A, parts 1, 2, 3, and 4.
- h. To the extent applicable, it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically 49 CFR § 41.117(d), before accepting delivery of any FTA assisted buildings.

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- i. It will comply with and assure that each of its Subrecipients located in special flood hazard areas will comply with section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. § 4012a(a), by:
  - (1) Participating in the federal flood insurance program, and
  - (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- j. It will comply with:
  - (1) The Hatch Act, 5 U.S.C. §§ 1501 – 1508, 7324 – 7326, which limits the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with federal assistance, including a federal loan, grant agreement, or cooperative agreement, and
  - (2) 49 U.S.C. § 5323(1)(2) and 23 U.S.C. § 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving federal assistance appropriated or made available under 49 U.S.C. chapter 53 and 23 U.S.C. § 142(a)(2) to whom the Hatch Act does not otherwise apply.
- k. It will perform the financial and compliance audits as required by the:
  - (1) Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.*,
  - (2) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 200, and
  - (3) Most recent applicable U.S. OMB Compliance Supplement, 2 CFR part 200, appendix XI (previously known as the U.S. OMB Circular A-133 Compliance Supplement).
- l. It will comply with all other federal laws, regulations, and requirements that apply.
- m. It will follow federal guidance governing it and its Award, except as FTA has expressly approved otherwise in writing.

### CATEGORY 02. LOBBYING.

*Before FTA may provide federal assistance for a grant or cooperative agreement exceeding \$100,000 or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, you must select the Lobbying Certifications in Category 02, unless your Applicant is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 31 U.S.C. § 1352, and/or except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 02 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that:

1. As required by 31 U.S.C. § 1352 and U.S. DOT regulations, “New Restrictions on Lobbying,” specifically 49 CFR § 20.110:
  - a. The lobbying restrictions of this Certification apply to its requests:
    - (1) For \$100,000 or more in federal assistance for a grant or cooperative agreement, and

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- (2) For \$150,000 or more in federal assistance for a loan, line of credit, loan guarantee, or loan insurance, and
  - b. Your Certification on your Applicant's behalf applies to the lobbying activities of:
    - (1) The Applicant,
    - (2) Its Principals, and
    - (3) Its Subrecipients at the first tier.
2. To the best of your knowledge and belief:
  - a. No federal appropriated funds have been or will be paid by your Applicant or on its behalf to any person to influence or attempt to influence:
    - (1) An officer or employee of any federal agency regarding the award of a:
      - (a) Federal grant or cooperative agreement, or
      - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
    - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
      - (a) Federal grant or cooperative agreement, or
      - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
  - b. Your Applicant will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with the instructions on that form, if any funds other than federal appropriated funds have been or will be paid to any person to influence or attempt to influence:
    - (1) An officer or employee of any federal agency regarding the award of a:
      - (a) Federal grant or cooperative agreement, or
      - (b) Federal loan, line of credit, loan guarantee, or loan insurance, or
    - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
      - (a) Federal grant or cooperative agreement, or
      - (b) Federal loan, line of credit, loan guarantee, or loan insurance.
  - c. Your Applicant will include the language of this Certification in its Award documents under a federal grant, cooperative agreement, loan, line of credit, or loan insurance including, but not limited to:
    - (1) Each third party contract,
    - (2) Each third party subcontract,
    - (3) Each subagreement, and
    - (4) Each third party agreement.
3. Your Applicant understands that:
  - a. This Certification is a material representation of fact that the Federal Government relies on, and
  - b. It must submit this Certification before the Federal Government may award federal assistance for a transaction covered by 31 U.S.C. § 1352, including a:
    - (1) Federal grant or cooperative agreement, or
    - (2) Federal loan, line of credit, loan guarantee, or loan insurance.
4. Your Applicant understands that any person who does not file a required Certification will incur a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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### CATEGORY 03. PRIVATE SECTOR PROTECTIONS.

*Before FTA may provide federal assistance for an Award that involves the acquisition of public transportation property or the operation of public transportation facilities or equipment, you must select the Private Property Protections Assurances in Category 03.A and enter into the Agreements in Category 03.B and Category 03.C on behalf of your Applicant, except as FTA determines otherwise in writing.*

*Any provision of the Assurances and Agreements in Category 03 that does not apply will not be enforced.*

#### **03.A. Private Property Protections.**

*If your Applicant is a state, local government, or Indian tribal government and seeks federal assistance from FTA to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator, the Private Property Protections Assurances in Category 03.A apply to your Applicant, except as FTA determines otherwise in writing.*

To facilitate FTA's ability to make the findings required by 49 U.S.C. § 5323(a)(1), on behalf of your Applicant, you assure that:

1. Your Applicant has or will have:
  - a. Determined that the federal assistance it has requested is essential to carrying out its Program of Projects as required by 49 U.S.C. §§ 5303, 5304, and 5306,
  - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
  - c. Paid just compensation under state or local laws to the company for any franchise or property acquired.
2. Your Applicant has completed the actions described in the preceding section 1 of this Category 03.A Certification before:
  - a. It acquires the property or an interest in the property of a private provider of public transportation, or
  - b. It operates public transportation equipment or facilities:
    - (1) In competition with transportation service provided by an existing public transportation operator, or
    - (2) In addition to transportation service provided by an existing public transportation operator.

#### **03.B. Charter Service Agreement.**

*If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the Charter Service Agreement in Category 03.B applies to your Applicant, except as FTA determines otherwise in writing.*

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To comply with 49 U.S.C. § 5323(d) and (g) and FTA regulations, “Charter Service, 49 CFR part 604, specifically 49 CFR § 604.4, on behalf of your Applicant, you are entering into the following Charter Service Agreement:

1. FTA’s “Charter Service” regulations apply as follows:
  - a. FTA’s Charter Service regulations restrict transportation by charter service using facilities and equipment acquired or improved under an Award derived from:
    - (1) Federal transit laws, 49 U.S.C. chapter 53,
    - (2) 23 U.S.C. §§ 133 or 142, or
    - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
  - b. FTA’s charter service restrictions extend to:
    - (1) Your Applicant, when it receives federal assistance appropriated or made available for:
      - (a) Federal transit laws, 49 U.S.C. chapter 53,
      - (b) 23 U.S.C. §§ 133 or 142, or
      - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
    - (2) Any Third Party Participant that receives federal assistance derived from:
      - (a) Federal transit laws, 49 U.S.C. chapter 53,
      - (b) 23 U.S.C. §§ 133 or 142, or
      - (c) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
  - c. A Third Party Participant includes any:
    - (1) Subrecipient at any tier,
    - (2) Lessee,
    - (3) Third Party Contractor or Subcontractor at any tier, and
    - (4) Other Third Party Participant in its Award.
  - d. You and your Applicant agree that neither it nor any governmental authority or publicly owned operator that receives federal public transportation assistance appropriated or made available for its Award will engage in charter service operations, except as permitted under:
    - (1) Federal transit laws, specifically 49 U.S.C. § 5323(d) and (g),
    - (2) FTA regulations, “Charter Service,” 49 CFR part 604, to the extent consistent with 49 U.S.C. § 5323(d) and (g),
    - (3) Any other federal Charter Service regulations, or
    - (4) Federal guidance, except as FTA determines otherwise in writing.
  - e. You and your Applicant agree that the latest Charter Service Agreement selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Underlying Agreement accompanying its Award of federal assistance from FTA.
  - f. You and your Applicant agree that:
    - (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives federal assistance from FTA that has demonstrated a pattern of violating of FTA’s Charter Service regulations by:
      - (a) Conducting charter operations prohibited by federal transit laws and FTA’s Charter Service regulations, or

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- (b) Otherwise violating its Charter Service Agreement selected in its latest annual Certifications and Assurances.
- (2) These corrective measures and remedies may include:
  - (a) Barring your Applicant or any Third Party Participant operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA,
  - (b) Withholding an amount of federal assistance as provided by Appendix D to FTA's Charter Service regulations, or
  - (c) Any other appropriate remedy that may apply.
- 2. In addition to the exceptions to the restrictions in FTA's Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
  - a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. §§ 5307 or 5311 to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under former 49 U.S.C. § 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that federal assistance from FTA for those program purposes only.
  - b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks federal assistance appropriated or made available under 49 U.S.C. § 5310 to be used for New Freedom activities that would have been eligible for assistance under former 49 U.S.C. § 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that federal assistance from FTA for those program purposes only.
  - c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Applicant provides a private intercity or charter transportation operator reasonable access to that Applicant's federally assisted public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes, as provided in 49 U.S.C. § 5323(r).

### 03.C. School Bus Agreement.

*If your Applicant seeks federal assistance from FTA to acquire or operate transit facilities or equipment, the School Bus Agreement in Category 03.C applies to your Applicant, except as FTA determines otherwise in writing.*

To comply with 49 U.S.C. § 5323(f) and (g) and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g), your Applicant agrees to enter into the following School Bus Agreement:

- 1. FTA's "School Bus Operations" regulations at 49 CFR part 605 restricts school bus operations using facilities and equipment acquired or improved with federal assistance derived from:
  - a. Federal transit laws, 49 U.S.C. chapter 53,
  - b. 23 U.S.C. §§ 133 or 142, or
  - c. Any other Act that provides federal public transportation assistance, unless otherwise excepted.
- 2. FTA's school bus operations restrictions extend to:
  - a. Your Applicant, when it receives federal assistance appropriated or made available for:

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- (1) Federal transit laws, 49 U.S.C. chapter 53,
  - (2) 23 U.S.C. §§ 133 or 142, or
  - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
- b. Any Third Party Participant that receives federal assistance derived from:
  - (1) Federal transit laws, 49 U.S.C. chapter 53,
  - (2) 23 U.S.C. §§ 133 or 142, or
  - (3) Any other Act that provides federal public transportation assistance, unless otherwise excepted.
3. A Third Party Participant includes any:
  - a. Subrecipient at any tier,
  - b. Lessee,
  - c. Third Party Contractor or Subcontractor at any tier, and
  - d. Any other Third Party Participant in the Award.
4. You and your Applicant agree, and will obtain the agreement of any Third Party Participant, that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:
  - a. Federal transit laws, specifically 49 U.S.C. § 5323(f) and (g),
  - b. FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g),
  - c. Any other federal School Bus regulations, or
  - d. Federal guidance, except as FTA determines otherwise in writing.
5. You and your Applicant agree that the latest School Bus Agreement selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference and made part of the Underlying Agreement accompanying its Award of federal assistance.
6. You and your Applicant agree that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
  - a. Bar your Applicant or Third Party Participant from receiving further federal assistance for public transportation, or
  - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

### **CATEGORY 04. ROLLING STOCK REVIEWS AND BUS TESTING.**

*Before FTA may provide federal assistance for an Award to acquire rolling stock for use in revenue service or to acquire a new bus model, you must select the Rolling Stock Reviews and Bus Testing Certifications in Category 04, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 04 that does not apply will not be enforced.*

#### **04.A. Rolling Stock Reviews.**

*If your Applicant seeks federal assistance from FTA to acquire rolling stock for use in revenue service, the Rolling Stock Reviews Certifications in Category 04.A apply to your Applicant, except as FTA determines otherwise in writing.*



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On behalf of your Applicant, you certify that, when procuring rolling stock for use in revenue service:

1. Your Applicant will comply with:
  - a. Federal transit laws, specifically 49 U.S.C. § 5323(m), and
  - b. FTA regulations, “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases,” 49 CFR part 663, and
2. As provided in 49 CFR § 663.7:
  - a. Your Applicant will conduct or cause to be conducted the required pre-award and post-delivery reviews of that rolling stock, and
  - b. It will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

### **04.B. Bus Testing.**

*If your Applicant seeks federal assistance from FTA to acquire a new bus model, the Bus Testing Certifications in Category 04.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that:

1. FTA’s bus testing requirements apply to all acquisitions of new buses and new bus models that require bus testing as defined in FTA’s Bus Testing regulations, and it will comply with:
  - a. 49 U.S.C. § 5318, and
  - b. FTA regulations, “Bus Testing,” 49 CFR part 665.
2. As required by 49 CFR § 665.7, when acquiring the first bus of any new bus model or a bus model with a major change in components or configuration, your Applicant will not spend any federal assistance appropriated under 49 U.S.C. chapter 53 to acquire that new bus or new bus model until:
  - a. That new bus or new bus model has been tested at FTA’s bus testing facility, and
  - b. It has received a copy of the test report prepared for that new bus or new bus model.
3. It will ensure that the new bus or new bus model that is tested has met the performance standards consistent with those regulations, including the:
  - a. Performance standards for:
    - (1) Maintainability,
    - (2) Reliability,
    - (3) Performance (including braking performance),
    - (4) Structural integrity,
    - (5) Fuel economy,
    - (6) Emissions, and
    - (7) Noise, and
  - b. Minimum safety performance standards established under 49 U.S.C. § 5329, when issued.
4. It will ensure that the new bus or new bus model that is tested has received a passing aggregate test score under the “Pass/Fail” standard established by regulation.

### **CATEGORY 05. DEMAND RESPONSIVE SERVICE.**

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*Before FTA may provide federal assistance to a public entity that operates demand responsive service for an Award to acquire a non-rail vehicle that is not accessible, you must select the Demand Responsive Service Certifications in Category 05, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 05 that does not apply will not be enforced.*

As required by U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37, specifically 49 CFR § 37.77(d), on behalf of your Applicant, you certify that:

1. Your Applicant offers public transportation services equivalent in level and quality of service to:
  - a. Individuals with disabilities, including individuals who use wheelchairs, and
  - b. Individuals without disabilities.
2. Viewed in its entirety, your Applicant’s service for individuals with disabilities is:
  - a. Provided in the most integrated setting feasible, and
  - b. Equivalent to the service it offers individuals without disabilities with respect to:
    - (1) Response time,
    - (2) Fares,
    - (3) Geographic service area,
    - (4) Hours and days of service,
    - (5) Restrictions on priorities based on trip purpose,
    - (6) Availability of information and reservation capability, and
    - (7) Constraints on capacity or service availability.

### **CATEGORY 06. INTELLIGENT TRANSPORTATION SYSTEMS.**

*Before FTA may provide federal assistance for an Award in support of an Intelligent Transportation System (ITS), you must select the Intelligent Transportation Systems Assurances in Category 06, except as FTA determines otherwise in writing.*

*Any provision of the Assurances in Category 06 that does not apply will not be enforced.*

On behalf of your Applicant, you and your Applicant:

1. Understand that, as used in this Assurance, the term Intelligent Transportation System is defined to include technologies or systems of technologies that provide or significantly contribute to the provision of one or more Intelligent Transportation System (ITS) user services as defined in the “National ITS Architecture.”
2. Assure that, as provided in 23 U.S.C. § 517(d), any Award that includes an ITS or related activity financed with appropriations made available from the Highway Trust Fund, including amounts made available to deploy ITS facilities or equipment, will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. § 517(a) or (c), unless it obtains a waiver as provided in 23 U.S.C. § 517(d)(2).

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### CATEGORY 07. INTEREST AND FINANCING COSTS AND ACQUISITION OF CAPITAL ASSETS BY LEASE.

*Before FTA may award federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support the interest, financing, or leasing costs of any Award financed under the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, any program to which the requirements of 49 U.S.C. § 5307 apply, or any other program as FTA may specify, you must select the Certifications in Category 07, except as FTA may determine otherwise in writing.*

*Any provision of the Certifications and Assurances in Category 07 that does not apply will not be enforced.*

#### **07.A. Interest and Financing Costs.**

*If your Applicant intends to use federal assistance to support the interest or any other financing costs for an Award financed under the Urbanized Area Formula Grants Program, the Fixed Guideway Capital Investment Grants Program, the New Starts, Small Starts, and Core Capacity Programs, any program that must comply with the requirements of 49 U.S.C. § 5307, or any other program as FTA may specify, the Interest and Financing Costs Certifications in Category 07.A apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that:

1. It will not seek reimbursement for interest or any other financing costs unless:
  - a. It is eligible to receive federal assistance for those costs, and
  - b. Its records demonstrate that it has shown reasonable diligence in seeking the most favorable financing terms, as FTA may require.
2. It will comply with the same favorable financing cost provisions for Awards financed under:
  - a. The Urbanized Area Formula Grants Program,
  - b. A Full Funding Grant Agreement,
  - c. An Early Systems Work Agreement,
  - d. The Fixed Guideway Capital Investment Program financed by previous FTA enabling legislation,
  - e. Any program that must comply with the requirements of 49 U.S.C. § 5307, or
  - f. Any other program as FTA may specify.

#### **07.B. Acquisition of Capital Assets by Lease.**

*If your Applicant seeks federal assistance from FTA to acquire capital assets (other than rolling stock or related equipment) through a lease, the Acquisition of Capital Assets by Lease Certifications and Assurances in Category 07.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify and assure that, as required by FTA regulations, "Capital Leases," 49 CFR part 639, to the extent consistent with the FAST Act. If your

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Applicant acquires any capital asset (other than rolling stock or related equipment) through a lease financed with federal assistance appropriated or made available under 49 U.S.C. chapter 53, it will not enter into a capital lease for which FTA can provide only incremental federal assistance unless it has adequate financial resources to meet its future lease obligations if federal assistance is not available.

### **CATEGORY 08. TRANSIT ASSET MANAGEMENT PLAN, PUBLIC TRANSPORTATION AGENCY SAFETY PLAN, AND STATE SAFETY OVERSIGHT REQUIREMENTS.**

*Before FTA may provide federal assistance appropriated or made available under 49 U.S.C. chapter 53 to support an Award, you must select the Certifications in Category 08, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 08 that does not apply will not be enforced.*

#### **08.A. Transit Asset Management Plan.**

*If your Applicant applies for funding appropriated or made available for 49 U.S.C. chapter 53, the Transit Asset Management Certifications in Category 08.A apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that it and each of its Subrecipients will:

1. Comply with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
2. Follow federal guidance that will implement the regulations at 49 CFR part 625.

#### **08.B. Public Transportation Safety Program.**

*If your Applicant applies for funding under 49 U.S.C. chapter 53 and it is a State, local government authority, or any other operator of a public transportation system, the particular provisions under the Public Transportation Safety Program in Category 08.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify that it will comply with applicable regulations, and follow federal guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

#### **08.C. State Safety Oversight Requirements.**

*If your Applicant applies for funding under 49 U.S.C. chapter 53 and is in a state with a rail fixed guideway public transportation system, Category 08.C applies to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, if it is a state and has a rail fixed guideway public transportation system, you certify that:

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1. The Applicant will comply with FTA regulations, “State Safety Oversight,” 49 CFR part 659, until the Applicant has a certified State Safety Oversight Program under the regulations at 49 CFR part 674.
2. For those Applicants that do have a certified State Safety Oversight Program, the Applicant will comply with the regulations at 49 CFR part 674.
3. For those Applicants that do not have a certified State Safety Oversight Program, the Applicant will make progress towards meeting the April 15, 2019, State Safety Oversight Program certification deadline.

### **CATEGORY 09. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

*If your Applicant must comply with the alcohol and controlled substance testing requirements of 49 U.S.C. § 5331 and its implementing regulations, before FTA may provide federal assistance for an Award, you must select the Certifications in Category 09, except as FTA may determine otherwise in writing.*

*Any provision of the Certifications in Category 09 that does not apply will not be enforced.*

As required by 49 U.S.C. § 5331, and FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 CFR part 655, subpart I, specifically 49 CFR § 655.83, on behalf of your Applicant, including an Applicant that is a state, and on behalf of its Subrecipients and Third Party Contractors, you certify that:

1. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have established and implemented:
  - a. An alcohol misuse testing program, and
  - b. A controlled substance testing program.
2. Your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. § 5331.
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Applicant, its Subrecipients, or its Third Party Contractors to which these testing requirements apply reside in a state that permits marijuana use for medical or recreational purposes, your Applicant, its Subrecipients, and its Third Party Contractors to which these testing requirements apply have complied or will comply with the federal controlled substance testing requirements of 49 CFR part 655.

### **CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY IMPROVEMENT).**

*Before FTA may provide federal assistance for an Award financed under the New Starts, Small Starts, or Core Capacity Improvement Program authorized under 49 U.S.C. § 5309, you must select the Certifications in Category 10, except as FTA may determine otherwise in writing.*

*Any provision of the Certifications in Category 10 that does not apply will not be enforced.*

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Except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625,
4. It will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304, and
5. It will comply with FTA guidance, "Final Interim Policy Guidance, Federal Transit Administration Capital Investment Grant Program," June 2016.

### **CATEGORY 11. STATE OF GOOD REPAIR PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the State of Good Repair Program authorized under 49 U.S.C. § 5337, you must select the Certifications in Category 11, except as FTA determines otherwise in writing.*

*Any provision of the Assurance in Category 11 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award,
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with the Applicant's transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625, and
4. It will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

### **CATEGORY 12. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS**

*Before FTA may provide federal assistance for an Award under the Buses and Bus Facilities Program authorized under 49 U.S.C. § 5339, as amended by the FAST Act, which authorizes grants for formula and competitive Bus and Bus Facilities and Low or No Emission buses or an award under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), you must select the Certifications in Category 12, except as FTA determines otherwise in writing.*

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*Any provision of the Certifications in Category 12 that does not apply will not be enforced.*

### **12.A. Grants for Buses and Bus Facilities Program**

*The following Certifications for the Grants for Buses and Bus Facilities Program and Low or No Emission Buses are required by 49 U.S.C. § 5339, as amended by the FAST Act, which provides that the requirements of 49 U.S.C. § 5307 shall apply to Recipients of grants made in urbanized areas and under the Low or No Emission Bus Program, 49 U.S.C. § 5339(c) The requirements of 49 U.S.C. § 5311 shall apply to Recipients of Bus and Bus Facilities grants made in rural areas. Therefore:*

1. If your Applicant is in an urbanized area, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
  - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
  - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5339 during non-peak hours for transportation, Applicants in an urbanized area will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
    - (1) Any senior,
    - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
    - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
    - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
  - e. When carrying out a procurement under 49 U.S.C. § 5339, it will comply with:
    - (1) The applicable general provisions of 49 U.S.C. § 5323, and
    - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
  - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
  - g. As required by 49 U.S.C. § 5307(d):
    - (1) It has or will have the amount of funds required for the non-federal share,
    - (2) It will provide the non-federal share from sources approved by FTA, and
    - (3) It will provide the non-federal share when needed.
  - h. It will comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and

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- (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
- i. It has a locally developed process to solicit and consider public comment before:
  - (1) Raising a fare, or
  - (2) Implementing a major reduction of public transportation service.
- j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
2. Except as FTA determines otherwise in writing, if your Applicant is in a rural area, you certify, on behalf of your Applicant, that:
  - a. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
  - c. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
  - e. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service with transportation service financed by other federal sources.
  - f. Its Awards and Subawards in its Formula Grants for the Rural Areas Program are included in:
    - (1) The statewide transportation improvement program, and
    - (2) To the extent applicable, a metropolitan transportation improvement program.
  - g. With respect to the non-federal share:
    - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5311(g),
    - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
    - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
  - h. It may transfer a facility or equipment acquired or improved under its Award to any other entity eligible to receive assistance under 49 U.S.C. chapter 53, if:
    - (1) The Recipient possessing the facility or equipment consents to the transfer, and
    - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.

### **12.B. Low or No Emission Vehicle Deployment.**



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*If your Applicant seeks federal assistance from FTA for an Award financed under the Low or No Emission Vehicle Development Program authorized under former 49 U.S.C. § 5312(d)(5), the Certifications and Assurances in Category 12.B apply to your Applicant, except as FTA determines otherwise in writing.*

Former section 5312(d)(5)(C)(i) of title 49, United States Code, requires the following Certifications for Low or No Emission Vehicle Deployment Program before awarding federal assistance appropriated or made available under MAP-21. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. When using or involving a facility or equipment acquired or improved with federal assistance under former 49 U.S.C. § 5312(d)(5) during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour to the following individuals:
  - a. Any senior,
  - b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability) and is unable to use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
  - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
  - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
5. When carrying out a procurement under this Program, it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
  - a. It has informed or will inform the public of the amounts of its federal assistance available under this Program,
  - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities to be financed,
  - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
  - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
  - e. It has assured or will assure that its proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. § 5336, as

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- amended by the FAST Act, with federally assisted transportation services supported by other federal sources,
- f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
  - g. It has made or will make the final list of Projects for which an Award is sought available to the public.
7. With respect to the non-federal share:
    - a. It has or will have the amount of funds required for the non-federal share,
    - b. It will provide the non-federal share from sources approved by FTA, and
    - c. It will provide the non-federal share when needed.
  8. It will comply with:
    - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - b. The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
  9. It has a locally developed process to solicit and consider public comment before:
    - a. Raising a fare, or
    - b. Implementing a major reduction of public transportation service.
  10. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **CATEGORY 13. URBANIZED AREA FORMULA GRANTS PROGRAMS AND PASSENGER FERRY GRANT PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, which authorizes federal assistance for Job Access and Reverse Commute (JARC) activities, and the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), you must select the Certifications in Category 13, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 13 that does not apply will not be enforced.*

#### **13.A. Urbanized Area Formula Grants Program under the FAST Act.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Urbanized Area Formula Grants Program authorized under 49 U.S.C. § 5307, as amended by the FAST Act, the Certifications in Category 13.A apply to your Applicant, except as FTA determines otherwise in writing.*

The following Certifications for the Urbanized Area Formula Grants Program under 49 U.S.C. § 5307, as amended by the FAST Act, are required by 49 U.S.C. § 5307(c)(1). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625,
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307 during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
  - a. Any senior,
  - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
  - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
  - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
5. When carrying out a procurement under 49 U.S.C. § 5307, it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. It has complied with or will comply with 49 U.S.C. § 5307(b) because:
  - a. It has made or will make available to the public information on the amounts of federal assistance available to it under 49 U.S.C. § 5307,
  - b. It has developed or will develop, in consultation with interested parties including private transportation providers, its proposed Program of Projects for activities for which federal assistance is sought,
  - c. It has published or will publish its proposed Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on its proposed Program of Projects and its performance as an Applicant or Recipient,
  - d. It has provided or will provide an opportunity for a public hearing to obtain the views of individuals on its proposed Program of Projects,
  - e. It has ensured or will ensure that its proposed Program of Projects provides for coordination of transportation services financed by FTA under 49 U.S.C. § 5336, as amended by the FAST Act, with transportation services supported by other Federal Government sources,
  - f. It has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
  - g. It has made or will make its final Program of Projects available to the public.
7. As required by 49 U.S.C. § 5307(d):
  - a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share from sources approved by FTA, and
  - c. It will provide the non-federal share when needed.
8. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and

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- b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
9. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
  - a. Raising a fare, or
  - b. Implementing a major reduction of public transportation.
10. Each fiscal year:
  - a. It will assure that at least one (1) percent of the amount of federal assistance under 49 U.S.C. § 5307 apportioned to its urbanized area must be expended for Public Transportation Security activities as described in 49 U.S.C. § 5307(c)(1)(J)(i) including:
    - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
    - (2) Increased camera surveillance of an area in or adjacent to that system,
    - (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
    - (4) Any other activity intended to increase the security and safety of an existing or planned public transportation system, or
  - b. The Designated Recipients in its urbanized area certify that such expenditures for Public Transportation Security activities are not necessary.
11. If it serves an urbanized area with a population of at least 200,000 individuals, as determined by the Bureau of the Census:
  - a. It will provide a report by the end of the fourth quarter of the preceding federal fiscal year that lists projects carried out in the preceding fiscal year under this section for associated transit improvements as defined in 49 U.S.C. § 5302, and
  - b. The report of its Associated Transit Improvements or related activities is or will be incorporated by reference and made part of its Certifications and Assurances.
12. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **13.B. Passenger Ferry Grant Program.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Passenger Ferry Grant Program authorized under 49 U.S.C. § 5307(h), as amended by the FAST Act, the Certifications in Category 13.B apply to your Applicant, except as FTA determines otherwise in writing.*

The following Certifications for the Passenger Ferry Grant Program are required by 49 U.S.C. § 5307(c)(1) or (h). Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

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3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. When using or involving a facility or equipment acquired or improved with federal assistance under 49 U.S.C. § 5307(h) during non-peak hours for transportation, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
  - a. Any senior,
  - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
  - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
  - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
5. When carrying out a procurement under 49 U.S.C. § 5307(h), it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
6. As required by 49 U.S.C. § 5307(d):
  - a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share from sources approved by FTA, and
  - c. It will provide the non-federal share when needed.
7. As required by 49 U.S.C. § 5307(c)(1)(H), it will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
8. As required by 49 U.S.C. § 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
  - a. Raising a fare, or
  - b. Implementing a major reduction of public transportation service.
9. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **CATEGORY 14. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.**

*Before FTA may provide federal assistance for an Award financed under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized under 49 U.S.C. § 5310, as amended by the FAST Act, or the Pilot Program for Innovative Coordinated Access and Mobility under Section 3006(b) of the FAST Act, you must select the Certifications in Category 14, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 14 that does not apply will not be enforced.*

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1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. § 5310. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
  - a. Each Subrecipient is:
    - (1) A private nonprofit organization, or
    - (2) A state or local governmental authority that:
      - (a) Is approved by a state to coordinate services for seniors and individuals with disabilities, or
      - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.
  - b. Your Applicant will comply with the following selection and planning requirements:
    - (1) The Projects it has selected or will select for an Award or Subaward of federal assistance appropriated or made available under 49 U.S.C. § 5310 are included in a public transit-human services transportation plan that has been:
      - (a) Locally developed, and
      - (b) Coordinated.
    - (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
      - (a) Seniors,
      - (b) Individuals with disabilities,
      - (c) Representatives of public, private, and nonprofit transportation providers,
      - (d) Representatives of public, private, and nonprofit human services providers, and
      - (e) Other members of the public.
    - (3) Within its Award, the Projects selected to receive federal assistance will assist in providing transportation services for seniors and individuals with disabilities are included in its Program of Projects submitted to FTA annually.
    - (4) To the maximum extent feasible, the services financed by 49 U.S.C. § 5310 will be coordinated with transportation services financed by other federal departments and agencies, including any transportation activities carried out by a Recipient of federal assistance from the Department of Health and Human Services.
  - c. As required by 49 U.S.C. § 5310(e)(2)(B), it certifies that if it allocates federal assistance received under 49 U.S.C. § 5310 to any Subrecipient, it will have allocated that federal assistance on a fair and equitable basis.
  - d. It will not transfer a facility or equipment acquired or improved with federal assistance appropriated or made available for a grant under 49 U.S.C. § 5310 to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, unless:
    - (1) The Recipient possessing the facility or equipment consents to the transfer, and
    - (2) The facility or equipment will continue to be used as required under 49 U.S.C. § 5310.
  - e. As required by 49 U.S.C. § 5310(b)(2), it will use at least fifty-five (55) percent of the federal assistance it receives for Capital Projects to meet the special needs of seniors and individuals with disabilities.

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- f. The requirements of 49 U.S.C. § 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized by 49 U.S.C. § 5310.
2. FTA has determined that certain requirements of 49 U.S.C. § 5307 are appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, some of which require Certifications. Therefore, as specified under 49 U.S.C. § 5307(c)(1), your Applicant certifies that:
  - a. It has or will have and will require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have and will require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award or Subaward.
  - c. It will maintain and will require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award or Subaward, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, it will require each Subrecipient to comply with:
    - (1) The applicable general provisions of 49 U.S.C. § 5323, and
    - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
  - e. With respect to the non-federal share:
    - (1) It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by 49 U.S.C. § 5310,
    - (2) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
    - (3) It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.
  - f. It has complied or will comply and will require each Subrecipient to comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - (2) The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.
  - g. To the extent applicable, it will and will require its Subrecipients to comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.

### **CATEGORY 15. RURAL AREAS AND APPALACHIAN DEVELOPMENT PROGRAMS.**

*Before FTA may provide federal assistance for an Award financed under the Formula Grants for Rural Areas Program authorized under 49 U.S.C. § 5311(b), as amended by FAST Act, and the Appalachian Development Public Transportation Assistance Program authorized under*

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*49 U.S.C. § 5311(c)(2), as amended by FAST Act, you must select the Certifications in Category 15, except as FTA determines otherwise in writing.*

*Any provision of the Certifications and Assurances in Category 15 that does not apply will not be enforced.*

### **15.A. Formula Grants for Rural Areas Program.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Formula Grants for the Rural Areas Program authorized under 49 U.S.C. § 5311, the Certifications in Category 15.A apply to your Applicant, except as FTA determines otherwise in writing.*

The following Certifications apply to each state or state organization serving as your Applicant for federal assistance appropriated or made available for the Rural Areas Formula Program financed under 49 U.S.C. § 5311(b), as amended by FAST Act. On its behalf, you certify and assure that:

1. It has or will have and require each Subrecipient to have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have and require each Subrecipient to have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain and require each Subrecipient to maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
4. It will and will require each Subrecipient to comply with applicable regulations and guidance that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
5. Its state program has provided for a fair distribution of federal assistance appropriated or made available under 49 U.S.C. § 5311(b) within the state to eligible entities, including Indian reservations.
6. Its program provides or will provide the maximum feasible coordination of federal assistance for public transportation service authorized by 49 U.S.C. § 5311(b) with transportation service financed by other federal sources.
7. Its Awards and Subawards in its Formula Grants for the Rural Areas Program are included in:
  - a. The statewide transportation improvement program, and
  - b. To the extent applicable, a metropolitan transportation improvement program.
8. With respect to the non-federal share:
  - a. It has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the non-federal share, as required by former 49 U.S.C. § 5311(g),
  - b. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share from sources approved by FTA, and
  - c. It will provide and, as necessary, will require each Subrecipient to provide the non-federal share when needed.



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9. It may transfer a facility or equipment acquired or improved under its Award to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
  - a. The Recipient possessing the facility or equipment consents to the transfer, and
  - b. The facility or equipment will continue to be used as required under 49 U.S.C. § 5311.
10. Each fiscal year:
  - a. It will spend at least fifteen (15) percent of its federal assistance authorized under 49 U.S.C. § 5311 and available that fiscal year for eligible activities to develop and support intercity bus transportation within the state including:
    - (1) Planning and marketing for intercity bus transportation,
    - (2) Capital grants for intercity bus facilities.
  - b. If it will spend less than fifteen (15) percent of its federal assistance authorized under 49 U.S.C. § 5311 and available that fiscal year for eligible activities to develop and support intercity bus transportation within the state, it will provide to FTA a Certification from the governor of the state that:
    - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the state, and
    - (2) The state's intercity bus service needs are being met adequately.

### **15.B. Appalachian Development Public Transportation Assistance Program.**

*If your Applicant seeks federal assistance from FTA for an Award financed under the Appalachian Development Public Transportation Assistance Program authorized under 49 U.S.C. § 5311(c)(2), the Certifications in Category 15.B apply to your Applicant, except as FTA determines otherwise in writing.*

On behalf of your Applicant, you certify and assure that, if it is unable to use its federal assistance made available or appropriated for public transportation operating assistance, in accordance with 49 U.S.C. § 5311(c)(2)(D), it may use the federal assistance for a Highway Project only after:

1. It provides notice and an opportunity for comment and appeal to affected public transportation providers,
2. It approves such use in writing, and
3. In approving the use, it determines that local transit needs are being addressed.

### **CATEGORY 16. TRIBAL TRANSIT PROGRAMS (PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAMS).**

*Before FTA may provide federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), you must select the Certifications in Category 16, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 16 that does not apply will not be enforced.*

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FTA has established terms and conditions for Tribal Transit Program grants financed with federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). On behalf of your Applicant, you certify and assure that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
4. With respect to its procurement system:
  - a. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, for Awards made on or after December 26, 2014,
  - b. It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
  - c. It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
5. It will comply with the Certifications, Assurances, and Agreements in:
  - a. Category 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
  - b. Category 04.A and 04.B (Rolling Stock Reviews and Bus Testing),
  - c. Category 05 (Demand Responsive Service),
  - d. Category 06 (Intelligent Transportation Systems),
  - e. Category 08.A and 08.B (Transit Asset Management Plan and Public Transportation Safety Program), and
  - f. Category 09 (Alcohol and Controlled Substances Testing).

### **CATEGORY 17. STATE SAFETY OVERSIGHT GRANT PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the State Safety Oversight Grant Program authorized under 49 U.S.C. § 5329(e)(6), you must select the Certifications in Category 17, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 17 that does not apply will not be enforced.*

On behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.

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2. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with the its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR part 625.
4. When carrying out a procurement under its Award, it will comply with:
  - a. The applicable general provisions of 49 U.S.C. § 5323, and
  - b. The applicable third party contract provisions of 49 U.S.C. § 5325.
5. As required by 49 U.S.C. § 5329(e)(6)(C):
  - a. It has or will have the amount of funds required for the non-federal share,
  - b. It will provide the non-federal share only from sources approved by FTA, and will not be met by:
    - (1) Any federal assistance,
    - (2) Any funds received from a public transportation agency, or
    - (3) Any revenues earned by a public transportation agency, and
  - c. Will provide the non-federal share when needed.
6. Depending on how far your Applicant has progressed in developing a certified State Safety Oversight program under 49 CFR part 674, the following FTA regulations will apply:
  - a. States With a Certified Program. Your Applicant agrees that FTA regulations, “State Safety Oversight,” 49 CFR part 674, will apply;
  - b. States Without a Certified Program. Your Applicant agrees that FTA regulations, “Rail Fixed Guideway Systems; State Safety Oversight,” 49 CFR part 659, will continue to apply to those states that do not have a certified Program as required by 49 U.S.C. § 5329(e) and 49 CFR part 674.

### **CATEGORY 18. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the Public Transportation Emergency Relief Program authorized under 49 U.S.C. § 5324, you must select the Certifications in Category 18, except as FTA determines otherwise in writing.*

*Any provision of the Assurance in Category 18 that does not apply will not be enforced.*

As required by 49 U.S.C. § 5324(d), on behalf of your Applicant, you assure that it will:

1. Comply with the requirements of the Certifications and Assurances as FTA determines will apply to an Applicant for federal assistance appropriated or made available for the Public Transportation Emergency Relief Program, and
2. Comply with FTA regulations, “Emergency Relief,” 49 CFR part 602.

### **CATEGORY 19. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.**

*Before FTA may provide federal assistance for an Award financed under the Expedited Project Delivery Pilot Program authorized under section 3005(b) of the FAST Act, you must select the Certifications in Category 19, except as FTA determines otherwise in writing.*

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*To the extent that any Certification in Category 19 does not apply, it will not be enforced.*

As required by section 3005(b)(3)(B) of the FAST Act, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
2. It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
3. It will maintain its equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR part 625.
4. It will comply with:
  - a. The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
  - b. The statewide and nonmetropolitan transportation planning requirements of 49 U.S.C. § 5304.

### **CATEGORY 20. INFRASTRUCTURE FINANCE PROGRAMS.**

*Before FTA may provide credit assistance for an Award that also is or will be financed under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program authorized under 23 U.S.C. §§ 601 – 609, or the State Infrastructure Banks (SIB) Program authorized under 23 U.S.C. § 610, you must select the Certifications in Category 20.*

*If the Applicant does not receive credit assistance under the TIFIA or SIB programs, the Certifications and Assurances in Category 20 will not be enforced.*

#### **20.A. Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.**

*If your Applicant seeks federal assistance from FTA for an Award that also is or will be financed under the TIFIA Program authorized under 23 U.S.C. §§ 601 – 609 the Certifications and Assurances in Category 20.A apply to your Applicant. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.*

On behalf of your Applicant, you certify and assure, as required by 49 U.S.C. § 5323(o), that federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, apply to any Project under 49 U.S.C. chapter 53 that receives TIFIA credit assistance under 23 U.S.C. §§ 601 – 609.

1. To comply with 49 U.S.C. §5307, specifically 49 U.S.C. § 5307(c)(1), on your Applicant’s behalf, you certify that:
  - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.

## FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

- c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. For transportation during non-peak hours and using or involving a facility or equipment of an Award financed using 49 U.S.C. § 5307 funds, it will charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
    - (1) Any senior,
    - (2) Any individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
    - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
    - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
  - e. When carrying out a TIFIA-financed procurement, the Applicant will comply with:
    - (1) The applicable provisions of 49 U.S.C. § 5323, and
    - (2) The applicable provisions of 49 U.S.C. § 5325.
  - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
  - g.
    - (1) It has or will have no more than 80 percent of the Total Award Budget as the sum of all federal grants and any TIFIA-financed awards,
    - (2) It will provide the non-federal share from sources approved by FTA, and
    - (3) It will provide the non-federal share when needed.
  - h. It will comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
  - i. It has a locally developed process to solicit and consider public comment before:
    - (1) Raising a fare, or
    - (2) Implementing a major reduction of public transportation.
  - j. It will comply with applicable regulations, guidance, and directives that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329(b)-(d), except as FTA determines otherwise in writing.
2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award that must be in compliance with those requirements unless:
    - a. It is eligible to receive federal assistance for those expenses, and
    - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
  3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).
  4. Pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 5321 *et seq.*, the Project will qualify for an environmental categorical exclusion or receive a finding of no significant impact or a record of decision under NEPA before the Applicant undertakes activities for which it expects to receive federal assistance.

## FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. § 5326(d).

### **20.B. State Infrastructure Banks (SIB) Program.**

*If your Applicant is a state and seeks federal assistance from FTA for a project that also is or will be financed under the SIB Program authorized under 23 U.S.C. § 610, the Certifications and Assurances in Category 20.B apply to your state and its Award, except as the Secretary determines in writing. In administering this Program, the FAST Act cross-cutting requirements supersede inconsistent former requirements.*

On behalf of the state Applicant for federal assistance for its SIB Program, you certify and assure that:

1. It will comply with the following applicable federal laws establishing the various SIB Programs since 1995:
  - a. 23 U.S.C. § 610,
  - b. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or
  - c. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181.
2. It will comply with or follow the Grant Agreement between it and FTA that provides federal assistance to the SIB, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that, unless FTA determines otherwise in writing, a provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
  - a. 23 U.S.C. § 610, as amended by the FAST Act,
  - b. 23 U.S.C. § 610 or its predecessor before the FAST Act was signed into law,
  - c. Section 1511 of TEA-21, 23 U.S.C. § 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. § 181 note,
  - d. Federal guidance pertaining to the SIB Program,
  - e. The SIB Cooperative Agreement establishing the state's SIB Program,
  - f. The Grant Agreement with FTA.
3. As required by 49 U.S.C. § 5323(o), federal transit laws, specifically 49 U.S.C. § 5307, 49 U.S.C. § 5309, and 49 U.S.C. § 5337, as amended by the FAST Act, apply to any Award under 49 U.S.C. chapter 53 that receives SIB support or financing under title 23, United States Code.
4. As required by 49 U.S.C. § 5323(o) and 49 U.S.C. § 5307(c)(1):
  - a. It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
  - b. It has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
  - c. It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR part 625.
  - d. When using or involving a facility or equipment acquired or improved with federal assistance under a SIB-financed Award during non-peak hours for transportation, it will

## FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

- charge a fare not exceeding fifty (50) percent of the peak hour fare to the following individuals:
- (1) Any senior,
  - (2) Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), is unable to use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
  - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, and
  - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act, 42 U.S.C. § 1395 *et seq.*
- e. When carrying out a procurement under a SIB-financed Award, it will comply with:
    - (1) The applicable general provisions of 49 U.S.C. § 5323, and
    - (2) The applicable third party contract provisions of 49 U.S.C. § 5325.
  - f. It has complied with or will comply with 49 U.S.C. § 5307(b).
  - g. It has or will have or provide:
    - (1) The amount of funds required for the non-federal share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,
    - (2) The non-federal share from sources approved by FTA, and
    - (3) The non-federal share when needed.
  - h. It will comply with:
    - (1) The metropolitan transportation planning requirements of 49 U.S.C. § 5303, and
    - (2) The statewide and nonmetropolitan planning requirements of 49 U.S.C. § 5304.
  - i. It has a locally developed process to solicit and consider public comment before:
    - (1) Raising a fare, or
    - (2) Implementing a major reduction of public transportation.
  - j. It will comply with applicable regulations, a guidance, and directives that implement the Public Transportation Safety Program provisions of § 5329(b)-(d), except as FTA determines otherwise in writing.
5. As required by 49 U.S.C. chapter 53, it certifies that it will not seek reimbursement for interest or any other financing costs incurred in connection with its Award unless:
    - a. It is eligible to receive federal assistance for those expenses, and
    - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, as FTA may require.
  6. It agrees that it will adopt a transit asset management plan that complies with FTA regulations, "Transit Asset Management," 49 CFR part 625.

### CATEGORY 21. CONSTRUCTION HIRING PREFERENCES.

*Before FTA may provide federal assistance for a third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C. using a geographic, economic, or any other hiring preference not otherwise authorized by federal law or regulation, you must select the*

## **FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES**

*Certifications in Category 21 on behalf of your Applicant, except as FTA determines otherwise in writing.*

*Any provision of the Certifications in Category 21 that does not apply will not be enforced.*

As provided by section 192 of division L, title I of the Consolidated Appropriations Act, 2017, Public Law No. 114-113, on behalf of your Applicant, you certify that if, in connection with any third party contract for construction hiring financed under title 49 U.S.C. or title 23 U.S.C., it uses a geographic, economic, or any other hiring preference not otherwise authorized by law or prohibited under 2 CFR § 200.319(b):

1. Except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the third party contract requires resides in the jurisdiction where the work will be performed,
2. It will include appropriate provisions in its bid document ensuring that its third party contractor(s) do not displace any of its existing employees in order to satisfy such hiring preference, and
3. That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

Selection and Signature Page(s) follow.



**FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES**

**FEDERAL FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES FOR  
FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS**

(Signature pages alternative to providing Certifications and Assurances in TrAMS)

Name of Applicant: \_\_\_\_\_

The Applicant agrees to comply with applicable provisions of Categories 01 – 21. \_\_\_\_\_

OR

The Applicant agrees to comply with applicable provisions of the Categories it has selected:

<u>Category</u>	<u>Description</u>	
01.	Required Certifications and Assurances for Each Applicant.	_____
02.	Lobbying.	_____
03.	Private Sector Protections.	_____
04.	Rolling Stock Reviews and Bus Testing.	_____
05.	Demand Responsive Service.	_____
06.	Intelligent Transportation Systems.	_____
07.	Interest and Financing Costs and Acquisition of Capital Assets by Lease.	_____
08.	Transit Asset Management Plan, Public Transportation Safety Program, and State Safety Oversight Requirements.	_____
09.	Alcohol and Controlled Substances Testing.	_____
10.	Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement).	_____
11.	State of Good Repair Program.	_____
12.	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs.	_____
13.	Urbanized Area Formula Grants Programs and Passenger Ferry Grant Program.	_____
14.	Enhanced Mobility of Seniors and Individuals with Disabilities Programs.	_____
15.	Rural Areas and Appalachian Development Programs.	_____
16.	Tribal Transit Programs (Public Transportation on Indian Reservations Programs).	_____
17.	State Safety Oversight Grant Program.	_____
18.	Public Transportation Emergency Relief Program.	_____
19.	Expedited Project Delivery Pilot Program.	_____
20.	Infrastructure Finance Programs.	_____
21.	Construction Hiring Preferences.	_____

# FTA FISCAL YEAR 2018 CERTIFICATIONS AND ASSURANCES

## FEDERAL FISCAL YEAR 2018 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE

(Required of all Applicants for federal assistance to be awarded by FTA in FY 2018)

### AFFIRMATION OF APPLICANT

Name of the Applicant: \_\_\_\_\_

Name and Relationship of the Authorized Representative: \_\_\_\_\_

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2018, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded during federal fiscal year 2018.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

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

Name \_\_\_\_\_

Authorized Representative of Applicant

### AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): \_\_\_\_\_

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

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

Name \_\_\_\_\_

Attorney for Applicant

*Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.*



**DAN JOHNSON**  
DIRECTOR

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

January 31, 2019

Board of Commissioners  
Clackamas County

Members of the Board:

**A Board Order Vacating a Portion of SE Laurie Avenue,  
County Road No. 2276 Right of Way**

<b>Purpose/Outcomes</b>	Vacates a portion of SE Laurie Avenue right of way.
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	N/A
<b>Duration</b>	Upon execution; permanent right of way easement vacation.
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government Grow a vibrant economy
<b>Previous Board Action</b>	N/A
<b>Contact Person</b>	Doug Cutshall, Engineering Technician 503-742-4669

**BACKGROUND:**

Rose Villa Inc., a retirement community, is expanding and redeveloping its property. Due to an unfortunate error in a local surveyor's boundary determination, a newly constructed retirement housing building is in violation of current building setback rules. To abate the setback violation Rose Villa Inc. is petitioning the Board to vacate a strip of Laurie Avenue and, alternately dedicate an equally wide strip of their property for a Permanent Right of Way Easement for Road Purposes. The compensating strip comprises a portion of a continuous 50 foot wide Permanent Right of Way Easement for Road Purposes through the Rose Villa Inc. property. The vacation of the strip of Laurie Avenue right of way insures that the new building is no longer in violation.

After considering traffic impacts, fiscal impacts, and social impacts, staff believes that it would be in the public's interest to approve the Board Order vacating a strip of SE Laurie Avenue, County Road No. 2276, right of way, in accordance with ORS 368.326.

County Counsel has reviewed and approved this action.

**RECOMMENDATION:**

Staff respectfully recommends that the Board adopt the attached Board Order vacating a 2.2 foot wide strip of SE. Laurie Avenue right of way, (County Road No. 2276, DTD No. 21110).

Respectfully submitted,

Douglas Cutshall  
Engineering Technician DTD



**DAN JOHNSON**  
DIRECTOR

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

January 31, 2019

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<b>Duration</b>	Upon execution; permanent right of way easement vacation.
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<b>Previous Board Action</b>	N/A
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Respectfully submitted,

Douglas Cutshall  
Engineering Technician DTD

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

In the Matter of the Vacation of a  
Portion of SE Laurie Avenue,  
Co. Rd. No. 2276, DTD No. 21110,  
Situated in Section 2, T.2 S., R.1 E.,  
W.M. Clackamas County, Oregon



Order No.  
Page 1 of 1

**This matter coming** before the Board of County Commissioners at this time and appearing to the Board that in accordance with ORS 368.341 and pursuant to ORS 368.351, a petition has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, and a written report finding this vacation to be in the public interest from the County Road Official, Dan Johnson, Director, have been submitted in the matter of the vacation of a portion of Laurie Avenue, County Road Number 2276, described as follows:

All of that portion of S.E. Laurie Avenue located in the SE ¼ of Section 2, T.2 S., R. 1 E., W.M., Clackamas County, Oregon. Described and depicted on attached exhibits "A" and "B".

**WHEREAS**, the Board having read said petition and report from the County Road Official and having determined the vacation of the above described portion of roadway to be in the public interest; and,

**WHEREAS**, Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies, have been contacted and do not have any objections to this vacation;

**IT IS HEREBY ORDERED** that the attached described portion of Laurie Avenue, Co. Rd. No. 2276, containing, 642 square feet, more or less, be vacated; and,

**IT IS FURTHER ORDERED** that this Order and attached exhibits be recorded in the Deed Records for Clackamas County and that a copy be filed with the County Surveyor, County Assessor, and Finance Office/Fixed Assets.

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

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

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

Chase, Jones & Associates Inc.  
716 SE 11<sup>th</sup> Avenue  
Portland, OR 97214  
503-228-9844  
Project # 15147

## EXHIBIT "A"

Date: September 17, 2018  
Owner Name: Rose Villa, Inc., who took title as Oregon Senior Citizens, Inc.  
Map 21E02DB 00300

### Right of Way Vacation

A 2.19 foot wide strip of land situated in the East half of Section 2, Township 2 South, Range 1 East of the Willamette Meridian, County of Clackamas, State of Oregon, being a portion of that certain property conveyed to Oregon Senior Citizens, Inc. in Warranty Deed recorded in book 550 at page 82, and a portion of that certain property conveyed to Rose Villa, Inc. in Statutory Warranty Deed recorded September 1, 2015 as document number 2015-059065, being described as follows:

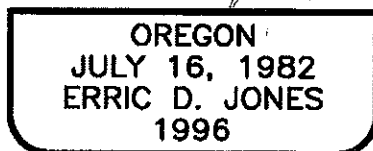
**COMMENCING** at the Point of Beginning of a Right of Way Vacation on the East side of Laurie Avenue entitled "Right of Way Vacation", last revised on November 3, 2014, as described on Exhibit "A" and shown on Exhibit "B" of Document No. 2014-066319, Clackamas County Deed Records; thence South  $16^{\circ}39'09''$  East along the West line of said Right of Way Vacation a distance of 97.41 feet to a 205.00 foot radius tangent curve to the right; thence Southeasterly along said tangent curve to the right, through a central angle of  $16^{\circ}39'09''$ , an arc length of 59.58 feet, subtended by a chord which bears South  $08^{\circ}19'34''$  East 59.37 feet; thence South  $00^{\circ}00'00''$  West a distance of 27.99 feet; thence South  $89^{\circ}34'00''$  West a distance of 50.00 feet to the West right of way line of SE Laurie Avenue and the **TRUE POINT OF BEGINNING**; thence South  $00^{\circ}00'00''$  West a distance of 292.78 feet to the North right of way line of SE Denny Avenue, said point being 25.00 feet North of, when measured at right angles to, the North line of the Plat of River View Acres, Clackamas County Plat Records; thence North  $89^{\circ}34'00''$  East along the North right of way line of said SE Denny Avenue a distance of 2.19 feet; thence North  $00^{\circ}00'00''$  East a distance of 292.78 feet; thence South  $89^{\circ}34'00''$  West a distance of 2.19 feet to the **TRUE POINT OF BEGINNING**.

Said Vacation contains 642 square feet of land, more or less.

Basis of Bearings: Document No. 2014-066319.



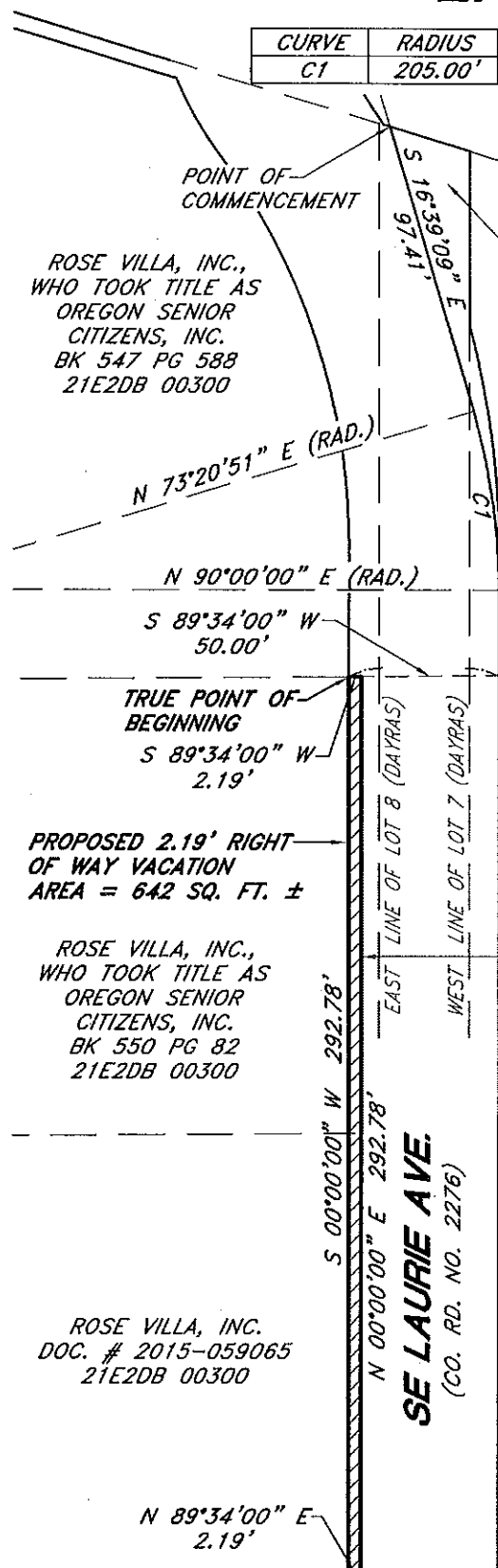
*Eric D. Jones*



RENEWS: 6-30-19

# EXHIBIT "B"

CURVE	RADIUS	DELTA ANGLE	LENGTH	CHORD BEARING	CHORD LENGTH
C1	205.00'	16°39'09"	59.58'	S 08°19'34" E	59.37'



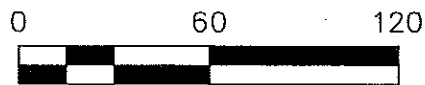
ROSE VILLA, INC.,  
 WHO TOOK TITLE AS  
 OREGON SENIOR  
 CITIZENS, INC.  
 BK 547 PG 588  
 21E2DB 00300

STREET VACATION  
 PER DOCUMENT NO.  
 2014-066319

ROSE VILLA, INC.,  
 WHO TOOK TITLE AS  
 OREGON SENIOR  
 CITIZENS, INC.  
 BK 545 PG 124  
 21E2DB 00100

ROSE VILLA, INC.,  
 WHO TOOK TITLE AS  
 OREGON SENIOR  
 CITIZENS, INC.  
 BK 550 PG 82  
 21E2DB 00300

ROSE VILLA, INC.  
 DOC. # 2015-059065  
 21E2DB 00300



REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

*Eric D. Jones*

OREGON  
 JULY 16, 1982  
 ERRIC D. JONES  
 1996

EXPIRES: 6-30-19

DAYRAS ROAD  
 (VACATED. BOOK 467  
 PAGE 619, MAY 6, 1953)

THE EAST LINE OF  
 THIS VACATION IS  
 NOT TO SCALE FOR  
 CLARITY PURPOSES

**RIGHT OF WAY VACATION**  
 OF  
 A PORTION OF SE LAURIE AVENUE  
 SITUATED IN THE  
 EAST 1/2 OF SECTION 2, T2S, R1E, WM  
 COUNTY OF CLACKAMAS, STATE OF OREGON

BY:  
**CHASE, JONES & ASSOCIATES INC.**  
 716 S. E. 11TH AVE. PORTLAND, OREGON 97214  
 PHONE (503) 228-9844

PROJECT NO.: 15147 DATE: SEPT. 17, 2018  
 DRAWING NAME: 15147\_LAURIE VAC. SCALE: 1" = 60'

NORTH LINE OF RIVER VIEW ACRES  
**SE DENNY AVENUE**

## **MEMORANDUM**

TO: Board of Commissioners

FROM: Dan Johnson, Director D.T.D.

DATE: January 18, 2019

SUBJ: **Board Order Vacating a Portion of SE Laurie Avenue, County Road No. 2276**

**LOCATION:** This portion of Laurie Avenue is situated in the southeast 1/4 of Section 2, Township 2 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon.

**FACTS AND FINDINGS:** Rose Villa Inc., a retirement community, is expanding and redeveloping its property. Due to an unfortunate error in a local surveyor's boundary determination, a newly constructed retirement housing building is in violation of current building setback rules. To abate the setback violation Rose Villa Inc. is petitioning the Board to vacate a strip of Laurie Avenue and, alternately dedicate an equally wide strip of their property for a Permanent Right of Way Easement for Road Purposes. The compensating strip comprises a portion of a continuous 50 foot wide Permanent Right of Way Easement for Road Purposes through the Rose Villa Inc. property. The vacation of the strip of Laurie Avenue right of way insures that the new building is no longer in violation.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and, acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies have been contacted and do not have any objections to this vacation. This road vacation does not violate any portion of Clackamas County Code 7.03.095 (4).

After considering traffic impacts, fiscal impacts, and social impacts, it appears to be in the public interest to vacate the area petitioned.

It is my assessment to support the subject vacation.

Pursuant to ORS 368.351 and County policy, the Board may make its determination in the matter of this vacation without a public hearing. This is allowed when there is acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated, this Road Official's Report is submitted, and there is no controversy related to the proposed vacation of a portion of SE Laurie Avenue, County Road No. 2276, right of way, in accordance with ORS 368.326.

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Dan Johnson, Director D.T.D



DRAFT

Approval of Previous Business Meeting Minutes:  
January 10, 2019

## **BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES**

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

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

**Thursday, January 10, 2019 – 10:00 AM**

**Public Services Building**

**2051 Kaen Rd., Oregon City, OR 97045**

**PRESENT:** Commissioner Jim Bernard, Chair  
Commissioner Sonya Fischer  
Commissioner Ken Humberston  
Commissioner Paul Savas

**EXCUSED:** Commissioner Martha Schrader

### **CALL TO ORDER**

■ Roll Call

Commissioner Schrader is attending another meeting today and will not be in attendance.

■ Pledge of Allegiance

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

1. Selection of the Board of County Commissioner's Vice Chair for 2019

*~Board Discussion~*

#### **MOTION:**

Commissioner Humberston: I move we appoint Sonya Fischer as the Vice Chair of the Clackamas County Commission for 2019.

Commissioner Savas: Second.

*~Board Discussion~*

all those in favor/opposed:

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Savas: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 4-0.

### **II. CITIZEN COMMUNICATION**

<https://www.clackamas.us/meetings/bcc/business>

1. Shirley Morgan, Welches, Representing Citizens for Public Service – Submitted written letter regarding ZDO-271 marijuana licenses per site address. The Board will be hearing this issue at the Jan. 16<sup>th</sup> land use hearing.

*~Board Discussion~*

2. Jane Turville, Oregon City - concerned regarding the proposed development on Capps Road near the Clackamas River. Asked if the Board could delay the decision. Better codes for development near the river. Submitted written letter.

Dan Johnson, DTD gave background on this issue and said he would meet with Ms. Turville.

3. Les Poole, Gladstone – thanked the Board for the great citizen participation.

4. Brainard Brauer, Oregon City - radar reader signs on Redland Road. Wants permanent signs on Redland Road. Invited the BCC to the next Redland grange meeting.

*~Board Discussion~*

5. Dale Phillips, Oregon City – same issue as Mr. Brauer, the need for a permanent radar reader sign on Redland Road. Invited the Board to the Redland CPO meeting.

6. Kevin Mannix, Salem – gave background for brooks intermodal and transload facility.

*~Board Discussion~*

### **III. CONSENT AGENDA**

Chair Bernard asked the Clerk to read the consent agenda by title, then asked for a motion.

**MOTION:**

Commissioner Humberston: I move we approve the consent agenda.

Commissioner Savas: Second.

Commissioner Humberston wanted to make sure there will periodic reports regarding E.1.and Chair Bernard and Commissioner Savas questioned item C.1 regarding the MFR contract.

\*Commissioner Savas excused to attend another meeting.

all those in favor/opposed:

Commissioner Humberston: Aye.

Commissioner Fischer: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 4-0.

**A. Health, Housing & Human Services**

1. Approval of a Revenue Grant Agreement with Health Share of Oregon for Vaccine Hesitancy Program

**B. Elected Officials**

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

**C. Administration**

1. Approval of a Contract with Managing for Results, LLC to Provide On-Call Strategic Planning and Performance Management Facilitation and Consulting - *Procurement*

**D. Community Corrections**

1. Approval of a Grant Award with the Oregon Department of Safety Standards and Training for Clackamas County Community Corrections Peer Support Training

**E. Public & Government Affairs**

1. Approval of an Intergovernmental Agreement with the City of Gladstone Regarding Payment for Services Related to Willamette Falls Locks State Commission

**F. County Counsel**

1. Execution of a Quitclaim Deed Releasing an Interest in a Temporary Slope Construction Easement – Clackamas Industrial Area

**IV. NORTH CLACKAMAS PARKS & RECREATION DISTRICT**

1. Approval of Amendment No. 1 to the Grant Agreement with Oregon Parks and Recreation Department (OPRD) and the City of Milwaukie for the Development of Wichita Park

**V. DEVELOPMENT AGENCY**

1. Acceptance of a Quitclaim Deed Releasing an Interest in a Temporary Slope Construction Easement – Clackamas Industrial Area
2. Approval of the Third Amendment to the Disposition Agreement with Oregon Beverage Recycling Cooperative
3. Execution of a Property Exchange Agreement 11627 SE Capps Road – Clackamas Industrial Area

Chair Bernard announced the Board would recess as the Board of County Commissioners and convene as the Board of Health.

## BOARD OF HEALTH

### HEALTH OFFICER AND ADMINISTRTOR UPDATE

1. Overview of Clackamas County Board of Health's Powers and Duties  
Dr. Sarah Present, Clackamas County Health Officer and Julie Aalbers, Clackamas County Public Health presented the staff report including a PowerPoint. This presentation included an introduction of the Board of Health and its purpose and roll. It also included Emerging Public Health Issues in Clackamas County: Influenza Update and Nicotine use and Youth.  
~Board Discussion~

**Board of Health Public Comment: NONE**

Chair Bernard Adjourn as the Board of Health Reconvene as the Board of County Commissioners for the remainder of the meeting.

### VI. COUNTY ADMINISTRATOR UPDATE

<https://www.clackamas.us/meetings/bcc/business>

The following items were approved and signed by Don Krupp, County Administrator during the period of Dec. 24, 2018 – Jan. 3, 2019 - In accordance with Clackamas County Code, Appendix C-104. This action was necessary due to the cancellation of the Dec. 27, 2018 and the Jan. 3, 2019 Business meetings.

	DEPARTMENT	ITEM
1	H3S 12-20-18 – 4 PM	Approval of a Subrecipient Grant Agreement with the Father's Heart Street Ministry for Warming Center Service
2	H3S 12-20-18 – 4 PM	Approval of a Subrecipient Grant Agreement with Clackamas Women's Services for Shelter from Domestic Violence
3	H3S 12-27-18	Approval of Amendment No. 2 to an Agency Service Agreement with the Inn for Case Management and Staffing Services
4	BCS Via Procurement 12-24-18	Approval of a Contract Amendment No. 1 with SirsiDynix for the Integrated library System Project for Support and Maintenance
5	HR Via Procurement 12-23-18	Approval of a Personal Professional Services Contract between the Department of Human Resources and Sedgwick Claims Management Services to Provide Liability Adjusting and Claims Administration Services
6	Finance - Procurement 12-23-18	Approval of Contracts with Linguava Interpreters Inc. for On-call Interpreter Services for Clackamas County Departments

### VII. COMMISSIONERS COMMUNICATION

<https://www.clackamas.us/meetings/bcc/business>

**MEETING ADJOURNED – 11:45 AM**



Capt. Malcolm McDonald  
Director

**CLACKAMAS COUNTY COMMUNITY CORRECTIONS**  
 1024 MAIN STREET • OREGON CITY • OREGON • 97045  
 TELEPHONE 503-655-8603 • • • FAX 503-650-8942

January 31, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement between Clackamas County Community Corrections  
and  
State of Oregon, Department of Corrections

<b>Purpose/Outcome</b>	This Agreement allows Department of Corrections to perform a business analysis for the creation of an Application Program Interface.
<b>Dollar Amount and Fiscal Impact</b>	\$6,110.00
<b>Funding Source</b>	State and local funds.
<b>Duration</b>	Upon final execution through December 31,2019.
<b>Previous Board Action/Review</b>	No prior action.
<b>Contact Person</b>	Captain Malcolm McDonald, Director - Community Corrections 503-655-8717

**BACKGROUND:** The State of Oregon intends to create an Application Program Interface (API) that will connect to the Corrections Information System (CIS) and the Offender Management System (OMS). The API creation will allow the State of Oregon to be prepared for procurement of a new data system for community corrections should funding be approved. The new system will improve efficiency and accuracy in data entry because it will eliminate the need to enter the information into each system. County community corrections agencies across the state are eager to implement a seamless system that addresses the needs of each county. The next step of the implementation process is to conduct a needs analysis and assessment, in compliance with the acquisition rules of the Department of Administration Services (DAS). The county community corrections agencies plan to enter into a collaborative agreement to employ an IT Business Analyst on a contract basis to conduct the evaluation. Clackamas County Community Corrections' share of the one-time contractor fee is \$6,110.00.

**RECOMMENDATION:** Community Corrections respectfully requests that the Board of County Commissioners approve this Intergovernmental Agreement with State of Oregon, Department of Corrections to provide a business analysis.

Respectfully submitted,

Captain Malcolm McDonald  
Director, Community Corrections



## **INTERGOVERNMENTAL AGREEMENT**

### **Agreement No. 5754**

This Agreement is between the State of Oregon acting by and through its Oregon Department of Corrections (“Agency”) and Clackamas County, acting by and through its Community Corrections Office (“County”), each a “Party” and, together, the “Parties”.

#### **SECTION 1: AUTHORITY**

This Agreement is authorized by ORS 190.110.

#### **SECTION 2: BACKGROUND AND PURPOSE**

Whereas, Agency and County utilize both the Corrections Information System (DOC400) and the Offender Management System (OMS) as the primary statewide information systems for offender case management.

Whereas, there is a need to create an Application Program Interface (API) between the DOC400 and OMS so that Agency and Oregon County Community Corrections offices no longer have to enter information separately into each system.

Whereas, in order to create the API, Agency must first obtain a full needs analysis/assessment to construct a business case that will be submitted through the Stage Gate process with the Department of Administrative Services (DAS).

Whereas, Agency has the ability to contract with an IT Business Analyst (“Contractor”) to conduct the needs analysis with the county community corrections agencies and any other applicable stakeholders and prepare the business case documentation that would ultimately be submitted to DAS.

Whereas, the County agrees to pay a share of the cost for Agency to obtain Contractor services to perform a business analysis (“Services”).

Now therefore, the purpose of this Agreement is to document and describe the process for County to reimburse Agency for the cost of Services provided by an IT Business Analyst.

#### **SECTION 3: EFFECTIVE DATE AND DURATION**

This Agreement is effective on the date of the last signature, and terminates December 31, 2019 unless terminated earlier in accordance with the Termination Section.

## **SECTION 4: AUTHORIZED REPRESENTATIVES**

### **4.1 Agency's Authorized Representative is:**

Denise Sitler  
2575 Center Street NE  
Salem, OR 97301  
Fax: 503-373-7810  
Phone (Office): 503-945-9051  
denise.sitler@doc.state.or.us

### **4.2 County's Authorized Representative is:**

Malcolm McDonald, Director  
Clackamas County Community Corrections  
1024 Main Street  
Oregon City OR 97045  
Fax: 503-650-8942  
Phone (Office): 503-655-8603  
Email: [malcolmmcd@co.clackamas.or.us](mailto:malcolmmcd@co.clackamas.or.us)

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

## **SECTION 5: RESPONSIBILITIES OF EACH PARTY**

Each Party agrees to responsibilities as described in Exhibit A, "Responsibilities of the Parties", attached hereto and incorporated herein by this reference.

## **SECTION 6: COMPENSATION; INVOICING AND PAYMENT**

### **6.1 Compensation**

County agrees to pay to Agency a one-time fixed fee in the amount of \$ 6,110.00 for IT Business Analyst services as described in Section 2.

### **6.2 Invoicing and Payment.**

**6.2.1** County shall submit payment in full in the amount identified in Section 6.1 to Agency within 45 days after receipt of an invoice.

**6.2.2** Agency shall include Agreement number on invoice.

## **SECTION 7: REPRESENTATIONS AND WARRANTIES**

County represents and warrants to Agency that:



- 7.1 County is organized and validly existing. County has the power and authority to enter into and perform this Agreement;
- 7.2 The making and performance by County of this Agreement (a) have been duly authorized by County, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County’s charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is party or by which County may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement, other than those that have already been obtained;
- 7.3 This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County enforceable in accordance with its terms;
- 7.4 County has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and County will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 7.5 County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

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

## **SECTION 8: GOVERNING LAW, CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively “Claim”) between Agency or any other agency or department of the State of Oregon, or both, and County that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. COUNTY, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

## **SECTION 9: CONTRIBUTION**

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

## **SECTION 10: COUNTY DEFAULT**

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

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

## **SECTION 11: AGENCY DEFAULT**

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

## **SECTION 12: REMEDIES**

- 12.1** In the event County is in default under Section 11, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that County has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring

County to perform, at County's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

- 12.2** In the event Agency is in default under Section 12 and whether or not County elects to exercise its right to terminate this Agreement under Section 14.3.3, or in the event Agency terminates this Agreement under Sections 14.2.1, 14.2.2, 14.2.3, or 14.2.5, County's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims Agency has against County, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that Agency has against County. In no event will Agency be liable to County for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to County exceed the amount due to County under this Section 13.2, County shall promptly pay any excess to Agency.

## **SECTION 13: LIMITATION OF LIABILITY**

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

## **SECTION 14: TERMINATION**

**14.1** This Agreement may be terminated at any time by mutual written consent of the Parties.

**14.2** Agency may terminate this Agreement as follows:

**14.2.1** Upon 60 days advance written notice to County;

**14.2.2** Immediately upon written notice to County, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;

- 14.2.3 Immediately upon written notice to County, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;
  - 14.2.4 Immediately upon written notice to County, if County is in default under this Agreement and such default remains uncured 15 days after written notice thereof to County; or
  - 14.2.5 As otherwise expressly provided in this Agreement.
- 14.3 County may terminate this Agreement as follows:
- 14.3.1 Upon 60 days advance written notice to Agency;
  - 14.3.2 Immediately upon written notice to Agency, if County fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in County's reasonable administrative discretion, to perform its obligations under this Agreement;
  - 14.3.3 Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that County's performance under this Agreement is prohibited or County is prohibited from paying for such performance from the planned funding source;
  - 14.3.4 Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or
  - 14.3.5 As otherwise expressly provided in this Agreement.
- 14.4 Upon receiving a notice of termination of this Agreement, County will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, County will surrender to Agency all Mobile Devices in County's possession and is responsible to fulfill all on-going User Carrier plan agreements.

## **SECTION 15: NONAPPROPRIATION**

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

## **SECTION 16: AMENDMENTS**

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

## **SECTION 17: NOTICE**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 17. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

## **SECTION 18: SURVIVAL**

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 9, 13 and 18 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

## **SECTION 19: SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

## **SECTION 20: COUNTERPARTS**

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

## **SECTION 21: COMPLIANCE WITH LAW**

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

## **SECTION 22: INDEPENDENT CONTRACTORS**

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

## **SECTION 23: INTENDED BENEFICIARIES**

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

## **SECTION 24: FORCE MAJEURE**

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

## **SECTION 25: ASSIGNMENT AND SUCCESSORS IN INTEREST**

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

## **SECTION 26: SUBCONTRACTS**

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

## **SECTION 27: TIME IS OF THE ESSENCE**

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

## **SECTION 28: MERGER, WAIVER**

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

## **SECTION 29: RECORDS MAINTENANCE AND ACCESS**

County shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." County acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

## **SECTION 30: HEADINGS**

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

## **SECTION 31: AGREEMENT DOCUMENTS**

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A.



**SECTION 32: SIGNATURES**

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

**STATE OF OREGON acting by and through its Department of Corrections**

\_\_\_\_\_  
Toni Payseno, Designated Procurement Officer

\_\_\_\_\_  
Date

**Clackamas County, acting by and through its Community Corrections Office**

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

\_\_\_\_\_  
Date

## **EXHIBIT A**

### **RESPONSIBILITIES OF THE PARTIES**

#### **1. AGENCY RESPONSIBILITIES**

1.1 Agency shall enter into a Personal Services Contract with, and supervise the services of, an IT Business Analyst (“Contractor”) who shall work with stakeholders, including County to:

1.1.1. Define problem by meeting with stakeholders to interview and document data access needs and problem areas with current data access.

1.1.2. Propose opportunity of providing data more easily to stakeholders; what data is needed, frequency and format.

1.1.3. Perform a risk analysis of providing data to stakeholders and propose potential mitigation strategies.

1.1.4. Provide a technical assessment of technology that is available and an analysis of the alternatives.

1.1.5. Gather and document the business and technical requirements of all stakeholders, including data and access needs of the counties as well as architecture and security requirements and constraints for Agency, ITS and the DAS Enterprise Security Office.

1.1.6. Provide a written report to the counties summarizing all the findings.

#### **2. COUNTY RESPONSIBILITIES**

2.1 County shall provide Contractor with access to County personnel and information as needed to allow Contractor to perform services described in Section 1, above.

2.2 County shall provide payment as described in Section 6.1, page 2, of this Agreement.



Evelyn Minor-Lawrence  
Director

DEPARTMENT OF HUMAN RESOURCES  
PUBLIC SERVICES BUILDING  
2051 Kaen Road | Oregon City, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Contract with Origami Risk LLC. to  
Provide and Implement a Risk Management Information System.**

<b>Purpose/ Outcomes</b>	Execution of the contract between the Clackamas County, Department of Human Resources (Risk & Safety Division) and Origami Risk LLC.
<b>Dollar Amount and Fiscal Impact</b>	The total not-to-exceed amount is for the three (3) year contract is \$266,120.00. The contract includes the ability to extend on a year-to-year bases for the ongoing licensing, maintenance, and support services that are needed so long as Clackamas County continues to use the system. This is estimated to be a ten (10) year time horizon with a maximum amount of \$966,120.00.
<b>Funding Source</b>	761-0110-00-437231 (Fund 761 – Risk Management Fund)
<b>Duration</b>	Contract execution through January 31, 2022.
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	Effectively tracking and managing our risks most closely aligns with the strategic goal of building public trust through good government.
<b>Contact Person</b>	Eric Machado, Risk Manager, 503-655-8576

**Background:**

The County's existing risk management system (RIMS) is dated and ineffective for our current needs. An updated RIMS will allow for greater efficiency in claims handling, better data analytics and data driven decision-making, improved reporting capability and compliance, and more focused loss prevention efforts, all of which will help the County's Risk and Safety Division mitigate exposure and drive down costs across the organization. Recognized as a leading software solution in the risk management field, Origami Risk LLC has partnered with local governments throughout our region to provide a risk management information system (RIMS). Clackamas County's Risk and Safety Division has identified this system as the one that would best fit the County's current needs now, as well allow for flexibility and growth into the future.

**Procurement Process:**

Whereas Multnomah County executed a contract with Origami Risk LLC that meets all standards, this contract falls under cooperative purchasing procurement authority. This authority is in accordance with LCRB C-046-0430. County Counsel has approved this contract.

**Recommendation:**

Staff respectfully recommends the Board of County Commissioners approve the attached three (3) year contract, including the ability to extend the contract for up to ten (10) years as described in the Dollar Amount and Fiscal Impact Section of this document.

Respectfully submitted,

Evelyn Minor-Lawrence, Director

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

## STATEMENT OF WORK

This Statement of Work (“SOW”) describes services to be performed by Origami Risk LLC (“Origami”) for Clackamas County (“Client”).

**WHEREAS**, Origami entered into an agreement to provide and implement a risk management information system (RMIS), dated June 21, 2017 (the “Multnomah Contract”); and

**WHEREAS**, Origami and Client wish to enter into an agreement for Origami to provide Client with a risk management information system (RMIS) as set forth in this SOW on the same terms and conditions as the Multnomah Contract.

### AGREEMENT

Except as otherwise modified herein, Origami grants use of the RMIS system to the Client under the terms and conditions of the Multnomah Contract, and Exhibits thereto, which are hereby incorporated by this reference herein.

### MODIFICATIONS TO MULTNOMAH CONTRACT

1. Any reference to Multnomah Contract in the Multnomah Contract shall instead be deemed to refer to Client for the purposes of this SOW. To the extent that this SOW conflicts with any provision of the Multnomah Contract, the provisions of this SOW shall govern.
2. The parties agree that this SOW will apply to the services provided to the Client, and Exhibits 3 and 4 of the Multnomah Contract shall be replaced in their entirety by this SOW (including the Pricing Detail attached hereto as Exhibit A).
3. The Oregon Governmental Contracting Addendum is hereby incorporated by reference and attached as “Exhibit B”.
4. The parties agree that the Business Associate Agreement, attached hereto as “Exhibit C”, will replace Exhibit 6 of the Multnomah Contract in its entirety.

This SOW shall become effective upon signature of both parties. Unless earlier terminated or extended, this SOW shall expire on January 31, 2022. However, such expiration shall not extinguish or prejudice either party’s right to enforce this SOW with respect to: (a) any breach of a warranty; or (b) any default or defect in performance that has not been cured. This SOW may be extended if Origami issues a quote to the Client to extend this SOW and the Client issues a purchase order to extend the SOW. This SOW may continue to be extended thereafter using the aforementioned process until either party elects not to extend the SOW.

### **PROJECT SCOPE**

Provide and implement Origami’s Risk Management Information System (RMIS) to Client’s Risk Management team to ensure accurate and consistent tracking and reporting of Client’s claims/incidents, policies, and locations.

**Project Priorities:** The immediate priorities focus on the following areas: (i) convert and load data from previous claim data, in order to turn off previous system and maintain the current monthly claim report

distribution to operational managers currently accomplished; (ii) build out Claims Administration and Workflows; and (iii) implement incident collection from the field.

(i) Convert and load data from previous system.

Origami will load the Client’s previous claim data and import into Origami Risk. This process requires the receipt of timely and accurate data from the Client, and requires collaboration between Origami and Client to evaluate and resolve data anomalies uncovered throughout the conversion process.

(ii) Claims Administration

Origami will work with Client to configure and deploy the standard claim administration features of Origami Risk to empower Client’s Adjusters at locations throughout the hierarchy to manage workers compensation claims as well as other coverages. Origami and Client will collaborate on the layout of the question sets for each type of claim along with any workflows which may be triggered by the creation or edit of such incident records.

(iii) Incident Collection

Origami will work with Client to configure and deploy the standard incident collection features of Origami Risk to empower Client’s professionals at locations throughout the hierarchy to report incidents directly. Origami and Client will collaborate on the layout of the question sets for each type of incident along with any workflows which may be triggered by the creation or edit of such incident records.

## **CLIENT ROLES AND RESPONSIBILITIES**

Client will identify a System Administrator (“Client SA”) who will be responsible for working with Origami to implement Origami and to provide ongoing production support to Client’s Users. The Client SA and, from time to time, other Client employees will be available to provide timely direction and feedback as needed by Origami to complete the Origami tasks in this SOW. The Client SA will also be responsible for setting up, assigning security rights, and maintaining user IDs for all Users.

Client will have access to configuration tools in Origami Risk and shall have final responsibility for all configurations contemplated by the Implementation and Support sections in this SOW or otherwise created by or for Client or Client’s Users in Origami Risk (including, without limitation, forms, dashboards and interfaces). For all such configurations, Client shall be responsible for functionality, usability and access rights for data used by such configurations

## **LICENSES**

### User Licenses

<u>License</u>	<u>Quantity</u>	<u>Description</u>
Full User	<b>(6) Six</b>	These licenses have access to all the capabilities and features of Origami Risk, including claims adjusting for non-workers compensation claims. Features excluded include features utilized for adjusting Work Comp claims such as calculating indemnity benefits, FROI/SROI reporting and except for those features listed within the Extended Functionality Licenses section below.

Light User	<b><u>(0) Zero</u></b>	These licenses have access to the dashboard, reports pre-configured for them, and read-only access to other areas of the system. Light Users do not have access to the Administration features, and do not have access to those features listed within the Extended Functionality Licenses section below.
Claims Adjusting User	<b><u>(3) Three</u></b>	These licenses have access to all the features and capabilities of Origami Risk, except those features listed within the Extended Functionality Licenses section below.

### **Extended Functionality Licenses**

<b><u>License</u></b>	<b><u>Selected</u></b>	<b><u>Quantity</u></b>	<b><u>Description</u></b>
Enterprise Wide Record Entry	Yes	Up to <b><u>(1,000) records</u></b> added per year	These licenses are not named licenses and have access only to enter records either by (1) an anonymous collection portal, by clicking an anonymous collection link generated via Origami’s administration features (“Portal Data Entry”) or (2) granting access to a URL sent from Origami Risk as a Data Entry Event email notification, giving time limited access to a single record (“Grant Access”).
Secure Email License	No	Up to <b><u>(0) Secure Emails</u></b> sent per month	This license enables Origami Risk’s secure email functionality, which provides password protected hosting for email communications from and to Origami Risk.
Enterprise Values Collection	No	<b><u>(0) Zero Users</u></b>	These licenses allow Client’s representatives in the field to enter data through Origami’s online platform pertaining to information necessary for renewal submissions, such as TIV, Square Footage, COPE information, or other such asset and exposure data as required by Client.
ODG Integration User	No	<b><u>(0) Zero Users</u></b>	This license enables Origami Risk’s integration with ODG’s Return to Work guidelines. This feature may only be utilized by Claims Adjusting Users and Full Users. This feature queries ODG’s RTW and treatment guidelines based on WC claim diagnosis codes. Client understands and agrees that Origami makes no representations or warranties with respect to the data provided by ODG. In no event shall Origami be liable for any damages in connection with data provided by ODG or for any acts or omissions of ODG.
OCR Scanning License	No	<b><u>(0) Zero Pages</u></b> per year	This license provides access to Origami Risk’s Optical Character Recognition (OCR) functionality for the purpose of mapping specified data from scanned documents to data fields within Origami Risk.
Tableau*	No	<b><u>(0) Zero Users</u></b>	This license allows Origami users to access Tableau within the Origami Environment, providing enhanced data visualization.
SMS Messaging*	No	<b><u>(0) Zero SMS Messages</u></b> (in blocks of 10,000/year) over initial 500	This license provides the ability to send SMS messages as workflow actions within Origami’s administration features. The first 500 messages per year are provided at no additional cost, and this license provides the ability to send more than 500 messages per year.

eSignature Integration	No	<b>(0) 500 Envelopes</b> (in blocks of 100)	This license provides the ability to tag mail merge documents with electronic signature fields, authenticating through a third-party eSignature tool. Client hereby agrees to be bound by the DocuSign Terms and Conditions for Reseller Customers, available at <a href="https://www.docusign.com/company/terms-and-conditions/reseller">https://www.docusign.com/company/terms-and-conditions/reseller</a> . In no event shall Origami be responsible or liable for any acts or omissions of DocuSign. Client hereby consents to Origami providing DocuSign with its data to the extent necessary to perform such services.
Certificates License	No	<b>(0) Zero Insureds</b> over initial 100	This license allows Client to utilize Origami Risk’s Certificate of Insurance tracking for third party Insureds, such as tenants, contractors or customers. The first 100 Insureds are provided at no additional cost, and this license provides the ability to track certificates for more than 100 Insureds.

\* By purchasing this license, Client will need to agree to certain vendor terms and conditions to be provided by Origami.

Features that require a third party agreement, usually for an additional fee, to be enabled in Origami include:

- Advisen policy benchmarking
- Predictive analytics via 3<sup>rd</sup> Parties
- EDI FROI/SROI via 3<sup>rd</sup> Parties

**License Notes:**

1. Origami Risk adds generally available features from time to time that may require configuration prior to use. If Client requests Origami’s assistance in this configuration, Professional Services hours may be applied for any such configuration.
2. In addition to the generally available features, Origami Risk may occasionally deploy new functionality that will require an Extended Functionality License similar to those listed in the Extended Functionality License section above. These features may require additional fees based on record volume, number of additional users accessing the new features, or some other incremental cost driver. In such cases, additional fees will apply.

**HOSTING**

Origami will provide FedRAMP data storage for up to 10,000 claims and incidents. In addition, Origami will provide 50GB of file attachment storage. Additional storage is available at any time during the term of this SOW as set forth in the Pricing section below.

Origami will host the application and data in a secure internet accessible environment. Origami will backup Client data at periodic intervals each day.

**IMPLEMENTATION PROCESS**

Implementation is the process of configuring Origami for use by Client including system settings, supporting Client in loading data, training users, and other work identified in this section of the SOW. The implementation phase is completed when Client is able to utilize the Origami platform for the above defined business purposes, referred to by Origami as being Live in the system. Origami will manage the



overall implementation process, including scheduling and leading meetings, communicating with the team, follow up documentation, and maintaining the project schedule through the Go-Live date. Client's provision of timely and accurate specifications, direction and feedback is essential to the implementation.

### **System Configuration**

#### Origami will:

- Configure up to 2 default dashboards using standard Origami dashboard widgets.
- Configure up to 10 reports using standard Origami RMIS templates and/or the custom template design tool.
- Configure up to 2 report distribution lists.
- Configure claim and incident form layouts for up to five lines of coverage
- Configure 1 Location form layout
- Configure up to 2 Contact form layouts
- Configure 1 Policy form layout
- Configure up to 5 data entry events with corresponding system actions
- Configure up to 2 User Security Profiles
- Configure CMS-111 Interface for 1 RRE ID
- Configure ISO Claim Search/Fraud Indexing
- Configure 1 Payment Request via Mail Merge Form

#### Client will:

- Provide specifications, direction, and feedback as needed by Origami in a timely manner.
- Configure additional default dashboards, fields, forms, user roles, distribution lists, reports and other features as needed by Client.

### **Convert Legacy Microniche:**

#### Origami Risk will:

- Convert the 2 Legacy databases and import into Origami risk. Legacy data will include:
  - Claims
  - Transactions
  - Notes
  - Tasks
  - Contacts
  - Locations
  - Policies

#### Client will:

Arrange for an extract of data.

### **Loading Other Supported Risk Data via Data Import Center**

#### Origami will:

- Provide training and support to Client as needed for following import activities.

#### Client will:

- Provide, or arrange to provide, spreadsheets containing Client's risk data in the format supported by Origami's Data Import Center.
- Utilize Origami's standard Data Import Center tools to import the above risk data.

## **Loading Carrier / TPA Claims Data for Data Processing**

### Origami will:

- Provide Client with text for data request letters suitable for requesting necessary data from each of the sources named below.
- Convert and load the initial system data from the sources named below

### Client will:

- Arrange for claims one-time transactions data to be sent to Origami from Sedgwick.

## **Configuring Automated Interfaces, Imports & Extracts To / From 3<sup>rd</sup> Party Systems**

### Origami will:

- Implement import routines and schedules required to accommodate imports listed below.

### Client will:

- Arrange for data to be delivered in the agreed upon format, on the agreed upon schedule from PeopleSoft System

## **Configuration of Incident Intake Process**

### Origami will:

- Configure the Enterprise Portal Data Entry Screens to accurately mirror Client's existing process (with below improvements)
- Build the workflow in Origami for proper email notification, mail merge document distribution and task creation according to Client's business rules.

### Client will:

- Provide screen shots of existing intake forms currently in use.
- Work with Origami to identify opportunities to improve on current intake forms and process.
- Specify the workflows and individuals required for event triggered emails, tasks and mail merge

## **Training**

### Origami will:

- Provide 16 hours of training to Client in year 1 of this SOW and provide additional training each subsequent year as needed. Professional Service hours will be eroded for training in years 2 and 3. Training will be provided at Client offices or online at Client's request. Training can be provided in one session or several on mutual agreement between Client and Origami. Travel & Expenses associated with any on-site training will be pre-approved by Client and billed as incurred.

### Client will:

- Provide Origami with guidance about the employees to be trained and any training requirements or a preferred approach.
- If training is to be provided in Client office, provide appropriate meeting space and internet access so Origami can perform the training and also provide for transportation and other expenses for Client employees who attend the training.

**PROJECT MANAGEMENT OPTION SELECTED:**

Origami Risk is founded on a set of **AGILE** and iterative processes from top to bottom. These contemporary tenets are the foundation of our ability to deliver better products and more accurate implementations in a fraction the time of our competitors. Origami also maintains a set of best practices, tools and experts for our clients who require a more **TRADITIONAL** approach to managing their implementation project. The selection below indicates the project management model included within this SOW:

This SOW includes:

**Included/Selected** Agile Project Management

**Not Included/Not Selected** Traditional Project Management

**Agile Project Management – Included/Selected**

Origami will:

- Maintain schedule with key deliverables and expected dates\*
- Lead status calls twice per month
- Maintain project status document containing priority list, open items and changes which may impact timeline
- Coordinate all activity within Origami to complete Origami’s tasks on the project schedule
- Origami’s administrative tools and screens are by their nature self-documenting and serve as documentation of the implementation for Client’s System Administrator to reference.

Client will:

- Participate in status calls and working meetings
- Coordinate all activity within Client’s organization to complete Client’s tasks on the project schedule
- Coordinate all activity of Client’s 3<sup>rd</sup> party providers required to complete tasks on the project schedule

**Traditional Project Management – Not Included/Not Selected**

In addition to Agile Project Management described above, Origami shall designate a Project Manager to provide [xx] hours of project management during the Implementation (on average [x] hours per week). This Project Manager shall maintain a library of written artifacts and conduct activities including:

**ACTIVITIES:**

- Formal project kickoff\*\*
- Designated Project Manager role
- Maintain schedule with key deliverables and expected dates/milestones
- Coordinate all activity within Origami to complete Origami’s tasks on the project schedule
- Coordinate meetings and discussions with stakeholders as needed to maintain project progress\*
- Maintain project status document containing priority list, open items and changes which may impact timeline

**ARTIFACTS:**

- |  |   |
|--|---|
| ○ Formal project kickoff agenda**                    | ○ On site agendas**   |
| ○ Communication plan                                 | ○ Change control management                                   |
| ○ Formal stakeholder analysis                        | ○ Executive steering committee status call agenda (as needed) |
| ○ Project charter                                    | ○ Origami governance decision management document             |
| ○ Collaboration website                              | ○ UAT test plan for critical items***                         |
| ○ Detailed work breakdown structure                  | ○ Executive project dashboard                                 |
| ○ Weekly project status calls, agenda, meeting notes |   |

- Detailed issues and risks log
- Action items list
- Detailed project plan
- Lessons learned analysis

\*Project Management assigned as shared role of team members

\*\*May include on site attendance

\*\*\*Dependent on client input and test cases provided

## **ONGOING SUPPORT**

After the Implementation is completed or Client is using the Service in production for greater than 30 days, this section of the SOW describes Origami services through the remainder of the term of this SOW.

### **Carrier / TPA Claims Data Ongoing Processing**

#### Origami will:

Process the claim data updates received from Client data providers as follows:

- Sedgwick : Claims, One-Time Transaction, processed Monthly

#### Client will:

- Use Origami tools to resolve exceptions, if any, such as missing locations, incomplete code maps, and other exceptions, which may occur in the update as a result of data errors or missing data from data providers.
- Notify Carrier / TPA of data exceptions when appropriate to have data corrected at source.

### **Maintenance of Automated Interfaces, Imports & Extracts To / From 3<sup>rd</sup> Party Systems**

#### Origami will:

- Maintain import routines and schedules required to accommodate imports from third party systems listed below:
  - PeopleSoft Interface Daily
  - Corvel Med Bill Payments
- Maintain export routines and schedules required to accommodate exports to third party systems listed below:
  - CMS-111 Reporting
  - ISO Claim Search / Fraud Indexing
  - Corvel Med Bill Payments

#### Client will:

- Ensure the ongoing performance of import and export responsibilities of each 3<sup>rd</sup> party system.

### **Professional Services**

This SOW includes up to 40 hours of Professional Services in the first year, up to 40 hours in the second year, and up to 40 hours in the third year. Professional Services include any work performed by Origami professionals on behalf of Client. Examples include:

- Helpdesk support for users
- Additional user training
- General assistance utilizing the system
- Configuration of features for Client's use
- Maintenance of screens and system configurations as workflows evolve

- Configuration of customized reports
- Maintenance or modification of any import or export scripts
- Attendance in meetings
- Project management tasks and administration

## PRICING AND INVOICE SCHEDULE

The price for the licenses and services listed above in this SOW is \$135,870 for the first year, \$72,650 for year two, and \$72,650 for year three of the SOW. Exhibit A provides a detailed breakdown of the components of the price.

Origami has provided a discount of \$12,000 the first year, and a discount of \$1,525 in year two and year three. The total for the first year is \$123,870, for year two \$71,125, and for year three \$71,125.

Payment for Year 1 will be invoiced and due upon commencement of this SOW. Payments for Years (two) 2 and (three) 3 are due on the anniversary date of the SOW. All payments shall be made in accordance with ORS 293.462.

If needed, additional services can be purchased through an addendum to this SOW. All fees are subject to State Sales Tax, where applicable.

All Travel Costs and Expenses will be pre-approved by Client in writing and billed to Client as incurred. Any approved travel reimbursement may not exceed the Client's Contractor Travel Reimbursement Policy hereby incorporated by reference at: <https://www.clackamas.us/bids/terms.html>.

### ADDITIONAL PRICING:

1. If Client requires additional storage during the term of this SOW, additional fees will apply as follows:

**- Current annual fee for storage for up to 10,000 Claims / Incidents = \$15,000**

- Annual fee for storage of 10,001 – 25,000 Claims / Incidents = \$30,000

**- Current annual fee for storage includes 50GB of File Attachment storage**

- Additional File Attachment storage is \$2,000 per 50GB per year

2. Additional Professional Service hours will be invoiced as incurred at Origami's unbundled rate of \$225/hour. Bundled hours (at \$185/hour) may be added prior to the start of each SOW year.

3. Additional users, additional licenses or additional use beyond that which is listed above in the Licenses section of this SOW shall require additional fees. Origami shall invoice Client, and Client shall pay for any additional licenses, hosting, service hours or other usage in excess of what is specified in this SOW.

4. Client may elect to expand use of the Service to include the following items in the future. If Client elects to add these items within the first 12 months of this Agreement, pricing for these additions shall be as follows:

None



**EXHIBIT A  
PRICING DETAIL**

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Comments</u>
<b>Software Licensing, Hosting, Network, Storage, and IT Operations</b>	\$25,000	\$25,000	\$25,000	<ul style="list-style-type: none"> <li>• Base Origami Software License</li> <li>• Up to 10,000 records in FedRAMP (NIST) Hosting</li> <li>• Includes 50 GB of file Searchable Storage</li> <li>• 1 Work Comp Jurisdiction Setup</li> </ul>
<b>User Licensing</b>	\$11,250	\$11,250	\$11,250	<ul style="list-style-type: none"> <li>• 6 Full Users</li> <li>• Users can have Admin Access for No Additional Charge</li> </ul>
	\$9,000	\$9,000	\$9,000	<ul style="list-style-type: none"> <li>• 3 Claims Adjusting Users</li> <li>• Users can have Admin Access for No Additional Charge</li> </ul>
<b>Enterprise Record Entry</b>	\$5,000	\$5,000	\$5,000	<ul style="list-style-type: none"> <li>• Up to 1,000 New Records</li> </ul>
<b>TPA Interfaces</b>	\$3,500	\$3,500	\$3,500	<ul style="list-style-type: none"> <li>• Monthly Sedgwick Interface</li> </ul>
<b>Other Interfaces</b>	\$20,700	\$11,500	\$11,500	<ul style="list-style-type: none"> <li>• Daily People Soft Interface</li> <li>• Corvel Med Bill Payment Interface</li> <li>• CMS 111 Interface (monthly and quarterly formats)</li> <li>• ISO Claim Search / Fraud Indexing</li> </ul>
<b>Implementation Fee</b>	\$54,020	\$0	\$0	<ul style="list-style-type: none"> <li>• 292 hours - See above for deliverables</li> </ul>
<b>Ongoing Support</b>	\$7,400	\$7,400	\$7,400	<ul style="list-style-type: none"> <li>• 40 Ongoing Support Hours per year</li> </ul>
<b>Discount</b>	(\$12,000)	(\$1,525)	(\$1,525)	
<b>Total</b>	<b>\$123,870</b>	<b>\$71,125</b>	<b>\$71,125</b>	

**EXHIBIT B**  
**OREGON GOVERNMENTAL CONTRACTING ADDENDUM**

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon, (“County”), Origami Risk LLC (“Contractor”). As used below, "Contract", “SOW” or “Contract Documents” or similar term shall include this Addendum and contract number 4400003077 with Multnomah County and the Statement of Work (“SOW”) to which this Addendum is attached and incorporated as “Exhibit B”. To the extent there is any conflict between the Contract Documents, the terms of this Addendum shall control.

**A.** [Intentionally omitted]

**B.** Any provisions herein which would conflict with law are deemed inoperative to that extent. 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 the Contract Documents.
- b)** Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract Documents.
- 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 the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

**2.** [Intentionally omitted]

**3.** If applicable, the Contractor shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference.

**4.** If applicable, the Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of Contractor, of all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor collected or deducted from the wages of Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

**5.** Payment and late fees shall only be in accordance with ORS 293.462.

**C.** Contractor shall at all times maintain in force the insurance set forth in Exhibit 2 to the Multnomah Contract, and subject to the terms and conditions set forth therein including, but not limited to, listing County as an additional insured by endorsement on any general liability policy.

**D.** The laws of the State of Oregon shall govern as to the interpretation, validity, and effect of this Contract without giving effect to conflict of law provisions thereof. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

**E.** [Intentionally omitted]



- F.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Contractor for work under this Contract. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty, in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract and seek damages and other relief available under the terms of the Contract or under applicable law.
- G.** The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:
- 1.** All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
  - 2.** Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor;
  - 3.** Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
  - 4.** Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
- H.** [Intentionally omitted]
- I.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel.
- J.** [Intentionally omitted]
- K.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**EXHIBIT C**  
**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement is entered into as of \_\_\_\_\_ (“Effective Date”) by and between **Clackamas County** (“Covered Entity”) and **Origami Risk LLC** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996, and its regulations (“HIPAA”).

**RECITALS:**

**Whereas**, the Covered Entity has engaged the services of the Business Associate, as defined under 45 CFR §160.103, for or on behalf of the Covered Entity;

**Whereas**, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in the contract formed by the SOW to which this Exhibit is attached (“Agreement”);

**Whereas**, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

**Whereas**, the Parties agree to establish safeguards for the protection of such information;

**Whereas**, the Covered Entity and Business Associate desire to enter into this Business Associate Agreement to address certain requirements under the HIPAA Rules;

**Now, Therefore**, the parties hereby agree as follows:

**SECTION I – DEFINITIONS:**

- 1.1 “Breach” is defined in 45 C.F.R. 160.402. The definition of Breach excludes the following uses and disclosures:
  - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within an Workforce member’s course and scope of employment or placement;
  - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Work force members; and
  - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Effective Date” shall be the Effective Date of this Business Associate Agreement.
- 1.5 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Business Associate Agreement.
- 1.6 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.7 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.8 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.9 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.10 “Protected Health Information” or “PHI” means any information provided to Business Associate as Client Data (as defined in the Agreement), whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to

an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.

- 1.11 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
- 1.12 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.13 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.14 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.15 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.16 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

## **SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE:**

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Business Associate Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Business Associate Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Business Associate Agreement;
- 2.4 To promptly, but no later than five (5) days of any known or suspected incident or complaint involving PHI, report to the Covered Entity any use or disclosure of PHI not provided for by this Business Associate Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to restrictions, conditions and requirements no less protective than those that apply to the Business Associate with respect to such PHI;
- 2.6 To provide access, at the request of the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual’s designee as necessary to meet the Covered Entity’s obligations under 45 CFR §164.524; provided, however, that this Section 2.6 is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual; provided, however, that this Section 2.7 is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Secretary for purposes of the Secretary’s determining the Covered Entity’s and the Business Associate’s compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To provide to the Covered Entity or an Individual, upon written request of the Covered Entity, information collected in accordance with Section 2.9 of this Business Associate Agreement, to permit

- the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.11 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such Electronic PHI agrees to implement reasonable and appropriate security measures to protect the information. The Business Associate will report to the Covered Entity any Security Incident applicable to the Covered Entity of which it becomes aware;
  - 2.12 To retain records related to the PHI hereunder for a period of six (6) years unless the Business Associate Agreement is terminated prior thereto. In the event of termination of this Business Associate Agreement, the provisions of Section V of this Business Associate Agreement shall govern record retention, return or destruction;
  - 2.13 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach in accordance with 45 CFR §164.410. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
  - 2.14 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

### **SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:**

- 3.1 Business Associate agrees to make uses and disclosures and requests for PHI consistent with 45 CFR §164.502(b) and 45 CFR §164.514(d).
- 3.2 Except as otherwise limited in this Business Associate Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by the Covered Entity; and,
- 3.3 Except as otherwise limited in this Business Associate Agreement, the Business Associate may:
  - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and,
  - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

### **SECTION IV – NOTICE OF PRIVACY PRACTICES**

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of

any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Standards if done by the Covered Entity, except as set forth in Section 3.2 above.

## **SECTION V – BREACH NOTIFICATION REQUIREMENTS**

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
- a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
  - b. In plain language including and to the extent possible:
    - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
    - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
    - 4) A brief description of what the Covered Entity and/or Business Associate is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
    - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
  - c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
  - d. Provided to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

## **SECTION VI – TERM AND TERMINATION**

- 6.1 **Term.** The term of this Business Associate Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Business Associate Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Business Associate Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within thirty (30) days of written notice from the Covered Entity or the time specified by the Covered Entity, whichever is longer, or immediately terminate this Business Associate Agreement if cure is not reasonably possible.
- If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI.
- Upon the Business Associate's knowledge of a material breach of this Business Associate Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Business Associate Agreement and the Services Agreement if the Covered Entity does not cure the breach or end the

violation within thirty (30) days of written notice from the Business Associate or the time specified by the Business Associate, whichever is longer, or immediately terminate this Business Associate Agreement if the Covered Entity has breached a material term of this Business Associate Agreement if cure is not reasonably possible.

### 6.3 **Effect of Termination.**

- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Business Associate Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Business Associate Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

## **SECTION VII – GENENERAL PROVISIONS**

- 7.1 **Regulatory references.** A reference in this Business Associate Agreement to the HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Business Associate Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time to remain compliant with the HIPAA Rules. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification.**  
**Indemnification by Business Associate.** Subject to the limitation of liability in the Agreement, Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its elected officials, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as a “CE Indemnified Party,” against all liability to third parties arising directly from Business Associate’s material breach of Sections II and III of this Business Associate Agreement. Accordingly, on demand, Business Associate shall reimburse any CE Indemnified Party for any and all fines or penalties which may for any reason be imposed upon any CE Indemnified Party by reason of any governmental entity as a result of Business Associate’s breach hereunder. The obligation to indemnify any CE Indemnified Party shall survive the expiration or termination of this Agreement for any reason.

**Indemnification by Covered Entity.** Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, Covered Entity agrees to indemnify, defend and hold harmless the Business Associate and its employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as a “BA Indemnified Party,” against all liability to third parties arising directly from Covered Entity’s material breach of Section 4.1 of this Agreement. Accordingly, on demand, Covered Entity shall reimburse any Indemnified Party for any and all fines or penalties which may for any reason be imposed upon any BA Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Covered

Entity's breach hereunder. Covered Entity's obligation to indemnify any BA Indemnified Party shall survive the expiration or termination of this Agreement for any reason.

7.5 **Survival.** The respective rights and obligations of Business Associate under Section II of this Business Associate Agreement shall survive the termination of the Services Agreement and this Business Associate Agreement.

7.6 **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.

7.7 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between Covered Entity and Business Associate that arises out of or relates to the performance of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

The Parties hereto have duly executed this Agreement as of the Effective Date as defined here above.

**Business Associate**  
**Origami Risk LLC**

**Covered Entity**  
**Clackamas County Board of County Commissioners**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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



January 31, 2019

Board of Commissioners  
Clackamas County  
Board of the North Clackamas Parks and Recreation District

Members of the Board:

Approval of a Grant Agreement with Special Districts Insurance Services (SDIS)  
for Safety and Security at the North Clackamas Aquatic Park

<b>Purpose/Outcomes</b>	Increased video surveillance capabilities at the North Clackamas Aquatic Park.
<b>Dollar Amount and Fiscal Impact</b>	\$3,965 in additional grant revenue
<b>Funding Source</b>	Special Districts Insurance Services (SDIS) Safety and Security Grant Program
<b>Duration</b>	Through project completion.
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Build trust through good government</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Scott Archer,, <i>NCPRD Director</i> , 503-742-4421 Kandi Ho, <i>Recreation Services Manager</i> , 503-794-8001

**BACKGROUND:**

North Clackamas Parks and Recreation District (NCPRD), a division of Business and Community Services (BCS), has been awarded a Safety and Security grant from the Special Districts Association of Oregon’s Special District Insurance Services (SDIS) in the amount of \$3,965. This grant award will help fund security increases at the North Clackamas Aquatic Park.

The proposed project would fund acquisition and installation of 10 additional security cameras with recording capability at the Aquatic Park. This increased video surveillance will assist staff in theft prevention and greater security throughout the facility, ensuring our participants and guests have a safe and secure experience while at the Aquatic Park.

**RECOMMENDATION:**

Staff respectfully recommends that the Board of County Commissioners, acting as the governing board of North Clackamas Parks and Recreation District, approve the Grant Agreement with SDIS and authorize the BCS Director or Deputy Director to sign on behalf of the Board and execute all documents necessary to effectuate the same.

**ATTACHMENTS:**

1. Grant Agreement
2. Acknowledgement Letter
3. Grant Lifecycle Form

Respectfully submitted,

Scott Archer, Director  
North Clackamas Parks and Recreation District



**Special Districts Association of Oregon  
SDIS 2018-2019 Safety & Security Grant**

North Clackamas Parks & Recreation  
\$3,965

**PROJECT SUMMARY** Increase the security of NCAP lobby and outdoor parking lot areas by installing 10 security camera system with recording ability. Video surveillance system would assist staff in preventing theft of services and increase our ability to review prior situations to assist law enforcement.

Check the box that best describes that status of your grant project:

Project completed; awaiting matching grant funds.

Project will be completed after matching grant funds are received.

**\*\*Signed Acknowledgement Forms must be received by June 3, 2019\*\***

**By signing this form, you acknowledge your district will:**

- Submit copies of receipt(s) for services or materials purchased to SDAO once the project is completed.
- Send a photo of the completed project.
- Return any unused safety grant funds to SDAO if those funds are not used for the approved safety grant project.

***Send completed acknowledgement form to:***

SDAO **OR** Fax: 503.371.4781 **OR** Email: [sgalaway@sdao.com](mailto:sgalaway@sdao.com)  
PO Box 12613  
Salem, Oregon 97309

Forms can be returned via mail, fax or email. **No need to send originals.**

\_\_\_\_\_  
Authorized signature - District

\_\_\_\_\_  
Date

December 18, 2018

Jason Kemmerich  
North Clackamas Parks & Recreation District  
7300 SE Harmony Road  
Milwaukie OR 97222

Subject: SDAO Safety & Security Matching Grant

Congratulations!

Your request for the 2018-2019 SDIS Safety & Security Grant has been reviewed and your district has been awarded **\$3,965** in grant funds. Please read the enclosed acknowledgement form and do the following:

- Check the appropriate box
- Sign the form
- Return the completed form to SDAO by mail, fax, or email:

**Sandy Galaway**  
**PO Box 12613**  
**Salem, Oregon 97309**  
**503-375-8891 Direct Dial**  
**Fax: 503-371-4781**  
**Email: [sgalaway@sdao.com](mailto:sgalaway@sdao.com)**

Funds will be disbursed upon our receipt of your completed acknowledgement form. Payment will be disbursed upon paid in full receipts and pictures of the completed project. Thank you for being a member of SDAO and for participating in our matching safety grant program. If you have any questions, please contact me at the numbers/email listed above.

Sincerely,

Sandy Galaway  
Enc: Acknowledgement

# Grant Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

## \*\* CONCEPTION \*\*

Note: The processes outlined in this form are not applicable to disaster recovery grants.

### Section I: Funding Opportunity Information - To be completed by Requester

Lead Department: NCPRD Application for:  Subrecipient funds  Direct Grant  
Grant Renewal?  Yes  No

Name of Funding Opportunity: SDIS Safety & Security Grant  
Funding Source:  Federal  State  Local: Special Districts Association of Oregon  
Requestor Information (Name of staff person initiating form): Jason Kemmerich  
Requestor Contact Information: jasonkem@ncprd.com  
Department Fiscal Representative: Elizabeth Gomez, EGomez@ncprd.com, 503-742-4352  
Program Name or Number (please specify): BCS-NCPRD-Aquatic Park 113 5400 07705 437100  
Brief Description of Project:

Increase security at the North Clackamas Aquatic Park front lobby and outdoor parking lot area by adding 10 security cameras.

Name of Funding (Granting) Agency: Special District Insurance Services/Special Districts Association of Oregon

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

[https://www.sdao.com/S4/Programs/grant\\_program.aspx](https://www.sdao.com/S4/Programs/grant_program.aspx)

#### Safety & Security Grant Contact Information

Sandy Galaway  
PO Box 12613, Salem OR 97309-0613  
Email: [sgalaway@sdao.com](mailto:sgalaway@sdao.com)  
Phone: 503-375-8891

OR

Application Packet Attached:  Yes  No

Completed By: Jason Kemmerich Date: 11/14/2018

## \*\* NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE \*\*

### Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Grant  Non-Competing Grant/Renewal  Other Notification Date: \_\_\_\_\_  
CFDA(s), if applicable: \_\_\_\_\_  
Announcement Date: 1/1/2018 Announcement/Opportunity #: \_\_\_\_\_  
Grant Category/Title: Safety & Security Max Award Value: \$5,000  
Allows Indirect/Rate: \_\_\_\_\_ Match Requirement: \$3,965  
Application Deadline: 11/9/2018 Other Deadlines: N/A  
Grant Start Date: TBD Other Deadline Description: \_\_\_\_\_  
Grant End Date: TBD  
Completed By: \_\_\_\_\_  
Pre-Application Meeting Schedule: \_\_\_\_\_

**Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff**

**Mission/Purpose:**

1. How does the grant support the Department's Mission/Purpose/Goals?

North Clackamas Parks & Recreation District is a service district of Clackamas County dedicated to providing exceptional parks and recreation programs, facilities and services to its more than 122,000 residents in the cities of Happy Valley, Milwaukie and a large unincorporated area. This grant would allow the District to strengthen security and improve safety at its largest indoor facility, the North Clackamas Aquatic Park.

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

The North Clackamas Aquatic Park is located between the Clackamas Community College Harmony Campus and the 77-acre 3-Creeks Natural Area. It is a high-traffic area with higher crime rates than the surrounding neighborhoods, due to the Clackamas Town Center, TriMet Transit Center, I-205 and Highway 213 all located within a half mile. Outside the facility, the surrounding property and parking lots pose potential safety risks to patrons and other community members. This grant will allow the Aquatic Park to install an outdoor security surveillance system to monitor the property and better protect its patrons and staff.

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

The grant will allow the District to contract with a professional installer, Stoner Electric, in order to get superior service. There are no community partners known that would be better suited to perform this work.

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

SDIS members are eligible to apply for a matching grant (maximum of \$5,000) to help fund new safety and security related projects. Districts may apply for any new safety or security project they choose. Examples include but are not limited to video surveillance equipment, security systems, enhanced parking lot lighting, and safe shop equipment. Routine maintenance to existing facilities and normal business expenses are not considered.

5. Does the grant proposal fund an existing program? If yes, which program? If no, what should the program be called and what is its purpose?

No, outdoor security surveillance will be a new feature at the Aquatic Park. It will enhance an existing security system by expanding security system coverage from indoor areas only to the entire property.

**Organizational Capacity:**

1. Does the organization have adequate and qualified staff? If yes, what types of staff are required?

If no, can staff be hired within the grant timeframe?

The installation and set-up of this new system will be handled by an outside vendor on contract (see bid from Stoner Electric, attached). Ongoing maintenance will be in addition to the regular maintenance of the existing security system for inside the facility. Staff are available and will be trained to maintain this system.

2. Is there partnership efforts required? If yes, who are we partnering with, what are their roles and responsibilities, and are they committed to the same goals?

N/A

3. If this is a pilot project, what is the plan for sunseting the program or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

N/A

4. If funding creates a new program, does the department intend that the program continue after initial funding is exhausted? If so, how will the department ensure funding (e.g. request new funding during the budget process, discontinue or supplant a different program, etc.)?

Additional funding will be needed to maintain regular maintenance of the larger security system. We believe the benefits of this system are worth the nominal additional cost to expand the existing system to cover a slightly larger area.

**Collaboration**

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

N/A

**Reporting Requirements**

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

Completion of the proposed project, meaning purchase and installation of equipment.

2. What is the plan to evaluate grant performance? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

The District regularly tracks and monitors incidents and accidents across all its programs and facilities. By continuing to do so, and by also monitoring the frequency of other police activity on the property as well as the seriousness of events, staff will be able to report on the potential impacts of this added security.

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

N/A

**Fiscal**

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

Yes. Administration costs for this grant are very low.

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

This is a 50/50 matching grant program, which means the cost of the project will be split equally between the District and SDIS, up to a maximum of \$5,000. The matching funds needed for this grant are half of the total project cost, or \$3,965. This project was budgeted for this fiscal year and funds are available in the current operating budget.

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

The matching funds needed for this grant are half of the total project cost, or \$3,965. This project was budgeted for this fiscal year and funds are available in the current operating budget.

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

One-time funding for a one-time purchase and installation of a new security system component.

5. Does this grant cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

N/A

Program Approval:

Jason Kemmerich

Name (Typed/Printed)

11/15/2018


Date




Signature

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

**Section IV: Approvals**

<b>DIVISION DIRECTOR OR ASSISTANT DIRECTOR (or designee, if applicable)</b>		
Scott Archer	11/15/2018	
Name (Typed/Printed)	Date	Signature

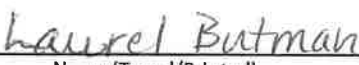

<b>DEPARTMENT DIRECTOR</b>		
Laura Zentner	11/15/2018	
Name (Typed/Printed)	Date	Signature

**IF APPLICATION IS FOR FEDERAL FUNDS, PLEASE SEND COPY OF THIS DOCUMENT BY EMAIL TO FINANCE (FinanceGrants@clackamas.us). ROUTE ORIGINAL OR SCANNED VERSION TO COUNTY ADMIN.**

**Section V: Board of County Commissioners/County Administration**

*(Required for all grant applications. All grant **awards** must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

**For applications less than \$150,000:**

<b>COUNTY ADMINISTRATOR</b>	Approved: <input checked="" type="checkbox"/>	Denied: <input type="checkbox"/>
	11-20-18	
Name (Typed/Printed)	Date	Signature

**For applications greater than \$150,000 or which otherwise require BCC approval:**

BCC Agenda item #:  Date:

OR

Policy Session Date:

County Administration Attestation

**County Administration: re-route to department contact when fully approved.**

**Department: keep original with your grant file.**

Please complete each field below, either on this form or on a separate sheet. Be sure to print clearly.

Name of SDAO Member District: North Clackamas Parks & Recreation District

Complete Mailing Address: North Clackamas Aquatic Park Phone Number: 503-794-8000  
7300 SE Harmony Road, Milwaukie, OR 97222 Fax: 503-794-8085

Contact Person: Jason Kemmerich, Aquatic Park Supervisor E-Mail: jasonkem@NCPRD.com

Brief description of proposed project: Increase the security of the North Clackamas Aquatic Park lobby and outdoor parking lot areas by installing 10 security camera system with recording ability. The video surveillance system would assist staff in preventing theft of services and increase our ability to review prior situations to assist law enforcement. This system would also aid NCPRD in protecting our communities Park District assets.

Total cost: \$7,930

Breakdown of cost(s): \$3,480 for a IP camera system including a 8 TB hard drive, NVR, 4 varifocal motorized, 6 fixed lens cameras and 10 camera mounts. \$4,450 will be utilized to have Stoner Technology Services complete the installation and set-up. (See attached bid)

Impact on staff, volunteers, and/or community safety: This system will increase the safety and security for both patrons and staff at one of the regions largest indoor water parks. Currently, there is no outdoor surveillance on-site and a significant displaced population nearby. This system would assist patrons and staff towards vehicle security and personal safety. Additionally, the community volunteers would benefit from additional security when utilizing our parking lot for natural areas restorations (adjacent to building but out of line of site of parking lot).

**\* NOTES:**

- Routine maintenance to existing facilities and/or equipment and normal business expenses will not be considered.
- Labor costs for district employees are not eligible for in-kind matching.

To be considered, your grant application must be completed in full and submitted to SDAO no later than noon on Friday, November 9, 2018. Submit completed applications to SDAO, PO Box 12613, Salem, Oregon 97309, fax to 503-371-4781, or e-mail to [sgalaway@sdao.com](mailto:sgalaway@sdao.com). Questions? Contact Sandy Galaway at 800-285-5461, extension 111 or 503-375-8891.

# 2018-2019 Safety & Security Grant



**Application Deadline: Noon on Friday, November 9, 2018**

Applications are now being accepted for the 2018-19 SDIS Safety and Security Grant Program! SDIS members are eligible to apply for a matching grant (maximum of \$5,000) to help fund new safety and security related projects. This year, the SDIS Board of Trustees approved a dramatic increase in funding to increase the number of members that can benefit from this opportunity. Grants available have increased from \$300,000 to \$450,000.

## What does "matching grant" mean?

This is a 50/50 matching grant program, which means the cost of the project will be split equally between your district and SDIS, up to a maximum of \$5,000.

## What do you mean by "a maximum of \$5,000"?

If your district is planning a \$10,000 project, you can apply to receive a maximum of \$5,000 from SDIS.

## Who decides if our grant request is accepted or denied?

The SDIS Safety Grant Committee will review each application to determine which applications are eligible to receive funding. The committee will use two priority levels in determining grant recipients:

- **First Priority:** Grant applicants who have never received an SDIS Safety & Security Grant.
- **Second Priority:** Grant applicants who did not receive an SDIS Safety & Security Grant in the 2017/2018 fiscal year (July 1, 2017-June 30, 2018).

Matching grants will be awarded to applicants that meet the eligibility requirements by order of priority. After the first priority level has been funded, grants will be awarded to applicants in the second priority level. After all qualifying applicants in the top two priority levels have been funded, matching grants will be awarded to applicants that meet the eligibility requirements in the order the application is received, until funds have been exhausted.

## What projects will qualify for the matching grant?

Your district may apply for any new safety or security project you choose. Examples include but are not limited to video surveillance equipment, security systems, enhanced parking lot lighting, and safe shop equipment. *Routine maintenance to existing facilities and normal business expenses will not be considered.*

## When is the application deadline?

Fill out and return the application for your district by mail to SDAO, PO Box 12613, Salem, Oregon 97309 or email to [sgalaway@sdao.com](mailto:sgalaway@sdao.com) by **noon on Friday, November 9, 2018**. Applications received after noon on Friday, November 9, 2018 will not be considered.

For more information about this program, please contact Sandy Galaway at 503-375-8891 or [sgalaway@sdao.com](mailto:sgalaway@sdao.com).

## SDIS Safety & Security Grant Contact Information:

PO Box 12613 | Salem OR 97309-0613 | TOLL-FREE: 800-285-5461 ext. 111 | PHONE: 503-375-8891  
FAX: 503-371-4781 | E-MAIL: [sgalaway@sdao.com](mailto:sgalaway@sdao.com)



# Stoner

## Technology Services

A Division of Stoner Electric, Inc.

*Stoner* Electric

*Stoner* Lighting Services

*Stoner* Protective Systems

*Stoner* Technology Services

Date: November 28, 2018

To: NCPRD  
 Michael Taggart  
 7300 SE Harmony Road  
 Milwaukie, Oregon 97222

Project: IP Camera Install

We are pleased to Submit, for your consideration, our proposal for providing installation services for the above listed project. Pricing is based on information provided.

<b>Scope of Work - Provide and Install:</b>		
<ul style="list-style-type: none"> <li>All necessary labor, cable and connectors to install customer provided IP CCTV System                      Includes NVR, (4) Outdoor Cameras, (6) Indoor Cameras and Network Connection</li> </ul>	\$4450.00	
Provide IP Camera System (1) Vitek Transcendent Series 16 Channel NVR w/ 8 TB Hard Drive (4) Vitek 4 MP Varifocal Motorized Cameras (6) Vitek 4 MP Fixed Lens Cameras (10) Camera Mounts	\$3480.00	
<b>Total Price:</b>		<b>\$ 0.00</b>

Clarifications / Exclusions:

- ✓ Work Performed During Regular Working Hours
- ✓ Wiring to be open running

*Darrell S. Pizer*

Darrell Pizer, Project Manager  
 Stoner Technology Services, 1904 SE Ochoco Street, Portland, OR 97222  
 Phone (503) 462-5236 Fax (503) 659-2765

Signature, if Accepted PO #

Print Name Title



**DAN JOHNSON**  
MANAGER

**DEVELOPMENT AGENCY**

**DEVELOPMENT SERVICES BUILDING**  
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

January 31, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a License Agreement with  
Patrick L. Murphy and Dyan M. Murphy**

<b>Purpose/Outcome</b>	To approve a license agreement to provide temporary access to an adjacent property and to accommodate development of the CIAO site.
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	N/A.
<b>Duration</b>	The license will remain in place until the Agency completes construction of the improvements to Capps Rd. or until the Agency has provided alternative vehicular access to the Murphys' property.
<b>Previous Board Action/Review</b>	None
<b>Strategic Plan Alignment</b>	Build public trust through good government
<b>Contact Person</b>	Dave Queener, Development Agency Program Supervisor, 503-742-4322

The Agency has a Disposition Agreement with Bottling Group, LLC associated with the purchase of a portion of the Clackamas Industrial Area Opportunity (CIAO) site. The Agency and Bottling Group have been working to finalize property line adjustments with adjacent property owners, Patrick and Dyan Murphy, which are necessary to maximize development of the site and for planned road improvements. The closing with Bottling Group, LLC and the construction on the Capps Rd. improvements greatly impact access to the adjacent site to the north. To address this access issue, the parties propose to enter into a license agreement which would provide temporary access over the adjacent Development Agency-owned property until such time as the Agency completes construction of the improvements to Capps Rd. or until the Agency has provided alternative vehicular access to the Murphys' property.

County Counsel has reviewed and approved the proposed amendment to the agreement.

**RECOMMENDATION**

Staff respectfully recommends that the Board, as the governing body of the Clackamas County Development Agency, execute this license agreement with Patrick L. Murphy and Dyan M. Murphy.

Respectfully submitted,

David Queener, Program Supervisor  
Development Agency

## LICENSE AGREEMENT

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between **CLACKAMAS COUNTY DEVELOPMENT AGENCY**, the Urban Renewal Agency of Clackamas County, a corporate body politic (the "**Agency**" or, until such time as Agency assigns this Agreement as hereinafter provided, "**Licensor**"); and **PATRICK L. MURPHY AND DYAN M. MURPHY** (collectively "**Licensee**").

### RECITALS

A. Licensee owns the land legally described in **Exhibit "A"** which is attached hereto and incorporated herein (the "**Licensee Property**"). The Agency owns adjacent land which is legally described in **Exhibit "B"** which is attached hereto and incorporated herein (the "**Agency Property**").

B. The Agency recently discovered that the legally described boundary line separating the Licensee Property and the Agency Property does not coincide with the existing fence on the Agency Property, and the boundary line is in a different location than the Agency originally believed it to be.

C. To help resolve the issue, Licensee has agreed to convey any interest it may have obtained in the land depicted in purple and identified on **Exhibit "C"** as "LAND GOING TO NDA CLACKAMAS (11,744 SF./0.27 AC.)" ("**Swap Parcel A**"), and the Agency has agreed to exchange the areas of land depicted in yellow and identified on **Exhibit "C"** as "LAND GOING TO CRYSTAL GREENS (20,379 SF./0.46 AC.)" ("**Swap Parcel B**") pursuant to a Property Exchange Agreement dated \_\_\_\_\_, 2019 between Licensee and the Agency (the "**Exchange Agreement**").

D. As part of the consideration supporting this Agreement, the Agency has agreed in the Exchange Agreement (a) to design and construct improvements to the driveway serving the Licensee Property pursuant to Design Drawings, as defined in the Exchange Agreement, concurrent with the Agency's construction of the improvements to the terminus of Capps Road, and (b) that during such construction, the Agency shall not eliminate or substantially impede access to the Licensee Property.

E. As provided in the Exchange Agreement, Licensee has agreed that access to the Licensee Property shall not be deemed eliminated or substantially impeded where alternative access is provided over a portion of Swap Parcel A which is suitable to accommodate vehicles used in Licensee's existing operations.

F. The Agency is contemplating the sale of the Agency Property and Swap Parcel A to a party (the "**Transferee**") who will develop the Agency Property, including Swap Parcel A, as a warehousing and distribution facility for lease to a third party. For such time as the Agency is the owner of the Agency and Swap Parcel A, the Agency shall be the Licensor hereunder. At such time as the Agency sells the Agency Property and Swap Parcel A as aforesaid, the Agency

shall assign to the Transferee, and the transferee shall assume from the Agency, the Agency's rights and obligations under this Agreement, thereby becoming the Licensor for all purposes hereunder.

G. In order to allow the Agency to comply with its obligation not to eliminate or substantially impair access to the Licensee Property, Licensor has agreed to provide Licensee with vehicular access over a portion of Swap Parcel A during the Agency's construction of the improvements depicted in the Design Drawings or until the Agency has created alternative access for such vehicular access, all subject to and upon the terms and conditions set forth below.

### **AGREEMENT**

In consideration of Ten Dollars (\$10.00) and other good and valuable consideration by each of the parties to the other of them in hand this day paid, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Licensor and Licensee hereby confirm that the statements set forth above are accurate.

2. Subject to the Licensee's strict adherence to the terms and conditions herein contained, Licensor hereby grants to Licensee the non-exclusive right to use the portion of Swap Parcel A which is outlined in red on **Exhibit "D"** attached hereto and incorporated herein (the "**License Area**") to accommodate access to and egress from the Licensee Property by vehicles used in Licensee's existing operations (the "**Permitted Use**"). Such right shall automatically terminate at such time as Agency completes construction of the improvements depicted in the Design Drawings or until the Agency has created alternative vehicular access to the Licensee Property, but Licensee nevertheless agrees to confirm such termination in writing as reasonably required by Licensor upon the occurrence of such termination.

3. Licensee hereby accepts the License Area "as is," in its condition on the date hereof, and acknowledges and agrees that the License Area (a) shall be used only for the Permitted Use and for no other purpose, (b) is suitable for the Permitted Use, (c) may be used or altered by Licensor and others for any and all purposes that do not materially restrict Licensee's use of the License Area for the Permitted Use, (d) Licensor shall be permitted to relocate the License Area, provided such relocation (i) is at Licensor's expense, (ii) does not materially impact Licensee's Permitted Use, (iii) does not require Licensee to incur any material cost or expense, and (iv) is permitted by applicable law.

4. Licensee will be using the License Property with the express consent of Licensor and shall acquire no adverse or prescriptive rights thereto. Licensee will not erect any improvement, obstruction or structure (temporary or permanent), on the License Area. Licensee will not perform any excavation or soil disturbing activities within the License Area. Licensee will not use, or permit anyone else to use, any hazardous substances in or around the License Area or use the License Area in any manner which would violate any federal, state, and/or local, laws, rules and regulations.

5. Licensors or its designee shall not remove the existing fence located to the south of the boundary line of the Licensee Property until such time that a temporary or permanent fence is installed along the south boundary line of the Licensee Property, less the area described as Swap Parcel A, and the west boundary line of Swap Parcel B.

6. If Licensee breaches any provision of this Agreement, Licensors may terminate this Agreement and revoke the license herein granted upon five (5) days written notice to Licensee.

7. Licensee agrees to use the License Area with care and to repair any and all damage caused by Licensee's use of the License Area to the condition it was in prior to said entry and disturbance.

8. The Licensee hereby agrees to indemnify and hold the Licensors harmless against any and all damage, liability, loss, claims or expenses (including reasonable attorney's fees) which may arise out of the Licensee's use of the License Area or the activities of the Licensee or the Licensee's agents, contractors, guests, invitees or employees within the License Property. The Licensee agrees to maintain liability insurance in commercially reasonable amounts and coverages which will indemnify the Licensors for activities in or around the License Area and will cause the Licensors to be named as an additional insured on such insurance. The Licensors shall have no liability with respect to any loss or damage to any of the Licensee's personal property which may be located on the License Area and the Licensee assumes the risk of loss or damage to said personal property.

9. The Licensee hereby acknowledges and agrees that the Licensee does not have, and shall not obtain, any rights whatsoever in or to the License Area except as expressly set forth herein.

10. Should either party seek to enforce an action against the other arising out of the use of the License Area or this Agreement, reasonable attorney and other related fees shall be awarded to the party obtaining a judgment in its favor.

11. Licensee may not assign, transfer, encumber or convey this License Agreement. This License Agreement is personal to Licensee.

12. This Agreement sets forth the entire Agreement with respect to the License Area. Except in the case of a revocation as described in Paragraph 6 above, this Agreement can only be modified by a written instrument which is duly executed by Licensors and Licensee.

13. This License Agreement shall be governed by the laws of the State of Oregon.

14. Every notice, demand, consent, approval or other document or instrument required or permitted to be served upon any of the parties hereto shall be in writing and shall be

deemed to have been duly served on the day of mailing or delivery, and shall be delivered in hand, or sent by registered, certified or express United States mail, postage prepaid, return receipt requested, (or by commercial expedited delivery service) addressed to the respective parties at the addresses set forth below:

The principal offices and mailing address of the Agency for purposes of this Agreement is:

Clackamas County Development Agency  
c/o Development Agency Program Supervisor  
150 Beaver Creek Road  
Oregon City, OR 97045  
Attn: Dave Queener  
Email: [DavidQue@co.clackamas.or.us](mailto:DavidQue@co.clackamas.or.us)

The principal office and mailing address of Licensee for purposes of this Agreement is:

Pat Murphy  
11627 SE Capps Road  
Clackamas, OR 97045  
Email: [Pat.Murphy@crystalgreens.com](mailto:Pat.Murphy@crystalgreens.com)

15. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**[Signatures on Following Page]**

**IN WITNESS WHEREOF**, the undersigned have executed and delivered this Agreement as of the date first above written.

**"AGENCY"**

CLACKAMAS COUNTY DEVELOPMENT  
AGENCY, a corporate body politic

By: \_\_\_\_\_  
Chair

Date: \_\_\_\_\_, 2019

**"LICENSEE "**

PATRICK L. MURPHY

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2019

DYAN M. MURPHY

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2019



**EXHIBIT A**

**LEGAL DESCRIPTION:** Real property in the County of Clackamas, State of Oregon, described as follows:

**PARCEL I:**

**A TRACT OF LAND IN SECTION 15, TOWNSHIP 2 SOUTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING AT AN IRON PIPE WHICH IS 793.5 FEET EAST AND 1318.63 FEET SOUTH OF THE QUARTER SECTION CORNER ON THE NORTH LINE OF SECTION 15 TOWNSHIP 2 SOUTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN; THENCE EAST 400.15 FEET; THENCE NORTH 338.27 FEET; THENCE SOUTH 79° 13' WEST 182.4 FEET; THENCE NORTH 84° 11' WEST 126.86 FEET; THENCE NORTH 82° 25' WEST 95.6 FEET TO A POINT WHICH IS NORTH 329.63 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 329.63 FEET TO THE POINT OF BEGINNING.**

**EXCEPTING THEREFROM THE EAST 136 FEET THEREOF AS CUT OFF BY A LINE DRAWN PARALLEL WITH THE EAST LINE OF SAID PROPERTY.**

**TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THE SOUTH 40 FEET OF SAID EAST 136 FEET.**

**TOGETHER WITH AN EASEMENT FOR ROAD PURPOSES AND UTILITY POLES ALONG ONE SIDE OF PROPERTY BEING DESCRIBED AS FOLLOWS:**

**PART OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING AT THE INTERSECTION OF THE WEST LINE OF THE HACKETT AND CAPPS ROAD NO. 88 WITH THE SOUTH LINE OF THE PRESLEY WELCH DONATION LAND CLAIM; THENCE WESTERLY TRACING THE SOUTH LINE OF SAID DONATION LAND CLAIM TO A POINT 20 FEET NORTH OF THE MOST NORTHERLY NORTHWEST CORNER OF THAT TRACT CONVEYED TO CHARLES EDWARD GRANT, ET UX, BY DEED RECORDED IN BOOK 570, PAGE 90, DEED RECORDS; THENCE CONTINUING WESTERLY ON SAID SOUTH BOUNDARY OF THE WELCH DONATION LAND CLAIM, A DISTANCE OF 125 FEET; THENCE SOUTH A DISTANCE OF 20 FEET; THENCE EASTERLY PARALLEL WITH THE SOUTH BOUNDARY OF SAID WELCH DONATION LAND CLAIM TO A POINT THAT IS 20 FEET SOUTH OF THE PLACE OF BEGINNING; THENCE NORTH A DISTANCE OF 20 FEET TO THE POINT OF BEGINNING.**

**PARCEL II:**

**THE EAST 136 FEET OF THE FOLLOWING DESCRIBED TRACT OF LAND.**

A TRACT OF LAND IN SECTION 15, TOWNSHIP 2 SOUTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIPE WHICH IS 793.5 FEET EAST AND 1318.63 FEET SOUTH OF THE QUARTER SECTION CORNER OF THE NORTH LINE OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN; THENCE EAST 400.15 FEET; THENCE NORTH 338.27 FEET; THENCE SOUTH 79° 13' WEST 182.4 FEET; THENCE NORTH 84° 11' WEST 126.86 FEET; THENCE NORTH 82° 25' WEST 95.6 FEET TO A POINT WHICH IS NORTH 329.63 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 329.63 FEET TO THE POINT OF BEGINNING.

SUBJECT TO AN EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THE SOUTH 40 FEET OF SAID EAST 136 FEET.

TOGETHER WITH AN EASEMENT FOR ROAD PURPOSES AND UTILITY POLES ALONG ONE SIDE OF PROPERTY BEING DESCRIBED AS FOLLOWS:

PART OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST LINE OF THE HACKETT AND CAPPS ROAD NO. 88 WITH THE SOUTH LINE OF THE PRESLEY WELCH DONATION LAND CLAIM; THENCE WESTERLY TRACING THE SOUTH LINE OF SAID DONATION LAND CLAIM TO A POINT 20 FEET NORTH OF THE MOST NORTHERLY NORTHWEST CORNER OF THAT TRACT CONVEYED TO CHARLES EDWARD GRANT ET UX, BY DEED RECORDED IN BOOK 570 PAGE 90, DEED RECORDS; THENCE CONTINUING WESTERLY ON SAID SOUTH BOUNDARY OF THE WELCH DONATION LAND CLAIM, A DISTANCE OF 125 FEET; THENCE SOUTH A DISTANCE OF 20 FEET; THENCE EASTERLY PARALLEL WITH THE SOUTH BOUNDARY OF SAID WELCH DONATION LAND CLAIM TO A POINT THAT IS 20 FEET SOUTH OF THE PLACE OF BEGINNING; THENCE-NORTH A DISTANCE OF 20 FEET TO THE POINT OF BEGINNING.

NOTE: THIS LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 1, 2008.

EXHIBIT "B"  
Legal Description

PARCEL I:

A tract of land being a portion of that property described as Tract 1 in a property line adjustment Deed recorded May 23, 2017 as Document Number 2017-034564, Clackamas County Deed Records, and a portion of that property described as Parcel VIII in a Deed to Clackamas County Development Agency recorded on October 8, 2009 as Document No. 2009-071163, Clackamas County Deed Records, located in the Northeast one-quarter of Section 15, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, and more particularly described as follows:

Commencing at the North one-quarter corner of said Section 15, said point being marked by a 3-1/4 inch bronze disk; Thence along the North line of the Northeast one-quarter of said Section 15, North 89°50'46" East 662.95 feet to the Northerly extension of the East line of that property conveyed to 1PT Clackamas DC LLC by a deed recorded on December 19, 2014 as Document No. 2014-065094, Clackamas County Deed Records; Thence along said Northerly extension and the East line of said IPT Clackamas DC LLC property, South 00°01'11" West 620.00 feet to the Southeast corner thereof, said point also being the most Northerly Northeast corner of said Tract 1 and being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the most Northerly line of said Tract 1, South 89°49'50" West 233.59 feet to the most Northerly Northwest corner thereof, said point being marked by 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the most Northerly West line of said Tract 1, South 00°05'09" West 363.74 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc" and the Point of Beginning;

Thence leaving said most Northerly West line, South 89°54'51" East 367.03 feet to a 3/4 inch iron pipe located on the East line of said Parcel VIII; Thence along the East line of said Parcel VIII, South 00°08'50" West 331.80 feet to the Southeast corner thereof, said point being marked by 5/8 inch iron rod and being on the Northerly boundary of said Tract 1; Thence along the Northerly boundary of said Tract 1, North 89°58'02" East 400.25 feet to a 5/8 inch iron rod on the Westerly terminus line for the right-of-way of S.E. Capps Road; Thence along said Westerly terminus line, South 00°10'06" West 20.06 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD" located on the Southerly right-of-way line of S.E. Capps Road (30.00 feet Southerly from the centerline thereof, when measured at right angles); Thence along said Southerly right-of-way line, North 89°57'49" East 40.04 feet to the most Easterly Northeast corner of said Tract 1, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the most Southerly East line of said Tract 1, South 00°27'26" West 758.60 feet to a 3/4 inch iron pipe at the Southeast corner of said Tract 1; Thence along the Southwesterly boundary of said Tract 1, North 59°00'04" West 393.43 feet to an angle point thereon, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence continuing along the Southwesterly boundary of said Tract 1, North 45°37'07" West 822.82 feet to the most Westerly Northwest corner thereof, said point being marked by a 5/8 inch iron rod; Thence along the most Westerly North line of said Tract 1, South 89°57'56" East 124.46 feet to and angle point on the Westerly boundary of said Tract 1, said point being marked by a 1/2 inch iron pipe; Thence along the most Northerly West line of said Tract 1, North 00°05'09" East 332.68 feet to the Point of Beginning.

PARCEL II:

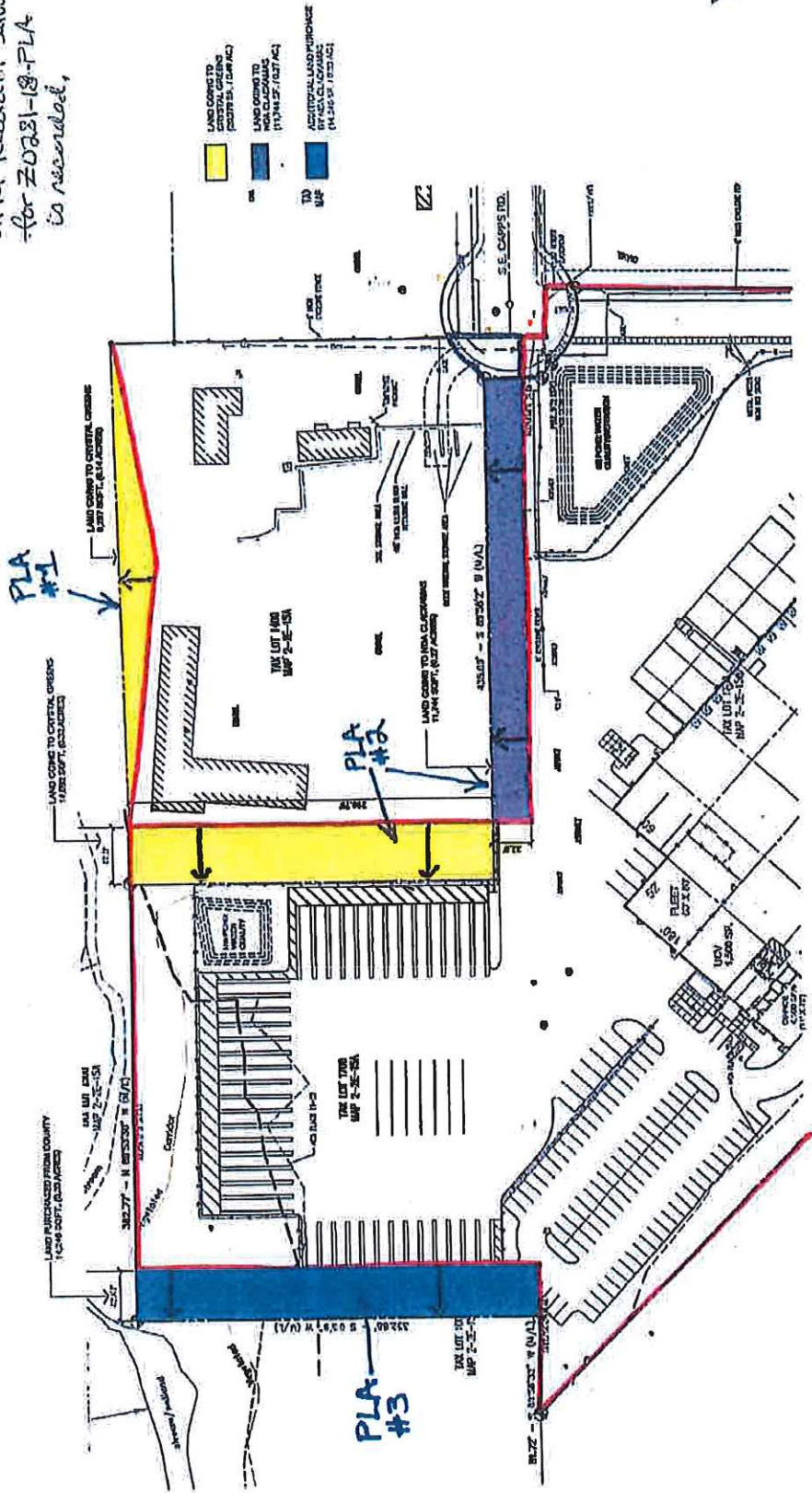
A tract of land being a portion of that property described as Tract 1 in a property line adjustment Deed recorded May 23, 2017 as Document No. 2017-034564, Clackamas County Deed Records, and a portion of that property described as Parcel VIII in a Deed to Clackamas County Development Agency recorded on October 8, 2009 as Document No. 2009-071163, Clackamas County Deed Records, located in the Northeast one-quarter of Section 15, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, and more particularly described as follows:

EXHIBIT "B"  
Legal Description

Commencing at the North one-quarter corner of said Section 15, said point being marked by a 3-1/4 inch bronze disk; Thence along the North line of the Northeast one-quarter of said Section 15, North 89°50'46" East 662.95 feet to the Northerly extension of the East line of that property conveyed to IPT Clackamas DC LLC by a Deed recorded on December 19, 2014 as Document No. 2014-065094, Clackamas County Deed Records; Thence along said Northerly extension and the East line of said IPT Clackamas DC LLC property, South 00°01'11" West 620.00 feet to the Southeast corner thereof and the Point of Beginning, said point also being the most Northerly Northeast corner of said Tract 1 and being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the most Northerly line of said Tract 1, South 89°49'50" West 233.59 feet to the most Northerly Northwest corner thereof, said point being marked by 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the most Northerly West line of said Tract 1, South 00°05'09" West 363.74 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence leaving said most Northerly West line, South 89°54'51" East 367.03 feet to a 3/4 inch iron pipe located on the East line of said Parcel VIII; Thence along the East line of said Parcel VIII, North 00°03'13" East 383.38 feet to the Northeast corner thereof; Thence along the North line of said Parcel VIII, South 89°39'36" West 133.25 feet to a 5/8 inch iron rod located at the Northwest corner of said Parcel VIII; Thence along the West line of said Parcel VIII, South 00°01'11" West 17.60 feet to the Point of Beginning.

EXHIBIT "C"

□ - Starting configuration after Record of Survey for Z0231-13-PLA is recorded,







**DAN JOHNSON**  
MANAGER

**DEVELOPMENT AGENCY**

**DEVELOPMENT SERVICES BUILDING**  
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

January 31, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of the First Amendment to the Disposition Agreement with Clackamas Crossing, LLC**

<b>Purpose/Outcome</b>	To amend the existing Disposition Agreement with Clackamas Crossing, LLC
<b>Dollar Amount and Fiscal Impact</b>	No change
<b>Funding Source</b>	N/A.
<b>Duration</b>	The amendment will extend the due diligence period by 60 days
<b>Previous Board Action/Review</b>	Discussed with Board at Executive Session on December 18, 2018
<b>Strategic Plan Alignment</b>	Build public trust through good government
<b>Contact Person</b>	Dave Queener, Development Agency Program Supervisor, 503-742-4322

The Agency has a Disposition Agreement with Clackamas Crossing, LLC associated with the purchase of Agency owned property located at SE 135<sup>th</sup> Avenue and Highway 212. The due diligence period contained in the agreement provides for 365 days to do all necessary investigations prior to closing. Clackamas Crossing is finalizing a partnership agreement with an adjacent property owner, which will double the size of the development. They have requested the due diligence period be extended in order to complete investigations necessary to ensure the new larger development is feasible.

This first amendment will extend the due diligence period by 60 days.

County Counsel has reviewed and approved the proposed amendment to the agreement.

## **RECOMMENDATION**

Staff respectfully recommends that the Board, as the governing body of the Clackamas County Development Agency, execute this First Amendment to the Disposition Agreement with Clackamas Crossing, LLC.

Respectfully submitted,

David Queener, Program Supervisor  
Development Agency



## FIRST AMENDMENT TO DISPOSITION AGREEMENT

THIS FIRST AMENDMENT TO DISPOSITION AGREEMENT (“**Amendment**”) is entered into effective as of \_\_\_\_\_, 201\_\_, between **CLACKAMAS COUNTY DEVELOPMENT AGENCY**, the Urban Renewal Agency of Clackamas County, a corporate body politic (“**Agency**”), and **CLACKAMAS CROSSING, LLC**, an Oregon limited liability company (“**Developer**”).

### RECITALS

A. Agency and Developer are parties to that certain Disposition Agreement dated effective as of December 7, 2017, (the “**Disposition Agreement**”), concerning approximately .90 acres of land owned by the Agency located on the southeast corner of the SE 135th Avenue and Highway 212 intersection, Clackamas County, Oregon, as more particularly described in the Disposition Agreement (the “**Property**”).

B. The parties desire to modify the Disposition Agreement on the terms and conditions set forth herein. All capitalized terms used in this Amendment and not otherwise defined herein shall have their meanings as set forth in the Disposition Agreement.

### AGREEMENT

1. **Closing.** Section 2.4 of the Disposition Agreement is hereby amended such that the Developer’s Due Diligence Period shall be extended for an additional sixty (60) days, and shall expire four hundred and twenty-five (425) days after the Effective Date of the Disposition Agreement.

2. **Counterpart; Email.** This Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Amendment. Facsimile or email transmission of any signed original of this Amendment, and retransmission of any signed facsimile or email transmission, shall be the same as delivery of an original. At the request of either party, the parties shall confirm transmitted signatures by signing an original document.

3. **Confirmation.** The Disposition Agreement is hereby amended and modified in accordance with the terms of this Amendment. Except as expressly modified by this Amendment, the Disposition Agreement and all its terms and provisions are hereby acknowledged, approved, ratified and confirmed and shall be and remain in full force and effect.

[Signatures on next page.]

IN WITNESS WHEREOF, the parties have executed this Amendment effective as of the date first written above.

**AGENCY:**

**CLACKAMAS COUNTY DEVELOPMENT AGENCY,**  
a corporate body politic

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**DEVELOPER:**

**CLACKAMAS CROSSING, LLC,**  
an Oregon limited liability company

By:                     *kw*                      
Name:                     Kirk WARDIUS                      
Its:                     member manager

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Contract with ADS LLC, to conduct flow metering within the  
sewer system for the County's monitoring stations**

<b>Purpose/ Outcomes</b>	This contract will conduct flow metering within the sewer system for twelve flow monitoring stations during the 2018/2019 winter and 2019 summer.
<b>Dollar Amount and Fiscal Impact</b>	The contract value is \$162,850.00 over the life of the contract.
<b>Funding Source</b>	Capital Improvement: 639-01-20100-481020-P632253
<b>Duration</b>	Contract signing through December 31, 2019
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"><li>1. This project supports the WES Strategic Plan to provide Enterprise Resiliency, Infrastructure Strategy and Performance and Operational Optimization.</li><li>2. This project supports the County Strategic Plan of building a strong infrastructure that delivers services to customers.</li></ol>
<b>Contact Person</b>	Jessica Rinner, Civil Engineering Supervisor- 503-742-4551

**BACKGROUND:**

Water Environment Services (WES) is completing a Collection System Master Plan (CSMP). The Master Plan identifies areas with excessive rates of Infiltration and Inflow (I&I) into the sewer system. One of the recommendations of the Master Plan is to reduce the I&I in these areas by 65%. The sewers tributary to the Mount Talbert Interceptor are one of the areas identified as having excessive I&I.

The first step in working to reduce the I&I is to subdivide the approximately 1,600 acre basin into smaller sub-basins by temporarily installing flow meters at key locations to better isolate the source of the flow. The flow meter data can then be analyzed to isolate areas that will need further investigative work such as CCTV, smoke testing, and manhole inspections to identify the sources of the I&I and projects to eliminate the sources.

Clackamas County would like to contract with ADS LLC for the purpose of conducting temporary flow metering within the Mount Talbert area sewer systems at twelve (12) flow monitoring stations during the 2018/2019 winter and summer of 2019.

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on October 31, 2018. Proposals were closed on November 29, 2018 at 2:00PM. The County received 3 proposals: ADS LLC, Hach Company, Utility System Science & Software. Our evaluation determined that ADS LLC, was the highest ranking proposer and could meet the needs of the County. The total contract amount is not to exceed \$162,850.00.

County Counsel has reviewed this contract.

**RECOMMENDATION:**

Staff recommends that the Board of County Commissioners, acting as the governing body of the County, approve and execute the Contract between Clackamas County and ADS LLC, for the Mt. Talbert Flow Monitoring.

Respectfully submitted,

Greg Geist, Director, Water Environment Services

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



## GOODS AND SERVICES CONTRACT

This Goods and Services Contract (this "Contract") is entered into between **ADS Corporation of Delaware dba, ADS LLC** ("Contractor"), and Water Environment Services, a political subdivision of the State of Oregon ("District") **for the purposes of providing flow metering within the sewer system for twelve (12) flow monitoring stations during the 2018/2019 winter and summer of 2019.**

### **I. TERM**

This Contract shall become effective upon signature of both parties and shall remain in effect until **July 30, 2019**. This Contract and any amendments to this Contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County acting as the Governing Body for the District. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

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

This Contract covers the Scope of Work as described in RFQ # 2018-111 Mt. Talbert Flow Monitoring, issued October 31, 2018, attached and hereby incorporated by reference as Attachment "A." This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Attachment "A", and the Contractor's Quote attached and hereby incorporated by reference as Attachment "B." Work shall be performed in accordance with a schedule approved by the District. The Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The District Representative for this contract is: Jessica Rinner.

### **III. COMPENSATION**

1. **PAYMENT.** The District agrees to compensate the Contractor on a time and material basis as detailed in this Contract. The maximum compensation authorized under this Contract shall not exceed the total Contract compensation of **One Hundred Sixty-Two Thousand Eight Hundred Fifty dollars (\$162,850.00).**
2. **TRAVEL EXPENSE REIMBURSEMENT.** Authorized:  Yes  No  
If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the Clackamas County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.
3. **INVOICES.** Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent District contract and/or purchase order numbers. All charges shall be billed monthly (unless a different payment period is outlined in Attachment A) and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute ("ORS") 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Invoices shall be submitted to the District's Representative at: 150 Beaver Creek Road, Oregon City, Oregon 97045 or via email at [JRinner@co.clackamas.or.us](mailto:JRinner@co.clackamas.or.us)

### **IV. CONTRACT PROVISIONS**

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence

and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. District and its duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

**2. AVAILABILITY OF FUNDS.** District certify that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the District's reasonable administrative discretion, to continue to make payments under this Contract.

**3. CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.

**4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the District on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate District official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.

**5. EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**6. GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between District and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

**7. HAZARD COMMUNICATION.** Contractor shall notify District prior to using products containing hazardous chemicals to which District employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon District's

request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.

**8. INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the District and Clackamas County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.

**9. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the District reserve the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, District cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the work. Contractor is not to be considered an agent or employee of District for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to the District employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under Oregon Revised Statutes ("ORS") Chapter 656.

**10. INSURANCE.** Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon. Contractor shall provide insurance as indicated below:

**A. COMMERCIAL GENERAL LIABILITY**

The Contractor agrees to furnish the District evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of the District and Clackamas County, and their officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Contract. The general aggregate shall apply separately to this project / location. The District, at its option, may require a complete copy of the above policy.

**B. AUTOMOBILE LIABILITY**

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

**C.** Contractor shall provide District a certificate of insurance naming the District and Clackamas County, and their officers, elected officials, agents, and employees additional insureds. If Contractor's insurance policy does not include a blanket endorsement for additional insured status when/where required by written contract (as required in this Contract), the insurance, shall include the District and Clackamas County and their agents, officers, and

employees as expressly scheduled additional insured. Use CG 20 10 or its equivalent. Such insurance shall provide sixty (60) days written notice to the District in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the District under this insurance. This policy(s) shall be primary insurance with respect to the District. Any insurance or self-insurance maintained by the District shall be excess and shall not contribute to it.

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

**E.** If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of thirty-six (36) months or the maximum time period the Contractor's insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided it's retroactive date is on or before the effective date of this Contract.

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

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

**11. LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

**12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or District at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against District, such facsimile transmission must be confirmed by telephone notice to District's supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

**13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of District. District and Contractor intend that such Work Product be deemed "work made for hire" of which District shall be deemed the author. If for any reason the Work Product is not deemed "work for hire," Contractor hereby irrevocably assigns to District all of its right, title, and interest in and to any and all of the Work Product, whether arising from



copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as District may reasonably request in order to fully vest such rights in the District. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

**14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to District that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**A. Performance Warranty.** Contractor warrants that the goods provided to the District shall consistently perform according to the performance characteristics described in the Scope of Work.

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

**15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in the following Sections of Section IV: 1, 6, 8, 11, 13, 14, 15, and 21.

**16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

**17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the work required by this Contract, or assign or transfer any of its interest in this Contract, by operation of law or otherwise, without obtaining prior written approval from the District. In addition to any provisions the District may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. District's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract. District may assign all or part of this Contract at any time without further permission required to the Contractor. District may assign all or part of this Contract at any time without further permission required to the Contractor.

**18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

**19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle District to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to District's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. District shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and District may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

**20. TERMINATION.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the District for convenience upon thirty (30) days' written notice to the Contractor; (B) District may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the District, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the work under this Contract is prohibited or the District are prohibited from paying for such work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the District for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the District, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the District (or from applicable federal, state, or other sources) to permit the District in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, District may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

**21. REMEDIES.** (A) In the event of termination pursuant to Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by the District, less previous amounts paid and any claim(s) which the District has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to District on demand. (B) In the

event of termination pursuant to Sections 20(B)(ii) or 20(C), the District shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless District expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to District all documents, information, works-in-progress and other property that are or would be deliverables had the Contract work been completed. Upon District's request, Contractor shall surrender to anyone District designates, all documents, research or objects or other tangible things needed to complete the work.

**22. NO THIRD PARTY BENEFICIARIES.** District and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

**23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence under this Contract.

**24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

**25. FORCE MAJEURE.** Neither District nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, District's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

**26. WAIVER.** The failure of District to enforce any provision of this Contract shall not constitute a waiver by District of that or any other provision.

**27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract: (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the District on account of any labor or material furnished. (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the District may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. (C) The Contractor shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. (D) The Contractor shall promptly, as due, make payment to any person or copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the





**ATTACHMENT A**  
**RFQ # 2018-111**  
**Mt. Talbert Flow Monitoring**  
**Issued October 31, 2018**

**ATTACHMENT B  
CONTRACTOR'S QUOTE**